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NOTE ON RECEIPT OF INFORMATION

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### **Introduction**

1. This Note refers to the proposed new offence of receiving a benefit from a designated body under the National Security (State Threats) Bill. Its focus is the potential impact of the new offence on those involved in humanitarian work and conflict resolution. For convenience I will refer to them as humanitarian agencies.

### **Section 17C**

2. The Bill will insert a new section 17C into the National Security Act 2023. It is modelled on existing section 17 of that Act (receipt of a benefit from a Foreign Intelligence Service).
3. Section 17C will be an important precursor offence to enable the early disruption of proxies who are induced by designated bodies to carry out malign activity such as sabotage.
4. The offence is committed by obtaining, accepting or retaining, or agreeing to accept, a material benefit from a designated organisation: section 17C(1).
5. For sensible reasons, a ‘material benefit’ under section 17C is defined broadly, and expressly includes “information”: section 17C(3). Information could be a valuable inducement to assist a designated body.

### **Obtaining Information**

6. But this raises the point, identified by Lord Anderson KC on second reading on 23 June 2026 (Hansard (HL) Vol 857 Col 577), that a designated body could provide information to humanitarian agencies such as the location of landmines.
7. Importantly, unlike under section 17B (assistance to designated bodies), the prosecution under section 17C do not need to prove that the defendant’s conduct is known to be, or ought to be known to be, prejudicial to the safety or interests of the United Kingdom.

8. There are a variety of blockers to a prosecution of humanitarian agencies that obtain, accept or agree to accept information, not least the need for any prosecution to secure the consent of the Attorney General. However, if a humanitarian agency is operating in an area controlled by a designated body which has been expressly named by the Secretary of State, this fact alone may unnerve trustees and banks.
9. The other liability-limiting provisions within section 17C are of limited if any assistance.
  - Section 17C(4) excludes benefits that are provided as reasonable consideration for goods or services. This transactional defence does not appear to fit aid provision or conflict resolution: for example, if a designated body provided the coordinates of a landmine, to facilitate aid delivery to the local population, any “service” that the humanitarian agency might arguably be providing is to the local population not the designated body.
  - Section 17C(7) provides a reasonable excuse defence only for retaining a benefit. It does not apply to obtaining, accepting or agreeing to accept information.
  - Section 17C(8) refers to legal obligations, functions of a public nature, and agreements with the UK or UK officials. None of these seem applicable, unless there is an agreement between the humanitarian agency and the UK government which may not always be applicable (or even desirable).

### **Possible Amendments**

10. Given the possible exploitation of humanitarian agency cover by hostile state actors (just as they may exploit legal and journalistic cover), there are grounds to be cautious about adding a humanitarian defence (as found in the designated area offence under section 58B Terrorism Act 2000).
11. Creating a general reasonable excuse defence would also expand the scope of the carefully limited exclusions and defences found in section 17C. It would put section 17C out of line with section 17 National Security Act 2023 on which it is closely modelled, and which contains no reasonable excuse defence other than in relation to benefit retention.
12. A more tailored defence, albeit one not found in section 17 National Security Act 2023, might apply as follows:

- It would be limited to obtaining, accepting or agreeing to accept *information*.
- It would only apply to information relating to *activity outside the United Kingdom*.
- In these circumstances it would be a defence to show that there was a *reasonable excuse* for obtaining, accepting or agreeing to accept the information concerned.

13. An amendment reflecting this proposal might be phrased as follows:

Clause 2, page 6 line 23, insert –

“(8) In proceedings for the offence of obtaining or accepting a material benefit under subsection (1), and for the offence of agreeing to accept a material benefit under subsection (2), it shall be a defence to show that the material benefit was comprised only of information relating to activity outside the United Kingdom, and that the person had a reasonable excuse for obtaining, accepting or agreeing to accept the information.”

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