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CABINET

REFORM OF SECTION 2 OF THE
OFFICIAL SECRETS ACT 1911

Memorandum by the Secretary of State for the
Home Department

1. We undertook in The Queen's Speech to bring forward a Bill to reform Section 2. It is common ground between us and the other major Parties that reform should be broadly based on the scheme proposed by the Franks Committee whose report (Cmnd 5104) was published in 1972.

2. I attach at Annex 1 a summary of my proposals. The Franks recommendations are attached, for convenience, at Annex 2. I particularly draw my colleagues' attention to the following points.

CABINET PAPERS AND INFORMATION ABOUT THE CURRENCY AND THE RESERVES

3. Franks proposed that there should be protection for all Cabinet papers and for information about the currency and the reserves the disclosure of which would be likely to cause serious injury. When Cabinet papers contain protected information (eg on defence) they would naturally receive protection by virtue of that fact, and I do not propose that we should include in the Bill provision to protect Cabinet papers as such. On the currency and the reserves I have consulted the Chancellor of the Exchequer and we do not propose that the Bill should protect any economic information as such. On both these points my proposals are in line with those of the previous Administration as set out in the White Paper Cmnd 7285.

CERTIFICATION OF SERIOUS INJURY TO THE INTERESTS OF THE NATION

4. This presents some difficulty. Franks proposed that information in the defence and international relations categories should be protected only if its unauthorised disclosure was likely to cause serious injury to the interests of the nation, and that the issue of serious injury should not be left for the jury to determine. We can readily accept both points. The problem is what authority should determine serious injury.

5. Franks argued that the only authority that could properly do the job was the responsible Minister, who should personally review the facts and, if satisfied on the point, issue a certificate that would be conclusive proof of the fact that the information in question met the 'serious injury' test. In Opposition, both last year and in the proceedings this year on Mr Freud's Bill, we took the line that the responsible Minister would be seen as acting as judge and jury in his own cause and that an element independent of government (in shorthand, "three wise men") should be introduced into the certification procedure.

6. In favour of "three wise men" (whether they take the decision or are merely advisory) it must be said that the arguments we recently used in Opposition will be attractive to many elements in a House of Commons that we have yet to assess, and it can be argued that it would be too embarrassing to be seen to change our minds on the issue so soon after entering office. Against the idea, there would be difficulties in finding acceptable people who were both prepared to do the job and whose appointment would not provoke controversy; and there could well be awkward problems on, for example, the right to make representations to the "three wise men" when much of the Government's own representations could not be revealed, for reasons of security. Also, a defendant would not be made defenceless by the responsible Minister (or anyone else) certifying the fact of likely serious injury; he would under my proposals have available the defence that he had no reason to believe that the information was of that nature.

7. On balance, I recommend that we should revert to the Franks proposal that the certification of information as being likely to cause serious injury to national interests should be the business of the responsible Minister alone.

CONCLUSIONS

8. The outline of the legislation I propose is much the same as the previous Administration's White Paper. The essential features of the structure set out in Annex 1 are as follows (paragraph references are to the paragraphs of the annex): -

- i. Only the disclosure of official information should be penalised (paragraph 2).
- ii. The categories of protected information should be broadly those recommended by the Franks Committee, though with some adjustment (paragraphs 3 - 8).
- iii. The protection of information should depend on its nature, rather than on the classification of documents (paragraph 10).

10. MEMORANDUM FOR THE MEMBERS OF PARLIAMENTS OF THE COMMONWEALTH
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iv. The Bill should nevertheless contain provisions about classification, which is of evidential value in a prosecution and puts those handling classified documents on notice about their nature (paragraph 11).

v. Separate offences (and available defences) should be constructed for Crown servants, Government contractors and private citizens (paragraph 12).

I invite my colleagues to agree to the proposals in paragraphs 3 and 7 above and in Annex 1, and to approve the preparation of a Bill giving effect to these recommendations.

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Home Office

20 July 1979

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R. DETAILED PROPOSALS FOR THE REFORM OF SECTION 2 OF THE OFFICIAL SECRETS ACT 1911

1. The Franks Report recommended that instead of the catch-all provision of section 2 - which penalises unauthorised disclosure and reception of any official information - there should be a much narrower measure confined to information in certain specified categories.

2. It is envisaged that the protection of the criminal law should be applied only to official information, which would be defined as information held at some point by Crown servants or by Government contractors (and these expressions themselves would be defined in the Bill). There would no longer be an offence of receiving official information, but a citizen who knowingly disclosed protected information without authority would commit an offence.

Categories of Protected Information

(i) Defence and Internal Security

3. As envisaged by Franks, it is proposed that there should be protection for information about defence and internal security, the disclosure of which would be likely to cause serious injury to the interests of the nation or (and this is a refinement to Franks following the line taken in debate on Mr Freud's Bill) would endanger the safety of a citizen of the United Kingdom and Colonies. This would include information about such matters as the armed forces; military weapons and their development; defence policy and strategy; and plans and measures for the maintenance of essential supplies and services, whether in time of war or not, or for the maintenance or restoration of public order; and information about similar defence matters in allied States.

(ii) International Relations

4. Again as envisaged by Franks, it is proposed that there should be protection for information about international relations, the disclosure of which would cause serious injury to the interests of

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deserved blanket protection. It is proposed that all information about the three security and intelligence agencies, and about work done in support of them (for example in the Ministry of Defence and the Armed Forces) should be protected.

(vi) Interception of communications

8. It will be necessary to provide similar blanket cover for this category of information.

Protective Security Measures

9. The previous Administration's White Paper suggested that it would be necessary to apply criminal sanctions to protect information about protective security measures. This was not something suggested by Franks. It is proposed that the Bill should provide a separate offence penalising the unauthorised disclosure of any official information which could be used for the purpose of obtaining access to any information protected by the Bill, if the disclosure is made in circumstances in which it would be reasonable to expect that it might be used without authority for that purpose. The provision would thus protect such matters as cyphers, keys, passes, communications equipment and other physical and technical means of preserving the security of official information.

Provisions about classification

10. Franks couched his recommendations for the protection of categories such as defence and international relations (paragraph 3 and 4 above) in terms of information which was classified: that is, marked as 'SECRET' in the sense that its disclosure would cause serious injury to the interests of the nation. It is proposed to adopt the previous Administration's approach on this, ie that the Bill should provide protection in terms of the nature of the information, rather than whether or not it is classified. This should plug some of the loopholes which arise on the Franks approach

the nation or which would endanger the safety of a citizen of the United Kingdom and Colonies. International relations would be broadly defined to cover relations between Governments, international organisations and organisations or people carrying on political activities in other countries.

(iii) Law and Order

5. It is proposed that there should be protection for information about law and order in the sense of: information which is likely to be helpful in the commission of offences; or is likely to be helpful in facilitating an escape from legal custody or other acts prejudicial to prison security; or information the disclosure of which would be likely to impede the prevention or detection of offences or the apprehension or prosecution of offenders. This category is also on lines recommended by Franks.

(iv) Confidences of the Citizen

6. Franks proposed that there should be protection for information given to the Government by private individuals or concerns, whether given by reasons of compulsory powers or otherwise, and whether or not given on an express or implied basis of confidence. It is envisaged - and this has been our policy since 1973 - that the Bill should go beyond this and provide protection for information held by the Government. In detail, what we propose is that the category should comprise information received by a Crown servant or Government contractor - whether from the subject of the information or not - on terms or in circumstances requiring it to be held in confidence or in circumstances in which it would be reasonable to expect it to be held in confidence. As Franks proposed, protection would be limited to information about private citizens and private concerns.

(v) Security and Intelligence

7. Franks dealt with this as part of the defence category, subject to the "serious injury" test. The last Administration recognised that special considerations applied here, and that the category

over, for example, documents which ought to have been marked as classified but which are not, whether by accident or design. But although information will be protected by the law whether or not it is classified it is clear that classification serves a useful evidential purpose. A Crown servant, for example, who disclosed a properly marked document would find it hard to persuade a court that he had no reason to believe that the information in the document was protected.

11. It is therefore proposed that the Bill should include provisions about classification. It should lay down the criterion for classification (ie that unauthorised disclosure would be likely to cause serious injury to the interests of the nation) and provide, as Franks envisaged, for regulations to be made about 'the classification and declassification of documents, which should include provisions on levels of authority at which decisions on classification may be taken and on arrangements for review and declassification'.

Offences

12. Franks envisaged that there would be three main offences: disclosure by a Crown servant contrary to official duty; disclosure by a Government contractor when the disclosure was not made for the purposes of the contract or was made contrary to some restriction imposed on behalf of the Crown; and disclosure by a private citizen of information which he knew or had reasonable ground to believe reached him as a result of a contravention of the Act. It is envisaged that there should be offences on broadly these lines, though the private citizen offence would not be dependant on the citizen's knowledge or belief that the information reached him as a result of a contravention of the Act. Instead there would be an offence of unauthorised disclosure by a private citizen in circumstances when he appreciated that the information in question was protected by the Act. The Bill would provide that in the case of

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the citizen the prosecution would have to prove beyond reasonable doubt that the accused knew or had reasonable cause to believe that the information was protected; whereas the Crown servant or Government contractor would have a defence if he could prove that he did not have that knowledge or cause for belief.

13. It is also proposed that the Bill would create, as Franks envisaged, a separate summary offence of failure by a Crown servant to take reasonable care of an official document protected by the Act. It is envisaged that the Bill should provide for such an offence - to apply to Crown servants, Government contractors or citizens - and that the offence should be in terms of failing to take such care to prevent the unauthorised disclosure of the document as a person in his position may reasonably be expected to take.

14. The Bill would provide that in the case of an alleged offence involving information in the 'law and order' or 'confidences of the citizen' categories (paragraphs 5 and 6 above) the accused would have a defence if he could prove that at the time of the alleged offence the information had been made available, or had become available on request, to the public or a section of the public.

Prosecution, Penalties etc

15. Franks proposed that, with one exception, prosecutions should be mounted only with the consent of the Attorney General. The exception concerned disclosure of information in the 'law and order' category when prosecution would require the consent of the Director of Public Prosecutions. These proposals, and the more technical recommendations concerning powers of arrest, penalties and jurisdiction, have not produced controversy and it is envisaged that a Bill might follow the lines Franks proposed.

Crown servants

16. It is proposed that the Bill should define Crown servants as including Ministers of the Crown, civil servants, members of the

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armed forces, and members of the police force. It is also envisaged that there should be a provision enabling the Secretary of State to designate further individuals or bodies whose officials would be Crown servants. The main purpose of designating certain persons as Crown servants is not to render them liable to criminal sanctions - since it is envisaged that a citizen who knowingly discloses official information will also be liable - so much as to define, indirectly, what is official information: that is information ^{that has been} held by a Crown servant or Government contractor by virtue of his position as such.

The Official Information Act should apply to all Crown servants, whether or not they are in the service of the Government, and to all bodies which are Crown servants. It should also apply to all Crown servants, whether or not they are in the service of the Government, and to all bodies which are Crown servants.

- (1) the position, duties and responsibilities of all Crown servants;
- (2) the powers, duties and responsibilities of all Crown servants;
- (3) the position, duties and responsibilities of all Crown servants;
- (4) the position, duties and responsibilities of all Crown servants;
- (5) the position, duties and responsibilities of all Crown servants;
- (6) the position, duties and responsibilities of all Crown servants;
- (7) the position, duties and responsibilities of all Crown servants;
- (8) the position, duties and responsibilities of all Crown servants;
- (9) the position, duties and responsibilities of all Crown servants;
- (10) the position, duties and responsibilities of all Crown servants;

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FRANKS REPORT

SPECIFIC PROPOSALS

The replacement of section 2

1. Section 2 of the Official Secrets Act 1911 should be repealed, and replaced by narrower and more specific provisions.
(Chapter 7, ie paragraphs 88-100.)

2. The new provisions which we recommend, in place of section 2, should form a separate statute, to be known as the Official Information Act.
(Paragraphs 101-3.)

Information to which the Official Information Act should apply: defence, foreign relations, currency.

3. *Defence and internal security.* The Official Information Act should apply to official information relating to matters which concern or affect the defence or security of the realm, including in particular those matters set out in the subparagraphs below. Information relating to the defence or security of allied Powers, covering matters of the kind mentioned in subparagraphs a. to f. (but not g.) should be included in this category:—

- (a) the Armed Forces of the Crown and matters relating thereto;
- (b) military weapons, stores and equipment of all kinds, including nuclear weapons, ships, aircraft, vehicles, communications systems and all means of warfare;
- (c) the research, development and production of all items covered by b.;
- (d) defence policy and strategy and other military planning, including plans and measures for the maintenance of essential supplies and services in the event of war;
- (e) intelligence and security services, and information obtained by them;
- (f) military treaties and arrangements with other Powers, and negotiations of such treaties and arrangements;
- (g) internal defence and security, and plans and measures relating thereto, including plans and measures for the maintenance and restoration of public order or of essential supplies and services in contingencies short of war.

(Paragraphs 122-5.)

4. *Foreign relations.* The Official Information Act should apply to official information relating to any matters which concern or affect foreign relations or the conduct of foreign relations. By "foreign relations" we mean the relations between the United Kingdom Government and any other Power or any international body the members of which are governments.

(Paragraphs 126-134.)

5. *Currency and the reserves.* The Official Information Act should apply to official information relating to any proposals, negotiations or decisions connected with alterations in the value of sterling, or relating to the reserves, including their extent or any movement in or threat to them.

(Paragraphs 135-9.)

Provisions on classification

6. The Official Information Act should apply to official information within the three categories described in proposals 3, 4 and 5 above if it has been classified, in accordance with the provisions of proposal 7 below, on the ground that its unauthorised disclosure would cause at least serious injury to the interests of the nation. The prosecution should have to satisfy the court that the information fell within a category, and that it was so classified, but the court should not be concerned with the effect of the disclosure on the interests of the nation.

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7. The Official Information Act should contain the following further provisions on classification:—

- (a) Information should count as "classified" within the meaning of the Act if—
 - (i) in the case of a document, it is marked with the word SECRET or words including the word SECRET, or it relates to military weapons or equipment (as defined in proposal 3 b. and c.) and it is marked DEFENCE—CONFIDENTIAL, and in either case it has been classified in accordance with the provisions of the Act and of regulations on classification made under it;
 - (ii) in the case of a communication by non-documentary means, the information relates to the contents of a document which is classified in accordance with (i), or is information which, if it had been contained in a document, ought to have been so classified.
- (b) The Secretary of State should make regulations about the classification and declassification of documents, which should include provisions on levels of authority at which decisions on classification may be taken and on arrangements for review and declassification.
- (c) The unauthorised removal of a classification mark, or the making of a copy of a classified document without the mark, should not affect the classified status of that document.

(Paragraphs 150-7.)

8. Before a decision is taken whether to institute a prosecution for the disclosure of classified information within one of the three categories, there should be a review of the classification of the information which had allegedly been disclosed without authority. This review should be carried out by the responsible Minister himself. He should be required to consider whether, *at the time of the alleged disclosure*, that information was properly classified SECRET or above or DEFENCE—CONFIDENTIAL, in the sense that its unauthorised disclosure would cause serious injury to the interests of the nation. If he was not satisfied on this point, then no prosecution would be possible. If he was satisfied, he should give a certificate to that effect to the court. This certificate should be conclusive evidence of the fact that the information was classified within the meaning of the Act. All other ingredients of the offence should be proved by evidence in the usual way.

(Paragraphs 158-161.)

9. The Government, and the representatives of the news media and of any other interests directly affected, should enter into discussions with a view to the establishment of an informal Committee on classification of the kind outlined in paragraphs 165-6 of the Report.

(Paragraphs 163-6.)

Other information to which the Official Information Act should apply

10. *Maintenance of law and order.* The Official Information Act should apply to official information (including police, prison and Post Office information) which comes within one of the three following descriptions:—

- (a) it is likely to be helpful in the commission of offences;
- (b) it is likely to be helpful in facilitating an escape from legal custody or other acts prejudicial to prison security;
- (c) its disclosure would be likely to impede the prevention or detection of offences or the apprehension or prosecution of offenders.

(Chapter 10, i.e. paragraphs 170-5.)

11. *The Cabinet.* The Official Information Act should apply to Cabinet documents, that is, documents submitted for the consideration of the Cabinet and documents recording the proceedings or conclusions of the Cabinet, irrespective of subject matter. "Cabinet" for this purpose includes committees of the Cabinet the members of which are Ministers. Cabinet documents to which the Act applies should be marked in a manner prescribed by the Secretary of the Cabinet. The Act should provide that the communication of a Cabinet document means either the transmission of that document or a substantial part of it, or the communication of information about the document by other means which enable another person to reproduce the document or a substantial

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part of it in verbatim or virtually verbatim form. The provisions in proposal 7.(c) about the removal of a classification mark, or the making of a copy of a classified document without the mark, should apply also to Cabinet marks.
(Paragraphs 182-190.)

12. *The confidences of the citizen.* The Official Information Act should apply to information given to the Government by private individuals or concerns, whether given by reasons of compulsory powers or otherwise, and whether or not given on an express or implied basis of confidence.
(Paragraphs 192-200.)

13. *Official information used for private gain.* The Official Information Act should contain the following provisions, which would in effect form an extension of the existing law on corruption:—

- (a) It should be an offence for a Crown servant, contrary to his official duty, to use official information for the purpose of obtaining private gain for himself or any other person, or to communicate the information to any other person with a view to enabling that person or any other person to obtain private gain. "Private gain" means the making of a gain, or the avoidance of a loss, in money or money's worth.
- (b) This offence should also cover—
 - (i) a Government contractor who uses or communicates official information for private gain, otherwise than for the purposes of the contract;
 - (ii) a person entrusted with official information in confidence, who uses or communicates that information for private gain, otherwise than for the purposes for which it was entrusted.
- (c) It should be an offence for a recipient of official information, which he knows or has reasonable ground to believe has been disclosed by a Crown servant contrary to his official duty, or by a Government contractor or person entrusted with official information in confidence contrary to (b) above, to use that information for the purpose of obtaining private gain for himself or for another.

(Paragraphs 201-5.)

Who should be liable to prosecution

14. The Official Information Act should place the primary duty to protect official information to which it applies upon:—

- (a) Ministers of the Crown;
- (b) members of the Home Civil Service and the Diplomatic Service;
- (c) members of the Armed Forces;
- (d) members of police forces;
- (e) members of the Atomic Energy Authority and the Post Office;
- (f) persons employed by or serving under the direction or control of any of the above classes, and members of the legal profession acting for the Crown or for the police in bringing prosecutions;
- (g) former members of any of the above classes.

(Paragraphs 208-215.)

Crown servants

15. It should be an offence for a Crown servant to communicate information to which the Official Information Act applies, contrary to his official duty.

(Paragraphs 216-7.)

16. In relation to prosecutions or serving Crown servants for the offence in

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proposal 15, the Official Information Act should provide as follows:—

- (a) The prosecution should have to prove that the Crown servant had disclosed information to which the Official Information Act applies, contrary to his official duty.
- (b) The Crown servant should have the defence that he believed, and had reasonable ground to believe, that he was not acting contrary to his official duty.
- (c) The Crown servant should also have the defence that—
 - (i) in the case of classified information relating to defence or internal security, or foreign relations, or the currency or the reserves, he did not know, and had no reason to believe, that it was classified;
 - (ii) in the case of an offence of disclosing a Cabinet document, or information covered by our proposals on the maintenance of law and order and the confidences of the citizen, he did not know, and had no reason to believe, that it was such a document, or was information of one of the kinds specified in proposals 10 and 12.

(Paragraphs 218–221.)

17. Failure by a Crown servant to take reasonable care of an official document or information to which the Official Information Act applies, or failure to comply with directions given on behalf of the Crown about the return or disposal of such a document, or the retention of such a document contrary to his official duty, should be offences.

(Paragraph 222.)

Government contractors and persons entrusted with official information in confidence

18. (a) It should be an offence for a Government contractor to disclose information to which the Official Information Act applies (other than the confidences of the citizen) and which has come into his possession owing to his position as a Government contractor if—

- (i) the provisions of the Act have been drawn to his attention as applying to that information or that kind of information; and
- (ii) the disclosure is not made for the purposes of the contract or in accordance with an authorisation given on behalf of the Crown, or it is made contrary to restrictions imposed on behalf of the Crown.

(b) A person charged with this offence should have the defences—

- (i) that he believed, and had reasonable ground to believe, that he had disclosed the information for the purposes of the contract, or in accordance with an authorisation given on behalf of the Crown, or that the disclosure was not contrary to any restriction imposed on behalf of the Crown;
- (ii) that he did not know, and had no reason to believe, that the information in question was classified, or was of a kind protected by the Official Information Act (see proposal 16 (c)).

(c) This offence should also cover a person entrusted with official information in confidence by a Crown servant, with the modification that (a) (ii) and (b) (i) should refer to the purposes for which the information was entrusted and not to the purposes of the contract.

(d) The offences of failing to take reasonable care of official documents and information and failing to comply with directions for the return or disposal of such documents (see proposal 17) should also apply to Government contractors and persons entrusted with official information in confidence.

(Chapter 14, ie paragraphs 223–8.)

The duty of the citizen

19. The mere receipt of official information should no longer be an offence.

(Paragraphs 232–3.)

20. Where a person knows, or has reasonable ground to believe, that information in his possession has been communicated (whether or not directly to him) in contravention of the Official Information Act (other than the provisions relating to the confidences of the citizen and private gain) it should be an offence for him to communicate that information otherwise than in accordance with an authorisation given on behalf of the Crown. The prosecution should have to prove (a) that there had been a contravention of the Act by some other person, and (b) that the information in question was still covered by the Act at the time when the accused communicated it, and (c) that the accused knew that the information had at some earlier stage been communicated in contravention of the Act, or that he had reasonable ground to believe that this was the case. The accused should have the defence that he believed, and had reasonable ground to believe, that he had communicated the information in accordance with an authorisation given on behalf of the Crown to him, or given to some other person but in terms applicable to him. It should not be an offence to communicate information for the purpose of obtaining such an authorisation, or of delivering a document to a Crown servant or obtaining directions about its return or disposal.

(Paragraphs 230-1 and 234-6.)

21. Any person coming innocently into possession of a document in one of the three categories described in proposals 3-5 which is classified and marked SECRET should be prohibited from communicating that document to anyone except for the purpose of delivering it to a Crown servant or obtaining directions what to do with it. The citizen should have the defence that he did not know, and had no reason to believe, that disclosure of the document might cause serious injury to the interests of the nation. The provisions about classification in proposals 7 and 8 should apply for the purposes of this offence, and no offence should be committed unless the document is proved to have been marked SECRET.

(Paragraph 237.)

22. It should be an offence under the Official Secrets Act for any person who comes into possession of information which he knows, or has reasonable ground to believe, has been obtained or communicated in contravention of section 1 of the 1911 Act to communicate that information, except by handing it to a Crown servant or telling a Crown servant that he has it.

(Paragraph 238.)

23. Where a person has come into possession of information to which the Official Information Act applies by virtue of his position as a Crown servant, or a Government contractor or a person entrusted with that information in confidence, and has retired or otherwise ceased to be concerned with the matters by reason of which he came into possession of the information, it should be an offence for him to communicate that information otherwise than in accordance with an authorisation given on behalf of the Crown. He should have the defence that he believed, and had reasonable ground to believe, that he had communicated that information in accordance with an authorisation given on behalf of the Crown to him, or given to some other person but in terms also applicable to him.

(Paragraph 239.)

Control over the institution of prosecutions

24. No prosecution should be brought in England and Wales for an offence under the Official Information Act relating to law and order (see proposal 10) or private gain (see proposal 13) except by or with the consent of the Director of Public Prosecutions.

(Chapter 16, paragraphs 240-8.)

25. No prosecution should be brought for an offence under the Official Information Act relating to defence and internal security (see proposal 3), foreign relations (see proposal 4), the currency or the reserves (see proposal 5), a Cabinet document (see proposal 11) or the confidences of the citizen (see proposal 12) except by or with the consent of the Attorney General, or of the Lord Advocate in Scotland.

(Chapter 16, ie paragraphs 240-256.)

Ancillary provisions and penalties

26. Sections 6 and 9 (1) of the Official Secrets Act 1911, and sections 8 (3) and (4) of the Official Secrets Act 1920, should apply to offences under the Official Information Act.
(Paragraph 257.)

27. Subject to consultations with the other authorities concerned, and to the outcome of the Law Commission's study of the extra-territorial application of the criminal law, section 10 of the Official Secrets Act 1911 should apply to the Official Information Act.
(Paragraphs 259-262.)

28. The maximum penalties on conviction on indictment of an offence under the Official Information Act should be two years' imprisonment, or a fine with no limit on the amount, or both. The maximum penalties on summary conviction for such an offence, other than one of the offences mentioned in proposal 29, should be six months' imprisonment, or a fine of £400, or both.
(Paragraphs 266-9.)

29. The offences of mishandling official documents (see proposal 17) and of failing to protect SECRET documents (see proposal 21) should be summary offences only, with a maximum penalty of three months' imprisonment or a fine of £400, or both.
(Paragraphs 270.)

30. The maximum penalties for the offence of communicating information which has been obtained or communicated in contravention of section 1 of the 1911 Act (see proposal 22) should be the same as those in the Official Information Act (see proposal 28).
(Paragraph 271.)