

65. Attempt. — Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 64 inclusive and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable, if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

NOTES

1. Attempts to commit the offences specified in [AA.ss.34](#) to [64](#) are, except where such attempts are specifically provided for (e.g., an attempt to desert), triable under this section. Attempts to commit civil offences are not triable under this section but are triable under [AA.s.69](#) read with [IPC.s.511](#).

2. Does any act towards the commission of the offence: There is a difference between the preparation antecedent to an offence and the actual attempt. To constitute an attempt to commit an offence there must be an intent to commit the offence, a commencement of the commission and an act done towards the commission. An act is said to be done towards the commission of the offence when the offence remains incomplete only because something yet remained to be done, which the person intending to commit the offence is unable to do by reason of circumstances independent of his own volition. These words must not be construed to include all acts, however, remote, which tend towards the commission of the offence. The thing done may be too small or it may proceed too short a way towards the accomplishment of the offence for the law to notice it as an attempt. It must in every case be a question depending upon the circumstances whether a particular act done (with the requisite intention) towards the commission of the offence is sufficiently proximate to its commission to constitute an attempt or is so remote as to merely constitute preparation for its commission.

3. A person charged before a court-martial with any offence under AA may be found guilty of the attempt to commit that offence if the evidence so warrants: [AA.s.139 \(8\)](#).