

Fraud Investigation: Criminal Procedure and Investigation

Sally Ramage

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Book review

This special book was written to assist middle-ranking police and private detectives who investigate fraud. It is a manual on fraud law and fraud investigation procedures. There are fourteen chapters in this book, preceded by some vital glossaries of accounting terms, acronyms, electronic terms and legal terms. These glossaries are the gems in this book, as are the case studies. So as not to interrupt the chapters with notes referring to the glossaries, it is left to the reader to refer to the glossary when he or she needs clarification of a word or term. If the glossary does not contain the explanation, then it is to be found in the Oxford English dictionary. A brief synopsis of each chapter follows. The manual concludes with two chapters by Chief Inspector Jeneth Williams of Manchester Police Authority, who agreed to write these chapters. The book was originally to be published elsewhere and an updated version in 2012 will be published elsewhere. Nevertheless it is a very unassuming and straightforward interpretation of United Kingdom fraud law, written for non-lawyers.

Chapter 1- Introduction to Fraud Law

This chapter contains the essential fact that the Fraud Act 2006 is *not* retrospective. Therefore, offences committed before 15 January 2007, when the Fraud Act came into force by The Fraud Act 2006 (Commencement) Order 2006, Statutory Instrument 2006/3200, will have to be prosecuted under the relevant statutes in force at the time of the commission of the crime, such as the Theft Act 1968, Theft Act 1978, or using the common law charge of conspiracy to defraud.

Chapter 2- The Fraud Act 2006

In this chapter explanations and analyses the Fraud Act 2006, a statute at once simple yet complex. Fraud is an economic crime. With the rapid development of technology and the Internet came the corresponding increase in fraud, costing the economy billions of pounds. Before the Fraud Act 2006 was in force, in January 2007, fraud was prosecuted under the Theft Acts and common law conspiracy to defraud. The idea of

a statutory fraud crime was moot for many years. The Fraud Bill in the 2002 Law Commission Report No.276 followed several Law Commission Reports, namely, the 1987 Law Commission Report No. 104, 'Conspiracy to defraud', the 1994 Law Commission Report No. 228, 'Conspiracy to defraud', the 1999 Law Commission Report No. 154, 'Illegal consideration', the 1999 Law Commission Report No. 261''Company Directors: Regulating Conflicts of Interest and Formulating a Statement of Duties', the 2000 Law Commission Report No. 265, 'Fraud and deception', the 2001 Law Commission Report No. 160, 'Conversion' , and others.

Chapter 3- Analysis of Theft Acts 1968 and 1978

The Theft Acts 1968 and 1978 are included in this book for completeness and to remind us that these laws are still very important, especially when a fraud discovered today, was committed years ago.

Chapter 4- Other current legislation that deals with fraud

This chapter deals with other current legislation that deals with fraud. It gives essential explanations of statutes which deal with fraud, apart from the Fraud Act 2006, as well as the civil law system, used mainly for 'breach of contract' type frauds. The civil system is used because the standard of proof is lower than for a criminal fraud case and because assets seized go immediately to the claimant instead of the Crown, as in a criminal case. In this respect, the true amount of fraud is unknown because crime statistics reveal only criminal prosecutions.

Chapter 5- Conspiracy to defraud, attempted fraud, incitement to fraud

Conspiracy to defraud and the criminal offence of 'attempt' are explained. It is important to know the procedure under which the common law offence of 'conspiracy to defraud' can be used today. This is set out by the Attorney General in Guidelines drafted after the Fraud Act 2006 and the criteria must be met in order to be able to use the charge of 'conspiracy to defraud'.

Chapter 6- Common frauds, detection and prevention

Common frauds, detection and prevention, is a chapter which contains examples of different types of fraud. There are factual differences between types of fraud committed in the jurisdiction of the UK and fraud committed on the Internet, a no-man's land. This chapter is one to dip into if you need to see whether a certain fraud is a common fraud and if there is similar fact case law. It is here that a sound and rigorous explanation is made of the *actus reus* and the *mens rea* of a crime.

Chapter 7- Bribery and corruption in corporations, government and authorities

Although bribery and corruption are both urgent issues, they are merely explained briefly in this book, as the UK now has the Bribery Act 2010.

Chapter 8- Regulatory fraud- money laundering, cartels and other corporate fraud

This chapter deals with regulatory fraud. Its complexity makes it difficult to grasp, but the fraud detective needs to be made aware of how regulatory agencies control the markets; how they treat fraud and how the police fit into the regulatory legal system.

Chapter 9- Analysis of organised crime for cross -border fraud

Organised crime and cross-border fraud are explained in this chapter. The law relating to cross-border and organised crime is much bandied in the media but with little illumination. This chapter, therefore, serves to explain laws relating to organised crime which invariable includes fraud somewhere along the line.

Chapter 10- Legal awareness

In a climate of increasing litigation, legal awareness is vital, as it is of no use pursuing a matter without being aware of what other laws may be breached if certain conduct persists, unnecessarily quashing a good case.

Chapter 11- UK investigating and prosecuting authorities

This comprehensive yet concise explanation of the relevant investigation and prosecuting agencies is the pride and joy of this book. This chapter gives a good 'helicopter' view of the combating of fraud in the country, and globally - essential to understanding that other countries' governments have the same aims and objectives of putting a stop to fraud.

Chapter 12- Investigation of electronic fraud

The investigation of electronic fraud is a topic that is not included in other criminal law books. This chapter gives the reader the 'nuts and bolts' of collecting and examining electronic evidence, even though the courts in this country are not yet up to speed on Electronic evidence. There are still no English law rules on electronic discovery. However, organisations, which have systems and policies in place, serve as the *status quo* for electronic evidence discovery.

Chapter 13 and Chapter 14- Police fraud investigations- policies and management

The subject of police fraud investigations in these chapters is the generous contribution of Police Chief Detective Inspector Jeneth Williams of Manchester Police Authority. Ms. Williams contributed these chapters as an unofficial representative of the country's police fraud training schemes.

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