

**Page 687 d. 'Necessarily amount to or involve the commission of any offence':  
R v Kenning [2008] EWCA Crim 1534**

DS were charged with aiding and abetting the production of a controlled drug contrary to s1(1) Criminal Law Act 1977. They were the owners of a business involved in cannabis related activity and had offered advice and sold equipment to undercover police officers regarding detection avoidance in the production of cannabis. It was held that an agreement to aid and abet an offence was not capable of constituting an offence at law unless the AR of the substantive offence was shown to have occurred.

Advising and selling equipment were not unlawful and therefore there was no agreement involving a course of conduct amounting to or involving the commission of an offence by one or more of the parties to the agreement. If looked at from the point of view of participation in the future offence as a secondary party, the CA held that an agreement to aid and abet an offence is not in law capable of constituting a statutory conspiracy.

**Page 689 Conspiracy to Defraud**

The breadth of this anomalous crime was recently criticised by the HL in **R v GG Plc [2008] UKHL 17** concerning a failed SFO prosecution of a pharmaceutical company for price fixing.