



# Criminal Law Act 1977

## 1977 CHAPTER 45

### PART I

#### CONSPIRACY

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

**C1** Pt. I (ss. 1-5) extended (1.10.1996) by 1996 c. 29, ss.1, 3; S.I. 1996/2262, art.2.

#### **1 The offence of conspiracy.**

[<sup>F1</sup>(1) Subject to the following provisions of this Part of this Act, if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either—

- (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement, or
- (b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,

he is guilty of conspiracy to commit the offence or offences in question.]

<sup>F2</sup>(1A) . . . . .

<sup>F2</sup>(1B) . . . . .

(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 the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) above 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 is to take place.

<sup>F3</sup>(3) . . . . .

(4) In this Part of this Act “offence” means an offence triable in England and Wales <sup>F4</sup>. . .

*Status: Point in time view as at 04/04/2005.*

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<sup>F2</sup>(5) .....

<sup>F2</sup>(6) .....

#### Textual Amendments

- F1** S. 1(1) substituted (with saving) by [Criminal Attempts Act 1981 \(c. 47, SIF 39:1\)](#), s. 5(1)
- F2** S. 1(1A)(1B)(5)(6) repealed (4.9.1998) by [1998 c. 40, s. 9\(1\)\(2\), Sch. 1 Pt. II para. 4\(a\)\(c\), Sch. 2 Pt. II](#) (with s. 9(3))
- F3** S. 1(3) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, [Sch. 1](#) (with [Sch. 3 para. 2](#)).
- F4** Words in s. 1(4) repealed (4.9.1998) by [1998 c. 40, s. 9\(1\)\(2\), Sch. 1 Pt. II para. 4\(b\), Sch. 2 Pt. II](#) (with s. 9(3)).

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

- C2** S. 1(1) modified (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 242, 302.

### [<sup>F5</sup>1A Conspiracy to commit offences outside the United Kingdom.

- (1) Where each of the following conditions is satisfied in the case of an agreement, this Part of this Act has effect in relation to the agreement as it has effect in relation to an agreement falling within section 1(1) above.
- (2) The first condition is that the pursuit of the agreed course of conduct would at some stage involve—
  - (a) an act by one or more of the parties, or
  - (b) the happening of some other event,
 intended to take place in a country or territory outside the United Kingdom.
- (3) The second condition is that that act or other event constitutes an offence under the law in force in that country or territory.
- (4) The third condition is that the agreement would fall within section 1(1) above as an agreement relating to the commission of an offence but for the fact that the offence would not be an offence triable in England and Wales if committed in accordance with the parties' intentions.
- (5) The fourth condition is that—
  - (a) a party to the agreement, or a party's agent, did anything in England and Wales in relation to the agreement before its formation, or
  - (b) a party to the agreement became a party in England and Wales (by joining it either in person or through an agent), or
  - (c) a party to the agreement, or a party's agent, did or omitted anything in England and Wales in pursuance of the agreement.
- (6) In the application of this Part of this Act to an agreement in the case of which each of the above conditions is satisfied, a reference to an offence is to be read as a reference to what would be the offence in question but for the fact that it is not an offence triable in England and Wales.

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- (7) Conduct punishable under the law in force in any country or territory is an offence under that law for the purposes of this section, however it is described in that law.
- (8) Subject to subsection (9) below, the second condition is to be taken to be satisfied unless, not later than rules of court may provide, the defence serve on the prosecution a notice—
  - (a) stating that, on the facts as alleged with respect to the agreed course of conduct, the condition is not in their opinion satisfied,
  - (b) showing their grounds for that opinion, and
  - (c) requiring the prosecution to show that it is satisfied.
- (9) The court may permit the defence to require the prosecution to show that the second condition is satisfied without the prior service of a notice under subsection (8) above.
- (10) In the Crown Court the question whether the second condition is satisfied shall be decided by the judge alone, and shall be treated as a question of law for the purposes of—
  - (a) section 9(3) of the <sup>M1</sup>Criminal Justice Act 1987 (preparatory hearing in fraud cases), and
  - (b) section 31(3) of the <sup>M2</sup>Criminal Procedure and Investigations Act 1996 (preparatory hearing in other cases).
- (11) Any act done by means of a message (however communicated) is to be treated for the purposes of the fourth condition as done in England and Wales if the message is sent or received in England and Wales.
- (12) In any proceedings in respect of an offence triable by virtue of this section, it is immaterial to guilt whether or not the accused was a British citizen at the time of any act or other event proof of which is required for conviction of the offence.
- (13) References in any enactment, instrument or document (except those in this Part of this Act) to an offence of conspiracy to commit an offence include an offence triable in England and Wales as such a conspiracy by virtue of this section (without prejudice to subsection (6) above).
- (14) Nothing in this section—
  - (a) applies to an agreement entered into before the day on which the Criminal Justice (Terrorism and Conspiracy) Act 1998 was passed, or
  - (b) imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

#### Textual Amendments

**F5** S. 1A inserted (4.9.1998) by 1998 c. 40, s. 5(1).

#### Marginal Citations

**M1** 1987 c. 38.

**M2** 1996 c. 25.

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## 2 Exemptions from liability for conspiracy.]

- (1) A person shall not by virtue of section 1 above be guilty of conspiracy to commit any offence if he is an intended victim of that offence.
- (2) A person shall not by virtue of section 1 above be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say—
  - (a) his spouse;
  - (b) a person under the age of criminal responsibility; and
  - (c) an intended victim of that offence or of each of those offences.
- (3) A person is under the age of criminal responsibility for the purposes of subsection (2) (b) above so long as it is conclusively presumed, by virtue of section 50 of the <sup>M3</sup>Children and Young Persons Act 1933, that he cannot be guilty of any offence.

### Textual Amendments

**F5** S. 1A inserted (4.9.1998) by 1998 c. 40, s. 5(1).

### Marginal Citations

**M3** 1933 c. 12.

## 3 Penalties for conspiracy.

- (1) A person guilty by virtue of section 1 above of conspiracy to commit any offence or offences shall be liable on conviction on indictment—
  - (a) in a case falling within subsection (2) or (3) below, to imprisonment for a term related in accordance with that subsection to the gravity of the offence or offences in question (referred to below in this section as the relevant offence or offences); and
  - (b) in any other case, to a fine.

Paragraph (b) above shall not be taken as prejudicing the application of [<sup>F6</sup>section 163 of the Criminal Justice Act 2003] (general power of court to fine offender convicted on indictment) in a case falling within subsection (2) or (3) below.
- (2) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions, that is to say—
  - (a) murder, or any other offence the sentence for which is fixed by law;
  - (b) an offence for which a sentence extending to imprisonment for life is provided; or
  - (c) an indictable offence punishable with imprisonment for which no maximum term of imprisonment is provided,

the person convicted shall be liable to imprisonment for life.
- (3) Where in a case other than one to which subsection (2) above applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted shall be liable to imprisonment for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this section where the terms provided differ).

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In the case of an offence triable either way the references above in this subsection to the maximum term provided for that offence are references to the maximum term so provided on conviction on indictment.

#### Textual Amendments

- F6** Words in s. 3(1) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 24](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(13\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))

#### 4 Restrictions on the institution of proceedings for conspiracy.

- (1) Subject to subsection (2) below proceedings under section 1 above for conspiracy to commit any offence or offences shall not be instituted against any person except by or with the consent of the Director of Public Prosecutions if the offence or (as the case may be) each of the offences in question is a summary offence.
- (2) In relation to the institution of proceedings under section 1 above for conspiracy to commit—
  - (a) an offence which is subject to a prohibition by or under any enactment on the institution of proceedings otherwise than by, or on behalf or with the consent of, the Attorney General, or
  - (b) two or more offences of which at least one is subject to such a prohibition, subsection (1) above shall have effect with the substitution of a reference to the Attorney General for the reference to the Director of Public Prosecutions.
- (3) Any prohibition by or under any enactment on the institution of proceedings for any offence which is not a summary offence otherwise than by, or on behalf or with the consent of, the Director of Public Prosecutions or any other person shall apply also in relation to proceedings under section 1 above for conspiracy to commit that offence.
- (4) Where—
  - (a) an offence has been committed in pursuance of any agreement; and
  - (b) proceedings may not be instituted for that offence because any time limit applicable to the institution of any such proceedings has expired,proceedings under section 1 above for conspiracy to commit that offence shall not be instituted against any person on the basis of that agreement.
- [<sup>F7</sup>(5) Subject to subsection (6) below, no proceedings for an offence triable by virtue of section 1A above may be instituted except by or with the consent of the Attorney General.
- (6) The Secretary of State may by order provide that subsection (5) above shall not apply, or shall not apply to any case of a description specified in the order.
- (7) An order under subsection (6) above—
  - (a) shall be made by statutory instrument, and
  - (b) shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.]

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### Textual Amendments

F7 S. 4(5)-(7) added (4.9.1998) by 1998 c. 40, s. 5(2).

## 5 Abolitions, savings, transitional provisions, consequential amendment and repeals.

- (1) Subject to the following provisions of this section, the offence of conspiracy at common law is hereby abolished.
- (2) Subsection (1) above shall not affect the offence of conspiracy at common law so far as relates to conspiracy to defraud, . . . <sup>F8</sup>.
- (3) Subsection (1) above shall not affect the offence of conspiracy at common law if and in so far as it may be committed by entering into an agreement to engage in conduct which—
  - (a) tends to corrupt public morals or outrages public decency; but
  - (b) would not amount to or involve the commission of an offence if carried out by a single person otherwise than in pursuance of an agreement.
- (4) Subsection (1) above shall not affect—
  - (a) any proceedings commenced before the time when this Part of this Act comes into force;
  - (b) any proceedings commenced after that time against a person charged with the same conspiracy as that charged in any proceedings commenced before that time; or
  - (c) any proceedings commenced after that time in respect of a trespass committed before that time;

but a person convicted of conspiracy to trespass in any proceedings brought by virtue of paragraph (c) above shall not in respect of that conviction be liable to imprisonment for a term exceeding six months.
- (5) Sections 1 and 2 above shall apply to things done before as well as to things done after the time when this Part of this Act comes into force, but in the application of section 3 above to a case where the agreement in question was entered into before that time—
  - (a) subsection (2) shall be read without the reference to murder in paragraph (a); and
  - (b) any murder intended under the agreement shall be treated as an offence for which a maximum term of imprisonment of ten years is provided.
- (6) The rules laid down by sections 1 and 2 above shall apply for determining whether a person is guilty of an offence of conspiracy under any enactment other than section 1 above, but conduct which is an offence under any such other enactment shall not also be an offence under section 1 above.
- (7) Incitement . . . <sup>F9</sup> to commit the offence of conspiracy (whether the conspiracy incited . . . <sup>F9</sup> would be an offence at common law or under section 1 above or any other enactment) shall cease to be offences.
- (8) The fact that the person or persons who, so far as appears from the indictment on which any person has been convicted of conspiracy, were the only other parties to the agreement on which his conviction was based have been acquitted of conspiracy

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by reference to that agreement (whether after being tried with the person convicted or separately) shall not be a ground for quashing his conviction unless under all the circumstances of the case his conviction is inconsistent with the acquittal of the other person or persons in question.

(9) Any rule of law or practice inconsistent with the provisions of subsection (8) above is hereby abolished.

<sup>X1</sup>(10) In section 4 of the <sup>M4</sup>Offences against the Person Act 1861—

- (a) the words preceding “Whosoever” shall cease to have effect; and
- (b) for the words from “be kept” to “years” there shall be substituted the words “imprisonment for life”.

<sup>F10</sup>(11) . . . . .

**Editorial Information**

**X1** The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F8** Words repealed by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), **s. 12(2)**

**F9** Words repealed by [Criminal Attempts Act 1981 \(c. 38, SIF 39:1\)](#), **Sch. Pt. I**

**F10** [S. 5\(11\)](#) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, **Sch.1** (with [Sch. 3 para. 2](#)).

**Marginal Citations**

**M4** [1861 c. 100](#).

**Status:**

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