

# CHAPTER 03 - OFFICIAL SECRETS LAW

## ARRANGEMENT OF SECTIONS

### SECTION

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## OFFICIAL SECRETS LAW

A Law to make provision for securing public safety in the State and for purposes connected therewith.

[NN 63, Cap. 85, KWS 7 of 1987, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 18<sup>th</sup> April, 1963]

### 1. Short title

This Law may be cited as the Official Secrets Law.

### 2. Interpretation

(1) In this Law—

"classified matter" means any information relating to the

statement of accounts of Government of Kwara State with any bank or financial institution or any information or thing which under any system of security classification from time to time in use or by any branch of the Government is not to be disclosed to the public and of which the disclosure to the public would be prejudicial to the security and public safety of Kwara State of Nigeria;

[KWS 7 of 1987.]

**"Commissioner"** means the State Commissioner for the time being assigned with responsibility for security and public safety;

**"Government"** means the Government of the State;

**"protected place"** means any area or place in the State for the time being designated by the Governor by order as being an area or place from which the public should be excluded in the interests of the security and public safety of the State and includes a part of a protected area or place;

**"public officer"** means a person who exercises or formerly exercised the functions of any office or employment in the public service of Kwara State;

[KWS 7 of 1987, No. 4 of 2006.]

**"public service of the State"** means the service of the State and has the same meaning as in the Constitution;

[No. 4 of 2006.]

**"superior police officer"** shall have the same meaning as in section 2 of the Police Act.

[No. 41 of 1957.]

(2) For the purposes of this Law, classified matter remains classified matter notwithstanding that it is properly transmitted to or obtained from or otherwise dealt with by a person acting on behalf of the Government of the Federation or of another State.

**3. Protection of official information**

- (1) Subject to the provisions of subsection (3), a person who—
- (a) transmits any classified matter to a person to whom he is not authorised on behalf of the Government to transmit it; or
  - (b) obtains, reproduces or retains any classified matter which he is not authorised on behalf of the Government to obtain, reproduce or retain, as the case may be,

shall be guilty of an offence.

(2) A public officer who fails to comply with any instructions given to him on behalf of the Government as to the safeguarding of any classified matter which by virtue of his office is obtained by him or is under his control shall be guilty of an offence.

(3) In proceedings for an offence under subsection (1) relating to any classified matter, it shall be a defence to prove that—

- (a) when the actual accused transmitted, obtained, reproduced or retained the matter, as the case may be, he did not know and could not reasonably have been expected to believe that it was classified matter; and
- (b) when the accused knew or could reasonably have been expected to believe that the matter was classified matter, he forthwith placed his knowledge of the case at the disposal of the Nigeria Police Force.

**4. Protection of protected places**

- (1) A person who, for any purpose prejudicial to the security and

public safety of the State—

- (a) enters or is in the vicinity of or inspects a protected place; or
- (b) photographs, sketches or in any other manner whatsoever makes a record of the description of, or of anything situated in, a protected place; or
- (c) obstructs, misleads or otherwise interferes with a person engaged in guarding a protected place; or
- (d) obtains, reproduces or retains any photograph, sketch, plan, model or document relating to, or to anything situated in, a protected place,

shall be guilty of an offence.

(2) A person charged with an offence under subsection (1) shall, unless the contrary is proved, be deemed to have acted for a purpose prejudicial to the security and public safety of the State if from his character or general conduct and from all the circumstances of the case it appears that he acted for such a purpose; but nothing in this subsection shall be construed as precluding the giving in evidence of matters tending to show that the accused acted for such a purpose.

## **5. Power to require information as to offences under this Law**

(1) Where an officer of the Nigeria Police Force not below the rank of Assistant Commissioner suspects that an offence under section 3 or 4 has been committed and that a particular person is likely to be able to furnish information with respect to the suspected offence, he may, after obtaining the consent in writing of the Commissioner for the issue of a warrant under this subsection in respect of that person, issue a warrant to any superior police officer authorising him—

- (a) to require that person to furnish to the superior police

officer all information in that person's possession relating to the suspected offence; and

- (b) in any case where it appears necessary to the superior police officer so to do, to afford that person adequate facilities for attending at a time and place specified by the officer and to require that person so to attend for the purpose of furnishing the information aforesaid.

(2) Where it appears to an officer proposing to issue a warrant under subsection (1) that the delay likely to be involved in obtaining the consent mentioned in that subsection would seriously prejudice the security and public safety of Kwara State, he may issue the warrant without obtaining that consent but shall on so doing forthwith report his action to the Commissioner.

(3) If any person—

- (a) fails to comply with a requisition under subsection (1); or
- (b) in pursuance of such a requisition furnishes any information which he believes to be, or recklessly furnishes any information, which is, false in a material particular,

he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term which may extend to three months or with fine or with both.

## **6. Search warrants**

(1) Where an officer of the Nigeria Police Force not below the rank of Assistant Commissioner has reasonable cause to believe that an offence under section 3 or 4 has been committed and that matter relating to the offence is likely to be found on particular premises, he may issue a warrant to any superior officer authorising him, and such other police officers as may accompany him, to enter and search those premises and to seize and remove any matter found on the premises which the superior officer considers is

evidence of an offence under any of those sections.

(2) A police officer may use such force as may be reasonably necessary for the purpose of executing a warrant issued under this section.

## **7. Penalties**

A person who commits an offence contrary to section 3 or 4 shall be liable on conviction to imprisonment for a term which may extend to fourteen years or with fine or with both.

[No. 4 of 2006.]

## **8. Power of arrest**

Without prejudice to any other power of arrest a public officer may arrest without warrant any person whom he finds committing an offence under section 3 or 4 or whom he reasonably suspects of having committed such an offence.

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### **CHAPTER 03**

### **OFFICIAL SECRETS LAW**

### **SUBSIDIARY LEGISLATION**

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*No Subsidiary Legislation*

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