



National Health Service Act 2006

2006 CHAPTER 41

PART 10

PROTECTION OF NHS FROM FRAUD AND OTHER UNLAWFUL ACTIVITIES

Offences under this Part

204 Offences in connection with production of documents

- (1) A person commits an offence if, without reasonable excuse, he fails to comply with any requirement imposed on him under section 197 or 198.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
 - (a) to imprisonment for a term not exceeding 51 weeks, or
 - (b) to a fine not exceeding level 3 on the standard scale,or to both.
- (3) If a person is convicted of an offence under subsection (1) in respect of a failure to produce a document and the failure continues after the date of his conviction, the person—
 - (a) commits a further offence, and
 - (b) is liable on summary conviction to a fine not exceeding 2% of level 3 on the standard scale for each day on which the failure so continues.
- (4) A person commits an offence if, in purported compliance with any requirement imposed on him under section 198—
 - (a) he makes a statement which is false or misleading, and
 - (b) he either knows that it is false or misleading or is reckless as to whether it is false or misleading.
- (5) “False or misleading” means false or misleading in a material particular.
- (6) A person guilty of an offence under subsection (4) is liable—

Status: This is the original version (as it was originally enacted).

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both,
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.

205 Offences relating to disclosure or use of information

- (1) A person commits an offence if he fails to comply with section 201(2) or (5) or section 202(2).
- (2) A person guilty of an offence under subsection (1) is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both,
 - (b) on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding the statutory maximum, or to both.
- (3) It is a defence for a person charged with an offence under subsection (1) in respect of a disclosure of information to prove that at the time of the alleged offence—
 - (a) any of the circumstances in subsection (4) applied, or
 - (b) he reasonably believed that they applied.
- (4) The circumstances referred to in subsection (3) are—
 - (a) that the disclosure was lawful,
 - (b) that the information had already been lawfully made available to the public,
 - (c) that the disclosure was necessary or expedient for the purpose of protecting the welfare of any individual,
 - (d) that the disclosure was made in a form in which no person to whom the information relates is identified.
- (5) Subsection (4)(d) is not satisfied if the identity of any such person can be ascertained either—
 - (a) from the information itself, or
 - (b) from that information taken with other information obtained by virtue of section 197 or 198 and disclosed by or on behalf of the Secretary of State.

206 Offences by bodies corporate etc

- (1) If an offence committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on his part,
 the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) “Officer”, in relation to the body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) If an offence committed by a partnership is proved—
 - (a) to have been committed with the consent or connivance of a partner, or

- (b) to be attributable to any neglect on his part,
the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) “Partner” includes a person purporting to act as a partner.
- (6) If an offence committed by an unincorporated association (other than a partnership) is proved—
- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
- (b) to be attributable to any neglect on the part of such an officer or member,
the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) “Offence” means an offence under this Part.

207 Offences committed by partnerships and other unincorporated associations

- (1) Proceedings for an offence alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).
- (2) Proceedings for an offence alleged to have been committed by an unincorporated association (other than a partnership) must be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate.
- (4) In proceedings for an offence brought against a partnership or an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) apply as they apply in relation to a body corporate.
- (5) A fine imposed on a partnership on its conviction for an offence must be paid out of the partnership assets.
- (6) A fine imposed on an unincorporated association on its conviction for an offence must be paid out of the funds of the association.
- (7) Subsections (1) and (2) do not affect any liability of a partner, officer or member under section 206(4) or (6).
- (8) “Offence” means an offence under this Part.

208 Penalties for offences under this Part: transitional modification

- (1) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' courts power to impose imprisonment), the reference in section 204(6)(b) to a period of imprisonment of 12 months is a reference to a period of imprisonment of 6 months.
- (2) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the references in sections 204(2)(a) and 205(2)(b) to periods of imprisonment of 51 weeks are references to periods of imprisonment of 3 months.