



# Fraud Act 2006

## 2006 CHAPTER 35

### *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.

#### **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.

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- (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.

### **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.

## **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—

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- (a) by a person who is outside the reach of [<sup>F1</sup>section 993 of the Companies Act 2006](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 [<sup>F2</sup>that section]—
- (a) a company [<sup>F3</sup>(as defined in section 1(1) of the Companies Act 2006)];
  - (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) <sup>F4</sup>.....
- (5) “Fraudulent purpose” has the same meaning as in [<sup>F5</sup>that section].
- (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.

#### Annotations:

#### Amendments (Textual)

- F1** Words in s. 9(2)(a) substituted (1.10.2007 with application as mentioned in Sch. 4 para. 111(6) of the amending S.I.) by virtue of [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), arts. 1(3)(a), 10(1), [Sch. 4 para. 111\(2\)](#) (with art. 12)
- F2** Words in s. 9(3) substituted (1.10.2007 with application as mentioned in Sch. 4 para. 111(6) of the amending S.I.) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), arts. 1(3)(a), 10(1), [Sch. 4 para. 111\(3\)\(a\)](#) (with art. 12)
- F3** Words in s. 9(3)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2)[Sch. 1 para. 257](#) (with art. 10)
- F4** S. 9(4) repealed (1.10.2007 with application as mentioned in Sch. 4 para. 111(6) of the amending S.I.) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), arts. 1(3)(a), 10(1)(3), Sch. 4 para. 111(4), [Sch. 5](#) (with art. 12)
- F5** Words in s. 9(5) substituted (1.10.2007 with application as mentioned in Sch. 4 para. 111(6) of the amending S.I.) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), arts. 1(3)(a), 10(1), [Sch. 4 para. 111\(5\)](#) (with art. 12)

<sup>F6</sup>**10 Participating in fraudulent business carried on by company etc.: penalty**

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**Annotations:**

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**Amendments (Textual)**

- F6** [S. 10](#) repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 2](#) (with art. 10)

**Changes to legislation:**

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