



Armed Forces Act 2006

2006 CHAPTER 52

First Group of Parts Discipline

PART 1

OFFENCES

Attempts, incitement, and aiding and abetting

39 Attempts

- (1) A person subject to service law commits an offence if he attempts to commit an offence to which this subsection applies.
- (2) Subsection (1) applies to any service offence except—
 - (a) an offence committed by virtue of section 41 (aiding and abetting);
 - (b) an offence under this section or section 42.
- (3) A civilian subject to service discipline commits an offence if he attempts to commit an offence to which this subsection applies.
- (4) Subsection (3) applies to—
 - (a) an offence under section 4, 13, 27, 28(2), 29, 107 or 306 of this Act or under section 18 or 20 of the Armed Forces Act 1991 (c. 62); and
 - (b) an offence under section 40 of inciting another person to commit an offence mentioned in paragraph (a).
- (5) For the purposes of this section a person attempts to commit an offence if, with intent to commit the offence, he does an act which is more than merely preparatory to the commission of the offence.
- (6) For those purposes, a person may attempt to commit an offence even though the facts are such that the commission of the offence is impossible.
- (7) Where—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit an offence, but
- (b) if the facts of the case had been as he believed them to be his intention would be so regarded,

then for the purposes of this section he shall be regarded as having had an intent to commit that offence.

- (8) Where in proceedings for an offence under this section there is evidence sufficient in law to support a finding that the defendant did an act falling within subsection (5), the question whether his act fell within that subsection is a question of fact.
- (9) A person guilty of an offence under this section is liable to the same punishment as he would be liable to if guilty of the offence attempted.

40 Incitement

- (1) A person subject to service law commits an offence if he incites another person to commit an offence to which this subsection applies.
- (2) Subsection (1) applies to any service offence except an offence under section 42.
- (3) A civilian subject to service discipline commits an offence if he incites another person to commit an offence mentioned in section 39(4).
- (4) A person guilty of an offence under this section is liable to the same punishment as he would be liable to if guilty of the offence incited.

41 Aiding, abetting, counselling or procuring

- (1) Where a person subject to service law aids, abets, counsels or procures the commission by another person of an offence to which this subsection applies, he commits that offence.
- (2) Subsection (1) applies to any service offence except an offence under section 42.
- (3) A person who by virtue of subsection (1) commits an offence is liable to be charged, tried (including dealt with at a summary hearing) and punished as a principal offender.
- (4) Where a civilian subject to service discipline aids, abets, counsels or procures the commission by another person of an offence mentioned in section 39(4), he commits that offence and is liable to be charged, tried and punished as a principal offender.