



Serious Crime Act 2015

2015 CHAPTER 9

PART 2

COMPUTER MISUSE

43 Territorial scope of computer misuse offence

- (1) The Computer Misuse Act 1990 is amended as follows.
- (2) In section 4 (territorial scope of offences), in subsection (1), for “section 1 or 3” substitute “section 1, 3 or 3ZA”.
- (3) After subsection (4) of that section insert—

“(4A) It is immaterial for the purposes of an offence under section 3A whether the accused was in the home country concerned at the time of any act or other event proof of which is required for conviction of the offence if there is a significant link with domestic jurisdiction in relation to the offence.”
- (4) In section 5 (significant links with domestic jurisdiction), after subsection (1) insert—

“(1A) In relation to an offence under section 1, 3, 3ZA or 3A, where the accused was in a country outside the United Kingdom at the time of the act constituting the offence there is a significant link with domestic jurisdiction if—

 - (a) the accused was a United Kingdom national at that time; and
 - (b) the act constituted an offence under the law of the country in which it occurred.

(1B) In subsection (1A)—

“country” includes territory;

“United Kingdom national” means an individual who is—

 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
 - (b) a person who under the British Nationality Act 1981 is a British subject; or

Status: This is the original version (as it was originally enacted).

(c) a British protected person within the meaning of that Act.”

(5) After subsection (3) of that section insert—

“(3A) In relation to an offence under section 3ZA, any of the following is also a significant link with domestic jurisdiction—

- (a) that the accused was in the home country concerned at the time when he did the unauthorised act (or caused it to be done);
- (b) that the unauthorised act was done in relation to a computer in the home country concerned;
- (c) that the unauthorised act caused, or created a significant risk of, serious damage of a material kind (within the meaning of that section) in the home country concerned.”

(6) In section 13 (proceedings in Scotland), after subsection (2) insert—

“(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.”

(7) After subsection (10) of that section insert—

“(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.”