



Jersey

# **COMPUTER MISUSE (JERSEY) LAW 1995**

## **Official Consolidated Version**

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## COMPUTER MISUSE (JERSEY) LAW 1995

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## COMPUTER MISUSE (JERSEY) LAW 1995

A LAW to make provision for securing computer material against unauthorized access or modification and for connected purposes

Commencement [[see endnotes](#)]

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### 1 Interpretation

- (1) This Article applies for the interpretation of this Law.
- (2) A person secures access to any program or data held in a computer if by causing a computer to perform any function the person –
  - (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 shall be read accordingly.
- (3) For the purposes of paragraph (2)(c) a person uses a program if the function the person 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) –
  - (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 unauthorized if –
  - (a) the person is not entitled to control access of the kind in question to the program or data; and
  - (b) the person does not have consent to access of the kind in question to the program or data from any person who is so entitled.
- (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 in the computer; and a computer is to be regarded as containing any program or data held in any such medium.
- (7) <sup>1</sup>
- (8) An act done in relation to a computer is unauthorized if the person doing the act (or causing it to be done) –
  - (a) is not a person with responsibility for the computer who is entitled to determine whether the act may be done; and
  - (b) does not have consent to the act from any such person, and in this paragraph “act” includes a series of acts.<sup>2</sup>
- (9) References to a program include references to part of a program.
- (10) The States may by Regulations amend any definition in this Article.<sup>3</sup>

## **2 Unauthorized access to computer material**

- (1) A person shall be guilty of an offence under this Article if –
  - (a) the person causes a computer to perform any function with intent to secure access to any program or data held in any computer, or to enable any such access to be secured;
  - (b) the access the person intends to secure, or to enable to be secured, is unauthorized; and
  - (c) the person knows at the time when he or she causes the computer to perform the function that that is the case.<sup>4</sup>
- (2) The intent a person has to have to commit an offence under this Article 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 Article shall be liable to imprisonment for a term of 2 years and to a fine.<sup>5</sup>

## **3 Saving for certain law enforcement powers<sup>6</sup>**

Article 2(1) has effect without prejudice to the operation of any enactment or rule of law relating to powers of examination, search or seizure.

#### **4 Unauthorized access with intent to commit or facilitate commission of further offences**

- (1) A person shall be guilty of an offence under this Article if the person commits an offence under Article 2 (in this Article referred to as “the unauthorized access offence”) with intent –
  - (a) to commit any other offence; or
  - (b) to facilitate, whether personally or by any other person the commission of such other offence,and the offence the person intends to commit or facilitate is referred to in this Article as the further offence.
- (2) Proceedings under this Article shall not be instituted without the consent of the Attorney General.
- (3) It is immaterial for the purposes of this Article whether the further offence is to be committed on the same occasion as the unauthorized access offence or on any future occasion.
- (4) A person may be guilty of an offence under this Article even though the facts are such that the commission of the further offence is impossible.
- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 5 years or to a fine or to both.

#### **5 Unauthorized acts with intent to impair, or with recklessness as to impairing, operation of computer<sup>7</sup>**

- (1) A person is guilty of an offence if –
  - (a) he or she does any unauthorized act in relation to a computer;
  - (b) at the time when the act is done he or she knows that it is unauthorized; and
  - (c) paragraph (2) applies.
- (2) This paragraph applies if the person intends by doing the act to do any of the following, or is reckless as to whether the act will do any of the following –
  - (a) impair the operation of any computer;
  - (b) prevent or hinder access to any program or data held in any computer;
  - (c) impair the operation of any such program or the reliability of any such data; or
  - (d) enable any of the things mentioned in sub-paragraphs (a) to (c) to be done.
- (3) The intention or the recklessness referred to in paragraph (2) need not relate to –
  - (a) any particular computer;
  - (b) any particular program or data; or

- (c) a program or data of any particular kind.
- (4) In this Article –
  - (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.
- (5) A person guilty of an offence under this Article is liable to imprisonment for a term of 10 years and to a fine.

#### **5A Making, supplying or obtaining articles for use in offence under Article 2 or 5<sup>8</sup>**

- (1) A person is guilty of an offence if he or she 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 Article 2 or Article 5.
- (2) A person is guilty of an offence if he or she 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 Article 2 or Article 5.
- (3) A person is guilty of an offence if he or she obtains any article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under Article 2 or Article 5.
- (4) A person guilty of an offence under this Article is liable to imprisonment for a term of 2 years and to a fine.
- (5) In this Article “article” includes any program or data held in electronic form.

#### **6 Territorial scope of offences under this Law**

- (1) Except as provided in this Article, it is immaterial for the purposes of any offence under Article 2 or 5 –
  - (a) whether any act or other event proof of which is required for conviction of the offence occurred in Jersey; or
  - (b) whether the accused was in Jersey at the time of any such act or event.
- (2) Subject to paragraph (3), in the case of such an offence at least one significant link with the jurisdiction of Jersey must exist in the circumstances of the case for the offence to be committed.
- (3) There is no need for any such link to exist for the commission of an offence under Article 2 to be established in proof of an allegation to that effect in proceedings for an offence under Article 4.
- (4) Subject to Article 10, where –
  - (a) any such link does in fact exist in the case of an offence under Article 2; and



- (b) commission of that offence is alleged in proceedings for an offence under Article 4,

Article 4 shall apply as if anything the accused intended to do or facilitate in any place outside Jersey which would constitute a further offence under Article 4 if it took place in Jersey were the offence in question.

## **7 Significant links with jurisdiction of Jersey**

- (1) This Article applies for the interpretation of Article 6.
- (2) In relation to an offence under Article 2, either of the following is a significant link with the jurisdiction of Jersey –
  - (a) that the accused was in Jersey at the time when he or she did the act which caused the computer to perform the function; or
  - (b) that any computer containing any program or data to which the accused secured or intended to secure unauthorized access by doing that act was in Jersey at that time.
- (3) In relation to an offence under Article 5, either of the following is a significant link with the jurisdiction of Jersey –
  - (a) that the accused was in Jersey at the time when he or she did the act which caused the unauthorized modification; or
  - (b) that the unauthorized modification took place in Jersey.

## **8 Territorial scope of inchoate offences related to offences under this Law**

- (1) On a charge of conspiracy to commit an offence under this Law –
  - (a) the question where any person became a party to the conspiracy; and
  - (b) the question whether any act, omission or other event occurred in Jersey,are questions which are immaterial to the accused's guilt.
- (2) On a charge of attempting to commit an offence under Article 5 –
  - (a) the question where the attempt was made; and
  - (b) the question whether it had an effect in Jersey,are questions which are immaterial to the accused's guilt.
- (3) On a charge of incitement to commit an offence under this Law the question where the incitement took place is immaterial to the accused's guilt.

## **9 Territorial scope of inchoate offences related to offences under external law corresponding to offences under this Law**

Subject to Article 10, if any act done by a person in Jersey would amount to the offence of –

- (a) conspiracy to commit an offence under this Law;
- (b) attempting to commit an offence under Article 5; or
- (c) incitement to commit an offence under this Law,

but for the fact that what the person agreed to do, attempted to do or, had in view, as the case may be, would not be an offence triable in Jersey –

- (i) what the person agreed to do, attempted to do or, had in view, as the case may be, shall be treated as an offence under this Law for the purposes of any charge of conspiracy, attempt to commit an offence or incitement, as the case may be, brought in respect of that act; and
- (ii) any such charge shall accordingly be triable in Jersey.

## **10 Relevance of external law**

- (1) A person shall be guilty of an offence triable by virtue of Article 6(4) only if what the person 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.
- (2) A person shall be guilty of an offence triable by virtue of Article 9 only if –
  - (a) an act or omission by one or more persons; or
  - (b) the happening of some other event,would constitute an offence under the law in force where the act, omission or other event was intended to take place.
- (3) A person shall be guilty of an offence triable by virtue of –
  - (a) Article 9(b) only if what the person attempted to do;
  - (b) Article 9(c) only if what the person 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 Article, however it is described in that law.

## **11 British citizenship immaterial**

- (1) In any proceedings brought in Jersey in respect of an offence to which this Article applies it is immaterial to guilt whether or not the accused was a British citizen at the time of any act, omission or other event proof of which is required for conviction of the offence.
- (2) This Article applies to the following offences –

- (a) an offence under this Law;
- (b) conspiracy to commit an offence under this Law;
- (c) an attempt to commit an offence under Article 5; and
- (d) incitement to commit an offence under this Law.

## **12 Conviction of an offence under Article 2 in proceedings for an offence under Article 4 or 5**

If on the trial of a person charged with –

- (a) an offence under Article 4; or
- (b) an offence under Article 5 or any attempt to commit such an offence,

the court finds the person not guilty of the offence charged, it may find the person guilty of an offence under Article 2 if on the facts shown the person could have been found guilty of that offence in proceedings for that offence.

## **13 Search warrants for offences under this Law**

- (1) If the Bailiff is satisfied by information on oath that there are reasonable grounds for believing –

- (a) that an offence under this Law 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,

the Bailiff may issue a warrant authorizing a police officer or other person named therein to enter and search the premises, if need be by force.

- (2) A warrant issued under paragraph (1) –

- (a) shall remain in force for one month; and
- (b) shall not confer any right to production of or access to, items subject to legal professional privilege.

- (3) In executing a warrant issued under this Article a police officer or other person named therein may seize an article if he or she reasonably believes that it is evidence that an offence under this Law has been or is about to be committed.

- (4) Nothing in this Article shall prejudice any power of search or any power to seize or detain property which is exercisable by a police officer apart from this Article.

- (5) A person who –

- (a) intentionally obstructs a police officer or other person in the exercise of his or her powers under this Article; or
- (b) conceals from a police officer or other person exercising his or her powers under this Article, any such articles as are mentioned in paragraph (3),

shall be guilty of an offence.

- (6) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 3 on the standard scale or both.
- (7) In this Article “premises” includes land, buildings, movable structures, vehicles, vessels, aircraft, hydrofoil and hovercraft.

#### **14 Aiders and abettors, etc.**

A person who knowingly and wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Law shall be liable to be dealt with, tried and punished as a principal offender.

#### **15 Citation, transitional**

- (1) This Law may be cited as the Computer Misuse (Jersey) Law 1995.
- (2) An offence is not committed under this Law unless every act or other event proof of which is required for conviction of the offence takes place after this Law comes into force.

## ENDNOTES

### Table of Legislation History

Legislation	Year and Number	Commencement
Computer Misuse (Jersey) Law 1995	<a href="#">L.7/1995</a>	1 May 1995 (R&O.8819)
Computer Misuse (Amendment) (Jersey) Law 1998	<a href="#">L.1/1998</a>	16 January 1998
Cybercrime (Jersey) Law 2019	<a href="#">L.4/2019</a>	3 May 2019

### Table of Renumbered Provisions

Original	Current
1(10), (11)	spent, omitted from this revised edition
2A	3
3	4
4	5
5	6
6	7
7	8
8	9
9	10
10	11
11	12
12	13
13	14
14	15

### Table of Endnote References

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<sup>1</sup> Article 1(7)	<i>deleted by L.4/2019</i>
<sup>2</sup> Article 1(8)	<i>substituted by L.4/2019</i>
<sup>3</sup> Article 1(10)	<i>inserted by L.4/2019</i>
<sup>4</sup> Article 2(1)	<i>amended by L.4/2019</i>
<sup>5</sup> Article 2(3)	<i>amended by L.4/2019</i>
<sup>6</sup> Article 3	<i>inserted by L.1/1998</i>
<sup>7</sup> Article 5	<i>substituted by L.4/2019</i>
<sup>8</sup> Article 5A	<i>inserted by L.4/2019</i>