

*These notes refer to the Fraud Act 2006 (c.35)
which received Royal Assent on 8 November 2006*

FRAUD ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10: Participating in fraudulent business carried on by company etc.: penalty

33. **Section 10** increases the maximum custodial sentence for fraudulent trading under the companies legislation to 10 years. The Company Law Review, at paragraph 15.7 of its *Final Report: Modern Company Law for a Competitive Economy* (2001) recommended that the maximum penalty for the fraudulent trading offence in the 1985 Act be aligned with other offences of dishonesty in the Theft Act 1968 (i.e. 10 years). The offence in section 458 of the Companies Act 1985 applies in Scotland as well as in England and Wales and by virtue of clause 15(4) the amendment made by *subsection (1)* extends to Scotland too. *Subsection (2)* increases the maximum custodial sentence for the offence in Article 451 of the Companies (Northern Ireland) Order 1986 to 10 years.