



# Serious Crime Act 2007

## 2007 CHAPTER 27

### PART 2

#### ENCOURAGING OR ASSISTING CRIME

##### *Jurisdiction and procedure*

#### **52 Jurisdiction**

- (1) If a person (D) knows or believes that what he anticipates might take place wholly or partly in England or Wales, he may be guilty of an offence under section 44, 45 or 46 no matter where he was at any relevant time.
- (2) If it is not proved that D knows or believes that what he anticipates might take place wholly or partly in England or Wales, he is not guilty of an offence under section 44, 45 or 46 unless paragraph 1, 2 or 3 of Schedule 4 applies.
- (3) A reference in this section (and in any of those paragraphs) to what D anticipates is to be read as follows—
  - (a) in relation to an offence under section 44 or 45, it refers to the act which would amount to the commission of the anticipated offence;
  - (b) in relation to an offence under section 46, it refers to an act which would amount to the commission of any of the offences specified in the indictment.
- (4) In their application to Northern Ireland, this section and Schedule 4 have effect as if references to—
  - (a) England or Wales; and
  - (b) England and Wales;were references to Northern Ireland.
- (5) Nothing in this section or Schedule 4 restricts the operation of any enactment by virtue of which an act constituting an offence under this Part is triable under the law of England and Wales or Northern Ireland.

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Cross Heading: Jurisdiction and procedure. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C1** Pt. 2 restricted by 2007 c. 19, s. 18(1A) (as inserted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 62, 94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#))

**Commencement Information**

- I1** [S. 52](#) in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

**53 Prosecution of offences triable by reason of Schedule 4**

[<sup>F1</sup>(1)] No proceedings for an offence triable by reason of any provision of Schedule 4 may be instituted—

- (a) in England and Wales, except by, or with the consent of, the Attorney General; or
- (b) in Northern Ireland, except by, or with the consent of, the Advocate General for Northern Ireland.

[<sup>F2</sup>(2) Subsection (1) does not apply to an offence under this Part to which section 10 of the Bribery Act 2010 applies by virtue of section 54(1) and (2) below (encouraging or assisting bribery).]

**Textual Amendments**

- F1** [S. 53](#) renumbered as [s. 53\(1\)](#) by [Bribery Act 2010 \(c. 23\)](#), [s. 19\(1\)](#), [Sch. 1 para. 13\(2\)](#) (with [ss. 16, 19\(05\)](#)); [S.I. 2011/1418](#), [art. 2](#)
- F2** [S. 53\(2\)](#) inserted (1.7.2011) by [Bribery Act 2010 \(c. 23\)](#), [s. 19\(1\)](#), [Sch. 1 para. 13\(3\)](#) (with [ss. 16, 19\(5\)](#)); [S.I. 2011/1418](#), [art. 2](#)

**Commencement Information**

- I2** [S. 53](#) in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

**54 Institution of proceedings etc. for an offence under this Part**

- (1) Any provision to which this section applies has effect with respect to an offence under this Part as it has effect with respect to the anticipated offence.
- (2) This section applies to provisions made by or under an enactment (whenever passed or made) that—
  - (a) provide that proceedings may not be instituted or carried on otherwise than by, or on behalf or with the consent of, any person (including any provision which also makes exceptions to the prohibition);
  - (b) confer power to institute proceedings;
  - (c) confer power to seize and detain property;
  - (d) confer a power of forfeiture, including any power to deal with anything liable to be forfeited.
- (3) In relation to an offence under section 46—
  - (a) the reference in subsection (1) to the anticipated offence is to be read as a reference to any offence specified in the indictment; and

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- (b) each of the offences specified in the indictment must be an offence in respect of which the prosecutor has power to institute proceedings.
- (4) Any consent to proceedings required as a result of this section is in addition to any consent required by section 53.
- (5) No proceedings for an offence under this Part are to be instituted against a person providing information society services who is established in an EEA State<sup>F3</sup>... unless the derogation condition is satisfied.
- (6) The derogation condition is satisfied where the institution of proceedings—
  - (a) is necessary to pursue the public interest objective;
  - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to it; and
  - (c) is proportionate to that objective.
- (7) The public interest objective is public policy.
- (8) In this section “information society services” has the same meaning as in section 34, and subsection (7) of that section applies for the purposes of this section as it applies for the purposes of that section.

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**Textual Amendments**

**F3** Words in s. 54(5) omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, [122\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

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**Commencement Information**

**I3** S. 54 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

## 55 Mode of trial

- (1) An offence under section 44 or 45 is triable in the same way as the anticipated offence.
- (2) An offence under section 46 is triable on indictment.

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**Commencement Information**

**I4** S. 55 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

## 56 Persons who may be perpetrators or encouragers etc.

- (1) In proceedings for an offence under this Part (“the inchoate offence”) the defendant may be convicted if—
  - (a) it is proved that he must have committed the inchoate offence or the anticipated offence; but
  - (b) it is not proved which of those offences he committed.
- (2) For the purposes of this section, a person is not to be treated as having committed the anticipated offence merely because he aided, abetted, counselled or procured its commission.

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*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Cross Heading: Jurisdiction and procedure. (See end of Document for details)*

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- (3) In relation to an offence under section 46, a reference in this section to the anticipated offence is to be read as a reference to an offence specified in the indictment.

**Commencement Information**

**I5** S. 56 in force at 1.10.2008 by S.I. 2008/2504, art. 2(a)

**57 Alternative verdicts and guilty pleas**

- (1) If in proceedings on indictment for an offence under section 44 or 45 a person is not found guilty of that offence by reference to the specified offence, he may be found guilty of that offence by reference to an alternative offence.
- (2) If in proceedings for an offence under section 46 a person is not found guilty of that offence by reference to any specified offence, he may be found guilty of that offence by reference to one or more alternative offences.
- (3) If in proceedings for an offence under section 46 a person is found guilty of the offence by reference to one or more specified offences, he may also be found guilty of it by reference to one or more other alternative offences.
- (4) For the purposes of this section, an offence is an alternative offence if—
  - (a) it is an offence of which, on a trial on indictment for the specified offence, an accused may be found guilty; or
  - (b) it is an indictable offence, or one to which section 40 of the Criminal Justice Act 1988 (c. 33) applies (power to include count for common assault etc. in indictment), and the condition in subsection (5) is satisfied.
- (5) The condition is that the allegations in the indictment charging the person with the offence under this Part amount to or include (expressly or by implication) an allegation of that offence by reference to it.
- (6) Subsection (4)(b) does not apply if the specified offence, or any of the specified offences, is murder or treason.
- (7) In the application of subsection (5) to proceedings for an offence under section 44, the allegations in the indictment are to be taken to include an allegation of that offence by reference to the offence of attempting to commit the specified offence.
- (8) Section 49(4) applies to an offence which is an alternative offence in relation to a specified offence as it applies to that specified offence.
- (9) In this section—
  - (a) in relation to a person charged with an offence under section 44 or 45, “the specified offence” means the offence specified in the indictment as the one alleged to be the anticipated offence;
  - (b) in relation to a person charged with an offence under section 46, “specified offence” means an offence specified in the indictment (within the meaning of subsection (4) of that section), and related expressions are to be read accordingly.
- (10) A person arraigned on an indictment for an offence under this Part may plead guilty to an offence of which he could be found guilty under this section on that indictment.

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- (11) This section applies to an indictment containing more than one count as if each count were a separate indictment.
- (12) This section is without prejudice to—
- (a) section 6(1)(b) and (3) of the Criminal Law Act 1967 (c. 58);
  - (b) section 6(1)(b) and (2) of the Criminal Law Act (Northern Ireland) 1967 (c. 18).

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**Commencement Information**

**I6** S. 57 in force at 1.10.2008 by S.I. 2008/2504, art. 2(a)

## 58 Penalties

- (1) Subsections (2) and (3) apply if—
- (a) a person is convicted of an offence under section 44 or 45; or
  - (b) a person is convicted of an offence under section 46 by reference to only one offence (“the reference offence”).
- (2) If the anticipated or reference offence is murder, he is liable to imprisonment for life.
- (3) In any other case he is liable to any penalty for which he would be liable on conviction of the anticipated or reference offence.
- (4) Subsections (5) to (7) apply if a person is convicted of an offence under section 46 by reference to more than one offence (“the reference offences”).
- (5) If one of the reference offences is murder, he is liable to imprisonment for life.
- (6) If none of the reference offences is murder but one or more of them is punishable with imprisonment, he is liable—
- (a) to imprisonment for a term not exceeding the maximum term provided for any one of those offences (taking the longer or the longest term as the limit for the purposes of this paragraph where the terms provided differ); or
  - (b) to a fine.
- (7) In any other case he is liable to a fine.
- (8) Subsections (3), (6) and (7) are subject to any contrary provision made by or under—
- (a) an Act; or
  - (b) Northern Ireland legislation.
- (9) In the case of an offence triable either way, the reference in subsection (6) to the maximum term provided for that offence is a reference to the maximum term so provided on conviction on indictment.

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**Commencement Information**

**I7** S. 58 in force at 1.10.2008 by S.I. 2008/2504, art. 2(a)

**Changes to legislation:**

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Heading: Jurisdiction and procedure.