



Criminal Attempts Act 1981

1981 CHAPTER 47

PART I

ATTEMPTS ETC.

Attempt

1 Attempting to commit an offence

- (1) If, with intent to commit an offence to which this section applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.
- (2) A person may be guilty of attempting to commit an offence to which this section applies even though the facts are such that the commission of the offence is impossible.
- (3) In any case where—
 - (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 subsection (1) above, he shall be regarded as having had an intent to commit that offence.
- (4) This section applies to any offence which, if it were completed, would be triable in England and Wales as an indictable offence, other than—
 - (a) conspiracy (at common law or under section 1 of the Criminal Law Act 1977 or any other enactment);
 - (b) aiding, abetting, counselling, procuring or suborning the commission of an offence;
 - (c) offences under section 4(1) (assisting offenders) or 5(1) (accepting or agreeing to accept consideration for not disclosing information about an arrestable offence) of the Criminal Law Act 1967.

2 Application of procedural and other provisions to offences under s. 1

- (1) Any provision to which this section applies shall have effect with respect to an offence under section 1 above of attempting to commit an offence as it has effect with respect to the offence attempted.
- (2) This section applies to provisions of any of the following descriptions made by or under any enactment (whenever passed)—
 - (a) provisions whereby proceedings may not be instituted or carried on otherwise than by, or on behalf or with the consent of, any person (including any provisions which also make other exceptions to the prohibition);
 - (b) provisions conferring power to institute proceedings;
 - (c) provisions as to the venue of proceedings;
 - (d) provisions whereby proceedings may not be instituted after the expiration of a time limit;
 - (e) provisions conferring a power of arrest or search ;
 - (f) provisions conferring a power of seizure and detention of property;
 - (g) provisions whereby a person may not be convicted or committed for trial on the uncorroborated evidence of one witness (including any provision requiring the evidence of not less than two credible witnesses);
 - (h) provisions conferring a power of forfeiture, including any power to deal with anything liable to be forfeited;
 - (i) provisions whereby, if an offence committed by a body corporate is proved to have been committed with the consent or connivance of another person, that person also is guilty of the offence.

Specific offences of attempt

3 Offences of attempt under other enactments

- (1) Subsections (2) to (5) below shall have effect, subject to subsection (6) below and to any inconsistent provision in any other enactment, for the purpose of determining whether a person is guilty of an attempt under a special statutory provision.
- (2) For the purposes of this Act an attempt under a special statutory provision is an offence which—
 - (a) is created by an enactment other than section 1 above, including an enactment passed after this Act; and
 - (b) is expressed as an offence of attempting to commit another offence (in this section referred to as " the relevant full offence ").
- (3) A person is guilty of an attempt under a special statutory provision if, with intent to commit the relevant full offence, he does an act which is more than merely preparatory to the commission of that offence.
- (4) A person may be guilty of an attempt under a special statutory provision even though the facts are such that the commission of the relevant full offence is impossible.
- (5) In any case where—
 - (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit the relevant full 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 subsection (3) above, he shall be regarded as having had an intent to commit that offence.
- (6) Subsections (2) to (5) above shall not have effect in relation to an act done before the commencement of this Act.

Trial etc. of offences of attempt

4 Trial and penalties

- (1) A person guilty by virtue of section 1 above of attempting to commit an offence shall—
- (a) if the offence attempted is murder or any other offence the sentence for which is fixed by law, be liable on conviction on indictment to imprisonment for life ; and
 - (b) if the offence attempted is indictable but does not fall within paragraph (a) above, be liable on conviction on indictment to any penalty to which he would have been liable on conviction on indictment of that offence; and
 - (c) if the offence attempted is triable either way, be liable on summary conviction to any penalty to which he would have been liable on summary conviction of that offence.
- (2) In any case in which a court may proceed to summary trial of an information charging a person with an offence and an information charging him with an offence under section 1 above of attempting to commit it or an attempt under a special statutory provision, the court may, without his consent, try the informations together.
- (3) Where, in proceedings against a person for an offence under section 1 above, there is evidence sufficient in law to support a finding that he did an act falling within subsection (1) of that section, the question whether or not his act fell within that subsection is a question of fact.
- (4) Where, in proceedings against a person for an attempt under a special statutory provision, there is evidence sufficient in law to support a finding that he did an act falling within subsection (3) of section 3 above, the question whether or not his act fell within that subsection is a question of fact.
- (5) Subsection (1) above shall have effect—
- (a) subject to section 37 of and Schedule 2 to the Sexual Offences Act 1956 (mode of trial of and penalties for attempts to commit certain offences under that Act); and
 - (b) notwithstanding anything—
 - (i) in section 32(1) (no limit to fine on conviction on indictment) of the Criminal Law Act 1977 ; or
 - (ii) in section 31(1) and (2) (maximum of six months' imprisonment on summary conviction unless express provision made to the contrary) of the Magistrates' Courts Act 1980.

Conspiracy

5 Extension of definition of the offence of conspiracy

(1) For subsection (1) of section 1 of the Criminal Law Act 1977 (definition of the offence of conspiracy) there shall be substituted the following subsection—

“(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.”.

(2) This section shall not apply where an agreement was entered into before the commencement of this Act unless the conspiracy continued to exist after that date.

Supplementary

6 Effect of Part I on common law

(1) The offence of attempt at common law and any offence at common law of procuring materials for crime are hereby abolished for all purposes not relating to acts done before the commencement of this Act.

(2) Except as regards offences committed before the commencement of this Act, references in any enactment passed before this Act which fall to be construed as references to the offence of attempt at common law shall be construed as references to the offence under section 1 above.

7 Amendments consequential on Part I

(1) The following subsection shall be inserted after subsection (2) of section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 and section 42 of the Naval Discipline Act 1957 (all of which relate to civil offences)—

“(2A) For the purpose of determining under this section whether an attempt to commit an offence is a civil offence, subsection (4) of section 1 of the Criminal Attempts Act 1981 (which relates to the offence of attempt) shall have effect as if for the words " offence which, if it were completed, would be triable in England and Wales as an indictable offence " there were substituted the words " civil offence consisting of an act punishable by the law of England and Wales as an indictable offence or an act which, if committed in England or Wales, would be so punishable by that law ".”.

(2) In paragraph 3(1) of Part II of Schedule 6 to the Firearms Act 1968, the reference to an offence triable either way listed in Schedule 1 to the Magistrates' Courts Act 1980 includes a reference to an offence under section 1 above of attempting to commit the offence so listed.

- (3) In section 12(1)(a) of the Misuse of Drugs Act 1971 the reference to an offence under that Act includes a reference to an offence under section 1 above of attempting to commit such an offence.