

FRAUD ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 11: Obtaining services dishonestly

34. **Section 11** makes it an offence for any person, by any dishonest act, to obtain services for which payment is required, with intent to avoid payment. The person must know that the services are made available on the basis that they are chargeable, or that they might be. It is not possible to commit the offence by omission alone and it can be committed only where the dishonest act was done with the intent not to pay for the services as expected. This offence replaces the offence of obtaining services by deception in section 1 of the Theft Act 1978 and Article 3 of the Theft (Northern Ireland) Order 1978, though the new offence contains no deception element. Under *subsection (3)* the maximum custodial sentence for this offence is 5 years.
35. The offence is not inchoate: it requires the actual obtaining of the service. For example, data or software may be made available on the Internet to a certain category of person who has paid for access rights to that service. A person dishonestly using false credit card details or other false personal information to obtain the service would be committing an offence under this clause. The section would also cover a situation where a person climbs over a wall and watches a football match without paying the entrance fee – such a person is not deceiving the provider of the service directly, but is obtaining a service which is provided on the basis that people will pay for it.
36. **Section 11** also covers the situation where a person attaches a decoder to her television to enable viewing access to cable / satellite television channels for which she has no intention of paying.