



Serious Crime Act 2015

2015 CHAPTER 9

PART 2

COMPUTER MISUSE

41 Unauthorised acts causing, or creating risk of, serious damage

- (1) The Computer Misuse Act 1990 is amended as follows.
- (2) After section 3 insert—

“3ZA Unauthorised acts causing, or creating risk of, serious damage

- (1) A person is guilty of an offence if—
 - (a) the person does any unauthorised act in relation to a computer;
 - (b) at the time of doing the act the person knows that it is unauthorised;
 - (c) the act causes, or creates a significant risk of, serious damage of a material kind; and
 - (d) the person intends by doing the act to cause serious damage of a material kind or is reckless as to whether such damage is caused.
- (2) Damage is of a “material kind” for the purposes of this section if it is—
 - (a) damage to human welfare in any place;
 - (b) damage to the environment of any place;
 - (c) damage to the economy of any country; or
 - (d) damage to the national security of any country.
- (3) For the purposes of subsection (2)(a) an act causes damage to human welfare only if it causes—
 - (a) loss to human life;
 - (b) human illness or injury;
 - (c) disruption of a supply of money, food, water, energy or fuel;
 - (d) disruption of a system of communication;

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- (e) disruption of facilities for transport; or
 - (f) disruption of services relating to health.
- (4) It is immaterial for the purposes of subsection (2) whether or not an act causing damage—
- (a) does so directly;
 - (b) is the only or main cause of the damage.
- (5) In this section—
- (a) a reference to doing an act includes a reference to causing an act to be done;
 - (b) “act” includes a series of acts;
 - (c) a reference to a country includes a reference to a territory, and to any place in, or part or region of, a country or territory.
- (6) A person guilty of an offence under this section is (unless subsection (7) applies) liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years, or to a fine, or to both.
- (7) Where an offence under this section is committed as a result of an act causing or creating a significant risk of—
- (a) serious damage to human welfare of the kind mentioned in subsection (3)(a) or (3)(b), or
 - (b) serious damage to national security,
- a person guilty of the offence is liable, on conviction on indictment, to imprisonment for life, or to a fine, or to both.”
- (3) In section 3A (making, supplying or obtaining articles for use in offences under section 1 or 3), in subsections (1), (2) and (3), for “section 1 or 3” substitute “section 1, 3 or 3ZA”.

42 Obtaining articles for purposes relating to computer misuse

In section 3A of the Computer Misuse Act 1990 (making, supplying or obtaining articles for use in offence under section 1 or 3), in subsection (3), for “article with a view to” substitute “article—

- (a) intending to use it to commit, or to assist in the commission of, an offence under section 1, 3 or 3ZA, or
- (b) with a view to”.

43 Territorial scope of computer misuse offence

- (1) The Computer Misuse Act 1990 is amended as follows.
- (2) In section 4 (territorial scope of offences), in subsection (1), for “section 1 or 3” substitute “section 1, 3 or 3ZA”.
- (3) After subsection (4) of that section insert—
- “(4A) It is immaterial for the purposes of an offence under section 3A whether the accused was in the home country concerned at the time of any act or other event proof of which is required for conviction of the offence if there is a significant link with domestic jurisdiction in relation to the offence.”

(4) In section 5 (significant links with domestic jurisdiction), after subsection (1) insert—

“(1A) In relation to an offence under section 1, 3, 3ZA or 3A, where the accused was in a country outside the United Kingdom at the time of the act constituting the offence there is a significant link with domestic jurisdiction if—

- (a) the accused was a United Kingdom national at that time; and
- (b) the act constituted an offence under the law of the country in which it occurred.

(1B) In subsection (1A)—

“country” includes territory;

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
- (b) a person who under the British Nationality Act 1981 is a British subject; or
- (c) a British protected person within the meaning of that Act.”

(5) After subsection (3) of that section insert—

“(3A) In relation to an offence under section 3ZA, any of the following is also a significant link with domestic jurisdiction—

- (a) that the accused was in the home country concerned at the time when he did the unauthorised act (or caused it to be done);
- (b) that the unauthorised act was done in relation to a computer in the home country concerned;
- (c) that the unauthorised act caused, or created a significant risk of, serious damage of a material kind (within the meaning of that section) in the home country concerned.”

(6) In section 13 (proceedings in Scotland), after subsection (2) insert—

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

- (a) the accused was in the sheriffdom at the time when he did the unauthorised act (or caused it to be done), or
- (b) the computer in relation to which the unauthorised act was done was in the sheriffdom at that time.

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

- (a) the accused was in the sheriffdom at the time when—
 - (i) he made, adapted, supplied or offered to supply the article intending it to be used as mentioned in subsection (1) of that section,
 - (ii) he supplied or offered to supply the article believing that it would be used as mentioned in subsection (2) of that section, or
 - (iii) he obtained the article intending to use it, or with a view to its being supplied for use, as mentioned in subsection (3) of that section; or

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- (b) the offence related to the commission of an offence under section 1, 3 or 3ZA above (in the way described in subsections (1) to (3) of section 3A above) and any computer as mentioned in subsection (1) (b), (2)(b) or (2A)(b) of this section was in the sheriffdom at the time the accused carried out the act constituting the offence under section 3A above.”

(7) After subsection (10) of that section insert—

“(10A) Where an offence under section 1, 3, 3ZA or 3A above is committed outside Scotland, the person committing the offence may be prosecuted, tried and punished for the offence—

- (a) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or

- (b) in such sheriff court district as the Lord Advocate may direct, as if the offence had been committed in that district; and the offence is, for all purposes incidental to or consequential on the trial or punishment, deemed to have been committed in that district.”

44 Savings

(1) The Computer Misuse Act 1990 is amended as follows.

(2) In section 10 (saving for certain law enforcement powers)—

- (a) for “Section 1(1) above has” substitute “Sections 1 to 3A have”;
- (b) in paragraph (a), after “seizure” insert “or of any other enactment by virtue of which the conduct in question is authorised or required”;
- (c) in paragraph (b), after “seizure” insert “or of any other enactment or rule of law by virtue of which the conduct in question is authorised or required”;
- (d) for “the said section 1(1)” substitute “any of those sections”;
- (e) for “In this section “enforcement officer” means” substitute—

“In this section—

“enactment” means any enactment, whenever passed or made, contained in—

- (a) an Act of Parliament;
- (b) an Act of the Scottish Parliament;
- (c) a Measure or Act of the National Assembly for Wales;
- (d) an instrument made under any such Act or Measure;
- (e) any other subordinate legislation (within the meaning of the Interpretation Act 1978);

“enforcement officer” means”.

(3) In section 16 (application to Northern Ireland), after subsection (9) insert—

“(9A) In section 10 the definition of “enactment” shall be read as including a reference to an enactment, whenever passed or made, contained in Northern Ireland legislation or in an instrument made under such legislation.”