

## COMPUTER SECURITY ACT 1992

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## AN ACT

**To make provision for securing computer material against unauthorised access or modification;  
and for connected purposes.**

#### *Offences in relation to computer security*

### **1 Unauthorised access to computer material**

(1) A person is guilty of an offence if —

(a) he causes a computer to perform any function with intent to secure access to any program or data held in any computer;

(b) the access he intends to secure is unauthorised; and

(c) he knows at the time when he causes the computer to perform the function that that is the case.

(2) The intent a person has to have to commit an offence under this section need not be directed at —

- (a) any particular program or data;
- (b) a program or data of any particular kind; or
- (c) a program or data held in any particular computer.

(3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

## **2 Unauthorised access with intent to commit or facilitate commission of further offences**

(1) A person is guilty of an offence under this section if he commits an offence under section 1 ('the unauthorised access offence') with intent —

- (a) to commit an offence to which this section applies; or
- (b) to facilitate the commission of such an offence (whether by himself or by any other person);

and the offence he intends to commit or facilitate is referred to below in this section as the further offence.

(2) This section applies to offences —

- (a) for which the sentence is fixed by law; or
- (b) for which a person of 21 years of age or over (not previously convicted) may be sentenced to imprisonment for a term of 5 years.

(3) It is immaterial for the purposes of this section whether the further offence is to be committed on the same occasion as the unauthorised access offence or on any future occasion.

(4) A person is guilty of an offence under this section even though the facts are such that the commission of the further offence is impossible.

(5) A person guilty of an offence under this section shall be liable —

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.

## **3 Unauthorised modification of computer material**

(1) A person is guilty of an offence if —

- (a) he does any act which causes an unauthorised modification of the contents of any computer; and
- (b) at the time when he does the act he has the requisite intent and the requisite knowledge.

(2) For the purposes of subsection (1) (b) the requisite intent is an intent to cause a modification of the contents of any computer and by so doing —

- (a) to impair the operation of any computer;

- (b) to prevent or hinder access to any program or data held in any computer; or
- (c) to impair the operation of any such program or the reliability of any such data.

(3) The intent need not be directed at —

- (a) any particular computer;
- (b) any particular program or data or a program or data of any particular kind; or
- (c) any particular modification or a modification of any particular kind.

(4) For the purposes of subsection (1) (b) the requisite knowledge is knowledge that any modification he intends to cause is unauthorised.

(5) It is immaterial for the purposes of this section whether an unauthorised modification or any intended effect of it of a kind mentioned in subsection (2) is, or is intended to be, permanent or merely temporary.

(6) For the purposes of the Criminal Damage Act 1981 a modification of the contents of a computer shall not be regarded as damaging any computer or computer storage medium unless its effect on that computer or computer storage medium impairs its physical condition.

(7) A person guilty of an offence under this section shall be liable —

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.

#### *Jurisdiction*

#### **4 Territorial scope of offences under this Act**

(1) Except as provided in this section, it is immaterial for the purposes of any offence under section 1 or 3 —

- (a) whether any act or other event proof of which is required for conviction of the offence occurred in the Island; or
- (b) whether the accused was in the Island at the time of any such act or event.

(2) Subject to subsection (3) , in the case of such an offence at least one significant link with domestic jurisdiction must exist in the circumstances of the case for the offence to be committed.

(3) There is no need for any such link to exist for the commission of an offence under section 1 to be established in proof of an allegation to that effect in proceedings for an offence under section 2.

(4) Subject to section 8 where —

- (a) any such link does in fact exist in the case of an offence under section 1; and
- (b) commission of that offence is alleged in proceedings for an offence under section 2;

section 2 shall apply as if anything the accused intended to do or facilitate in any place outside the Island which would be an offence to which section 2 applies if it took place in the Island were the offence in question.

(5) This section is without prejudice to any jurisdiction exercisable by a court apart from this section.

## **5 Significant links with domestic jurisdiction**

(1) The provisions of this section apply for the interpretation of section 4.

(2) In relation to an offence under section 1, either of the following is a significant link with domestic jurisdiction —

(a) that the accused was in the Island at the time when he did the act which caused the computer to perform the function; or

(b) that any computer containing any program or data to which the accused secured or intended to secure unauthorised access by doing that act was in the Island at that time.

(3) In relation to an offence under section 3, either of the following is a significant link with domestic jurisdiction —

(a) that the accused was in the Island at the time when he did the act which caused the unauthorised modification; or

(b) that the unauthorised modification took place in the Island.

## **6 Territorial scope of inchoate offences related to offences under this Act**

(1) On a charge of conspiracy to commit an offence under this Act the following questions are immaterial to the accused's guilt —

(a) the question where any person became a party to the conspiracy; and

(b) the question whether any act, omission or other event occurred in the Island.

(2) On a charge of attempting to commit an offence under section 3 the following questions are immaterial to the accused's guilt —

(a) the question where the attempt was made; and

(b) the question whether it had an effect in the Island.

(3) On a charge of incitement to commit an offence under this Act the question where the incitement took place is immaterial to the accused's guilt.

## **7 Territorial scope of inchoate offences related to offences under external law corresponding to offences under this Act**

(1) *[Inserts section 330A in the Criminal Code 1872. Click here to see sections 330 and 330A of that Act.]*

(2) *[Inserts section 9A in the Criminal Law Act 1981. Click here to see sections 9 and 9A of that Act.]*

(3) Subject to section 8, if any act done by a person in the Island would amount to the offence of incitement to commit an offence under this Act but for the fact that what he had in view would not be an offence triable in the Island —

(a) what he had in view shall be treated as an offence under this Act for the purposes of any charge of incitement brought in respect of that act; and

(b) any such charge shall accordingly be triable in the Island.

## **8 Relevance of external law**

(1) A person is guilty of an offence triable by virtue of section 4(4) only if what he intended to do or facilitate would involve the commission of an offence under the law in force where the whole or any part of it was intended to take place.

(2) A person is guilty of an offence triable by virtue of section 330A(1) of the Criminal Code 1872 only if the pursuit of the agreed course of conduct would at some stage involve —

- (a) an act or omission by one or more of the parties; or
- (b) the happening of some other event;

constituting an offence under the law in force where the act, or omission or other event was intended to take place.

(3) A person is guilty of an offence triable by virtue of section 9A(1) of the Criminal Law Act 1981 or by virtue of section 7(3) of this Act only if what he had in view would involve the commission of an offence under the law in force where the whole or any part of it was intended to take place.

(4) Conduct punishable under the law in force in any place is an offence under that law for the purposes of this section, however it is described in that law.

(5) Subject to subsection (7), a condition specified in any of subsections (1) to (3) shall be taken to be satisfied unless not later than rules of court may provide the defence serve on the prosecution a notice —

- (a) stating that, on the facts as alleged with respect to the relevant conduct, the condition is not in their opinion satisfied;
- (b) showing their grounds for that opinion; and
- (c) requiring the prosecution to show that it is satisfied.

(6) In subsection (5), 'the relevant conduct' means —

- (a) where the condition in subsection (1) is in question, what the accused intended to do or facilitate;
- (b) where the condition in subsection (3) is in question, the agreed course of conduct; and
- (c) where the condition in subsection (2) is in question, what the accused had in view.

(7) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without the prior service of a notice under subsection (5).

## **9 British citizenship immaterial**

(1) In any proceedings brought in the Island in respect of any offence to which this section applies it is immaterial to guilt whether or not the accused was ordinarily resident in the Island or a British citizen at the time of any act, omission or other event proof of which is required for conviction of the offence.

(2) This section applies to the following offences —

- (a) any offence under this Act;
- (b) conspiracy to commit an offence under this Act;

(c) any attempt to commit an offence under section 3; and

(d) incitement to commit an offence under this Act.

*Miscellaneous and general*

**10 Saving for certain law enforcement powers**

Section 1(1) has effect without prejudice to the operation of any statutory provision relating to powers of inspection, search or seizure.

(1) Subject to subsection (2), proceedings for an offence under section 1 may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) No such proceedings shall be brought by virtue of this section more than 3 years after the commission of the offence.

(3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

**12 Conviction of an offence under section 1 in proceedings for an offence under section 2 or 3**

(1) If on the trial on information of a person charged with —

(a) an offence under section 2; or

(b) an offence under section 3 or any attempt to commit such an offence;

the jury find him not guilty of the offence charged, they may find him guilty of an offence under section 1 if on the facts shown he could have been found guilty of that offence in proceedings for that offence brought before the expiry of any time limit under section 11 applicable to such proceedings.

(2) The Court of General Gaol Delivery shall have the same powers and duties in relation to a person who is by virtue of this section convicted before it of an offence under section 1 as a court of summary jurisdiction would have on convicting him of the offence.

(3) This section is without prejudice to section 10(3) of the Criminal Law Act 1981 (conviction of alternative offence on trial on information).

**13 Search warrants for offences under section 1**

(1) Where a Deemster is satisfied by information on oath given by a constable that there are reasonable grounds for believing —

(a) that an offence under section 1 has been or is about to be committed in any premises; and

(b) that evidence that such an offence has been or is about to be committed is in those premises;

he may issue a warrant authorising a constable to enter and search the premises, using such reasonable force as is necessary.

(2) The power conferred by subsection (1) does not extend to authorising a search for material subject to legal privilege.

(3) A warrant under this section —

- (a) may authorise persons to accompany any constable executing the warrant; and
- (b) remains in force for 28 days from the date of its issue.

(4) In executing a warrant issued under this section a constable may seize an article if he reasonably believes that it is evidence that an offence under section 1 has been or is about to be committed.

(5) In this section —

'material subject to legal privilege' means —

- (a) communications between a professional legal adviser and his client;
- (b) communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings,

being communications which would in legal proceedings be protected from disclosure by virtue of any rule of law relating to the confidentiality of communications.

'premises' includes land, buildings, movable structures, vehicles, vessels, aircraft and hovercraft.

#### **14 Interpretation**

(1) The following provisions of this section apply for the interpretation of this Act.

(2) A person secures access to any program or data held in a computer if by causing a computer to perform any function he —

- (a) alters or erases the program or data;
- (b) copies or moves it to any storage medium other than that in which it is held or to a different location in the storage medium in which it is held;
- (c) uses it; or
- (d) has it output from the computer in which it is held (whether by having it displayed or in any other manner);

and references to access to a program or data (and to an intent to secure such access) shall be read accordingly.

(3) For the purposes of subsection (2)(c) a person uses a program if the function he causes the computer to perform —

- (a) causes the program to be executed; or
- (b) is itself a function of the program.

(4) For the purposes of subsection (2)(d) —

- (a) a program is output if the instructions of which it consists are output; and
- (b) the form in which any such instructions or any other data is output (and in particular whether or not it represents a form in which, in the case of instructions, they are capable of being executed or, in the case of data, it is capable of being processed by a computer) is immaterial.

(5) Access of any kind by any person to any program or data held in a computer is unauthorised if —

(a) he is not himself entitled to control access of the kind in question to the program or data; and

(b) he does not have consent to access by him of the kind in question to the program or data from any person who is so entitled.

(6) References to any program or data held in a computer include references to any program or data held in any removable storage medium which is for the time being in the computer; and a computer is to be regarded as containing any program or data held in any such medium.

(7) A modification of the contents of any computer takes place if, by the operation of any function of the computer concerned or any other computer —

(a) any program or data held in the computer concerned is altered or erased; or

(b) any program or data is added to its contents;

and any act which contributes towards causing such a modification shall be regarded as causing it. (8) Such a modification is unauthorised if —

(a) the person whose act causes it is not himself entitled to determine whether the modification should be made; and

(b) he does not have consent to the modification from any person who is so entitled.

(9) References to a program include references to part of a program.

### **15 Citation, commencement etc.**

(1) This Act may be cited as the Computer Security Act 1992.

(2) This Act shall come into force at the end of the period of 2 months beginning with the day on which it is passed.

(3) An offence is not committed under this Act unless every act or other event proof of which is required for conviction of the offence takes place after this Act comes into force.

*Note: the Act came into force on 15th June 1992.*

*Sections 330 and 330A of the Criminal Code 1872 provide as follows:*

### **330 Conspiracy, etc.**

When two or more persons shall conspire either to commit any offence or to charge another with any crime, or falsely and maliciously to cause any person or persons to be indicted or informed against for any offence, or to procure another to be arrested or charged for any such offence; or falsely to move or maintain any suit; or to cheat and defraud any person of any property by any means which are in themselves criminal; or to cheat and defraud any person of any property by any means which, if executed, would amount to a cheat, or obtaining money or property by false pretences; or to effect legal purposes by improper means; or to commit any act injurious to public order, to public health, to public morals, or for the perversion or obstruction of justice or the due administration of the laws, such two or more persons are and shall be severally held to be guilty of misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years.

### **330A Computer security conspiracy**

(1) Subject to section 8 of the Computer Security Act 1992 (relevance of external law), if this subsection applies to an agreement, section 330 of this Act has effect in relation to it as it has effect in relation to an agreement falling within that section.

(2) Subsection (1) applies to an agreement if —

(a) a party to it, or a party's agent, did anything in the Island in relation to it before its formation; or

(b) a party to it became a party in the Island (by joining it either in person or through an agent); or

(c) a party to it, or a party's agent, did or omitted anything in the Island in pursuance of it;

and the agreement would fall within section 330 of this Act as an agreement relating to the commission of a computer security offence but for the fact that the offence would not be an offence triable in the Island if committed in accordance with the parties' intentions.

(3) In the application of section 330 of this Act to an agreement to which subsection (2) applies any reference to an offence shall be read as a reference to what would be the computer security offence in question but for the fact that it is not an offence triable in the Island.

(4) In this section 'computer security offence' means an offence under the Computer Security Act 1992.

*Sections 9 and 9A of the Criminal Law Act 1981 provide as follows:*

### **9 Attempt to commit an offence to be deemed an offence**

A provision which constitutes an offence shall, unless the contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence against that provision, punishable as if the offence itself had been committed.

### **9A Computer security: attempts**

(1) Subject to section 8 of the Computer Security Act 1992 (relevance of external law), if this subsection applies to an act, what the person doing it had in view shall be treated as an offence to which section 9 applies.

(2) Subsection (1) applies to an act if —

(a) it is done in the Island and

(b) it would fall within section 9 as more than merely preparatory to the commission of an offence under section 3 of the Computer Security Act 1992 but for the fact that the offence, if completed, would not be an offence triable in the Island.