



Serious Crime Act 2007

2007 CHAPTER 27

PART 2

ENCOURAGING OR ASSISTING CRIME

Inchoate offences

47 Proving an offence under this Part

- (1) Sections 44, 45 and 46 are to be read in accordance with this section.
- (2) If it is alleged under section 44(1)(b) that a person (D) intended to encourage or assist the commission of an offence, it is sufficient to prove that he intended to encourage or assist the doing of an act which would amount to the commission of that offence.
- (3) If it is alleged under section 45(b) that a person (D) believed that an offence would be committed and that his act would encourage or assist its commission, it is sufficient to prove that he believed—
 - (a) that an act would be done which would amount to the commission of that offence; and
 - (b) that his act would encourage or assist the doing of that act.
- (4) If it is alleged under section 46(1)(b) that a person (D) believed that one or more of a number of offences would be committed and that his act would encourage or assist the commission of one or more of them, it is sufficient to prove that he believed—
 - (a) that one or more of a number of acts would be done which would amount to the commission of one or more of those offences; and
 - (b) that his act would encourage or assist the doing of one or more of those acts.
- (5) In proving for the purposes of this section whether an act is one which, if done, would amount to the commission of an offence—
 - (a) if the offence is one requiring proof of fault, it must be proved that—
 - (i) D believed that, were the act to be done, it would be done with that fault;

Status: This is the original version (as it was originally enacted).

- (ii) D was reckless as to whether or not it would be done with that fault; or
 - (iii) D's state of mind was such that, were he to do it, it would be done with that fault; and
 - (b) if the offence is one requiring proof of particular circumstances or consequences (or both), it must be proved that—
 - (i) D believed that, were the act to be done, it would be done in those circumstances or with those consequences; or
 - (ii) D was reckless as to whether or not it would be done in those circumstances or with those consequences.
- (6) For the purposes of subsection (5)(a)(iii), D is to be assumed to be able to do the act in question.
- (7) In the case of an offence under section 44—
 - (a) subsection (5)(b)(i) is to be read as if the reference to “D believed” were a reference to “D intended or believed”; but
 - (b) D is not to be taken to have intended that an act would be done in particular circumstances or with particular consequences merely because its being done in those circumstances or with those consequences was a foreseeable consequence of his act of encouragement or assistance.
- (8) Reference in this section to the doing of an act includes reference to—
 - (a) a failure to act;
 - (b) the continuation of an act that has already begun;
 - (c) an attempt to do an act (except an act amounting to the commission of the offence of attempting to commit another offence).
- (9) In the remaining provisions of this Part (unless otherwise provided) a reference to the anticipated offence is—
 - (a) in relation to an offence under section 44, a reference to the offence mentioned in subsection (2); and
 - (b) in relation to an offence under section 45, a reference to the offence mentioned in subsection (3).