

New Delhi-2, the 12th April, 1954.

OFFICE MEMORANDUM.

Subject:- Maintenance of Secrecy of  
official noting, unpublished records and  
documents and communications made in official  
confidence. Unauthorised retention or  
communication of such documents etc.

It has been noticed that Government Servants and others, including former Government servants, have sometimes quoted or copied in their representations, appeals etc., Government circulars including those marked secret, notes and other information from files, which they were ordinarily not expected to have seen or to have retained. Communication of such documents etc. to, and their retention by, unauthorised persons is not only improper but also involves contravention of rules 17 to 19 of the Government Servants Conduct Rules and Section 5 of the Official Secrets Act 1923 (relevant extracts are enclosed). *Present Rule 8.*

2. Rule 17 of the Government Servants' Conduct Rules lays down that a Government servant may not communicate directly or indirectly to other Government servants or to non-official persons or to the Press any documents or information which may have come into his possession in the course of his public duties. Retention of such documents or information by a Government servant in his personal custody for use in furtherance of his personal interest, e.g. in making representations to the authorities concerned, is not only objectionable but also constitutes an offence under Section 5 of the Official Secret Act 1923. A person contravening the provisions of the above Act renders himself liable to prosecution. Contravention of the provisions of the Act and of the Conduct Rules can also be dealt with departmentally under the relevant Discipline Rules, and may well justify the imposition of a suitable penalty with reference to the facts and circumstances of each case.

3. It is requested that the position stated above may be brought to the notice of all Government servants with whom the Ministry of Finance/etc are concerned.

  
(B.D. Tewari)

Deputy Secretary to the Government of India.

To

All \* Ministries of the Government of India including  
usual spare Ministry of Finance - Department of E.A. Department of R & E  
copies. (Rev.Div) Department of R & E (Def. Div), Department of R & E  
(Spare (I & Div), private secretary/Ministry Secretary to the President.  
copies will Prime Minister's Secretariat/Cabinet Secretariat/Partition  
follow) Secretariat/Parliament Secretariat/Council of States Secretar-  
iat. Union Public Service Commission/Planning Commission/  
Election Commission. Comptroller & Auditor-General of India,  
Supreme Court of India, Department of Parliamentary Affairs.  
Principal, Indian Administrative Service Training School/ Director,  
Secretariat Training School/ Commandant Central Police Training  
College Mount Abu/Director Intelligence Bureau/Inspector General,  
Special Police Establishment/Directorate of Coordination (Police  
Wireless)/Backward Classes Commission.

Copy to Admn. Section/Ais(1)/CS(A)/CS(B)/CS(C)/CS(D)/  
NGS/DGS and Ais(1) Sections.

Section 5 of the Official Secret  
Act 1923.

**WRONGFUL COMMUNICATION, ETC., OF INFORMATION:-**

If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Government or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government or as a person who holds or has held a contract made on behalf of Government or as a person who is or has been employed under a person who holds or has held such an office or contract:-

(a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

(b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or

(c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

(d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information; he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code pass word, sketch, plan, model article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.