
Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Cross Heading: Armed Forces Act 2006 (c. 52). (See end of Document for details)

SCHEDULES

SCHEDULE 5

AMENDMENTS RELATING TO SERVICE LAW

Armed Forces Act 2006 (c. 52)

7 The Armed Forces Act 2006 is amended as follows.

Commencement Information

II Sch. 5 para. 7 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

8 In section 39 (attempts), in subsection (4)(b) for “inciting another person to commit” substitute “encouraging or assisting the commission of”.

Commencement Information

I2 Sch. 5 para. 8 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

9 For section 40 (incitement) substitute—

“40 Encouraging and assisting

- (1) A person subject to service law commits an offence if he encourages or assists the commission of a service offence (other than an offence under section 42).
- (2) A civilian subject to service discipline commits an offence if he encourages or assists the commission of an offence mentioned in section 39(4).
- (3) Reference in this section to encouraging or assisting the commission of an offence is to the doing of an act that would have constituted an offence under Part 2 of the Serious Crime Act 2007 if the offence encouraged or assisted had been an offence under the law of England and Wales.
- (4) In determining whether an act would have constituted an offence under that Part, section 49(4) of that Act has effect as if for “offences under this Part and listed offences” it read “offences under sections 39 and 40 of the Armed Forces Act 2006”.
- (5) Any requirement in that Part to specify matters in an indictment applies for the purposes of this section as it applies for the purposes of that Part, but with references to the indictment being read as references to the charge sheet.
- (6) A person guilty of an offence under this section is liable to the same punishment as he would be liable to if guilty of—
 - (a) the service offence encouraged or assisted; or

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- (b) if convicted of the offence under this section by reference to more than one such service offence, any one of those service offences.”

Commencement Information

I3 Sch. 5 para. 9 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

- 10 Accordingly, in the heading immediately before section 39 for “incitement” substitute “encouragement and assistance”.

Commencement Information

I4 Sch. 5 para. 10 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

- 11 For section 46 (inciting criminal conduct) substitute—

“46 Encouraging or assisting criminal conduct

- (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).
- (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.”

Commencement Information

I5 Sch. 5 para. 11 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

- 12 In section 48 (provision supplementary to sections 43 to 47), in subsection (1)(a) for “incitement” substitute “encouragement or assistance”.

Commencement Information

I6 Sch. 5 para. 12 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

- 13 In Schedule 2 (list of serious offences)—
- (a) in paragraph 11 for “inciting another person to commit” substitute “encouraging or assisting the commission of”;
 - (b) in paragraph 13 for “of incitement to commit” substitute “under Part 2 of the Serious Crime Act 2007 of encouraging or assisting the commission of”.

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Commencement Information

I7 Sch. 5 para. 13 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(a\)](#)

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