

1978 No. 1407 (N.I. 23)

NORTHERN IRELAND

The Theft (Northern Ireland) Order 1978

<i>Made</i>	29th September 1978
<i>Laid before Parliament</i>	9th October 1978
<i>Coming into Operation</i>	30th November 1978

ARRANGEMENT OF ORDER

Article

1. Title and commencement.
2. Interpretation.
3. Obtaining services by deception.
4. Evasion of liability by deception.
5. Making off without payment.
6. Punishments.
7. Supplementary.

At the Court at Balmoral, the 29th day of September 1978

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order in Council operates only so as to make for Northern Ireland provision corresponding to the Theft Act 1978 (a):

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (b) (as modified by section 6 of the Theft Act 1978) 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. This Order may be cited as the Theft (Northern Ireland) Order 1978 and shall come into operation on the expiration of two months after the day on which it is made.

Interpretation

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

(a) 1978 c. 31.

(b) 1974 c. 28.

(c) 1954 c. 33 (N.I.).

Obtaining services by deception

3.—(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.

Evasion of liability by deception

4.—(1) Subject to paragraph (2), 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 Article “liability” means legally enforceable liability; and paragraph (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 paragraph (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 paragraph (1) (c) “obtains” includes obtaining for another or enabling another to obtain.

Making off without payment

5.—(1) Subject to paragraph (3), 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 Article “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) Paragraph (1) 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 Article.

Punishments

6.—(1) Offences under this Order 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 Article 3 or Article 4, to imprisonment for a term not exceeding five years; and
 - (b) for an offence under Article 5, to imprisonment for a term not exceeding two years.

(3) A person convicted summarily of any offence under this Order shall be liable to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months or to both.

Supplementary

7.—(1) For purposes of Articles 3 and 4 “deception” has the same meaning as in section 15 of the Theft Act (Northern Ireland) 1969 (a) (“the Act of 1969”), 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.

(2) Sections 29 (1) (effect on civil proceedings) and 32 (interpretation) of the Act of 1969, so far as they are applicable in relation to this Order, shall apply as they apply in relation to that Act.

(3) In the Visiting Forces Act 1952 (b), in paragraph 3 of the Schedule (which defines for Northern Ireland (as well as 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 of subparagraph (j) (which refers to offences punishable under the Theft Act 1978) the words “and the Theft (Northern Ireland) Order 1978”.

(4) In the Act of 1969 section 16 (2) (a) is hereby repealed.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes for Northern Ireland provision corresponding to the Theft Act 1978 by replacing section 16 (2) (a) of the Theft Act (Northern Ireland) 1969 (obtaining pecuniary advantage by deception in certain cases) with other provision against fraudulent conduct.

(a) 1969 c. 16 (N.I.).

(b) 1952 c. 67.

