

# LLB 106 Criminal Law Exam Notes

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# Week 3: Complicity

## Parties to an offence

1. s 7 - Principle offenders
2. s 8 - Committed in persecution of common purpose – (regarding s 7 offences)
3. s 9 - Mode of execution immaterial
4. s 10 – Accessory (after the fact (re ss 7,8 offences)

## 1. Principle Offenders - s 7

Section	Explanation
<b>S 7 (1) – Principle Offenders</b>	<p><b>When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and be guilty of the offence, and may be charged with actually committing it.</b></p> <p>Do not require the perpetrator be convicted before another found liable as a party. <i>R v Lopuszynski [1971]</i></p>
<b>S 7(1)(a) - Executors</b>	<p><b>Executors</b>  <b>(a) Every person who actually does the act or makes the omission which constitutes the offence</b></p> <p>One person does not need to do all the acts. They just need to do one or more of the acts in a series that constitutes the offence <i>R v Wyles; Ex Parte A-G [1977]</i></p>
<b>S 7(1)(b) – Enablers</b>	<p><b>Enablers</b>  <b>(b) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence</b></p> <ul style="list-style-type: none"> <li>Often not present at the scene (also known as accessory)</li> </ul> <p>Must <b>know</b> the offence committed or <b>know</b> that the offence might be committed. <i>Borg v The Queen [1972]</i>, <i>R v Beck [1990]</i>, <i>R v Jervis (1991)</i></p> <ul style="list-style-type: none"> <li><b>Knowing is a mental element, subjectively ascertained.</b></li> </ul> <p>Act / omission doesn't actually have to help, so long as intention was to enable and know of the offence. <i>R v Licciardello [2017]</i></p>
<b>S 7(1)(c) - Aider</b>	<p><b>Aider</b>  <b>(c) Every person who aids another person in committing the offence.</b></p> <ul style="list-style-type: none"> <li>Usually present at the scene.</li> </ul> <p>However, mere presence at crime scene is not enough <i>R v Clarkson 1971</i></p> <p>Aids by giving <b>support, helping or assisting</b>. Voluntary and deliberate presence during the commission of a crime without opposition or dissent may be evidence of wilful encouragement or aiding. Intentional encouragement may come from expressions, gestures or actions intended to signify approval. <i>R v Beck [1990]</i></p>

Aid has been interpreted to mean '**knowingly aid**' *Jervis v R* [1993].  
Acts / omissions done **intending** to assist the accused. *R v Licciardello*  
[2017]

- **Knowingly aid** is a mental element, subjectively ascertained.
- **Party must know what offence could, or might be committed**  
*Borg v The Queen 1972*