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STATUTORY INSTRUMENTS

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**1997 No. 277 (N.I. 3)**

**NORTHERN IRELAND**

**The Theft (Amendment) (Northern Ireland) Order 1997**

<i>Made</i>	- - - -	<i>12th February 1997</i>
<i>Laid before Parliament</i>		<i>27th February 1997</i>
<i>Coming into operation</i>		<i>23th March 1997</i>

At the Court at Buckingham Palace, the 12th day of February  
Present,  
The Queen's Most Excellent Majesty in Council 1997

Whereas this Order is made only for purposes corresponding to the purposes of the Theft (Amendment) Act 1996:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 5(3) of the said Act of 1996) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Theft (Amendment) (Northern Ireland) Order 1997.

(2) This Order shall come into operation on the expiration of one month from the day on which it is made.

**Interpretation**

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

**Obtaining a money transfer by deception**

3.—(1) After section 15 of the Theft Act (Northern Ireland) 1969 there shall be inserted the following sections—

**“Obtaining a money transfer by deception.**

**15A.**—(1) A person is guilty of an offence if by any deception he dishonestly obtains a money transfer for himself or another.

(2) A money transfer occurs when—

- (a) a debit is made to one account;
- (b) a credit is made to another; and
- (c) the credit results from the debit or the debit results from the credit.

(3) References to a credit and to a debit are to a credit of an amount of money and to a debit of an amount of money.

(4) It is immaterial (in particular)—

- (a) whether the amount credited is the same as the amount debited;
- (b) whether the money transfer is effected on presentment of a cheque or by another method;
- (c) whether any delay occurs in the process by which the money transfer is effected;
- (d) whether any intermediate credits or debits are made in the course of the money transfer;
- (e) whether either of the accounts is overdrawn before or after the money transfer is effected.

(5) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding ten years.

**Section 15A: supplementary.**

**15B.**—(1) The following provisions have effect for the interpretation of section 15A.

(2) “Deception” has the same meaning as in section 15.

(3) “Account” means an account kept with—

- (a) a bank; or
- (b) a person carrying on a business which falls within subsection (4).

(4) A business falls within this subsection if—

- (a) in the course of the business money received by way of deposit is lent to others; or
- (b) any other activity of the business is financed, wholly or to any material extent, out of the capital of or the interest on money received by way of deposit;

and “deposit” here has the same meaning as in section 35 of the Banking Act 1987 (fraudulent inducement to make a deposit).

(5) For the purposes of subsection (4)—

- (a) all the activities which a person carries on by way of business shall be regarded as a single business carried on by him; and
- (b) “money” includes money expressed in a currency other than sterling or in the European currency unit (as defined in Council Regulation No. 3320/94/EC or any Community instrument replacing it).”.

(2) Nothing in this Article has effect in relation to anything done before the day on which this Order comes into operation.

### **Dishonestly retaining a wrongful credit**

4.—(1) After section 23 of the Theft Act (Northern Ireland) 1969 there shall be inserted the following section—

#### **“Dishonestly retaining a wrongful credit.**

**23A.**—(1) A person is guilty of an offence if—

- (a) a wrongful credit has been made to an account kept by him or in respect of which he has any right or interest;
- (b) he knows or believes that the credit is wrongful; and
- (c) he dishonestly fails to take such steps as are reasonable in the circumstances to secure that the credit is cancelled.

(2) References to a credit are to a credit of an amount of money.

(3) A credit to an account is wrongful if it is the credit side of a money transfer obtained contrary to section 15A.

(4) A credit to an account is also wrongful to the extent that it derives from—

- (a) theft;
- (b) an offence under section 15A;
- (c) blackmail; or
- (d) stolen goods.

(5) In determining whether a credit to an account is wrongful, it is immaterial (in particular) whether the account is overdrawn before or after the credit is made.

(6) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding ten years.

(7) Subsection (8) applies for purposes of provisions of this Act relating to stolen goods (including subsection (4)).

(8) References to stolen goods include money which is dishonestly withdrawn from an account to which a wrongful credit has been made, but only to the extent that the money derives from the credit.

(9) In this section “account” and “money” shall be construed in accordance with section 15B.”.

(2) This Article applies to wrongful credits made on or after the day on which this Order comes into operation.

### **The new offences: jurisdiction**

5.—(1) In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (Group A offences for the purposes of the jurisdictional provisions) sub-paragraph (a) (list of offences under the Theft Act (Northern Ireland) 1969) shall be amended as follows.

(2) After the entry relating to section 15 there shall be inserted—

“section 15A (obtaining a money transfer by deception);”.

(3) After the entry relating to section 21 there shall be added—

“section 23A (dishonestly retaining a wrongful credit);”.

**Application to loans of offence of obtaining services by deception**

6.—(1) In Article 3 of the Theft (Northern Ireland) Order 1978 (obtaining services by deception) after paragraph (2) (circumstances where there is an obtaining of services) there shall be added the following paragraph—

“(3) Without prejudice to the generality of paragraph (2), it is an obtaining of services where the other is induced to make a loan, or to cause or permit a loan to be made, on the understanding that any payment (whether by way of interest or otherwise) will be or has been made in respect of the loan.”.

(2) Nothing in this Article has effect in relation to anything done before the day on which this Order comes into operation.

*N. H. Nicholls*  
Clerk of the Privy Council

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to the purposes of the Theft (Amendment) Act 1996.

This Order amends the Theft Act (Northern Ireland) 1969 by inserting two new offences of dishonestly obtaining a money transfer by deception, and of dishonestly retaining a wrongful credit. It also amends the Theft (Northern Ireland) Order 1978 to enable certain loans to be treated as services that can be obtained by deception.