



Armed Forces Act 2006

2006 CHAPTER 52

PART 1 **U.K.**

OFFENCES

Criminal conduct

42 **Criminal conduct** **U.K.**

- (1) A person subject to service law, or a civilian subject to service discipline, commits an offence under this section if he does any act that—
 - (a) is punishable by the law of England and Wales; or
 - (b) if done in England or Wales, would be so punishable.
- (2) A person may be charged with an offence under this section even if he could on the same facts be charged with a different service offence.
- (3) A person guilty of an offence under this section is liable to—
 - (a) if the corresponding offence under the law of England and Wales is under that law an offence punishable with imprisonment, any punishment mentioned in the Table in section 164;
 - (b) otherwise, any punishment mentioned in rows 5 to 12 of that Table.
- (4) Any sentence of imprisonment or fine imposed in respect of an offence under this section must not exceed—
 - (a) if the corresponding offence under the law of England and Wales is a summary offence, the maximum term of imprisonment or fine that could be imposed by a magistrates' court on summary conviction;
 - (b) if that corresponding offence is an indictable offence, the maximum sentence of imprisonment or fine that could be imposed by the Crown Court on conviction on indictment.

Status: Point in time view as at 28/03/2009.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Criminal conduct is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In subsection (4) “a summary offence” and “an indictable offence” mean, respectively, a summary offence under the law of England and Wales and an indictable offence under that law.
- (6) In this section and sections 45 to 49 “act” includes an omission and references to the doing of an act are to be read accordingly.
- (7) In subsections (1) and (8) and sections 45 to 49 “punishable” means punishable with a criminal penalty.
- (8) In this Act “the corresponding offence under the law of England and Wales”, in relation to an offence under this section, means—
 - (a) the act constituting the offence under this section; or
 - (b) if that act is not punishable by the law of England and Wales, the equivalent act done in England or Wales.

Commencement Information

- I1** S. 42 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

43 Attempting criminal conduct **U.K.**

- (1) Subsection (2) applies for the purpose of determining whether an attempt is an offence under section 42.
- (2) For that purpose section 1(4) of the Criminal Attempts Act 1981 (c. 47) (offences that it is an offence to attempt) has effect as if for the words from “offence which” to “other than” there were substituted “offence under section 42 of the Armed Forces Act 2006 consisting of an act punishable by the law of England and Wales as an indictable offence or an act that, if done in England or Wales, would be so punishable by that law; but “indictable offence” here does not include ”.
- (3) Section 42(6) applies for the purposes of section 1(4) of the Criminal Attempts Act 1981 as modified by this section.

Commencement Information

- I2** S. 43 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

44 Trial of section 42 offence of attempt **U.K.**

- (1) Where, in proceedings for a section 42 offence of attempt, there is evidence sufficient in law to support a finding that the defendant did an act falling within subsection (1) of section 1 of the Criminal Attempts Act 1981, the question whether his act fell within that subsection is a question of fact.
- (2) In this section “a section 42 offence of attempt” means an offence under section 42 consisting of an act that is, or that would be if done in England or Wales, an offence under section 1(1) of the Criminal Attempts Act 1981 (c. 47).

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- (3) References in subsections (1) and (2) to section 1(1) of the Criminal Attempts Act 1981 are to that provision as it has effect by virtue of section 43 above.

Commencement Information

- I3** S. 44 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

45 Conspiring to commit criminal conduct **U.K.**

- (1) For the purpose of determining whether an agreement that a course of conduct be pursued is an offence under section 42—

- (a) sections 1(1) and 2 of the Criminal Law Act 1977 (c. 45) (conspiracy) have effect as if any reference to an offence included a reference to an act that, if done in England or Wales, would be punishable by the law of England and Wales; and
- (b) section 1(2) of that Act has effect as if it read—

“(2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of it, a person is nevertheless not guilty by virtue of subsection (1) above of conspiracy to commit—

- (a) that offence, or
- (b) an act that would amount to that offence if done in England or Wales,

unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence, or the act, is to take place.”

- (2) Section 42(6) applies for the purposes of section 1(2) of the Criminal Law Act 1977 as substituted by this section.

Commencement Information

- I4** S. 45 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

[^{F1}46 Encouraging or assisting criminal conduct **U.K.**

- (1) Subsection (2) applies if a person subject to service law, or a civilian subject to service discipline, encourages or assists the doing of an act (or one or more of a number of acts) that, if done in England or Wales, would be punishable by the law of England and Wales.
- (2) Regardless of where that act (or those acts) might be done and of his state of mind with respect to that question, his encouragement or assistance shall be treated for the purposes of section 42(1) as an act that is punishable by the law of England and Wales (so far as it is not such an act in any event).

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- (3) Reference in this section to encouraging or assisting is to an act that would constitute an offence under Part 2 of the Serious Crime Act 2007 disregarding any provision in that Part about the place where the act (or acts) being encouraged or assisted might be done or the accused's state of mind with respect to that question.]

Textual Amendments

- F1** S. 46 substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 11](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)

Commencement Information

- I5** S. 46 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

47 Aiding, abetting, counselling or procuring criminal conduct **U.K.**

- (1) Subsection (2) applies if—
- any person (“A”) does an act that is punishable by the law of England and Wales or would be so punishable if done in England or Wales; and
 - a person subject to service law, or a civilian subject to service discipline, aids, abets, counsels or procures A's doing of that act.
- (2) Regardless of where the act aided, abetted, counselled or procured was done, the aiding, abetting, counselling or procuring shall be treated for the purposes of section 42(1) as an act that is punishable by the law of England and Wales.
- (3) For the purpose of determining whether an attempt is an act that falls within subsection (1)(a) above, section 1(4) of the Criminal Attempts Act 1981 (c. 47) has effect with the modification made by section 43.

Commencement Information

- I6** S. 47 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

48 Provision supplementary to sections 43 to 47 **U.K.**

- (1) This section applies where—
- an attempt, agreement or [^{F2}encouragement or assistance], or a person's aiding, abetting, counselling or procuring, is an offence under section 42 by reason of section 43, 45, 46 or 47; and
 - the act to which it relates (“the contemplated act”) is not an act that is (or that if done would have been) punishable by the law of England and Wales.
- (2) For the following purposes it shall be assumed that the contemplated act amounted to the offence under the law of England and Wales that it would have amounted to if it had been the equivalent act in England or Wales.
- (3) Those purposes are—
- the purpose of determining what punishment may be imposed for the offence under section 42;

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- (b) the purpose of determining for the purposes of any of the following provisions of this Act whether the act constituting the offence under section 42, or the equivalent act done in England or Wales, is or would be—
- (i) an offence under the law of England and Wales;
 - (ii) any particular such offence;
 - (iii) such an offence of any particular description.

Textual Amendments

- F2** Words in s. 48(1)(a) substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 12](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, art. 2(a)

Modifications etc. (not altering text)

- C1** S. 48 applied (with modifications) by 2003 c. 44, Sch. 15A para. 52(2) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 13(2), 153(7), [Sch. 5](#); S.I. 2008/1586, art. 2(1), [Sch. 1 para. 4](#) (with [Sch. 2 para. 2](#)))
- C2** S. 48 applied (with modifications) by 2003 c. 44, s. 233(2) (as substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 218](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))
- C3** S. 48 applied (with modifications) by 2000 c. 6, s. 114(3) (as substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 166](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))
- C4** S. 48 applied (with modifications) by 2000 c. 43, s. 27(3) (as substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 179\(3\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))
- C5** S. 48 applied (with modifications) by 1992 c. 34, s. 6(1A) (as inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 127\(3\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))
- C6** S. 48 applied (with modifications) by 2003 c. 42, Sch. 5 para. 172A(2) (as inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 213](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))
- C7** S. 48 applied (with modifications) by 2003 c. 42, Sch. 3 para. 93A(3) (as inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 212\(3\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))
- C8** S. 48 applied (with modifications) by 1982 c. 48, s. 32(2A) (as inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 94\(4\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059))

Commencement Information

- I7** S. 48 in force at 28.3.2009 for specified purposes by S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059)

49 Air Navigation Order offences **U.K.**

- (1) If a person subject to service law, or a civilian subject to service discipline, does in or in relation to a military aircraft any act that if done in or in relation to a civil aircraft would amount to a prescribed Air Navigation Order offence, the act shall be treated for the purposes of section 42(1) as punishable by the law of England and Wales.
- (2) Where an act is an offence under section 42 by reason of subsection (1) above—
 - (a) section 42(8)(b) does not apply; and

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- (b) it shall be assumed for the following purposes that the act amounted to the offence under the law of England and Wales that it would have amounted to if it had been done in or in relation to a civil aircraft.
- (3) Those purposes are—
- (a) the purpose of determining what punishment may be imposed for the offence under section 42;
- (b) the purpose of determining for the purposes of any of the following provisions of this Act whether the act constituting the offence under section 42 is—
- (i) an offence under the law of England and Wales;
- (ii) any particular such offence;
- (iii) such an offence of any particular description.
- (4) In this section—
- “military aircraft” has the meaning given by section 92 of the Civil Aviation Act 1982 (c. 16);
- “civil aircraft” means an aircraft that is registered in the United Kingdom and is not a military aircraft;
- “Air Navigation Order offence” means an offence under an Order in Council made under section 60 of the Civil Aviation Act 1982 (whenever made, and whether or not also made under any other enactment);
- “prescribed” means prescribed by an order made by the Secretary of State for the purposes of this section.

Commencement Information

18 S. 49 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

Status:

Point in time view as at 28/03/2009.

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