

*These notes refer to the Fraud Act 2006 (c.35)
which received Royal Assent on 8 November 2006*

FRAUD ACT 2006

EXPLANATORY NOTES

BACKGROUND

5. The Government's policy on the reform of the criminal law of fraud is largely based on the Law Commission's Report on *Fraud* (Law Com No. 276, Cm 5560, 2002). The Law Commission's report did not deal with the position in Northern Ireland (because the Law Commission is concerned with the law in England and Wales). Views on the Law Commission's proposals were sought in the Government's consultation paper on *Fraud Law Reform* (May 2004). The Government's Response to the views expressed in consultations was published on the Home Office website (www.homeoffice.gov.uk/documents/cons-fraud-law-reform) on 24 November 2004. A parallel consultation was also carried out in Northern Ireland and responses were broadly similar to those in England and Wales.
6. The Law Commission's report recommended that conspiracy to defraud should be abolished. The majority of those who responded on this point in the Home Office's consultation were opposed to this on the basis of serious practical concerns about the ability to prosecute multiple offences in the largest and most serious cases of fraud and a desire to see how the new statutory offences worked in practice before abolishing conspiracy to defraud. There were also concerns that limitations on the scope of statutory conspiracy meant that certain types of secondary participation in fraud might still only be caught by the common law charge. So, in the light of the consultation, the Government concluded that immediate abolition of conspiracy to defraud would create considerable risks for the effective prosecution of fraud cases. The Government proposed to reassess whether there is a continuing need to retain conspiracy to defraud in the light of the operation of the new offences and the Law Commission's impending report on encouraging and assisting crime. The Law Commission has now published its report on *Inchoate Liability for Assisting and Encouraging Crime* (Law Com No. 300, Cm 6878, 2006) and is due to publish a second, final, report dealing with secondary liability in late Autumn.