



# Fraud Act 2006

## 2006 CHAPTER 35

An Act to make provision for, and in connection with, criminal liability for fraud and obtaining services dishonestly. [8th November 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

VALID FROM 15/01/2007

### *Fraud*

#### **1 Fraud**

- (1) A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).
- (2) The sections are—
  - (a) section 2 (fraud by false representation),
  - (b) section 3 (fraud by failing to disclose information), and
  - (c) section 4 (fraud by abuse of position).
- (3) A person who is guilty of fraud is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).
- (4) Subsection (3)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

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*Changes to legislation: There are currently no known outstanding effects for the Fraud Act 2006. (See end of Document for details)*

## **2 Fraud by false representation**

- (1) A person is in breach of this section if he—
  - (a) dishonestly makes a false representation, and
  - (b) intends, by making the representation—
    - (i) to make a gain for himself or another, or
    - (ii) to cause loss to another or to expose another to a risk of loss.
- (2) A representation is false if—
  - (a) it is untrue or misleading, and
  - (b) the person making it knows that it is, or might be, untrue or misleading.
- (3) “Representation” means any representation as to fact or law, including a representation as to the state of mind of—
  - (a) the person making the representation, or
  - (b) any other person.
- (4) A representation may be express or implied.
- (5) For the purposes of this section a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

## **3 Fraud by failing to disclose information**

- A person is in breach of this section if he—
- (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
  - (b) intends, by failing to disclose the information—
    - (i) to make a gain for himself or another, or
    - (ii) to cause loss to another or to expose another to a risk of loss.

## **4 Fraud by abuse of position**

- (1) A person is in breach of this section if he—
  - (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
  - (b) dishonestly abuses that position, and
  - (c) intends, by means of the abuse of that position—
    - (i) to make a gain for himself or another, or
    - (ii) to cause loss to another or to expose another to a risk of loss.
- (2) A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

VALID FROM 15/06/2007

## **5 “Gain” and “loss”**

- (1) The references to gain and loss in sections 2 to 4 are to be read in accordance with this section.
- (2) “Gain” and “loss”—
  - (a) extend only to gain or loss in money or other property;
  - (b) include any such gain or loss whether temporary or permanent;and “property” means any property whether real or personal (including things in action and other intangible property).
- (3) “Gain” includes a gain by keeping what one has, as well as a gain by getting what one does not have.
- (4) “Loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has.

## **6 Possession etc. of articles for use in frauds**

- (1) A person is guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or to both).
- (3) Subsection (2)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

## **7 Making or supplying articles for use in frauds**

- (1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article—
  - (a) knowing that it is designed or adapted for use in the course of or in connection with fraud, or
  - (b) intending it to be used to commit, or assist in the commission of, fraud.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).
- (3) Subsection (2)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

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## **8 “Article”**

- (1) For the purposes of—
  - (a) sections 6 and 7, and
  - (b) the provisions listed in subsection (2), so far as they relate to articles for use in the course of or in connection with fraud,
 

“article” includes any program or data held in electronic form.
- (2) The provisions are—
  - (a) section 1(7)(b) of the Police and Criminal Evidence Act 1984 (c. 60),
  - (b) section 2(8)(b) of the Armed Forces Act 2001 (c. 19), and
  - (c) Article 3(7)(b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

(meaning of “prohibited articles” for the purposes of stop and search powers).

## **9 Participating in fraudulent business carried on by sole trader etc.**

- (1) A person is guilty of an offence if he is knowingly a party to the carrying on of a business to which this section applies.
- (2) This section applies to a business which is carried on—
  - (a) by a person who is outside the reach of section 458 of the Companies Act 1985 (c. 6) or Article 451 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032) (N.I. 6)) (offence of fraudulent trading), and
  - (b) with intent to defraud creditors of any person or for any other fraudulent purpose.
- (3) The following are within the reach of section 458 of the 1985 Act—
  - (a) a company (within the meaning of that Act);
  - (b) a person to whom that section applies (with or without adaptations or modifications) as if the person were a company;
  - (c) a person exempted from the application of that section.
- (4) The following are within the reach of Article 451 of the 1986 Order—
  - (a) a company (within the meaning of that Order);
  - (b) a person to whom that Article applies (with or without adaptations or modifications) as if the person were a company;
  - (c) a person exempted from the application of that Article.
- (5) “Fraudulent purpose” has the same meaning as in section 458 of the 1985 Act or Article 451 of the 1986 Order.
- (6) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).
- (7) Subsection (6)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

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## **10 Participating in fraudulent business carried on by company etc.: penalty**

- (1) In Schedule 24 to the Companies Act 1985 (punishment of offences), in column 4 of the entry relating to section 458 of that Act, for “7 years” substitute “ 10 years ”.
- (2) In Schedule 23 to the Companies (Northern Ireland) Order 1986 (punishment of offences), in column 4 of the entry relating to Article 451 of that Order, for “7 years” substitute “ 10 years ”.

VALID FROM 15/01/2007

### *Obtaining services dishonestly*

## **11 Obtaining services dishonestly**

- (1) A person is guilty of an offence under this section if he obtains services for himself or another—
  - (a) by a dishonest act, and
  - (b) in breach of subsection (2).
- (2) A person obtains services in breach of this subsection if—
  - (a) they are made available on the basis that payment has been, is being or will be made for or in respect of them,
  - (b) he obtains them without any payment having been made for or in respect of them or without payment having been made in full, and
  - (c) when he obtains them, he knows—
    - (i) that they are being made available on the basis described in paragraph (a), or
    - (ii) that they might be,but intends that payment will not be made, or will not be made in full.
- (3) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or to both).
- (4) Subsection (3)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

### *Supplementary*

VALID FROM 15/01/2007

## **12 Liability of company officers for offences by company**

- (1) Subsection (2) applies if an offence under this Act is committed by a body corporate.

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- (2) If the offence is proved to have been committed with the consent or connivance of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person who was purporting to act in any such capacity,
- he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

VALID FROM 15/01/2007

### 13 Evidence

- (1) A person is not to be excused from—
- (a) answering any question put to him in proceedings relating to property, or
  - (b) complying with any order made in proceedings relating to property,
- on the ground that doing so may incriminate him or his spouse or civil partner of an offence under this Act or a related offence.
- (2) But, in proceedings for an offence under this Act or a related offence, a statement or admission made by the person in—
- (a) answering such a question, or
  - (b) complying with such an order,
- is not admissible in evidence against him or (unless they married or became civil partners after the making of the statement or admission) his spouse or civil partner.
- (3) “Proceedings relating to property” means any proceedings for—
- (a) the recovery or administration of any property,
  - (b) the execution of a trust, or
  - (c) an account of any property or dealings with property,
- and “property” means money or other property whether real or personal (including things in action and other intangible property).
- (4) “Related offence” means—
- (a) conspiracy to defraud;
  - (b) any other offence involving any form of fraudulent conduct or purpose.

VALID FROM 15/01/2007

### 14 Minor and consequential amendments etc.

- (1) Schedule 1 contains minor and consequential amendments.
- (2) Schedule 2 contains transitional provisions and savings.

(3) Schedule 3 contains repeals and revocations.

## 15 Commencement and extent

- (1) This Act (except this section and section 16) comes into force on such day as the Secretary of State may appoint by an order made by statutory instrument; and different days may be appointed for different purposes.
- (2) Subject to subsection (3), sections 1 to 9 and 11 to 13 extend to England and Wales and Northern Ireland only.
- (3) Section 8, so far as it relates to the Armed Forces Act 2001 (c. 19), extends to any place to which that Act extends.
- (4) Any amendment in section 10 or Schedule 1, and any related provision in section 14 or Schedule 2 or 3, extends to any place to which the provision which is the subject of the amendment extends.

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### Subordinate Legislation Made

**P1** [S. 15](#) power fully exercised: 15.1.2007 appointed for specified provisions by {[S.I. 2006/3200](#)}, art. 2

## 16 Short title

This Act may be cited as the Fraud Act 2006.

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## SCHEDULES

### SCHEDULE 1

Section 14(1)

#### MINOR AND CONSEQUENTIAL AMENDMENTS

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### SCHEDULE 2

Section 14(2)

#### TRANSITIONAL PROVISIONS AND SAVINGS

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### SCHEDULE 3

Section 14(3)

#### REPEALS AND REVOCATIONS

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