

*These notes refer to the Serious Crime Act 2007 (c.27)
which received Royal Assent on 30th October 2007*

SERIOUS CRIME ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Encouraging or Assisting Crime

Inchoate offences

Limitation on Liability

Section 51: Protective offences: victims not liable

178. This section sets out in statute the common law exemption from liability established in the case of *R v Tyrrell (1894) 1QB 710*.
179. A person cannot be guilty of the offences in sections 44, 45 and 46 if, in relation to an offence that is a “protective” offence (defined in *subsection (2)*), the person who does the act capable of encouraging or assisting that offence falls within the category of persons that offence was designed to protect and would be considered as the victim.
180. For example, D is a 12 year old girl and encourages P, a 40 year old man to have sex with her. P does not attempt to have sex with D. D cannot be liable of encouraging or assisting child rape despite the fact it is her intent that P have sexual intercourse with a child under 13 (child rape) because she would be considered the “victim” of that offence had it taken place and the offence of child rape was enacted to protect children under the age of 13.