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Computer Crimes Act 1997

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LAWS OF MALAYSIA

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Act 563

COMPUTER CRIMES ACT 1997

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Act 563

COMPUTER CRIMES ACT 1997

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### LAWS OF MALAYSIA

Act 563

COMPUTER CRIMES ACT 1997

An Act to provide for offences relating to the misuse of computers. [1 June 2000, P.U. (B) 175/2000]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and

by the authority of the same, as follows:

## PART I

### PRELIMINARY

#### Short title and commencement

1. (1) This Act may be cited as the Computer Crimes Act 1997. (2) This Act shall come into force on such date as the Prime Minister may, by notification in the Gazette, appoint. Interpretation

2. (1) In this Act, unless the context otherwise requires-- "computer" means an electronic, magnetic, optical, electrochemical, or other data processing device, or a group of such interconnected or related devices, performing logical, arithmetic, storage and display functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or group of such interconnected or related devices, but does not include an automated typewriter or typesetter, or a portable hand held calculator or other similar device which is non-programmable or which does not contain any data storage facility;

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"computer network" means the interconnection of communication lines and circuits with a computer or a complex consisting of two or more interconnected computers;

"computer output" or "output" means a statement or a representation whether in written, printed, pictorial, film, graphical, acoustic or other form--

(a) produced by a computer;

(b) displayed on the screen of a computer; or

(c) accurately translated from a statement or representation so produced;

"data" means representations of information or of concepts that are being prepared or have been prepared in a form suitable for use in a computer;

"function" includes logic, control, arithmetic, deletion, storage and retrieval and communication or telecommunication to, from or within a computer;

"premises" includes land, buildings, movable structures and any conveyance by land, water and air;

"program" means data representing instructions or statements that, when executed in a computer, causes the computer to perform a function.

(2) For the purposes of this Act, 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) causes it to be 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 shall be construed accordingly. Computer Crimes 7

(3) For the purposes of paragraph (2) (c), 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 paragraph (2) (d), the form in which any program or data is output and in particular whether or not it represents a form in which, in the case of a program, it is capable of being executed or, in the case of data, it is capable of being processed by a computer is immaterial.

(5) For the purposes of this Act, access of any kind by any person to any program or data held in a computer is unauthorized 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 the consent or exceeds any right or consent to access by him of the kind in question to the program or data from any person who is so entitled. (6) 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 storage medium which is for the time being in the computer.

(7) 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 introduced or added to its contents; or

(c) any event occurs which impairs the normal operation of any computer,

and any act that contributes towards causing such a modification shall be regarded as causing it.

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(8) Any modification referred to in subsection (7) is unauthorized if--

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

(9) A reference in this Act to a program includes a reference to part of a program.

(10) A reference in this Act to a computer includes a reference to a computer network.

## PART II

### OFFENCES

#### Unauthorized access to computer material

3. (1) A person shall be guilty of an offence if-- (a) he causes a computer to perform any function with intent to secure access to any program or data held in any computer;

(b) the access he intends to secure is unauthorized; and (c) he knows at the time when he causes the computer to perform the function that is the case.

(2) The intent a person has to have to commit an offence under this section need not be directed at--

(a) any particular program or data;

(b) a program or data of any particular kind; or

(c) a program or data held in any particular computer. (3) A person guilty of an offence under this section shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both. Computer Crimes 9

Unauthorized access with intent to commit or facilitate commission of further offence

4. (1) A person shall be guilty of an offence under this section if he commits an offence referred to in section 3 with intent-- (a) to commit an offence involving fraud or dishonesty or which causes injury as defined in the Penal Code [Act 574]; or

(b) to facilitate the commission of such an offence whether by himself or by any other person.

(2) For the purposes of this section, it is immaterial whether the offence to which this section applies is to be committed at the same time when the unauthorized access is secured or on any future occasion.

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not exceeding one hundred and fifty thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

Unauthorized modification of the contents of any computer

5. (1) A person shall be guilty of an offence if he does any act which he knows will cause unauthorized modification of the contents of any computer.

(2) For the purposes of this section, it is immaterial that the act in question is not directed at--

(a) any particular program or data;

(b) a program or data of any kind; or

(c) a program or data held in any particular computer. (3) For the purposes of this section, it is immaterial whether an unauthorized modification is, or is intended to be, permanent or merely temporary.

(4) A person guilty of an offence under this section shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding seven years 10 Laws of Malaysia ACT 563

or to both; or be liable to a fine not exceeding one hundred and fifty thousand ringgit or to imprisonment for a term not exceeding ten years or to both, if the act is done with the intention of causing injury as defined in the Penal Code.

#### Wrongful communication

6. (1) A person shall be guilty of an offence if he communicates directly or indirectly a number, code, password or other means of access to a computer to any person other than a person to whom he is duly authorized to communicate.

(2) A person guilty of an offence under this section shall on conviction be liable to a fine not exceeding twenty five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

#### Abetments and attempts punishable as offences

7. (1) A person who abets the commission of or who attempts to commit any offence under this Act shall be guilty of that offence and shall on conviction be liable to the punishment provided for the offence.

(2) A person who does any act preparatory to or in furtherance of the commission of any offence under this Act shall be guilty of that offence and shall on conviction be liable to the punishment provided for the offence:

Provided that any term of imprisonment imposed shall not exceed one-half of the maximum term provided for the offence. Presumption

8. A person who has in his custody or control any program, data or other information which is held in any computer or retrieved from any computer which he is not authorized to have in his custody or control shall be deemed to have obtained unauthorized access to such program, data or information unless the contrary is proved.

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### PART III

#### ANCILLARY AND GENERAL PROVISIONS

#### Territorial scope of offences under this Act

9. (1) The provisions of this Act shall, in relation to any person, whatever

his nationality or citizenship, have effect outside as well as within Malaysia, and where an offence under this Act is committed by any person in any place outside Malaysia, he may be dealt with in respect of such offence as if it was committed at any place within Malaysia.

(2) For the purposes of subsection (1), this Act shall apply if, for the offence in question, the computer, program or data was in Malaysia or capable of being connected to or sent to or used by or with a computer in Malaysia at the material time. (3) Any proceeding against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence was committed in Malaysia shall be a bar to further proceedings against him under any written law relating to the extradition of persons, in respect of the same offence outside Malaysia.

#### Powers of search, seizure and arrest

10. (1) Whenever it appears to any Magistrate upon information and after such inquiry as he thinks necessary that there is reasonable cause to believe that in any premises there is evidence of the commission of an offence under this Act, he may, by warrant directed to any police officer of or above the rank of Inspector, empower the officer to enter the premises, by force if necessary, and there to search for, seize and detain any such evidence and he shall be entitled to--

(a) have access to any program or data held in any computer, or have access to, inspect or check the operation of, any computer and any associated apparatus or material which he has reasonable cause to suspect is or has been in use in connection with any offence under this Act;

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(b) require--

(i) the person by whom or on whose behalf the police officer has reasonable cause to suspect the computer is or has been so used; or

(ii) any person having charge of or otherwise concerned with the operation of, the computer, apparatus or material,

to provide him with such reasonable assistance as he may require for the purposes of paragraph (a); and

(c) require any information contained in a computer and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible.



(2) Whenever it appears to any police officer of or above the rank of Inspector that there is reasonable cause to believe that in any premises there is concealed or deposited any evidence of the commission of an offence under this Act, and the police officer has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the object of the search is likely to be frustrated, he may exercise in and in respect of the premises all the powers mentioned in subsection (1) in as full and ample a measure as if he were empowered to do so by warrant issued under that subsection.

(3) Any police officer may arrest without a warrant any person whom he reasonably believes to have committed or to be committing an offence against this Act, and every offence against this Act shall be deemed to be seizable offence for the purposes of the law for the time being in force relating to criminal procedure. Obstruction of search

11. (1) A person shall be guilty of an offence if he-- (a) assaults, obstructs, hinders or delays any police officer in effecting entrance to any premises under this Act or in the execution of any duty imposed or power conferred by this Act; or

(b) fails to comply with any lawful demands of a police officer acting in the execution of his duty under this Act. Computer Crimes 13

(2) A person guilty of an offence under this section shall on conviction be liable to a fine not exceeding twenty five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

#### Prosecution

12. A prosecution under this Act shall not be instituted except by or with the consent of the Public Prosecutor in writing. 14 Laws of Malaysia ACT 563

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#### LIST OF AMENDMENTS

Amending law Short title In force from

? NIL ?

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LIST OF SECTIONS AMENDED

Section Amending authority In force from

? NIL ?

DICETAK OLEH

PERCETAKAN NASIONAL MALAYSIA BERHAD,

KUALA LUMPUR

BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA