

# Computer Misuse Act 1990-U.K

**1990 c. 18**



An Act to make provision for securing computer material against unauthorised access or modification; and for connected purposes.

[29th June 1990]

**B**e it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## *Computer misuse offences*



### **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 six months or to a fine not exceeding level 5 on the standard scale or to both.

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**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 above ( “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 twenty-one years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years (or, in England and Wales, might be so sentenced but for the restrictions imposed by section 33 of the <sup>M1</sup>Magistrates’ Courts Act 1980).

(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 may be 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 six months or to a fine not exceeding the statutory maximum or to both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding five 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) above 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) above 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) above is, or is intended to be, permanent or merely temporary.

(6) For the purposes of the <sup>M2</sup>Criminal Damage Act 1971 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 six months or to a fine not exceeding the statutory maximum or to both; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

### *Jurisdiction*



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

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

(a) whether any act or other event proof of which is required for conviction of the offence occurred in the home country concerned; or

(b) whether the accused was in the home country concerned at the time of any such act or event.

(2) Subject to subsection (3) below, 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 above to be established in proof of an allegation to that effect in proceedings for an offence under section 2 above.

(4) Subject to section 8 below, where—

(a) any such link does in fact exist in the case of an offence under section 1 above; and

(b) commission of that offence is alleged in proceedings for an offence under section 2 above; section 2 above shall apply as if anything the accused intended to do or facilitate in any place outside the home country concerned which would be an offence to which section 2 applies if it took place in the home country concerned were the offence in question.

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

(6) References in this Act to the home country concerned are references—

(a) in the application of this Act to England and Wales, to England and Wales;

(b) in the application of this Act to Scotland, to Scotland; and

(c) in the application of this Act to Northern Ireland, to Northern Ireland.



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

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

(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 home country concerned 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 home country concerned 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 home country concerned at the time when he did the act which caused the unauthorised modification; or

(b) that the unauthorised modification took place in the home country concerned.



**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 home country concerned.

(2) On a charge of attempting to commit an offence under section 3 above 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 home country concerned.

(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.

(4) This section does not extend to Scotland.



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

— <sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

(3) The following subsections shall be inserted after section 1(1) of the <sup>M3</sup>Criminal Attempts Act 1981—

"(1A) Subject to section 8 of the Computer Misuse Act 1990 (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 this section applies.

(1B) Subsection (1A) above applies to an act if—

- (a) it is done in England and Wales; and
- (b) it would fall within subsection (1) above as more than merely preparatory to the commission of an offence under section 3 of the Computer Misuse Act 1990 but for the fact that the offence, if completed, would not be an offence triable in England and Wales."

(4) Subject to section 8 below, if any act done by a person in England and Wales 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 England and Wales—

- (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 England and Wales.

**8. Relevance of external law.**

— (1) A person is guilty of an offence triable by virtue of section 4(4) above 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.

<sup>F2</sup>(2) . . . . .

(3) A person is guilty of an offence triable by virtue of section 1(1A) of the <sup>M4</sup>Criminal Attempts Act 1981 or by virtue of section 7(4) above 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) below, a condition specified in [<sup>F3</sup>subsection (1) or (3)] above 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) above “the relevant conduct” means—

(a) where the condition in subsection (1) above is in question, what the accused intended to do or facilitate;

<sup>F2</sup>(b)

.....

(c) where the condition in subsection (3) above 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) above.

(8) If by virtue of subsection (7) above a court of solemn jurisdiction in Scotland permits the defence to require the prosecution to show that the condition is satisfied, it shall be competent for the prosecution for that purpose to examine any witness or to put in evidence any production not included in the lists lodged by it.

(9) In the Crown Court the question whether the condition is satisfied shall be decided by the judge alone.

(10) In the High Court of Justiciary and in the sheriff court the question whether the condition is satisfied shall be decided by the judge or, as the case may be, the sheriff alone.

**9. British citizenship immaterial.**

— (1) In any proceedings brought in England and Wales in respect of any offence to which this section applies it is immaterial to guilt whether or not the accused was 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;

<sup>F4</sup>(b)

.....

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

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

*Miscellaneous and general*



**10.** Saving for certain law enforcement powers.

Section 1(1) above has effect without prejudice to the operation—

(a) in England and Wales of any enactment relating to powers of inspection, search or seizure;

and

(b) in Scotland of any enactment or rule of law relating to powers of examination, search or seizure.

<sup>F5</sup>and nothing designed to indicate a withholding of consent to access to any program or data from persons as enforcement officers shall have effect to make access unauthorised for the purposes of the said section 1(1).

In this section “enforcement officer” means a constable or other person charged with the duty of investigating offences; and withholding consent from a person “as” an enforcement officer of any description includes the operation, by the person entitled to control access, of rules whereby enforcement officers of that description are, as such, disqualified from membership of a class of persons who are authorised to have access.]

**11.** Proceedings for offences under section 1.

— (1) A magistrates’ court shall have jurisdiction to try an offence under section 1 above if—

(a) the accused was within its commission area at the time when he did the act which caused the computer to perform the function; or

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

(2) Subject to subsection (3) below, proceedings for an offence under section 1 above may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

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

(4) 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.

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

<sup>F6</sup>(6) .....

(7) This section does not extend to Scotland.

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

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

(a) an offence under section 2 above; or

(b) an offence under section 3 above 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 above 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 above applicable to such proceedings.

(2) The Crown Court 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 above as a magistrates' court would have on convicting him of the offence.

(3) This section is without prejudice to section 6(3) of the <sup>M5</sup>Criminal Law Act 1967 (conviction of alternative indictable offence on trial on indictment).

(4) This section does not extend to Scotland.

**13.** Proceedings in Scotland.

— (1) A sheriff shall have jurisdiction in respect of an offence under section 1 or 2 above if—

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

(b) 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 sheriffdom at that time.

(2) A sheriff shall have jurisdiction in respect of an offence under section 3 above if—

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

(b) the unauthorised modification took place in the sheriffdom.

(3) Subject to subsection (4) below, summary proceedings for an offence under section 1, 2 or 3 above may be commenced within a period of six months from the date on which evidence sufficient in the opinion of the procurator fiscal to warrant proceedings came to his knowledge.

(4) No such proceedings shall be commenced by virtue of this section more than three years after the commission of the offence.

(5) For the purposes of this section, a certificate signed by or on behalf of the procurator fiscal 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.

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

(7) Subsection (3) of [<sup>F7</sup>[section 136 of the Criminal Procedure \(Scotland\) Act 1995](#)](date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that section.

(8) In proceedings in which a person is charged with an offence under section 2 or 3 above and is found not guilty or is acquitted of that charge, he may be found guilty of an offence under section 1 above if on the facts shown he could have been found guilty of that offence in proceedings for that offence commenced before the expiry of any time limit under this section applicable to such proceedings.

(9) Subsection (8) above shall apply whether or not an offence under section 1 above has been libelled in the complaint or indictment.

(10) A person found guilty of an offence under section 1 above by virtue of subsection (8) above shall be liable, in respect of that offence, only to the penalties set out in section 1.

(11) This section extends to Scotland only.

**14.** Search warrants for offences under section 1.

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

(a) that an offence under section 1 above 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) above does not extend to authorising a search for material of the kinds mentioned in section 9(2) of the <sup>M6</sup>Police and Criminal Evidence Act 1984 (privileged, excluded and special procedure material).

(3) A warrant under this section—

(a) may authorise persons to accompany any constable executing the warrant; and

(b) remains in force for twenty-eight 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 above has been or is about to be committed.

(5) In this section “premises” includes land, buildings, movable structures, vehicles, vessels, aircraft and hovercraft.

(6) This section does not extend to Scotland.

**15.** Extradition where Schedule 1 to the Extradition Act 1989 applies.

The offences to which an Order in Council under section 2 of the <sup>M7</sup>Extradition Act 1870 can apply shall include—

(a) offences under section 2 or 3 above;

(b) any conspiracy to commit such an offence; and

(c) any attempt to commit an offence under section 3 above.

**16.** Application to Northern Ireland.

— (1) The following provisions of this section have effect for applying this Act in relation to Northern Ireland with the modifications there mentioned.

(2) In section 2(2)(b)—

(a) the reference to England and Wales shall be read as a reference to Northern Ireland; and

(b) the reference to section 33 of the <sup>M8</sup>Magistrates' Courts Act 1980 shall be read as a reference to Article 46(4) of the <sup>M9</sup>Magistrates' Courts (Northern Ireland) Order 1981.

(3) The reference in section 3(6) to the <sup>M10</sup>Criminal Damage Act 1971 shall be read as a reference to the <sup>M11</sup>Criminal Damage (Northern Ireland) Order 1977.

(4) [<sup>F8</sup>Subsection (7) below shall apply in substitution for subsection (3) of section 7]; and any reference in subsection (4) of that section to England and Wales shall be read as a reference to Northern Ireland.

<sup>F9</sup>(5) .....

<sup>F9</sup>(6) .....

(7) The following paragraphs shall be inserted after Article 3(1) of that Order—

"(1A) Subject to section 8 of the Computer Misuse Act 1990 (relevance of external law), if this paragraph applies to an act, what the person doing it had in view shall be treated as an offence to which this Article applies.

(1B) Paragraph (1A) above applies to an act if—

(a) it is done in Northern Ireland; and

(b) it would fall within paragraph (1) as more than merely preparatory to the commission of an offence under section 3 of the Computer Misuse Act 1990 but for the fact that the offence, if completed, would not be an offence triable in Northern Ireland."

(8) In section 8—

(a) <sup>F9</sup>  
.....

(b) the reference in subsection (3) to section 1(1A) of the <sup>M12</sup>Criminal Attempts Act 1981 shall be read as a reference to Article 3(1A) of that Order.

(9) The references in sections 9(1) and 10 to England and Wales shall be read as references to Northern Ireland.

(10) In section 11, for subsection (1) there shall be substituted—

"(1) A magistrates' court for a county division in Northern Ireland may hear and determine a complaint charging an offence under section 1 above or conduct a preliminary investigation or preliminary inquiry into an offence under that section if—

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

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

and subsection (6) shall be omitted.

(11) The reference in section 12(3) to section 6(3) of the <sup>M13</sup>Criminal Law Act 1967 shall be read as a reference to section 6(2) of the <sup>M14</sup>Criminal Law Act (Northern Ireland) 1967.

(12) In section 14—

the reference in subsection (1) to a circuit judge shall be read as a reference to a county court judge; and

(b) the reference in subsection (2) to section 9(2) of the <sup>M15</sup>Police and Criminal Evidence Act 1984 shall be read as a reference to Article 11(2) of the <sup>M16</sup>Police and Criminal Evidence (Northern Ireland) Order 1989.

#### **17. 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) above 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) above—

(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 [<sup>F10</sup>but this subsection is subject to section 10.]

(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 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 the home country concerned shall be read in accordance with section 4(6) above.

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

**18.** Citation, commencement etc.

— (1) This Act may be cited as the Computer Misuse Act 1990.

(2) This Act shall come into force at the end of the period of two 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.