

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

FRAUD ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Transitional Provisions and Savings

Maximum term of imprisonment for offences under this Act

Paragraph 1 is a transitional provision to ensure the lower maximum penalty for summary cases applies in any case involving an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.

Increase in penalty for fraudulent trading

Paragraph 2 preserves the existing (lower) penalty for cases of fraudulent trading under the companies legislation in which the events occurred before the commencement of this Act. Section 16(1)(d) of the Interpretation Act provides that "...where an Act repeals an enactment, the repeal does not, unless the contrary intention appears -(d) affect any penalty.... or punishment committed against that enactment...". This does not preserve a penalty for an offence when there is merely a change in the penalty (and no repeal of the existing offence).

Abolition of deception offences

Paragraph 3 makes transitional provision in relation to offences partly committed before this Act comes into force. Offences committed wholly before this Act comes into force will be covered by section 16 of the Interpretation Act.

Scope of offences relating to stolen goods under the **Theft Act 1968 (c.60)**

Paragraph 4 ensures that this Act will not affect the operation of section 24 of the 1968 Act in relation to goods obtained before its commencement or as the result of a deception made before its commencement.

Dishonestly retaining a wrongful credit under the **Theft Act 1968**

Paragraph 5 ensures that this Act will not affect the operation of section 24A in relation to credits falling within section 24A(3) and (4) and made before its commencement.

Scope of offences relating to stolen goods under the **Theft Act (Northern Ireland) 1969 (c.16 (N.I.))**

Paragraph 6 ensures that the amendments made by paragraph 11 of Schedule 1 to this Act will not affect the operation of section 23 in relation to goods obtained as the result of a deception made before the commencement of paragraph 11.

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Dishonestly retaining a wrongful credit under the Theft Act (Northern Ireland) 1969

Paragraph 7 ensures that the amendments made by paragraph 12 of Schedule 1 to this Act will not affect the operation of section 23A in relation to credits falling within section 23A(3) and (4) and made before the commencement of paragraph 12.

Limiting periods under the [Limitation Act 1980 \(c.58\)](#)

Paragraph 8 ensures that this Act will not affect the operation of section 4 in relation to chattels obtained before its commencement or as the result of a deception made before its commencement.

Limitation periods under the [Limitation \(Northern Ireland\) Order 1989 \(S.I. 1989/1339 \(N.I. 11\)\)](#)

Paragraph 9 ensures that the amendments made by paragraph 23 of Schedule 1 to this Act will not affect the operation of Article 18 in relation to chattels obtained as the result of a deception made before the commencement of paragraph 23.

Scheduled offences under the [Terrorism Act 2000 \(c.11\)](#)

Paragraph 10 ensures that the amendments made by paragraph 28 of Schedule 1 to this Act will not affect the operation of Part 7 of the Terrorism Act 2000 in relation to an offence under section 15(1) of the Theft Act (Northern Ireland) 1969 where the obtaining is a result of a deception made before the commencement of paragraph 28.

Powers of arrest under [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c.19\)](#)

Paragraph 11 ensures that the amendment to the 2004 Act made by paragraph 33 of Schedule 1 to this Act does not affect offences committed partly before the commencement of this Act.