

Fraud Revision Sheet

Fraud by false representation is defined under s2 Fraud Act 2006.

S2(1) A person is in breach of this section if he –

- (a) Dishonestly makes a false representation, and
- (b) Intends, by making the representation –
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or expose them to a risk of loss

S2(2) A representation is false if –

- (a) It is untrue or misleading, and
- (b) The person making it knows that it is, or might be, untrue or misleading

S2(3) 'Representation' means any representation as to fact or law, including a representation as to state of mind of –

- (a) The person making the representation, or
- (b) Any other person

S2(4) A representation may be express or implied

S2(5) For the purposes of this section a representation may be regarded as made if it, or anything implying it, is submitted in any form to a system or device designed to receive, convey or respond to communications (with or without human intervention).

There are therefore four elements to consider:

Actus reus

- Makes a false representation

Mens rea

- Dishonestly
- With knowledge that the representation was or might be untrue or misleading
- With the intent to make a gain for himself or another, or cause loss to another/ expose them to a risk of loss

Makes a false representation

S2(2) Making an untrue or misleading representation

DPP v Ray 1974 – a representation can be a continuing representation and therefore any change of the situation must be notified if the previously true representation becomes false; in this case the representation was to pay for meals at a restaurant

Rai 2000 – D's representation was true up until the point when his mother died, and he failed to notify the council. This was from then-on a false representation.

S2(4) A representation can be express or implied: