



# Theft Act 1978

## 1978 CHAPTER 31

An Act to replace section 16(2)(a) of the Theft Act 1968 with other provision against fraudulent conduct; and for connected purposes. [20th July 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Obtaining services by deception**

- (1) A person who by any deception dishonestly obtains services from another shall be guilty of an offence.
- (2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

### **2 Evasion of liability by deception**

- (1) Subject to subsection (2) below, where a person by any deception—
  - (a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another's ; or
  - (b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forgo payment; or
  - (c) dishonestly obtains any exemption from or abatement of liability to make a payment;he shall be guilty of an offence.

- (2) For purposes of this section "liability" means legally enforceable liability; and subsection (1) shall not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act or omission.
- (3) For purposes of subsection (1)(b) a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.
- (4) For purposes of subsection (1)(c) "obtains" includes obtaining for another or enabling another to obtain.

### **3 Making off without payment**

- (1) Subject to subsection (3) below, a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due shall be guilty of an offence.
- (2) For purposes of this section "payment on the spot" includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.
- (3) Subsection (1) above shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.
- (4) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, committing or attempting to commit an offence under this section.

### **4 Punishments**

- (1) Offences under this Act shall be punishable either on conviction on indictment or on summary conviction.
- (2) A person convicted on indictment shall be liable—
  - (a) for an offence under section 1 or section 2 of this Act, to imprisonment for a term not exceeding five years; and
  - (b) for an offence under section 3 of this Act, to imprisonment for a term not exceeding two years.
- (3) A person convicted summarily of any offence under this Act shall be liable—
  - (a) to imprisonment for a term not exceeding six months; or
  - (b) to a fine not exceeding the prescribed sum for the purposes of section 28 of the Criminal Law Act 1977 (punishment on summary conviction of offences triable either way: £1,000 or other sum substituted by order under that Act), or to both.

### **5 Supplementary**

- (1) For purposes of sections 1 and 2 above "deception" has the same meaning as in section 15 of the Theft Act 1968, that is to say, it means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception

as to the present intentions of the person using the deception or any other person; and section 18 of that Act (liability of company officers for offences by the company) shall apply in relation to sections 1 and 2 above as it applies in relation to section 15 of that Act.

- (2) Sections 30(1) (husband and wife), 31(1) (effect on civil proceedings) and 34 (interpretation) of the Theft Act 1968, so far as they are applicable in relation to this Act, shall apply as they apply in relation to that Act.
- (3) In the Schedule to the Extradition Act 1873 (additional list of extradition crimes), after " Theft Act 1968 " there shall be inserted " or the Theft Act 1978 " ; and there shall be deemed to be included among the descriptions of offences set out in Schedule 1 to the Fugitive Offenders Act 1967 any offence under this Act.
- (4) In the Visiting Forces Act 1952, in paragraph 3 of the Schedule (which defines for England and Wales " offence against property " for purposes of the exclusion in certain cases of the jurisdiction of United Kingdom courts) there shall be added at the end—  
“(j) the Theft Act 1978”.
- (5) In the Theft Act 1968 section 16(2)(a) is hereby repealed.

## **6 Enactment of same provisions for Northern Ireland**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it operates only so as to make for Northern Ireland provision corresponding to this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment by resolution of either House.

## **7 Short title, commencement and extent**

- (1) This Act may be cited as the Theft Act 1978.
- (2) This Act shall come into force at the expiration of three months beginning with the date on which it is passed.
- (3) This Act except section 5(3), shall not extend to Scotland; and except for that subsection, and subject also to section 6, it shall not extend to Northern Ireland.