



# Computer Misuse Act 1990

## 1990 CHAPTER 18

### *Jurisdiction*

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

(3) A person is guilty of an offence triable by virtue of section 1(1A) of the <sup>M1</sup>Criminal Attempts Act 1981 <sup>F2</sup> . . . 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>F1</sup>(b) .....

- (c) where the condition in subsection (3) above is in question, what the accused had in view.

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*Changes to legislation: There are currently no known outstanding effects for the Computer Misuse Act 1990, Section 8. (See end of Document for details)*

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- (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.

#### **Textual Amendments**

- F1** S. 8(2)(6)(b) repealed (4.9.1998) by 1998 c. 40, s. 9(2), Sch. 1 Pt. II para. 6(1)(a)(c), **Sch. 2 Pt. II** (with s. 9(3))
- F2** Words in s. 8(3) repealed (1.10.2008) by **Serious Crime Act 2007** (c. 27), ss. 63(1)(2), 92, 94, Sch. 6 para. 59(4), **Sch. 14** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2**
- F3** Words in s. 8(5) substituted (4.9.1998) by 1998 c. 40, s. 9(1), **Sch. 1 Pt. II para. 6(1)(b)** (with s. 9(3))

#### **Marginal Citations**

- M1** 1981 c. 47.

**Changes to legislation:**

There are currently no known outstanding effects for the Computer Misuse Act 1990, Section 8.