# IPC Section 136: Harbouring deserter.

## IPC Section 136: A Comprehensive Analysis of Harbouring a Deserter  
  
Section 136 of the Indian Penal Code (IPC) addresses the offence of harboring a deserter from the Indian armed forces. This section complements Section 135, which criminalizes the abetment of desertion. While Section 135 focuses on the act of encouraging or facilitating the initial act of desertion, Section 136 targets those who provide shelter or assistance to individuals who have already deserted. This detailed examination will explore the elements of Section 136, analyze relevant judicial interpretations, and explain its significance in maintaining military discipline and operational readiness.  
  
\*\*The Text of Section 136:\*\*  
  
"Whoever, knowing or having reasonable ground to believe that an officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India, has deserted, harbours such deserter, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."  
  
  
  
\*\*Dissecting the Elements:\*\*  
  
1. \*\*Knowing or Having Reasonable Ground to Believe:\*\* This element introduces a mental element to the offence. The prosecution needs to prove that the accused knew, or had reasonable grounds to believe, that the individual they were harboring was a deserter from the Indian armed forces. "Reasonable grounds to believe" implies a standard of objective reasonableness, requiring the existence of facts and circumstances that would lead a prudent person to believe that the individual was a deserter. Mere suspicion or unfounded belief is not sufficient.  
  
2. \*\*Officer, Soldier, Sailor or Airman:\*\* This specifies that the deserter must be a member of the Indian armed forces, highlighting the focus on maintaining the strength and integrity of the military.  
  
3. \*\*Has Deserted:\*\* The individual being harbored must have actually deserted from the armed forces. This means they must have abandoned their military duties without permission and with the intention of not returning.  
  
4. \*\*Harbours Such Deserter:\*\* "Harbouring" implies providing shelter, refuge, or concealment to a deserter. This can include providing food, accommodation, or a hiding place, as well as assisting the deserter to change their appearance or assume a false identity to avoid apprehension. The act of harboring must be deliberate and intended to assist the deserter in evading the authorities. The duration of the harboring is not a crucial factor; even providing shelter for a short period can constitute the offence.  
  
5. \*\*In the Army, Navy or Air Force of the Government of India:\*\* This element specifies the targeted armed forces, emphasizing the importance of preserving their operational capabilities.  
  
  
  
\*\*Interpretations and Case Law:\*\*  
  
Judicial interpretations have clarified various aspects of Section 136. Courts have emphasized the need to establish the accused's knowledge or reasonable belief that the individual they were harboring was a deserter. The prosecution must present evidence demonstrating that the accused was aware of the individual's deserter status or that a reasonable person in their position would have had such a belief.  
  
The meaning of "harbouring" has been broadly interpreted to encompass any act that assists a deserter in avoiding apprehension. The focus is on the intent and the practical effect of the accused's actions in aiding the deserter.  
  
  
  
\*\*Significance and Purpose:\*\*  
  
Section 136 plays a crucial role in maintaining the effectiveness of the armed forces by discouraging individuals from assisting deserters. By criminalizing the act of harboring deserters, it removes a potential support network that deserters might rely on, thereby increasing the likelihood of their apprehension and return to duty. This strengthens military discipline and reinforces the importance of fulfilling one's military obligations.  
  
  
  
\*\*Distinction from Abetting Desertion:\*\*  
  
While both Section 135 (abetting desertion) and Section 136 (harboring a deserter) relate to desertion, they target different stages of the process. Section 135 deals with the initial act of encouraging or facilitating the desertion itself, while Section 136 focuses on assisting someone who has \*already\* deserted. These two offences can be committed by the same individual, but they are distinct in their elements and focus.  
  
  
\*\*Relationship with Other Offences:\*\*  
  
Section 136 complements other sections of the IPC dealing with offences against the state and offences relating to the armed forces. It works in conjunction with Section 135 to address the issue of desertion comprehensively. It also relates to broader offences like aiding and abetting a criminal, but its specific focus on deserters from the armed forces highlights the unique importance of maintaining military strength and readiness.  
  
  
  
\*\*Conclusion:\*\*  
  
Section 136 of the IPC is a vital provision that protects the effectiveness of the Indian armed forces by criminalizing the act of harboring deserters. By targeting those who provide assistance and shelter to individuals who have abandoned their military duties, the section removes a potential support network for deserters, increases the chances of their apprehension, and reinforces the importance of fulfilling one's military obligations. This contributes to maintaining military discipline, operational readiness, and national security.