



Computer Misuse Act 1990

1990 CHAPTER 18

Miscellaneous and general

10 [F¹Savings]

[F²Sections 1 to 3A have] effect without prejudice to the operation—

- (a) in England and Wales of any enactment relating to powers of inspection, search or seizure[F³or of any other enactment by virtue of which the conduct in question is authorised or required]; and
- (b) in Scotland of any enactment or rule of law relating to powers of examination, search or seizure[F⁴or of any other enactment or rule of law by virtue of which the conduct in question is authorised or required]

[F⁵and 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 [F⁶any of those sections].

[F⁷In 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] 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.]

Status: Point in time view as at 03/05/2015.

Changes to legislation: There are currently no known outstanding effects for the Computer Misuse Act 1990, Cross Heading: Miscellaneous and general. (See end of Document for details)

Textual Amendments

- F1** S. 10 heading substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 12](#); S.I. 2015/820, [reg. 2\(r\)\(iii\)](#)
- F2** Words in s. 10 substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 44\(2\)\(a\)](#), 88(1); S.I. 2015/820, [reg. 2\(d\)](#)
- F3** Words in s. 10(a) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 44\(2\)\(b\)](#), 88(1); S.I. 2015/820, [reg. 2\(d\)](#)
- F4** Words in s. 10(b) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 44\(2\)\(c\)](#), 88(1); S.I. 2015/820, [reg. 2\(d\)](#)
- F5** Words in s. 10 inserted (3.2.1995) by 1994 c. 33, [s. 162\(1\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- F6** Words in s. 10 substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 44\(2\)\(d\)](#), 88(1); S.I. 2015/820, [reg. 2\(d\)](#)
- F7** Words in s. 10 substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 44\(2\)\(e\)](#), 88(1); S.I. 2015/820, [reg. 2\(d\)](#)

11 Proceedings for offences under section 1.

F8

Textual Amendments

- F8** S. 11 repealed (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 23](#), [Sch. 15 Pt. 4](#) (with [s. 38\(2\)](#)); S.I. 2008/2503, [art. 2](#)

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

F9

Textual Amendments

- F9** S. 12 repealed (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 24](#), [Sch. 15 Pt. 4](#) (with [s. 38\(2\)](#)); S.I. 2008/2503, [art. 2](#)

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
 - ^{F10}(b) any computer containing any program or data to which the accused by doing that act secured or intended to secure unauthorised access, or enabled or intended to enable unauthorised access to be secured, 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 ^{F11}he did the unauthorised act (or caused it to be done)] ; or
 - ^{F12}(b) the unauthorised act was done in relation to a computer in the sheriffdom.]

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- [^{F13}(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
 - (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.]
- (3) ^{F14}
- (4) ^{F14}
- (5) ^{F14}
- (6) ^{F14}
- (7) ^{F14}
- (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 ^{F15}
- (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.
- [^{F16}(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.]
- (11) This section extends to Scotland only.

Status: Point in time view as at 03/05/2015.

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Textual Amendments

- F10** S. 13(1)(b) substituted (1.10.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 25\(2\)](#) (with s. 38(1)); S.S.I. 2007/434, [art. 2](#)
- F11** Words in s. 13(2)(a) substituted (1.10.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 25\(3\)\(a\)](#) (with s. 38(4)); S.S.I. 2007/434, [art. 2](#)
- F12** S. 13(2)(b) substituted (1.10.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 25\(3\)\(b\)](#) (with s. 38(4)); S.S.I. 2007/434, [art. 2](#)
- F13** S. 13(2A)(2B) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 43\(6\)](#), 88(1) (with s. 86(10)); S.I. 2015/820, [reg. 2\(c\)](#)
- F14** S. 13(3)-(7) repealed (1.10.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 25\(4\)](#), [Sch. 15 Pt. 4](#) (with s. 38(2)(4)); S.S.I. 2007/434, [art. 2](#)
- F15** Words in s. 13(8) repealed (1.10.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 25\(5\)](#), [Sch. 15 Pt. 4](#) (with s. 38(2)(4)); S.S.I. 2007/434, [art. 2](#)
- F16** S. 13(10A) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 43\(7\)](#), 88(1) (with s. 86(10)); S.I. 2015/820, [reg. 2\(c\)](#)

14 Search warrants for offences under section 1.

F17

Textual Amendments

- F17** S. 14 repealed (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 26](#), [Sch. 15 Pt. 4](#) (with s. 38(2)); S.I. 2008/2503, [art. 2](#)

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

F18

Textual Amendments

- F18** S. 15 repealed (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), ss. 219, 220, 221, [Sch. 3 para. 7](#), [Sch. 4](#); S.I. 2003/3103, [art. 2](#) (subject to savings in order arts 3-5 as amended by S.I. 2003/3312 and S.I. 2003/3258)

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.

[^{F19}(1A) In section 1(3)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.]

(2) In section 2(2)(b)—

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

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- (b) the reference to section 33 of the ^{M1}Magistrates' Courts Act 1980 shall be read as a reference to Article 46(4) of the ^{M2}Magistrates' Courts (Northern Ireland) Order 1981.

[^{F20}(2A) In section 2(5)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.]

(3) ^{F21}

[^{F22}(3A) In section 3(6)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.]

[^{F23}(3B) In section 3A(5)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.]

(4) [^{F24}Subsection (7) below shall apply in substitution for subsection (3) of section 7];
^{F25}

^{F26}(5)

^{F26}(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) ^{F26}

- (b) the reference in subsection (3) to section 1(1A) of the ^{M3}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.

[^{F27}(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.]

(10) ^{F28}

(11) ^{F28}

*Status: Point in time view as at 03/05/2015.**Changes to legislation: There are currently no known outstanding effects for the Computer Misuse Act 1990, Cross Heading: Miscellaneous and general. (See end of Document for details)*(12) ^{F28}**Textual Amendments**

- F19** S. 16(1A) inserted (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 27\(2\)](#) (with s. 38(2)); S.I. 2008/2503, [art. 2](#)
- F20** S. 16(2A) inserted (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 27\(3\)](#); S.I. 2008/2503, [art. 2](#)
- F21** S. 16(3) repealed (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 27\(4\)](#), [Sch. 15 Pt. 4](#) (with s. 38(4)); S.I. 2008/2503, [art. 2](#)
- F22** S. 16(3A) inserted (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 27\(5\)](#) (with s. 38(4)); S.I. 2008/2503, [art. 2](#)
- F23** S. 16(3B) inserted (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 27\(6\)](#); S.I. 2008/2503, [art. 2](#)
- F24** Words in s. 16(4) substituted (4.9.1998) by 1998 c. 40, s. 9(1), [Sch. 1 Pt. II para. 6\(3\)\(a\)](#) (with s. 9(3))
- F25** Words in s. 16(4) repealed (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(1)(2), 92, 94, [Sch. 6 para. 59\(6\)](#), [Sch. 14](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, [art. 2](#)
- F26** S. 16(5)(6)(8)(a) repealed (4.9.1998) by 1998 c. 40, s. 9(1)(2), [Sch. 1 Pt. II para. 6\(3\)\(b\)](#), [Sch. 2 Pt. II](#) (with s. 9(3))
- F27** S. 16(9A) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), ss. 44(3), 88(1); S.I. 2015/820, reg. 2(d)
- F28** S. 16(10)(11)(12) repealed (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 27\(4\)](#), [Sch. 15 Pt. 4](#) (with s. 38(2)); S.I. 2008/2503, [art. 2](#)

Marginal Citations

- M1** 1980 c. 43.
- M2** S.I. 1981/1675 (N.I.26).
- M3** 1981 c. 47.

[^{F29}16A Northern Ireland: search warrants for offences under section 1

- (1) Where a county court 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 Article 11(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (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.

Status: Point in time view as at 03/05/2015.

Changes to legislation: There are currently no known outstanding effects for the Computer Misuse Act 1990, Cross Heading: Miscellaneous and general. (See end of Document for details)

- (4) In exercising 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 extends only to Northern Ireland.]

Textual Amendments

F29 S. 16A inserted (1.10.2008) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 28](#) (with s. 38(2)); S.I. 2008/2503, [art. 3\(b\)](#)

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 [^{F30}or to enable such access to be secured]) 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 [^{F31}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

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in the computer; and a computer is to be regarded as containing any program or data held in any such medium.

(7) ^{F32}

[^{F33}(8) An act done in relation to a computer is unauthorised if the person doing the act (or causing it to be done)—

- (a) is not himself a person who has responsibility for the computer and is entitled to determine whether the act may be done; and
- (b) does not have consent to the act from any such person.

In this subsection “ act ” includes a series of acts.]

(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.

Textual Amendments

F30 Words in s. 17(2) inserted (S.) (1.10.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 29\(2\)](#) (with s. 38(1)); S.S.I. 2007/434, [art. 2](#) (the inserting provision being repealed for E.W.N.I. (1.10.2008) by 2007 c. 27, ss. 61(5), 92, 94, [Sch. 14](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, [art. 2\(a\)\(i\)\(viii\)](#))

F31 Words in s. 17(5)(b) inserted (3.2.1995) by 1994 c. 33, s. 162(2); S.I. 1995/127, art. 2(1), [Sch. 1](#)

F32 S. 17(7) repealed (1.10.2007 for S. and 1.10.2008 otherwise) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 29\(3\)](#), [Sch. 15 Pt. 4](#) (with s. 38(4)); S.S.I. 2007/434, [art. 2](#); S.I. 2008/2503, [art. 2](#)

F33 S. 17(8) substituted (1.10.2007 for S. and 1.10.2008 otherwise) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 29\(4\)](#) (with s. 38(4)); S.S.I. 2007/434, [art. 2](#); S.I. 2008/2503, [art. 2](#)

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.

Status:

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