

THE CYBERCRIMES ACT

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THE CYBERCRIMES ACT

Act
3 of 2010.

[17th March, 2010.]

PART I. *Preliminary*

1. This Act may be cited as the Cybercrimes Act.

Short title.

2.—(1) In this Act—

Inter-
pretation.

“computer” means any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data and—

(a) includes any data storage facility or electronic communications system directly connected to or operating in conjunction with such device or group of such interconnected or related devices;

(b) does not include such devices as the Minister may prescribe by order published in the *Gazette*;

“computer service” includes provision of access to any computer or to any function of a computer, computer output, data processing and the storage or retrieval of any program or data;

“damage”, for the purposes of sections 3(3), 5(3), 6(5), 7(2) and 8(2), means any impairment to a computer, or to the integrity or availability of data, that—

(a) causes economic loss;

(b) modifies or impairs or potentially modifies or impairs the medical examination, diagnosis, treatment or care of one or more persons;

(c) causes or threatens physical injury or death to any person;

(d) threatens public health or public safety; or

(e) causes or threatens physical damage to a computer;

“data” includes—

- (a) material in whatever form stored electronically;
- (b) the whole or part of a computer program; and
- (c) any representation of information or of concepts in a form suitable for use in a computer, including a program suitable to cause a computer to perform a function;

“electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities; and the word “electronically” shall be similarly construed;

“electronic communications system” means a system for creating, generating, sending, receiving, storing, displaying or otherwise processing electronic documents or data;

“function” includes logic, control, arithmetic, command, deletion, storage, retrieval, and communication to, from or within a computer;

“output”, in relation to a computer, data or program, means a statement or representation, whether in written, printed, pictorial, graphical or other form, purporting to be a statement or representation of fact—

- (a) produced by a computer; or
- (b) accurately translated from a statement or representation so produced;

“program” or “computer program” means data representing instructions or statements that, when executed in a computer, causes the computer to perform a function, and a reference to a program includes any part of that program.

(2) For the purposes of this Act, a person obtains access to any program or data held in a computer if he causes a computer to perform any function that—

- (a) alters or erases the program or data;
- (b) copies or moves the program or data to any storage medium other than that in which the program or data is held or to a different location in the storage medium in which the program or data is held;
- (c) causes the program or data to be executed;
- (d) is itself a function of the program or data; or
- (e) causes the program or data to be output from the computer in which it is held, whether by having the program or data displayed or in any other manner,

and references to accessing, or to an intent to obtain access to, a computer shall be construed accordingly.

(3) For the purposes of subsection (2)(e)—

- (a) a program is output if the data of which it consists is output, and it is immaterial whether the data is capable of being executed;
- (b) in the case of data, it is immaterial whether the data is capable of being processed by a computer.

(4) For the purposes of this Act, a person who accesses, modifies, or uses, any program or data held in a computer, or causes the computer to perform any function, does so without authorization if—

- (a) he is not himself entitled to control the access, modification, use or function of the kind in question;
- (b) he does not have consent for the access, modification, use or function of the kind in question from any person who is so entitled; and
- (c) he is not acting pursuant to a power or function given to him under this Act or the Interception of Communications Act,

and the word “unauthorized” shall be construed accordingly.

(5) A reference in this Act to any “program or data held in a computer” includes a reference to any program or data held in any removable data storage medium which is for the time being in the computer.

(6) For the purposes of this Act, 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;
- (b) any program or data is added to the contents of the computer concerned; or
- (c) any act occurs which impairs the normal operation of any computer,

and any act which contributes toward causing such a modification shall be regarded as causing it.

(7) A modification referred to in subsection (6) is unauthorized if—

- (a) the person whose act causes the modification is not himself entitled to determine whether the modification should be made; and
- (b) that person does not have consent for the modification from any person who is so entitled.

PART II. *Offences*

Unauthorized
access to
computer
program or
data.

3.—(1) A person who knowingly obtains, for himself or another person, any unauthorized access to any program or data held in a computer commits an offence.

(2) The intent required for the commission of an offence under subsection (1) need not be directed at—

- (a) any specifically identifiable program or data;
- (b) a program or data of any specifically identifiable kind;