



# Forgery and Counterfeiting Act 1981

## 1981 CHAPTER 45

### PART I

#### FORGERY AND KINDRED OFFENCES

##### *Offences*

#### **1 The offence of forgery**

A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

#### **2 The offence of copying a false instrument**

It is an offence for a person to make a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

#### **3 The offence of using a false instrument**

It is an offence for a person to use an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

#### **4 The offence of using a copy of a false instrument**

It is an offence for a person to use a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention of inducing somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

## **5 Offences relating to money orders, share certificates, passports, etc.**

- (1) It is an offence for a person to have in his custody or under his control an instrument to which this section applies which is, and which he knows or believes to be, false, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.
- (2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, an instrument to which this section applies which is, and which he knows or believes to be, false.
- (3) It is an offence for a person to make or to have in his custody or under his control a machine or implement, or paper or any other material, which to his knowledge is or has been specially designed or adapted for the making of an instrument to which this section applies, with the intention that he or another shall make an instrument to which this section applies which is false and that he or another shall use the instrument to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.
- (4) It is an offence for a person to make or to have in his custody or under his control any such machine, implement, paper or material, without lawful authority or excuse.
- (5) The instruments to which this section applies are—
  - (a) money orders;
  - (b) postal orders;
  - (c) United Kingdom postage stamps ;
  - (d) Inland Revenue stamps;
  - (e) share certificates;
  - (f) passports and documents which can be used instead of passports;
  - (g) cheques;
  - (h) travellers' cheques;
  - (j) cheque cards;
  - (k) credit cards;
  - (l) certified copies relating to an entry in a register of births, adoptions, marriages or deaths and issued by the Registrar General, the Registrar General for Northern Ireland, a registration officer or a person lawfully authorised to register marriages; and
  - (m) certificates relating to entries in such registers.
- (6) In subsection (5) (e) above " share certificate " means an instrument entitling or evidencing the title of a person to a share or interest—
  - (a) in any public stock, annuity, fund or debt of any government or state, including a state which forms part of another state ; or
  - (b) in any stock, fund or debt of a body (whether corporate or unincorporated) established in the United Kingdom or elsewhere.

*Penalties etc.*

**6 Penalties for offences under Part I**

- (1) A person guilty of an offence under this Part of this Act shall be liable on summary conviction—
  - (a) to a fine not exceeding the statutory maximum; or
  - (b) to imprisonment for a term not exceeding six months; or
  - (c) to both.
- (2) A person guilty of an offence to which this subsection applies shall be liable on conviction on indictment to imprisonment for a term not exceeding ten years.
- (3) The offences to which subsection (2) above applies are offences under the following provisions of this Part of this Act—
  - (a) section 1;
  - (b) section 2;
  - (c) section 3;
  - (d) section 4;
  - (e) section 5(1); and
  - (f) section 5(3).
- (4) A person guilty of an offence under section 5(2) or (4) above shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.
- (5) In this section " statutory maximum ", in relation to a fine on summary conviction, means the prescribed sum, within the meaning of section 32 of the Magistrates' Courts Act 1980 (£1,000 or another sum fixed by order under section 143 of that Act to take account of changes in the value of money); and those sections shall extend to Northern Ireland for the purposes of the application of this definition.

**7 Powers of search, forfeiture, etc.**

- (1) If it appears to a justice of the peace, from information given him on oath, that there is reasonable cause to believe that a person has in his custody or under his control—
  - (a) any thing which he or another has used, whether before or after the coming into force of this Act, or intends to use, for the making of any false instrument or copy of a false instrument, in contravention of section 1 or 2 above; or
  - (b) any false instrument or copy of a false instrument which he or another has used, whether before or after the coming into force of this Act, or intends to use, in contravention of section 3 or 4 above; or
  - (c) any thing custody or control of which without lawful authority or excuse is an offence under section 5 above,the justice may issue a warrant authorising a constable to search for and seize the object in question, and for that purpose to enter any premises specified in the warrant.
- (2) A constable may at any time after the seizure of any object suspected of falling within paragraph (a), (b) or (d) of subsection (1) above (whether the seizure was effected by virtue of a warrant under that subsection or otherwise) apply to a magistrates' court for an order under this subsection with respect to the object; and the court, if it is satisfied both that the object in fact falls within any of those paragraphs and that it is conducive

to the public interest to do so, may make such order as it thinks fit for the forfeiture of the object and its subsequent destruction or disposal.

- (3) Subject to subsection (4) below, the court by or before which a person is convicted of an offence under this Part of this Act may order any object shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.
- (4) The court shall not order any object to be forfeited under subsection (2) or (3) above where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

### *Interpretation of Part I*

## **8 Meaning of " instrument "**

- (1) Subject to subsection (2) below, in this Part of this Act " instrument " means—
  - (a) any document, whether of a formal or informal character;
  - (b) any stamp issued or sold by the Post Office ;
  - (c) any Inland Revenue stamp ; and
  - (d) any disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means.
- (2) A currency note within the meaning of Part II of this Act is not an instrument for the purposes of this Part of this Act.
- (3) A mark denoting payment of postage which the Post Office authorise to be used instead of an adhesive stamp is to be treated for the purposes of this Part of this Act as if it were a stamp issued by the Post Office.
- (4) In this Part of this Act " Inland Revenue stamp " means a stamp as defined in section 27 of the Stamp Duties Management Act 1891.

## **9 Meaning of " false " and " making "**

- (1) An instrument is false for the purposes of this Part of this Act—
  - (a) if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form; or
  - (b) if it purports to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form ; or
  - (c) if it purports to have been made in the terms in which it is made by a person who did not in fact male it in those terms; or
  - (d) if it purports to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms ; or
  - (e) if it purports to have been altered in any respect by a person who did not in fact alter it in that respect; or
  - (f) if it purports to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect; or
  - (g) if it purports to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered; or

- (h) if it purports to have been made or altered by an existing person but he did not in fact exist.
- (2) A person is to be treated for the purposes of this Part of this Act as making a false instrument if he alters an instrument so as to make it false in any respect (whether or not it is false in some other respect apart from that alteration).

## **10 Meaning of " prejudice " and " induce "**

- (1) Subject to subsections (2) and (4) below, for the purposes of this Part of this Act an act or omission intended to be induced is to a person's prejudice if, and only if, it is one which, if it occurs—
- (a) will result—
    - (i) in his temporary or permanent loss of property ; or
    - (ii) in his being deprived of an opportunity to earn remuneration or greater remuneration ; or
    - (iii) in his being deprived of an opportunity to gain a financial advantage otherwise than by way of remuneration ; or
  - (b) will result in somebody being given an opportunity—
    - (i) to earn remuneration or greater remuneration from him; or
    - (ii) to gain a financial advantage from him otherwise than by way of remuneration ; or
  - (c) will be the result of his having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with his performance of any duty.
- (2) An act which a person has an enforceable duty to do and an omission to do an act which a person is not entitled to do shall be disregarded for the purposes of this Part of this Act.
- (3) In this Part of this Act references to inducing somebody to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, include references to inducing a machine to respond to the instrument or copy as if it were a genuine instrument or, as the case may be, a copy of a genuine one.
- (4) Where subsection (3) above applies, the act or omission intended to be induced by the machine responding to the instrument or copy shall be treated as an act or omission to a person's prejudice,
- (5) In this section " loss " includes not getting what one might get as well as parting with what one has.

### *Miscellaneous*

## **11 Amendments of Mental Health Acts**

- (1) The following subsections shall be substituted for section 125(1) of the Mental Health Act 1959 (forgery etc. of certain documents): —
- “(1) Any person who without lawful authority or excuse has in his custody or under his control any document to which this subsection applies, which is land which

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*Status: This is the original version (as it was originally enacted).*

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he knows or believes to be, false within the meaning of Part I of the Forgery and Counterfeiting Act 1981, shall be guilty of an offence.

(1A) Any person who without lawful authority or excuse makes, or has in his custody or under his control, any document so closely resembling a document to which subsection (1) above applies as to be calculated to deceive shall be guilty of an offence.

(1B) The documents to which subsection (1) above applies are any document purporting to be—

- (a) an application under Part IV of this Act;
- (b) a medical recommendation or report under this Act; and
- (c) any other document required or authorised to be made for any of the purposes of this Act.”.

(2) The following subsections shall be substituted for section 98(1) of the Mental Health Act (Northern Ireland) 1961 (which makes corresponding provision for Northern Ireland): —

“(1) Any person who without lawful authority or excuse has in his custody or under his control any document to which this subsection applies which is, and which he knows or believes to be, false within the meaning of Part I of the Forgery and Counterfeiting Act 1981, shall be guilty of an offence.

(1A) Any person who without lawful authority or excuse makes, or has in his custody or under his control, any document so closely resembling a document to which subsection (1) applies as to be calculated to deceive shall be guilty of an offence.

(1B) The documents to which subsection (1) applies are any document purporting to be—

- (a) an application under Part II;
- (b) any recommendation for admission or guardianship or medical report under this Act; and
- (c) any other document required or authorised to be made for any of the purposes of this Act.”.

## **12 Amendments of Road Traffic Acts and Public Passenger Vehicles Act 1981**

In section 233(2) of the Road Traffic Act 1960, section 169(3) of the Road Traffic Act 1972 and section 65(3) of the Public Passenger Vehicles Act 1981, for the words "forges" means forges within the meaning of the Forgery Act, 1913." there shall be substituted the words " " forges " means makes a false document or other thing in order that it may be used as genuine."

## **13 Abolition of offence of forgery at common law**

The offence of forgery at common law is hereby abolished for all purposes not relating to offences committed before the commencement of this Act.