



# International Criminal Court Act 2001

## 2001 CHAPTER 17

### PART 5

#### OFFENCES UNDER DOMESTIC LAW

##### *England and Wales*

#### **51 Genocide, crimes against humanity and war crimes**

- (1) It is an offence against the law of England and Wales for a person to commit genocide, a crime against humanity or a war crime.
- (2) This section applies to acts committed—
  - (a) in England or Wales, or
  - (b) outside the United Kingdom by a United Kingdom national, a United Kingdom resident or a person subject to UK service jurisdiction.

#### **52 Conduct ancillary to genocide, etc. committed outside jurisdiction**

- (1) It is an offence against the law of England and Wales for a person to engage in conduct ancillary to an act to which this section applies.
- (2) This section applies to an act that if committed in England or Wales would constitute—
  - (a) an offence under section 51 (genocide, crime against humanity or war crime), or
  - (b) an offence under this section,but which, being committed (or intended to be committed) outside England and Wales, does not constitute such an offence.
- (3) The reference in subsection (1) to conduct ancillary to such an act is to conduct that would constitute an ancillary offence in relation to that act if the act were committed in England or Wales.

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- (4) This section applies where the conduct in question consists of or includes an act committed—
- (a) in England or Wales, or
  - (b) outside the United Kingdom by a United Kingdom national, a United Kingdom resident or a person subject to UK service jurisdiction.

### **53 Trial and punishment of main offences**

- (1) The following provisions apply in relation to—
- (a) offences under section 51 (genocide, crimes against humanity and war crimes),
  - (b) offences under section 52 (conduct ancillary to genocide, etc. committed outside jurisdiction), and
  - (c) offences ancillary to an offence within paragraph (a) or (b) above.
- (2) The offence is triable only on indictment.
- (3) Proceedings for an offence shall not be instituted except by or with the consent of the Attorney General.
- (4) If the offence is not committed in England or Wales—
- (a) proceedings may be taken, and
  - (b) the offence may for incidental purposes be treated as having been committed, in any place in England or Wales.
- (5) A person convicted of—
- (a) an offence involving murder, or
  - (b) an offence ancillary to an offence involving murder,
- shall be dealt with as for an offence of murder or, as the case may be, the corresponding ancillary offence in relation to murder.
- In this subsection “murder” means the killing of a person in such circumstances as would, if committed in England or Wales, constitute murder.
- (6) In any other case a person convicted of an offence is liable to imprisonment for a term not exceeding 30 years.

### **54 Offences in relation to the ICC**

- (1) A person intentionally committing any of the acts mentioned in article 70.1 (offences against the administration of justice in relation to the ICC) may be dealt with as for the corresponding domestic offence committed in relation to a superior court in England and Wales.
- (2) In interpreting and applying the provisions of article 70.1 the court shall take into account any relevant judgment or decision of the ICC.
- Account may also be taken of any other relevant international jurisprudence.
- (3) The corresponding domestic offences are—
- (a) in relation to article 70.1(a) (giving false testimony when under an obligation to tell the truth), an offence against section 1(1) of the Perjury Act 1911 (c. 6);

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- (b) in relation to article 70.1(c) (interference with witness or evidence), an offence against section 51 of the Criminal Justice and Public Order Act 1994 (c. 33) or at common law;
  - (c) in relation to article 70.1(b) or (d) to (f) (other offences), an offence at common law.
- (4) This section and, so far as may be necessary for the purposes of this section, the enactments and rules of law relating to the corresponding domestic offences apply to acts committed—
- (a) in England or Wales, or
  - (b) outside the United Kingdom by a United Kingdom national, a United Kingdom resident or a person subject to UK service jurisdiction.
- (5) Proceedings for an offence under this section, or for an offence ancillary to such an offence, shall not be instituted except by or with the consent of the Attorney General.
- (6) If an offence under this section, or an offence ancillary to such an offence, is not committed in England or Wales—
- (a) proceedings may be taken, and
  - (b) the offence may for incidental purposes be treated as having been committed, in any place in England or Wales.
- (7) The relevant provisions of article 70.1 are set out in Schedule 9 to this Act.

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

- C1** S. 54(4) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 48(2)**

**55 Meaning of “ancillary offence”**

- (1) References in this Part to an ancillary offence under the law of England and Wales are to—
- (a) aiding, abetting, counselling or procuring the commission of an offence,
  - (b) inciting a person to commit an offence,
  - (c) attempting or conspiring to commit an offence, or
  - (d) assisting an offender or concealing the commission of an offence.
- (2) In subsection (1)(a) the reference to aiding, abetting, counselling or procuring is to conduct that in relation to an indictable offence would be punishable under section 8 of the Accessories and Abettors Act 1861 (c. 94).

<sup>F1</sup>(3) .....

- (4) In subsection (1)(c)—
- (a) the reference to an attempt is to conduct amounting to an offence under section 1 of the Criminal Attempts Act 1981 (c. 47); and
  - (b) the reference to conspiracy is to conduct amounting to an offence of conspiracy under section 1 of the Criminal Law Act 1977 (c. 45).

(5) In subsection (1)(d)—

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- (a) the reference to assisting an offender is to conduct that in relation to [F2a relevant offence] would amount to an offence under section 4(1) of the Criminal Law Act 1967 (c. 58); and
- (b) the reference to concealing an offence is to conduct that in relation to [F3a relevant offence] would amount to an offence under section 5(1) of that Act.

#### Textual Amendments

- F1** S. 55(3) repealed (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 6 para. 61(2), **Sch. 14** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)(i)
- F2** Words in s. 55(5)(a) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178(8), **Sch. 7 para. 49(3)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2(2))
- F3** Words in s. 55(5)(b) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 148(8), **Sch. 7 para. 49(3)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2(2))

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

- C2** S. 55(1)(b) modified (prosp.) by Serious Crime Act 2007, ss. 63(1)(2), 94, {Sch. 6 para. 42} (with Sch. 13 para. 5)
- C3** S. 55(1)(b) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 6 para. 42** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

## 56 Saving for general principles of liability, etc

- (1) In determining whether an offence under this Part has been committed the court shall apply the principles of the law of England and Wales.
- (2) Nothing in this Part shall be read as restricting the operation of any enactment or rule of law relating to—
  - (a) the extra-territorial application of offences (including offences under this Part), or
  - (b) offences ancillary to offences under this Part (wherever committed).

## 57 Protection of victims and witnesses

- (1) The enactments specified below (which make provision for the protection of victims and witnesses of certain offences) have effect—
  - (a) as if any reference in those provisions to a specific substantive offence included an offence under section 51 involving conduct constituting that offence; and
  - (b) as if any reference in those provisions to a specific ancillary offence included—
    - (i) that ancillary offence in relation to an offence under section 51 involving conduct constituting the substantive offence in question, and
    - (ii) an offence under section 52 involving conduct constituting that ancillary offence in relation to an act to which that section applies involving conduct constituting the substantive offence in question.
- (2) The enactments are—
  - the Sexual Offences (Amendment) Act 1976 (c. 82) and the Sexual Offences (Amendment) Act 1992 (c.34) (protection of victims of sexual offences);

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Chapters 1 to 3 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (protection of witnesses and complainants); and the Sexual Offences (Protected Material) Act 1997 (c. 39) (restrictions on access by defendants and others to material disclosed in connection with proceedings for offences).

(3) In subsection (1) above—

- (a) “substantive offence” means an offence other than an ancillary offence; and
- (b) the reference to conduct constituting an offence is to conduct that would constitute that offence if committed in England and Wales.

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