

Fraud and Forgery

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- 52** **False Accounting**
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51 **Frauds by Company Directors, Sole Traders etc Classification (1 of 1)**

| | | | |
|-------|----------------------------------------------------------------------------|------|----------------------------------------------------------------------------------------------------------------------------|
| 51/1 | False statements by company directors etc. <i>Theft Act 1968 Sec 19</i> | 51/3 | Other frauds by company directors etc. <i>Companies Act 1985 Sec 70(1)</i> |
| 51/3 | Fraudulent trading <i>Companies Act 1985 Sec 458</i> | 51/4 | Give false information knowingly or recklessly when applying for a Confidentiality Order etc. <i>Companies Act 1985</i> |
| 53/45 | Fraudulent Trading by Sole Trader <i>Fraud Act 2006 Sec 9</i> | | |

DEFINITION - LEGAL: FALSE STATEMENTS BY COMPANY DIRECTORS ETC

THEFT ACT 1968 SEC 19

"... an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular ..."

The law also makes provision for organisations managed by its members.

DEFINITION - LEGAL: FRAUDULENT TRADING

COMPANIES ACT 1985 SEC 458

"... Any business of a company is carried on with intent to defraud creditors of the company or creditors of any other person, or for any fraudulent purpose ... "

This applies whether or not the company has been, or is in the course of being, wound up.

DEFINITION - LEGAL: FRAUDULENT TRADING BY SOLE TRADER

FRAUD ACT 2006 SEC 9

"A person is guilty of an offence if he is knowingly a party to the carrying on of a business with intent to defraud creditors of any person or for any other fraudulent purpose..."

51 Frauds by Company Directors, Sole Traders etc Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC, INTENDED OR IDENTIFIABLE CREDITOR DEFRAUDED.

EXAMPLE: Three creditors have been intentionally defrauded by a company director's false statement.

Three crimes (class 51).

APPLICATION OF THE RULE

If several directors' names have been used in defrauding a creditor, count separately only where a director is a separate person (rather than a mere alias) and has been acting independently of the others.

Example: Two directors of a company have been involved in defrauding a creditor.

One crime (class 51).

Example: A director intentionally defrauds four building societies through fraudulent trading practices under several different names.

Four crimes (class 51).

If no specific intended creditor, count one crime for each creditor identified as being defrauded. If none can be identified, count one crime for each director acting independently.

Example: A company issues a prospectus containing false information with the intent of misleading investors and creditors generally, but no-one in particular.

(i) The police identify three creditors who have been defrauded.

Three crimes (class 51).

(ii) The police cannot identify any creditors who have been defrauded.

One crime (class 51).

Finished Incident: see also General Rules Section E.

Example: A company director intentionally defrauds a creditor on many occasions before he is discovered and reported to the police.

One crime (class 51).

52 False Accounting Classification (1 of 1)

| | | | |
|------|--------------------------------------------------------------------------------------------------------|------|-------------------------------------------------------------------------------------------------|
| 52/1 | False Accounting. <i>Theft Act 1968 Sec 17.</i> <i>Protection of Depositors Act 1963 Sec 15.</i> | 52/4 | Permitting the failure to keep proper accounts. <i>Companies Act 1985 Sec 221(5)(6).</i> |
| 52/2 | Failure to keep proper accounting records. <i>Companies Act 1985 Sec 221(5).</i> | 52/5 | Failing to secure preservation of counting records. <i>Companies Act 1985 Sec 222(6).</i> |
| 52/3 | Authorising the failure to keep proper accounting records. <i>Companies Act 1985 Sec 221(5)(6).</i> | 52/6 | Failing to keep accounting records open to inspection. <i>Companies Act 1985 Sec 222(4).</i> |

DEFINITION - LEGAL: FALSE ACCOUNTING

THEFT ACT 1968 SEC 17(1)

"... A person dishonestly with a view to gain for himself or another or with intent to cause loss to another -

(a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose;

or

(b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular ..."

Section 17(2) states the circumstances whereby making an entry in an account or omission of an item in an account can be treated as falsification.

52 False Accounting Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC, INTENDED OR IDENTIFIABLE VICTIM.

EXAMPLE: A person is reported to the police for falsifying accounting records, with intent to cause loss to two other employees.

Two crimes (class 52).

APPLICATION OF THE RULE

If no specific intended creditor, count one crime for each creditor identified as being defrauded. If none can be identified, count one crime for each director acting independently.

Example: A person falsifies accounts to cause general loss, but with no-one particular in mind.

(i) Five shareholders report having suffered loss as a result of the false statement.

Five crimes (class 52).

(ii) No-one is identified as having been defrauded.

One crime (class 52).

Principal Crime: see also General Rules Section F and Annex E.

If a person undertakes false accounting in order to steal money or property, then the principal crime is theft.

Example: An employee is reported to the police for false accounting in order to steal money.

One crime of theft by an employee (class 41).

Example: As above, but there is no evidence that money or goods have actually been stolen.

One crime of false accounting (class 52).

53A Cheque and Credit Card Fraud Classification (1 of 1)

WITH EFFECT FROM THE 15TH OF JANUARY 2007 ALL LEGISLATION UNDER THIS CLASSIFICATION IS REPEALED BY THE FRAUD ACT 2006.

PLEASE USE SECTION 53C

CLASS 53A STILL APPLIES FOR ALL OFFENCES RECORDED AND DETECTED BEFORE THE 15TH OF JANUARY 2007 AND FOR OFFENCES RECORDED BEFORE THE 15TH OF JANUARY 2007 BUT DETECTED AFTERWARDS.

FOR OFFENCES RECORDED AFTER THE 15TH OF JANUARY 2007 BUT COMMITTED BEFORE THE 15TH OF JANUARY 2007 TREAT UNDER THE PREVIOUS LEGISLATION.

53/1(pt) Obtaining property
by cheque or credit card fraud .
Theft Act 1968 Sec 15(pt).

53/2(pt) Obtaining pecuniary advantage
by cheque or credit card fraud .
Theft Act 1968 Sec 16(pt).

53/23(pt) Obtaining services
by cheque or credit card fraud
Theft Act 1978 Secs 1,2(pt).

53/31(pt) Obtaining a money transfer
by cheque or credit card fraud .
*Theft Act 1978 Sec 15A
by Theft (Amendment) Act 1996 Sec 1.*

53B Other Frauds Classification (1 of 3)

| | | | |
|-----------|------------------------------------------------------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| 53/5 | Purporting to act as a spiritualistic medium for reward. <i>Fraudulent Mediums Act 1951 Sec 1.</i> | 53/30 | Insider dealing. <i>Criminal Justice Act 1993 Sec 52.</i> |
| 53/6 | Taking marks from public stores. <i>Public Stores Act 1875 Sec 5.</i> | 53/33 | Dishonest representation for obtaining benefit etc. <i>Social Security Administration Act 1992 Sec 111A.</i> |
| 53/8 | Fraudulent issue of money orders by Post Office employee. <i>Post Office Act 1953 Sec 22.</i> | 53/34 | Unauthorised access to computer material with intent to commit or facilitate commission of further offences. <i>Computer Misuse Act 1990 Sec 2.</i> |
| 53/10 | Fraudulently retaining, secreting etc postal packet or mail bag. <i>Post Office Act 1953 Sec 55.</i> | 53/35 | Unauthorised modification of computer material. <i>Computer Misuse Act 1990 Sec 3.</i> |
| 53/11 | Fraudulently printing, mutilating or re-issuing stamps. <i>Stamp Duties Management Act 189 Sec 13.</i> | 53/36 | Fraudulent evasion of contributions. <i>Social Security Act 1998 Sec 61 (implementation 1/1/2000).</i> |
| 53/13 | Frauds by farmers in connection with agricultural charges. <i>Agricultural Credits Act 1928 Sec 11.</i> | 53/37 | Cartel offences. <i>The Enterprise Act 2002 Secs 188, 190.</i> |
| 53/14 | Cheating at play to be punished as obtaining money by false pretences. <i>Gaming Act 1845 Sec 17.</i> | 53/38 | Corrupt transactions with agents. <i>Prevention of Corruption Act 1906 Sec 1.</i> |
| 53/21(pt) | Frauds in connection with sale of land etc. <i>Law of Property Act 1925 Sec 183(pt).</i> | 53/39 | Obtaining an award or a sum by deliberately committing an act or making an omission. <i>Fire and Rescue Services Act 2004 Sec 34 (6)(7).</i> |
| 53/22 | Frauds in connection with sale of land etc. <i>Land Registration Act 1925 Secs 115-116.</i> | 53/99 | Other frauds. <i>Various.</i> |
| 53/25 | Making off without payment. <i>Theft Act 1978 Sec 3.</i> | 195/59 | Unauthorised access to computer material. <i>Computer Misuse Act 1990 Sec 1.</i> |

53B Other Frauds Classification (2 of 3)

DEFINITION - LEGAL: CHEATING AT PLAY ETC

GAMING ACT 1845 SEC 17

"That every person who shall, by any fraud or unlawful device or ill practice in playing at or with cards, dice, tables or other game, or in bearing a part in the stakes, wagers or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime or exercise, win from any other person to himself, or any other or others, any sum or valuable thing ..."

DEFINITION - LEGAL: MAKING OFF WITHOUT PAYMENT

THEFT ACT 1978 SEC 3

"... a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due."

RECORDING PRACTICE: MAKING OFF WITHOUT PAYMENT (MOWP)

Where a victim or their representative reports a making off without payment from a garage forecourt, the incident will be recorded in accordance with the basic principle of NCRS. Previous intelligence in respect of the vehicle or occupants, together with the current information may help to determine if, on the balance of probabilities the making off without payment is as the result of a criminal act as defined by law.

For this offence the suspect has to 'make off' otherwise 53D Fraud by False Representation should be considered.

DEFINITION – LEGAL: COMPUTER VIRUSES

COMPUTER MISUSE ACT 1990 SEC 3

"...he does any act which causes an unauthorised modification of the contents of any computer; and at the time when he does the act he has the requisite intent and the requisite knowledge."

53B Other Frauds Classification (3 of 3)

WITH EFFECT FROM THE 15TH OF JANUARY 2007 ALL LEGISLATION UNDER THE FOLLOWING CLASSIFICATIONS HAVE BEEN REPEALED BY THE FRAUD ACT 2006.

PLEASE USE SECTION 53D

CLASS 53B STILL APPLIES FOR ALL THE FOLLOWING OFFENCES RECORDED AND DETECTED BEFORE THE 15TH OF JANUARY 2007 AND FOR THE FOLLOWING OFFENCES RECORDED BEFORE THE 15TH OF JANUARY 2007 BUT DETECTED AFTERWARDS.

FOR OFFENCES RECORDED AFTER THE 15TH OF JANUARY 2007 BUT COMMITTED BEFORE THE 15TH OF JANUARY 2007 TREAT UNDER THE PREVIOUS LEGISLATION.

| | | | |
|----------|-----------------------------------------------------------------------------------------------------------------------------|-----------|-----------------------------------------------------------------------------------------------------------------------------|
| 53/1(pt) | Obtaining property by deception (apart from cheque and credit card fraud). <i>Theft Act 1968 Sec 15(pt).</i> | 53/24 | Evasion of liability by deception (except railway frauds). <i>Theft Act 1978 Sec 2(pt).</i> |
| 53/2(pt) | Obtaining pecuniary advantage by deception. (apart from cheque and credit card fraud). <i>Theft Act 1968 Sec 16(pt).</i> | 53/31(pt) | Obtaining a money transfer by deception (except cheque and credit card fraud). <i>Theft Act 1968 Sec 15A.</i> |
| 53/15,16 | Suppression etc of documents <i>Theft Act 1968 Sec 20.</i> | 53/32 | Dishonestly retaining a wrongful credit. <i>Theft Act 1968 Sec 24A (as added by Theft (Amendment) Act 1996 Sec 2).</i> |
| 53/20 | Railway frauds. <i>Theft Act 1978 Secs 1,2(pt).</i> | 53/23(pt) | Obtaining services by deception (except railway fraud or cheque and credit card fraud). <i>Theft Act 1978 Sec 1(pt).</i> |

53B Other Frauds Counting Rules (1 of 1)

COMPUTER VIRUSES

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC INTENDED VICTIM.

APPLICATION OF THE RULE

The important aspect to consider is specific intended victim. Where viruses are launched onto the World Wide Web to infect any computer they come across, victim's computers that are infected are not generally specific intended victims. Where police receive reports under these circumstances, that computers have been infected by or received a virus, then a crime related incident should be recorded. If however an offender is identified for releasing a virus from a venue within England or Wales then a crime should be recorded for each distinct virus released from that venue, to be recorded where the offender is based.

Example: John reports that a Trojan virus, known to have infected thousands of machines World Wide, has infected his computer.

Record a crime related incident.

Example: John has had his golf membership withdrawn by the Golf club committee. He goes home and sends an e mail with a virus attached to the home e mail address of the twelve members of the committee. The virus infects eight machines and four machine's anti virus programmes stop the attack.

Eight crimes of unauthorised modification of computer material (class 53/35) and four crimes of attempted unauthorised modification of computer material (class 53/35).

Example: Susan has been sacked from her high profile job at ABC Media. Before she leaves she sends an email with a virus attached to everyone @ABC Media. The next day all of ABC Media's employee's computers have been infected.

One crime of unauthorised modification of computer material (class 53/35). ABC Media are the intended victim.

Example: Susan has been sacked from her high profile job at ABC Media. Before she leaves she sends an e mail with a virus attached to the Chairman, Chief Executive and HR Director at ABC Media. The next day all of ABC Media employee's computers have been infected.

Three crimes of unauthorised modification of computer material (class 53/35). There are three specific intended victims.

Example: An offender in Cardiff is identified for releasing a Virus onto the World Wide Web. This Virus infects hundreds of machines across the world.

One crime of unauthorised modification of computer material (class 53/35) recorded in Cardiff

Example: An offender in Cardiff is identified for releasing three different Viruses onto the World Wide Web. These Viruses infect hundreds of machines across the world.

Three crimes of unauthorised modification of computer material (class 53/35) recorded in Cardiff.

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Classification (1 of 2)

53/40(pt) Fraud by false representation
Fraud Act 2006 Sec 2.

53/4(pt) Conspiracy to commit cheque or credit card fraud.
Common Law.
Criminal Justice Act 1987 Sec 12(pt).

DEFINITION – LEGAL: FRAUD BY FALSE REPRESENTATION

FRAUD ACT 2006 SEC 2

“... Dishonestly makes a false representation, and intends, by making the representation to make a gain for himself or another, or to cause loss to another or to expose another to risk of loss. “

GENERAL PRINCIPLES:

The Financial Institutions will encourage customers (both personal and business) to report cheque, plastic card or online bank account fraud directly to them and not the Police in the first instance. **Online bank accounts include telephone bank accounts.** Fraud reported to the Financial Institution, will then only be reported to Police if they are satisfied that there is a reasonable chance of a suspect being brought to justice through Police Investigation.

Offences where offenders are arrested by Police or where there is a call for service to Police and the offender “is committing” or has recently committed at the time of the call for service for fraud by false representation in relation to cheque and plastic card fraud will be dealt with as though reported to Police by the Financial Institution concerned.

Account holders reporting at Police Stations:

Account holders attempting to report cheque, plastic card or online bank account fraud offences at police stations will be asked in the first instance if they have been specifically told to do so by their Financial Institution. If they have not they will be told to contact their Financial Institution who will deal with the account holder. It is necessary to record a crime related incident at this point.

If the Financial Institution wishes an account holder to report the crime to the police direct, the Financial Institution will give the account holder a reference number to give to the police – either in the form of a letter or verbally. In this case, the account holder will be asked to report it to their local police station. The police station must then record a crime related incident.

Financial Institutions reporting Cheque, plastic card or online bank account fraud to Police

The Financial Institution wishing to report fraud will give the case or cases to the force area based on the following set of principles. The principles are listed in order of priority and it is only when a principle cannot be achieved or is not known that the next principle will apply :-

- 1st – The police force area covering the location of the fraudulent operation/**suspect’s address.**
- 2nd - The police force area with the greatest number of individual usages
- 3rd – The police force area where the first offence was committed
- 4th – The police force area where the victim is located.

Reminder: The location of crime rules contained within this section overrule those within General Rules Section G Location of Crime.

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Classification (2 of 2)

LOCATION OF CRIME: SERIES OF FRAUDS OR MULTIPLE VICTIMS

CHEQUE AND CREDIT CARDS.

Where a stolen or cloned credit card has been used on a number of occasions the Force whom the Financial Institution reports the case to will record the crime.

See General Principles above.

RECORDING PRACTICE: CHEQUE AND CREDIT CARD FRAUD

The original theft of the card etc should be counted in addition to any subsequent false representations.

RECORDING PRACTICE: CALL FOR SERVICE OF POLICE , CHEQUE AND PLASTIC CARD FRAUD

Crimes recorded by police should include all crimes where police have been called to provide a service where an offender "is committing" or has recently committed at the time of the call for service.

Example: A department store phones police informing them that a suspect is at the till presenting a cloned credit card for payment.

In all of the following circumstances police should record one crime of Fraud (class 53C)

A suspect is arrested at the scene

A suspect who has decamped is identified on CCTV

After watching CCTV the suspect is seen but not identified

CCTV not available and the suspect has escaped before police arrival.

Example: Police are informed that goods purchased using a stolen credit card are going to be delivered to an address on their policing area

One crime of fraud (Class 53C)

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Counting Rules (1 of 5)

GENERAL RULE: ONE CRIME FOR EACH IDENTIFIABLE FINANCIAL LOSER, FOR EACH ACCOUNT DEFRAUDED, USING STOLEN OR FORGED CHEQUES OR CARDS.

APPLICATION OF THE RULE

Generally this will equate to one crime per credit card or cloned card or cheque book or online account. This will be recorded by the force receiving the case from the Financial Institution. **The Bank is the aggrieved unless otherwise stated.**

Example: A stolen credit card is used to obtain goods from five separate shops.

One crime of cheque and credit card fraud (class 53C) plus original theft of card (class 49).

Example: Personal and security details obtained legitimately of a victim's bank account are subsequently used fraudulently to purchase goods from five on line suppliers. The money is exchanged electronically.

One crime cheque and credit card fraud (class 53C) only one account defrauded.

Example: A person is apprehended for manufacturing four forged credit cards and using them to obtain goods from three separate shops.

Four crimes of cheque and credit card fraud (class 53C). One crime for each account defrauded.

Example: Five cheques from a previously reported stolen cheque book are used to obtain goods from the same store. They are reported to the police at different times.

One crime cheque and credit card fraud (class 53C). They are all from the same account.

Example: A lost store card is used to obtain goods from three different branches of the same store-chain.

One crime of cheque and credit card fraud (class 53C) plus theft by finding of card (class 49).

Example: A stolen benefit cheque issued by DSS is cashed at the Post Office.

One crime of theft (class 49) plus one crime of cheque and credit card fraud (class 53C).

Example: Cheque/Credit card posted in Force A to an address in Force B but does not arrive. The card is subsequently used fraudulently in a number of forces. The Financial Institution reports the case to Force C.

Force B to record one offence of either theft of mail (class 42) or other theft (class 49) depending on the likelihood that the card was stolen in the post. Force C to record one offence of credit card fraud (class 53C) based on general principals.

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Counting Rules (2 of 5)

APPLICATION OF THE RULE (CONTINUED)

Example: A stolen cash card is used to obtain money from four cash machines; one inside a supermarket and three outside separate branches of a bank.
One crime cheque and credit card fraud (class 53C) plus original theft of card (class 49). All theft from the same account.

Example: Credit card deception occurs at a supermarket store and filling station situated within the same venue.
One crime of cheque and credit card fraud (class 53C). All from same account.

Example: An offender has kept credit card details of 50 people. The offender has used each number once to transfer money from these 50 accounts into his/her own online account using a computer. All reported to Force A by the Financial Institutions through APACS following an investigation by them.
The number of crimes is the number of accounts defrauded (class 53C).

Example: Police arrest a person for credit card fraud in a shop following the owner reporting to police that the suspect had used a cloned card in the shop two weeks ago.
One crime of cheque and credit card fraud (class 53C). Arrested by police deal as though reported by the financial Institution concerned.

Count each account defrauded, whether the Financial Institution reported the fraud to the police or it was subsequently discovered in the investigation.

Example: A stolen credit card or cheque book has been used to obtain goods from two shops which reported the incidents separately. During police enquiries 57 other crimes, involving identifiable and different victims, are discovered using the same credit card or cheque book account.
One crime (class 53C). They are all from the same account plus original theft of card or cheque book (Class 49)

Example: Twelve stolen credit cards or stolen cheque books have been used to obtain goods from two shops which reported the incidents separately. During police enquiries 57 other crimes, involving identifiable and different victims, are discovered using the same credit cards or cheque books.
Twelve crimes (class 53C). One for each account defrauded plus original theft of card or cheque book. (Class 49)

Example: A ladies purse is stolen containing a Nationwide Flex account card, a Nationwide Credit Card and a Nationwide Cashbuilder account card all in her name. All of them have been used fraudulently.
Three crimes (class 53C). One for each separate account defrauded plus original theft of the purse.

Example: A ladies purse is stolen containing a Nationwide debit card and a Nationwide cheque book for the same account. Cheques are fraudulently cashed and goods purchased using the debit card.
One crime (class 53C). There is one account defrauded plus original theft of the purse.

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Counting Rules (3 of 5)

APPLICATION OF THE RULE (CONTINUED)

Example: An offender in police force area A obtains a friend's credit card details without their knowledge. The offender orders goods by mail from three companies in police force areas B, C and D to be delivered to an address in police force area A. Mail order companies report crimes to their local police.

One crime (class 53C) to be recorded by police force area A. There is one account defrauded.

Example: An offender uses a stolen credit card to obtain pre-paid time on a mobile phone. There is no other usage on the account.

As there is no offender location, record one crime (class 53C) by police force area where first reported, unless there is an address for the phone subscriber in which case the police force area of the phone subscriber. There is one account defrauded. Ensure that a crime is recorded for initial theft of card.

EXCEPTIONS TO THE APPLICATION OF THE RULE

Exceptions will only occur where the financial institution has refused to honour the transaction, and are therefore not the financial loser. Where victims contact police to report an offence of fraud where the financial institution are not honouring the transaction, a crime *should* be recorded and the victim *should not* be referred to the financial institution.

Example: Goods are purchased from five different stores using stolen cheques from the same account. The bank refuses to honour **two** of them because the cheque guarantee limit has been exceeded

Three offences of fraud (class 53C) plus original theft of the cheques (class 49). There are three financial losers in this case, the bank for three cheques and the two different stores, each for one cheque.

Example: A cloned credit card is used to obtain goods from a number of different sources one of them being a mail order catalogue company who have had the credit protection removed from them so they are liable for any fraud.

Two offences of fraud (class 53C). There are two financial losers in this case, the credit card company and the catalogue company.

Example: A local trader has attended the police station to report that the bank has notified him that an on line sale (card holder not present), has involved a cloned credit card and has not been honoured by them. He has been defrauded of £450.

One offence of fraud (class 53C) should be recorded by the Police. The local trader is the victim and should not be referred to the financial institution.

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Counting Rules (4 of 5)

Principal Crime: see also General Rules Section F and Annex E.

If on the schedule of usage there is evidence of fraud by false representation and usage from ATM machines then count one offence of fraud by false representation only.

If a person undertakes false accounting in order to steal money or property, then the principal crime is theft.

Example: An employee is reported to the police for false accounting in order to steal money.

One crime of theft by an employee (class 41).

Example: As above, but there is no evidence that money or goods have actually been stolen.

One crime of false accounting (class 52).

If an employee uses a company credit card beyond the permissions given to obtain goods or services, then the principal crime is theft by an employee and the venue is where they are employed.

Example: An employee uses their company credit card at a number of hotels he is staying at around the country on company business. The card is used as permitted by the company as well as in a non permitted manner to purchase gifts for his family. He is based in Force A. The unauthorised usage was reported to police at the same time.

One crime of theft by an employee (class 41) reported by Force A.

Crimes dealt with by Other Agencies: see also General Rules Section I.

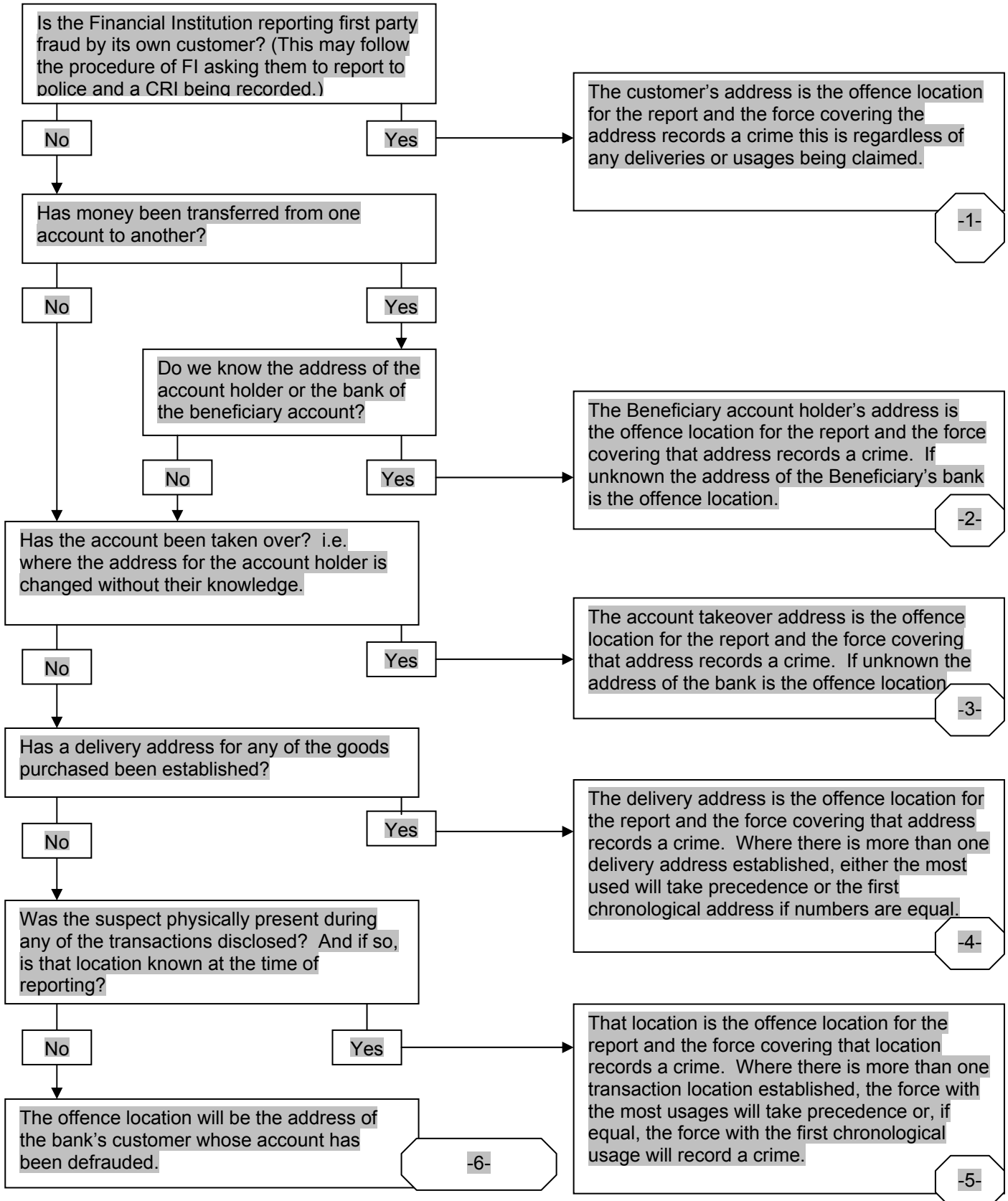
Example: If a bank or credit card company is mounting a full investigation of a fraud with the aim of taking action against the offender, and the police are taking no action, then the police are not required to record a crime.

Conspiracy to defraud: do not count in addition to substantive crime.

Location of crime: see box on class 53C classification page 1 and 2 of 2. If separate identifiable victims, arrange recording by appropriate force.

53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Counting Rules (5 of 5)

Fraud by False Representation – Cheque, Plastic Card and Remote Banking “Offence Location” Flowchart



53D Fraud by False Representation Other Fraud Classification (1 of 1)

53/40(pt) Fraud by false representation
Fraud Act 2006 Sec 2.

53/4(pt) Conspiracy to defraud (apart from cheque
and credit card fraud).
Common Law
Criminal Justice Act 1987 Sec 12

DEFINITION – LEGAL: FRAUD BY FALSE REPRESENTATION

FRAUD ACT 2006 SEC 2

“... Dishonestly makes a false representation, and intends, by making the representation to make a gain for himself or another, or to cause loss to another or to expose another to risk of loss. “

LOCATION OF CRIME: FRAUD AND FORGERY

If suspect(s) arrested committing, record at the venue found committing.

If suspect present, record at the venue where the false representation was made.

Goods ordered remotely: the delivery address to which the fraudulently ordered goods were delivered or are to be delivered. For services e.g. mobile phone airtime the registered users address if known.

Money transfers:

The address of the account holder receiving the money or if not known following enquiries with the branch, the account branch address. If the money is transferred abroad and no address is known for the suspect then the venue is the victims address.

Fraudulent applications

The venue from which the fraudulent application is sent shall be deemed to be the location. However if, as is commonly the case, the fraudster has arranged for a mail re-direction from the first address, then the 're-direct' address shall be deemed to be the location.

MULTIPLE VICTIMS

Where a force becomes aware of a number of victims of the same offender or group of offenders, during the course of an investigation, who have not yet reported their crime to police, the investigating Force will record these crimes.

53D Fraud by False Representation Other Fraud Counting Rules (1 of 7)

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC INTENDED OR IDENTIFIABLE VICTIM OF FRAUD.

EXAMPLE: A person fraudulently obtains goods or services from five different companies.

Five crimes (class 53D) goods, or five crimes (class 53G) services.

EXAMPLE: A person obtains a dead person's birth certificate and uses it to apply for a driving licence and passport.

Two crimes (class 53D). The victims are the DVLA and Passport Agency.

EXAMPLE: Father enters a restaurant with his family, and orders a meal without any intention or means to pay for that meal. He states that he has no means of paying when the bill is presented.

One crime (class 53D). (Making off without payment recording practice can be found under the Other Frauds 53B Classification pages 2 of 2)

EXAMPLE: At a works meeting an offender obtains sums of money from each of twenty people by false representation. Each of the victims is identified.

Twenty crimes (class 53D).

53D Fraud by False Representation Other Fraud Counting Rules (2 of 7)

APPLICATION OF THE RULE

If an individual or organisation is the victim of fraud by more than one person, count separately only if the offenders are acting independently.

Example: A person is defrauded on three occasions by salesmen purporting to represent different companies, with no evidence of collusion.

Three crimes (class 53D).

Example: Two separate groups of people order a meal in a restaurant without any intention to pay.

Two crimes (class 53D).

Count each identifiable victim, whether he/she reported the fraud to the police or it was subsequently discovered in the investigation.

Example: Frauds are reported separately by two victims. During police enquiries, 57 further victims of fraud are discovered.

Fifty-nine crimes (class 53D).

Example: As above but the offender admits to 57 other associated crimes, but only a further 20 victims can be identified.

Twenty-two crimes (class 53D).

Example: A milk roundsman is reported to the police for repeatedly charging his customers for more milk than they have received. Twenty victims are identified.

Twenty crimes (class 53D).

53D Fraud by False Representation Other Frauds Counting Rules (3 of 7)

APPLICATION OF THE RULE (CONTINUED)

Conspiracy to defraud: do not count in addition to substantive crime.

Location of crime: Goods ordered over the Internet: See also box in class 53C classification page 1 of 2.

If goods ordered over the internet (or by phone, mail etc) do not arrive due to a fraudulent operation, then the following rules apply in order of priority:

- If the location of the suspect(s) is either unknown or outside England and Wales, then the crime should be recorded in the force/BCU in whose area the victim is located when they place the order.
- If the location of the suspect(s) becomes known and is within England and Wales, then record in the force/BCU area covering that location.
- If payment is made electronically then the venue will be the address of the account holder into which the money is transferred or if no address then the address of the bank, provided this is not a headquarters or the site of a computer server.

NOTE. This is not cheque and credit card fraud as the account holder is responsible for making the transaction.

Example: Ten people each order a product via a website, all for delivery in the same force area. The goods do not arrive, and the site is later found to be bogus and untraceable, although it is known to have been set up overseas.

Ten crimes (class 53D).

Example: A person in Force A successfully bids for an item of property on an internet auction room. Payment is sent electronically on the internet. The item of property is never delivered. The electronic money transfer took place to an account held in Force B. The account holder resides in Force C. He reports the matter to Force A.

The location of the commission of the offence is in Force C, the address of the account holder, who should record an offence of other fraud (class 53D).

Example: A person in Force A successfully bids for an item of property on an internet auction room. Payment is sent electronically on the internet. The item of property is never delivered. The address of the account holder is abroad and the account sits on a server based in Force C.

One crime (class 53D) recorded by Force A where the victim resides.

53D Fraud by False Representation Other Frauds Counting Rules (4 of 7)

Western Union and money transfer houses

If the payment is made to a Western Union office in this country then the venue is the address of the suspect used at that Western Union office when picking up the money or transferring the money on out of the jurisdiction of the Central Criminal Court. If the money is transferred to another Western Union then the venue is the address of the suspect at the new Western Union office. If no address known for the suspect then the venue will be the Western Union office. If transferred abroad by the victim using Western Union then the venue is the victims address. Where the victim sends money from abroad to a Western Union Office in this country then the venue is the address of the suspect picking up the money if known or if not known, the Western Union Office where the money was sent to.

APPLICATION OF THE RULE

Example: A victim transfers money from a Western Union office to a Western Union abroad.

One crime (class 53D) recorded by Force where the victim resides.

Example: A victim transfers money from Force A to Western Union office in Force B. The person who collects the money gives an address in Force C.

One crime (class 53D) recorded by Force C.

Example: A victim transfers money from Force A to Western Union office in Force B. The money is then forwarded to another Western Union office in Force C. The person who collects the money gives an address in Force B.

One crime (class 53D) recorded by Force B.

Finished Incident: see also General Rules Section E.

Example: Employee, after leaving company, continued to obtain petrol from garage by signing usual documents at garage as if still employed by company thereby obtaining petrol on former employer's account.

One crime (class 53D).

Example: An offender admits to deceiving five people over a period of two years by deceiving them as to the condition of their roofs, getting them to agree to his repairing the invented damage and then charging an exorbitant price.

On confirmation of the victim, five crimes (class 53D).

Example: It is discovered that money was illegally drawn each week from two Pension Books, one issued by the Department of Health and Social Security and one by the local County Council, the true recipient having died 15 years earlier. A total of 1,560 offences are 'Taken into Consideration' (TIC'd) at court.

Two crimes (class 53D). The victims are DHSS and the County Council.

53D Fraud by False Representation Other Fraud Counting Rules (5 of 7)

Crimes in different police force areas: see also General Rules Section G and Class 53C and D.

If separate identifiable victims, arrange recording by appropriate force.

Example: Goods are fraudulently obtained from a mail order company, who reports the matter to the police.

One crime (class 53D) to be recorded by the force in whose area the mail order goods were to be delivered.

Example: A person living in police force area A applies for loans by post from two different finance companies outside police force area A by completing application forms using false details.

Two crimes (class 53D) to be recorded by police force area A.

Example: A person living in police force area A applies for loans over the internet from two different finance companies outside police force area A by completing application forms using false details.

Two crimes (class 53D) to be recorded by police force area A.

Example: A person living in police force area A applies for loans over the telephone from two different finance companies outside police force area A by completing application forms using false details.

Two crimes (class 53D) to be recorded by police force area A.

FRAUDS ABROAD

There is an increasing trend for victims abroad to try and report fraud in this country. Where there is no connection with this country the victim is to be told to report it in their own country.

Where the only connection with this country is that the victim resides in this country or a bank or financial institution has only been used to facilitate the transfer of funds from one jurisdiction to another then the crime should not be recorded in this country.

Example: A resident of this country travels to Spain and is defrauded in Spain by Spanish registered Time Share Company. He returns and reports it to police force area A.

Example: A Belgium National orders goods over the internet from an American Company. He pays for the goods using pay pal. The goods are never delivered. Enquires at pay pal show that funds were transferred from Belgium to USA via pay pal account in London.

No crimes need to be recorded under these circumstances.

53D Fraud by False Representation Other Fraud Counting Rules (6 of 7)

Phishing, lottery scams etc

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC INTENDED VICTIM OF FRAUD.

APPLICATION OF THE RULE

The important aspect to consider is *specific intended victim*. Where e mails or letters are sent out to all people contained on a mail list, (notifying people that they have won the Spanish lottery for example), they are not specific intended victims.

Where people have received letters or e mails and notify Police, there is no need to record a crime of attempted fraud provided that no monies have been lost. A crime related incident should be created. Where people have become victims by paying money, provided they were not abroad when making the payment (see Frauds abroad Counting Rules (5of7)), then a crime needs to be recorded. The venue is the victim's address or the location of the victim at the time of the fraudulent transaction.

Example: A person notifies police that they have been sent a letter informing them that they have won the Spanish Lottery and if they send £1000 to an address in Madrid they will receive £600,000. They pay nothing and bring the letter to police. (This is a known scam)

Record a crime related incident.

Example: A person notifies police that they have been sent a letter informing them that they have won the Spanish Lottery and if they send £1000 to an address in Madrid they will receive £600,000. They have paid £1000 and received nothing. (This is a known scam)

One crime (class 53D) recorded on victim's address/place request received.

Example: A person receives an email asking them to join an investment company which will double their money in 6 months. They send £500 by BACS transfer to an email account. Nothing is received back and the victim reports the matter to police. The method of this incident are recognised to be part of a scam. There is no information immediately available to find out where the account or email address is situated.

One crime (class 53D) recorded on victim's address/place request received.

Example: A person advertises a boat for sale on a website and receives an email from abroad offering the full purchase price. They are sent a cheque covering the purchase cost and an additional £5000 for shipping fees. They pay the cheque into their account and transfer the £5000 to the shipping agents account in Spain before a man collects the boat. The cheque then is returned unpaid as it is a forgery.

One crime (class 53D) recorded by the Force where the victim resides. They are a specific intended victim.

53D Fraud by False Representation Other Fraud Counting Rules (7 of 7)

APPLICATION OF THE RULE (CONTINUED)

Example: A person advertises a horse for sale on a website and receives an email from abroad offering the full purchase price - £2000. They are sent a cheque for £5000 with a request to return the difference of £3000. The seller takes the £5000 cheque to the bank but is advised not to bank it. No monies (or the horse) are sent to the buyer. The seller reports the incident to the police.

*One crime of (class 53D) recorded by the Force where the victim resides.
They are a specific intended victim.*

Identity Theft

The use of another person's identification details (or the use of false identification details), often referred to as identity theft, is not in itself an offence in law. It is the action that is undertaken, using those identification details, that needs to be considered in respect of whether an offence has occurred.

Most instances of 'Identity Theft' come to light when victim's details are used to obtain goods, services or money using credit arrangements or loans. Instances of this should be considered under section 53D Fraud by False Representation Other Fraud or 53G Obtaining Services Dishonestly.

Where bank, credit card, or store card accounts are opened using identities to which the individuals are not entitled, and then used to commit fraud, then an offence of 53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) should be recorded.

Note: The opening of a bank or other account using other peoples' identities without permission or false details is unlikely to be a crime of fraud per se, and should only be recorded if there is an offence of fraud committed on the account or evidence that fraud was the purpose for the creation of the account.

Any usage on the account will be dealt with under the reporting guidance General Principles detailed in 53C Fraud by False Representation Cheque, Plastic Card and Online Bank Accounts (NOT eBay or Pay Pal) Classification (1 of 2).

Where people are found in possession of any identity document or items containing identity details, with intent to commit fraud then an offence under 53J Possession of Articles for Use in Fraud should be considered.

Remember that if there is no intent to commit fraud and there is evidence that an account has been created using a false, stolen or improperly obtained identity document contained within the Identity Cards Act 2006 then an offence under 61A Possession of False Documents should be considered.

53E Fraud by Failing to Disclose Information Classification (1 of 1)

53/41 Fraud by failing to disclose information
Fraud Act 2006 Sec 3

DEFINITION - LEGAL: FRAUD BY FAILING TO DISCLOSE INFORMATION

FRAUD ACT 2006 SEC 3

“...dishonestly fails to disclose to another person information which he is under a legal duty to disclose and intends by failing to disclose the information to make a gain for himself or another, or to cause loss to another or expose another to a risk of loss”

53E Fraud by Failing to Disclose Information Counting Rules (1 of 1)

GENERAL RULE: **ONE CRIME FOR EACH SPECIFIC, INTENDED OR IDENTIFIABLE VICTIM**

EXAMPLE: A solicitor fails to share vital information with a client within the context of their work relationship, in order to make a gain for another client.

One crime (class 53E).

EXAMPLE: A solicitor acting for a supermarket chain, fails to disclose that a planning consent application has been granted to a supermarket chain on land being purchased from four separate householders. The land is sold at a considerable discount.

Four crimes (class 53E).

53F Fraud by Abuse of Position Classification (1 of 1)

53/42 Fraud by abuse of position
Fraud Act 2006 Sec 4

DEFINITION - LEGAL: FRAUD BY ABUSE OF POSITION

FRAUD ACT 2006 SEC 4

“...occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position and intends, by means of the abuse of that position to make a gain for himself or another or to cause loss to another or to expose another to risk of loss...”

A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

53F Fraud by Abuse of Position Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC, INTENDED OR IDENTIFIABLE VICTIM

EXAMPLE: A person employed to care for the elderly takes advantage of his position of access to an account of a victim in order to remove money from that account

One crime (class 53F)

EXAMPLE: A person employed to care for the elderly takes advantage of his position of access to their individual accounts in order to remove money from the accounts

One crime for each victim (class 53F)

EXAMPLE: A person employed to care for the elderly takes advantage of his position of access to a number of accounts of a victim in order to remove money from those accounts.

One crime (class 53F)

APPLICATION OF THE RULE

For club officials defrauding members, count each identifiable member defrauded.

Example: A club treasurer persuades three other club officials and five members to donate money to the club, by making a false statement about the club's finances.

Eight crimes (class 51).

53G Obtaining Services Dishonestly Classification (1 of 1)

53/46 Obtaining services dishonestly
Fraud Act 2006 Sec 11

DEFINITION - LEGAL: OBTAINING SERVICES DISHONESTLY

FRAUD ACT 2006 SEC 11

“... if he obtains services for himself or another by a dishonest act and the services were made on the basis that payment has been, is being or will be made for or in respect of them or he obtains them without payment having been made for or in respect of them or without payment having been made in full, and when he obtains them he knows they are being made available on the basis that payment will be made for them....”

RECORDING PRACTICE: OBTAINING SERVICES DISHONESTLY

The same rules that apply to Fraud by False Representation (Class 53C and D) apply to this section. The only difference being that services rather than goods have been obtained.

53G Obtaining Services Dishonestly Counting Rules (1 of 1)

RECORDING PRACTICE: OBTAINING SERVICES DISHONESTLY

The same rules that apply to Fraud by False Representation (class 53C and D) apply to this section. The only difference being that services rather than goods have been obtained.

Principal Crime: see also General Rules Section F and Annex E

If goods and services are obtained from the same victim or by using the same lost/stolen/cloned credit card then count one offence of Fraud by False Representation (class 53C or D) only

53H Making or Supplying Articles for use in Frauds Classification (1 of 1)

53/44 Making or supplying articles for use in frauds
Fraud Act 2006 Sec 7

DEFINITION - LEGAL: MAKING OR SUPPLYING ARTICLES FOR USE IN FRAUDS

FRAUD ACT 2006 SEC 7

“... if he makes, adapts, supplies or offers to supply any article knowing that it is designed or adapted for use in the course of or in connection with fraud, or intending it to be used to commit, or assist in the commission of fraud”

53H Making or Supplying Articles for use in Frauds Counting Rules (1 of 2)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS

EXAMPLE: A person, apprehended for making a cloned credit card admits to making five other cards.

One crime (class 53H).

EXAMPLE: A person is apprehended for making 10 cloned credit cards.

One crime (class 53H).

EXAMPLE: A person is apprehended for making false bank statements and admits to making hundreds.

One crime (class 53H).

APPLICATION OF THE RULE

Making or supplying articles for use in frauds should only be used for a maker or supplier who does not use them. Where an offender makes an article used in fraud and then uses that article fraudulently count only the fraudulent use.

Example: An offender makes five cloned credit cards and then uses each card at different venues in circumstances amounting to fraud by false representation.

Five crimes of fraud by false representation, cheque and plastic card fraud (class 53C). There are five accounts defrauded.

Example: An offender makes a false passport, driving licence and bank statement and then uses them to secure two store cards, one bank loan and a HP agreement to purchase a car at different venues in circumstances amounting to fraud by false representation.

Four other frauds (class 53D). There are four companies defrauded.

Example: An offender makes an article for placing on cash machines in order to obtain card details.

One crime (class 53H).

Where devices that are used to obtain card details are found on cash machines or chip and pin terminals a crime should be recorded of Making or Supplying an article for use in fraud (class 53H).

Example: Police find an electronic device used for reading electronic strips placed over an ATM machine in the High Street.

One crime (class 53H)

53H Making or Supplying Articles for use in Frauds Counting Rules (2 of 2)

APPLICATION OF THE RULE (CONTINUED)

Example: An offender makes an article for placing on cash machines in order to obtain card details. and places it on an ATM terminal.

One crime (class 53H).

Where the banks or APACS report information to a SPOC that a 'Common Purchase point' has been used to obtain plastic card details a crime should be recorded under class 53H.

Example: A Financial Institution report to a Police SPOC that after an investigation into a number of fraudulent purchases abroad on various accounts, a garage within the force area, has been identified as the 'common purchase point' where it is believed the cards were cloned.

One crime (class 53H)

If an offender or group of offenders is shown to be responsible for a number of separate 'Common Purchase Points', count one crime class 53H for each separate location.

Example: A group of offenders are shown to be responsible for obtaining card details from twelve separate retail outlets they own or are employed by and passing the details abroad for use in fraud.

Twelve crimes (class 53H)

53J Possession of Articles for use in Frauds Classification (1 of 1)

53/43 Possess/ control article(s) for use in fraud(s)
Fraud Act 2006 Sec 6

CLARIFICATION – RECORDED CRIME: POSSESSION OF ARTICLES FOR USE IN FRAUDS

If there is a related crime of fraud by false representation, then the crime of possession of articles for use in fraud should not be recorded.

DEFINITION – LEGAL- POSSESSION ETC. OF ARTICLES FOR USE IN FRAUDS

FRAUD ACT 2006 SEC 6

“A person is guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud.”

“Article” includes any program or data held in electronic form.

53J Possession of articles for use in frauds Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE: A person is stopped and found to be in possession of a cloned credit card.

One crime (class 53J)

EXAMPLE: A person is stopped and found to be in possession of twelve cloned credit cards.

One crime (class 53J)

EXAMPLE: A vehicle is stopped with four persons inside with a number of cloned credit cards. They admit intending to withdraw money from ATM machines.

One crime (class 53J)

EXAMPLE: A person is stopped and found to be in possession of a device that can be placed on an ATM machine or chip and pin terminal to obtain card details. The offender is not the maker of the device and it has not been placed on the machine.

One crime (class 53J)

APPLICATION OF THE RULE

Actual or attempted frauds by false representation take precedence over crimes of possessing articles for use in frauds (see also box in class 53H counting rules page 1 of 1).

Example: A man is found in possession of a cloned credit card. He admits to just having purchased goods using the cloned card.

- (i) The fraud has already been reported.

No crime in addition to the reported fraud by false representation.

- (ii) The fraud has not yet been reported.

One crime of fraud by false representation (class 53C).

55 Bankruptcy & Insolvency Offences Classification (1 of 1)

| | | | |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55/1 | Preferential payment to creditor. <i>Deeds of Arrangement Act 1914 Sec 17.</i> | 55/1 | Bankrupt making material omission in statement relating to his affairs. <i>Insolvency Act 1986 Sec 356(1).</i> |
| 55/1 | Fraud etc in anticipation of winding up. <i>Insolvency Act 1986 Sec 206(1).</i> | 55/1 | Bankrupt making false statement, or failing to inform trustee, where false debt proved. <i>Insolvency Act 1986 Sec 356(2).</i> |
| 55/1 | Privity to fraud in anticipation of winding up, fraud, or privity to fraud, after commencement of winding up. <i>Insolvency Act 1986 Sec 206(2).</i> | 55/1 | Bankrupt fraudulently disposing of property. <i>Insolvency Act 1986 Sec 357.</i> |
| 55/1 | Knowingly taking in pawn or pledge, or otherwise receiving, company property. <i>Insolvency Act 1986 Sec 206(4).</i> | 55/1 | Bankrupt absconding with property he is required to deliver to official receiver or trustee. <i>Insolvency Act 1986 Sec 358.</i> |
| 55/1 | Transactions in fraud of creditors. <i>Insolvency Act 1986 Sec 207.</i> | 55/1 | Bankrupt disposing of property obtained on credit and not paid for. <i>Insolvency Act 1986 Sec 359(1).</i> |
| 55/1 | Misconduct in course of winding up. <i>Insolvency Act 1986 Sec 208.</i> | 55/1 | Obtaining property in respect of which money is owed by a bankrupt. <i>Insolvency Act 1986 Sec 359(2).</i> |
| 55/1 | Falsification etc of company's books. <i>Insolvency Act 1986 Sec 209.</i> | 55/1 | Bankrupt obtaining credit or engaging in business without disclosing his status or name in which he was made bankrupt. <i>Insolvency Act 1986 Sec 360(1).</i> |
| 55/1 | Material omissions from statement relating to company's affairs. <i>Insolvency Act 1986 Sec 210.</i> | 55/1 | Person made bankrupt in Scotland or Northern Ireland obtaining credit etc. in England and Wales. <i>Insolvency Act 1986 Sec 360(3).</i> |
| 55/1 | False representations or fraud for purpose of obtaining creditors' consent to a agreement in connection with winding up. <i>Insolvency Act 1986 Sec 211.</i> | 55/1 | Bankrupt failing to keep proper accounting records. <i>Insolvency Act 1986 Sec 361(1).</i> |
| 55/1 | Contravening restrictions on re-use of name of company in insolvent liquidation. <i>Insolvency Act 1986 Sec 216(4).</i> | 55/1 | Bankrupt increasing extent of insolvency by gambling. <i>Insolvency Act 1986 Sec 362.</i> |
| 55/1 | Bankrupt failing to disclose property or disposals to official receiver or trustee. <i>Insolvency Act 1986 Sec 353(1).</i> | 55/1 | Acting as insolvency practitioner when not qualified. <i>Insolvency Act 1986 Sec 389.</i> |
| 55/1 | Bankrupt failing to deliver property to, or concealing property from, official receiver or trustee. <i>Insolvency Act 1986 Sec 354(1).</i> | 55/2 | Person contravening company directors disqualification order. <i>Company Directors Disqualification Act 1986 Sec 1 & 13.</i> |
| 55/1 | Bankrupt removing property which he is required to deliver to official receiver or trustee. <i>Insolvency Act 1986 Sec 354(2).</i> | 55/3 | Disqualified person managing company. <i>Company Directors Disqualification Sec 8 & 13.</i> |
| 55/1 | Bankrupt failing to account for loss of substantial part of property. <i>Insolvency Act 1986 Sec 354(3).</i> | 55/4 | Undischarged bankrupt acting as a director. <i>Company Directors Disqualification Sec 11(1).</i> |
| 55/1 | Bankrupt failing to deliver books, papers or records to official receiver or trustee. <i>Insolvency Act 1986 Sec 355(1).</i> | 55/5 | Undischarged bankrupt taking part in or being concerned in the promotion, formation or management of a company. <i>Company Directors Disqualification Sec 11(1).</i> |
| 55/1 | Bankrupt concealing destroying etc books, papers or records, or making false entries in them. <i>Insolvency Act 1986 Sec 355(2).</i> | | |
| 55/1 | Bankrupt disposing of, or altering, books, papers or records relating to his estate or affairs. <i>Insolvency Act 1986 Sec 355(3).</i> | | |

55 Bankruptcy & Insolvency Offences Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

APPLICATION OF THE RULE

Crimes against specific creditors: One crime for each specific and intended creditor that can be identified. If there is no specific creditor, count one crime for each offending company official acting independently.

Example: A trustee under a deed of arrangement makes preferential payments to five creditors.

Five crimes (class 55).

Example: Three members of a company collude in concealing key information to a liquidator when a company is being wound up.

One crime (class 55).

Crimes by a bankrupt: One crime for each bankrupt.

Example: A bankrupt is reported to the police committing a variety of Insolvency Act crimes.

One crime (class 55).

Finished Incident: see also General Rules Section E.

Example: A bankrupt is bailed and subsequently reported for committing further Insolvency Act crimes.

Two crimes (class 55). One for original series, plus one for those committed on bail.

Principal Crime: see also General Rules Section F and Annex E.

Example: A bankrupt illegally continues trading under different names and obtains money and goods from ten customers by deception.

Ten crimes of fraud by false representation (class 53D).

60 **Forgery etc of Drug Prescription Classification (1 of 1)**

60/21 Forgery of a drug prescription or copying a false drug prescription.
*Forgery & Counterfeiting Act 1981
Secs 1,2(pt).*

60/22 Using a false drug prescription or a copy of a false drug prescription.
*Forgery & Counterfeiting Act 1981
Secs 3,4(pt).*

COVERAGE: DRUG PRESCRIPTIONS

This code covers prescriptions for any drug covered in schedule 2 of the Misuse of Drugs Act 1971.

DEFINITION - LEGAL: COPYING A FALSE INSTRUMENT

FORGERY AND COUNTERFEITING ACT 1981 SEC 2

"It is an offence for a person to make a copy of an instrument which is, and which he knows or believes it 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."

DEFINITION - LEGAL: FORGERY

FORGERY AND COUNTERFEITING ACT 1981 SEC 1

"... A person ...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."

DEFINITION - LEGAL: USING A COPY OF A FALSE INSTRUMENT

FORGERY AND COUNTERFEITING ACT 1981 SEC 4

"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."

DEFINITION - LEGAL: USING A FALSE INSTRUMENT

FORGERY AND COUNTERFEITING ACT 1981 SEC 3

"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."

60 Forgery etc of Drug Prescription Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE: A person, apprehended for forging a prescription for class A drugs, admits to five similar crimes.

One crime (class 60).

APPLICATION OF THE RULE

Where an offender forges a prescription and then issues, copies or uses it, only one crime should be counted. (Remember this rule applies to drug prescriptions only)

Example: A forged prescription is used to obtain drugs controlled under the Misuse of Drugs Act 1971.

One crime (class 60).

Example: (i) As above, but the drugs are not controlled under the Misuse of Drugs Act 1971.

One crime of other forgery (class 61).

Example: (ii) As above, but both types of drugs are involved.

One crime (class 60).

Finished Incident: see also General Rules Section E.

Example: A person on bail for issuing forged drug prescriptions is caught doing so again.

One further crime (class 60).

Principal Crime: see also General Rules Section F and Annex E.

Forgery of drug prescriptions is the principal crime over fraud by false representation. The victim is the health service provider not the chemist.

Example: A person steals a prescription pad when visiting a doctor's surgery. Four different chemists report forged prescriptions being used from the stolen pad.

One crime of forgery (class 60) and one crime of theft (class 49).

Example: (i) As above, but the pad is obtained by breaking into the surgery.

One crime of forgery (class 60) and one crime of burglary (class 30).

61 Other Forgery etc Classification (1 of 1)

| | | | |
|-------|-----------------------------------------------------------------------------------------------------------------------------------|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 61/21 | Forgery or copying false instrument (other than drug prescription). <i>Forgery & Counterfeiting Act 1981 Secs 1,2.</i> | 61/29 | Melting down or breaking up metal coin without license. <i>Coinage Act 1971 Sec 10(1).</i> |
| 61/21 | Forgery etc of mental health document. <i>Mental Health Act 1983 Sec 126(2).</i> | 61/30 | Prohibited descriptions of unhallmarked article. <i>Hallmarking Act 1973 Sec 1.</i> |
| 61/22 | Using a false instrument or copy of one (other than drug prescription). <i>Forgery & Counterfeiting Act 1981 Secs 3,4.</i> | 61/30 | Unauthorised striking of sponsor's mark. <i>Hallmarking Act 1973 Sec 3(8).</i> |
| 61/23 | Possess false instrument or materials to make false instrument. <i>Forgery & Counterfeiting Act 1981 Sec 5.</i> | 61/30 | Supplying false information to assay office. <i>Hallmarking Act 1973 Sec 4(4).</i> |
| 61/23 | Possess false mental health document. <i>Mental Health Act 1983 Sec 126(1).</i> | 61/30 | Making unauthorised alterations to hallmarked article. <i>Hallmarking Act 1973 Sec 5(1,2).</i> |
| 61/24 | Making counterfeit coin or note. <i>Forgery & Counterfeiting Act 1981 Sec 14.</i> | 61/30 | Supplying article with unauthorised mark. <i>Hallmarking Act 1973 Sec 7(6).</i> |
| 61/25 | Pass etc counterfeit coin or note as genuine. <i>Forgery & Counterfeiting Act 1981 Sec 15.</i> | 61/31 | Counterfeiting etc of dies or marks. <i>Hallmarking Act 1973 Sec 6(1).</i> |
| 61/26 | Possess counterfeit coin or note. <i>Forgery & Counterfeiting Act 1981 Sec 16.</i> | 61/32 | Failure to withdraw from circulation a Euro note or coin which is believed to be counterfeit. <i>Protection of the Euro against Counterfeiting Regulations 2001 Reg 2 (SI 3948/2001).</i> |
| 61/27 | Possess materials or dyes to make counterfeit coin or note. <i>Forgery & Counterfeiting Act 1981 Sec 17.</i> | 61/33 | Failure to hand over a Euro note or coin believing it to be counterfeit <i>Protection of the Euro against Counterfeiting Regulations 2001.</i> |
| 61/28 | Reproduce British currency note or make imitation coins. <i>Forgery & Counterfeiting Act 1981 Secs 18,19.</i> | | |

COVERAGE - LEGAL: MENTAL HEALTH DOCUMENTS

MENTAL HEALTH ACT 1983 SEC 126

"... Any documents purporting to be -

- (a) an application under part II of the Act (ie where patients may be compulsorily admitted to and detained in hospital or received into guardianship);
- (b) a medical or other recommendation or report under this Act;
- (c) any other document required or authorised to be made for any of the purposes of this Act."

DEFINITION - LEGAL: FORGERY ETC

FORGERY & COUNTERFEITING ACT 1981 SEC 1-4.

See box on class 60 classification page 1 of 1.

61 Other Forgery etc Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE: A person, apprehended for forging a passport, admits to five similar crimes.

One crime (class 61).

APPLICATION OF THE RULE

Forgery should only be counted where the forger does not use the forged articles.

Where the forged item is for use in fraud then offences under s53H should be applied.

Where an offender forges a document and then issues, copies or uses it for fraud, count only the fraud by false representations.

Example: A forged birth certificate is used to obtain a job.

One crime (class 61).

Example: A person is apprehended for manufacturing five forged credit cards on different accounts and passes them onto someone else to obtain goods from twenty shops.

One crime of making or supplying articles for use in fraud (class 53H), plus five crimes of cheque and credit card fraud (class 53C).

Example: A person is apprehended for manufacturing five forged credit cards on different accounts and uses them all to obtain goods from various shops.

Five crimes of cheque and credit card fraud (class 53C).

Passing etc counterfeit coin or note as genuine - count one crime for each recipient of counterfeit coin or note.

Whether to record: see also General Rules Section A.

Unless there is clear evidence of a crime (e.g. person caught in possession/using notes), counterfeit currency should be registered as a crime related incident but not recorded as a crime.

Finished Incident: see also General Rules Section E.

Example; A person on bail for issuing forged documents is caught doing so again.

One further crime (class 61).

Principal Crime: see also General Rules Section F and Annex E.

Example: A storeman forges 266 requisition slips in order to steal from his employer.

One crime of forgery (class 61), providing the finished incident rule is met.

61A Possession of False Documents Classification (1 of 1)

| | | | |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 61/34 | With intent knowingly possess false/improperly obtained/another's ID document. <i>Identity Cards Act 2006 Sec 1.</i> | 61/35 | With intent make/possess/have under your control apparatus/article/material designed/ adapted for making false ID cards. <i>Identity Cards Act 2006 Sec 3.</i> |
| 61/36 | Possess/control a false/improperly obtained ID card or documents which relates to another or apparatus etc for making ID cards or documents. <i>Identity Cards Act 2006 Sec 5.</i> | 61/37 | Tampering with a register etc. <i>Identity Cards Act 2006 Sec 29</i> Commencement date TBC |

DEFINITION - LEGAL: POSSESSION WITH INTENT FALSE IDENTITY DOCS

Identity Cards Act 2006 SEC 25(1)

This offence is possession with the intention of using the document for establishing registrable facts about himself; or the intention of allowing or inducing another to use it for establishing, ascertaining or verifying registrable facts about himself or about any other person.

DEFINITION - LEGAL: MAKING WITH INTENT FALSE IDENTITY DOCS

Identity Cards Act 2006 SEC 25(3)

This offence is making documents with the intention of using the document for establishing registrable facts about himself; or the intention of allowing or inducing another to use it for establishing, ascertaining or verifying registrable facts about himself or about any other person.

DEFINITION - LEGAL: POSSESSION OR MAKING FALSE IDENTITY DOCS (NO INTENT)

Identity Cards Act 2006 SEC 25(5)

(5) It is an offence for a person to have in his possession or under his control, without reasonable excuse:

- (a) an identity document that is false;
- (b) an identity document that was improperly obtained;
- (c) an identity document that relates to someone else; or
- (d) any apparatus, article or material which, to his knowledge, is or has been specially designed or adapted for the making of false identity documents or to be used in the making of such documents.

DEFINITION - LEGAL: IDENTITY DOCUMENT

- (a) an ID card;
- (b) a designated document;
- (c) an immigration document;
- (d) a United Kingdom passport (within the meaning of the Immigration Act 1971 (c. 77));
- (e) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom or by or on behalf of an international organisation;
- (f) a document that can be used (in some or all circumstances) instead of a passport;
- (g) a UK driving licence; or
- (h) a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom

61A Possession of False Documents Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE: A person is arrested in possession of a false passport, without reasonable excuse.

One crime (class 61/36).

EXAMPLE: A youth is stopped with a false driving licence obtained over the internet attempting to prove his age to enter an over 21 club.

One crime (class 61/36).

EXAMPLE: A person is stopped in possession of bank statements belonging to another person. There is no evidence of any intent to commit a crime.

This is not a crime as bank statements are not an identity document.

Principal Crime: see also General Rules Section F and Annex E.

Offences of identity theft should only be used where there is no evidence of any intent to commit fraud. Where there is evidence of intent to commit fraud then the principal crime is either under 53H making articles for use in fraud or 53J possession of articles for use in fraud.

Example: A person is arrested in possession of a passport in another persons name with intent to open a false bank account.

One crime (class 53J) possession of article for use in fraud.

814 Fraud, Forgery etc associated with Vehicle or Driver Records Classification (1 of 1)

| | | | |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 814/1 | Fraud, forgery etc associated with driving licence. <i>Road Traffic Act 1988 Sec 173(1). Public Passenger Vehicles Act 1981 Sec 65(1)(a) & (2).</i> | 814/5 | Fraud, forgery etc associated with operator's licence. <i>Goods Vehicles (Licensing of Operators) Act 1995 Sec 38 Sch 5 para 4. Road Traffic Act. 1988 Sec 173(1). Public Passenger Vehicles Act 1981 Sec 65(1)(a) & (2).</i> |
| 814/2 | Fraud, forgery etc associated with insurance certificate. <i>Road Traffic Act 1988 Sec 173(1).</i> | 814/6 | Fraud, forgery etc associated with test certificate. <i>Road Traffic Act 1988 Sec 173(1).</i> |
| 814/3 | Fraud, forgery etc associated with registration and licensing documents. <i>Vehicle Excise and Registration Act 1994 Secs 44 & 45. Public Passenger Vehicles Act 1981 Sec 65(1)(b) & (2).</i> | 814/7 | Mishandling or faking parking documents. <i>Road Traffic Regulation Act 1984 Sec 115(1).</i> |
| 814/4 | Fraud, forgery etc associated with work records. <i>Passenger and Goods Vehicles (Recording equipment) (Tachograph Card) Regulations 2006 SI 1937/2006 Sec 3(1)(c)(d)(e)(2)(6) 4(d)(e)(f)(2a)(2b)(5)(6).</i> | | |

DEFINITION – LEGAL: FORGERY OF DOCUMENTS ETC

ROAD TRAFFIC ACT 1988 SEC 173(1)

"A person who, with intent to deceive -

(a) forges, alters or uses a document or other thing to which this Section applies,

or

(b) lends to, or allows to be used by, any other person a document or other thing to which this section applies,

or

(c) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this Section applies as to be calculated to deceive, ...'

814 Fraud, Forgery etc associated with Vehicle or Driver Records Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE: A person caught displaying a tax disc he has stolen.

One crime of theft (class 49) and one crime of fraud (class 814).

Principal Crime: see also General Rules Section F and Annex E.

This section only refers to documents used for driving offences. Where a driving licence is used as a false representation in other circumstances then an offence under classification s61A Identity Theft should be considered

Example: A youth is stopped with a false driving licence obtained over the internet attempting to prove his age to enter an over 21 club.

One crime (class 61/36)

| Maximum Sentence - Fraud and Forgery | | | | | | | |
|---------------------------------------------|-----------------|----------------|----------------|----------------|----------------|-----------------|-------------|
| 14 years | 10 years | 7 years | 5 years | 3 years | 2 years | 6 months | Fine |
| 53/11 | 53/1 | 51/1 | 53/2 | 53/13 | 51/4 | 195/59 | 61/28 |
| 53/26-53/28 | 53/4 | 51/3 | 53/20 | | 52/2-52/6 | | 61/33 |
| | 53/31-53/32 | 52/1 | 53/23-53/24 | | 53/5, 10 | | |
| | 60/21-60/22 | 53/6 | 53/29 | | 53/14 | | |
| | 61/21-61/27 | 53/8 | 53/34-53/35 | | 53/21-53/22 | | |
| | 61/31 | 53/15-53/16 | 53/37 | | 53/25 | | |
| | 53/45 | 53/30 | 53/46 | | 55/2-5 | | |
| | 53/40-53/42 | 53/33, 36, 38 | 53/43 | | 61/29-61/30 | | |
| | 53/44 | 55 | | | 61/32 | | |
| | 61/34-61/35 | | | | 814/1-814/7 | | |
| | | | | | 61/36 | | |
| | | | | | | | |