



# Police and Justice Act 2006

## 2006 CHAPTER 48

### PART 5

#### MISCELLANEOUS

#### *Computer misuse*

### 35 Unauthorised access to computer material

(1) In the Computer Misuse Act 1990 (c. 18) (“the 1990 Act”), section 1 (offence of unauthorised access to computer material) is amended as follows.

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

(3) For subsection (3) there is substituted—

“(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

#### Textual Amendments

**F1** S. 35(2) repealed (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 61(2), 94(1), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)(i)

#### Commencement Information

**I1** S. 35 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)

*Status: Point in time view as at 01/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, Cross Heading: Computer misuse. (See end of Document for details)*

**12** S. 35 in force at 1.10.2008 for E.W.N.I. by S.I. 2008/2503, **art. 2(a)**

### **36 Unauthorised acts with intent to impair operation of computer, etc**

For section 3 of the 1990 Act (unauthorised modification of computer material) there is substituted—

#### **“3 Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer, etc.**

- (1) A person is guilty of an offence if—
  - (a) he does any unauthorised act in relation to a computer;
  - (b) at the time when he does the act he knows that it is unauthorised; and
  - (c) either subsection (2) or subsection (3) below applies.
- (2) This subsection applies if the person intends by doing the act—
  - (a) to impair the operation of any computer;
  - (b) to prevent or hinder access to any program or data held in any computer; <sup>[F2]</sup>or
  - (c) to impair the operation of any such program or the reliability of any such data; <sup>[F3]</sup>or
  - (d) to enable any of the things mentioned in paragraphs (a) to (c) above to be done.]
- (3) This subsection applies if the person is reckless as to whether the act will do any of the things mentioned in paragraphs (a) <sup>[F4]</sup>to (d)] <sup>[F4]</sup>to (c)] of subsection (2) above.
- (4) The intention referred to in subsection (2) above, or the recklessness referred to in subsection (3) above, need not relate to—
  - (a) any particular computer;
  - (b) any particular program or data; or
  - (c) a program or data of any particular kind.
- (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 impairing, preventing or hindering something includes a reference to doing so temporarily.
- (6) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (c) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine or to both.”

*Status: Point in time view as at 01/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, Cross Heading: Computer misuse. (See end of Document for details)*

#### Textual Amendments

- F2** Word in s. 36 inserted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(a\)\(i\)](#), [94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)
- F3** Words in s. 36 repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(a\)\(ii\)](#), [94\(1\)](#), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)](#)
- F4** Words in s. 36 substituted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(b\)](#), [94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)\(viii\)](#)

#### Commencement Information

- I3** S. 36 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)
- I4** S. 36 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(a\)](#)

### 37 Making, supplying or obtaining articles for use in computer misuse offences

After section 3 of the 1990 Act there is inserted—

#### “3A Making, supplying or obtaining articles for use in offence under section 1 or 3

- (1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article intending it to be used to commit, or to assist in the commission of, an offence under section 1 or 3.
- (2) A person is guilty of an offence if he supplies or offers to supply any article believing that it is likely to be used to commit, or to assist in the commission of, an offence under section 1 or 3.
- (3) A person is guilty of an offence if he obtains any article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under section 1 or 3.
- (4) In this section “article” includes any program or data held in electronic form.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

#### Commencement Information

- I5** [S. 37](#) in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)
- I6** [S. 37](#) in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(a\)](#)

*Status: Point in time view as at 01/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, Cross Heading: Computer misuse. (See end of Document for details)*

### 38 Transitional and saving provision

- (1) [<sup>F5</sup>The amendments made by—
- (a) subsection (2) of section 35, and
  - (b) paragraphs 19(2), 25(2) and 29(2) of Schedule 14,
- apply only where every act or other event proof of which is required for conviction of an offence under section 1 of the 1990 Act takes place after that subsection comes into force.]
- (2) The amendments made by—
- (a) subsection (3) of section 35, and
  - (b) paragraphs 23, 24, 25(4) and (5), 26, 27(2) and (7) and 28 of Schedule 14,
- do not apply in relation to an offence committed before that subsection comes into force.
- (3) An offence is not committed under the new section 3 unless every act or other event proof of which is required for conviction of the offence takes place after section 36 above comes into force.
- (4) In relation to a case where, by reason of subsection (3), an offence is not committed under the new section 3—
- (a) section 3 of the 1990 Act has effect in the form in which it was enacted;
  - (b) paragraphs 19(3), 25(3) to (5), 27(4) and (5) and 29(3) and (4) of Schedule 14 do not apply.
- (5) An offence is not committed under the new section 3A unless every act or other event proof of which is required for conviction of the offence takes place after section 37 above comes into force.
- (6) In the case of an offence committed before [<sup>F6</sup>paragraph 24(2) of Schedule 22 to the Sentencing Act 2020] comes into force, the following provisions have effect as if for “12 months” there were substituted “ six months ”
- (a) paragraph (a) of the new section 1(3);
  - (b) paragraph (a) of the new section 2(5);
  - (c) subsection (6)(a) of the new section 3;
  - (d) subsection (5)(a) of the new section 3A.
- (7) In this section—
- (a) “the new section 1(3)” means the subsection (3) substituted in section 1 of the 1990 Act by section 35 above;
  - (b) “the new section 2(5)” means the subsection (5) substituted in section 2 of the 1990 Act by paragraph 17 of Schedule 14 to this Act;
  - (c) “the new section 3” means the section 3 substituted in the 1990 Act by section 36 above;
  - (d) “the new section 3A” means the section 3A inserted in the 1990 Act by section 37 above.

#### Textual Amendments

- F5** S. 38(1) repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 61(4), 94(1), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)(i)

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**F6** Words in s. 38(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 443(1)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

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**Commencement Information**

**I7** S. 38 in force at 1.10.2007 for S. by S.I. 2007/434, **art. 2(a)**

**I8** S. 38 in force at 1.10.2008 for E.W.N.I. by S.I. 2008/2503, **art. 2(a)**

**Status:**

Point in time view as at 01/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the Police and Justice Act 2006, Cross Heading: Computer misuse.