

Chapter 10 Summary: Fraud

Chapter 10 explores fraud (and related offences), with the main focus on the Fraud Act 2006 (FA). As with Chapter 9, these offences are defined in terms of the protection of property rights. However, unlike the offences discussed in Chapter 9, the fraud offences are inchoate: they punish conduct which *is directed at* undermining property rights, they do not require that harm to have come about.

Fraud by false representation (Chapter 10.2)

Fraud by false representation is defined in section 2 FA. This offence applies where D falsely and dishonestly represents something to V, with the intention thereby to make a gain or cause a loss (key case: *Idrees v DPP*)

Fraud by failure to disclose information (Chapter 10.3)

Fraud by failure to disclose information is defined in section 3 FA. This offence applies where D has a legal duty to disclose certain information to V, and dishonestly fails to do so in order to make a gain or cause a loss (key case: *Mashta*).

Fraud by abuse of position (Chapter 10.4)

Fraud by abuse of position is defined in section 4 FA. This offence applies where D holds a relevant position of financial trust, dishonestly abuses that position, and does so in order to make a gain or cause a loss (key case: *Pennock and Pennock*).

Related fraud and deception offences (Chapter 10.5-10.7)

Outside of the core section 1 fraud offence (committed in any one of the three ways described above), it is important to understand a number of other related offences. These include:

- Obtaining services dishonestly (FA, s11);
- Offences related to the preparation of fraud (FA, s6 and 7);
- Conspiracy to defraud (common law offence);
- Making off without payment (Theft Act 1978, s3).

Reform (Chapter 10.8)

This section discusses a number of topical debates, including:

- The drafting of the Fraud Act 2006;
- Fraud and the irrelevance of results;
- The overlapping of fraud and theft offences.

Eye on assessment (Chapter 10.9)

This final section explores how the fraud offences should be applied within a problem question, with particular focus on selecting the most appropriate offence for the facts.