

2007 No. 434 (C.35)

CRIMINAL LAW

**The Police and Justice Act 2006 (Commencement) (Scotland)
Order 2007**

Made - - - - *18th September 2007*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 53(4) of the Police and Justice Act 2006(a).

Citation and extent

1.—(1) This Order may be cited as the Police and Justice Act 2006 (Commencement) (Scotland) Order 2007.

(2) This Order extends to Scotland only.

Commencement of provisions

2. The following provisions of the Police and Justice Act 2006 come into force on 1st October 2007:

- (a) sections 35 to 38;
- (b) section 52 in so far as it relates to the paragraphs in Schedule 14 and the entries in Schedule 15 referred to in sub-paragraphs (c) and (d);
- (c) paragraphs 17, 18, 19, 25 and 29 of Schedule 14;
- (d) in Schedule 15, the entries relating to:
 - (i) sections 13 and 17(7) of the Computer Misuse Act 1990(b); and
 - (ii) paragraph 77 of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995(c).

KENNY MACASKILL
A member of the Scottish Executive

St Andrew's House,
Edinburgh
18th September 2007

(a) 2006 c.48.
(b) 1990 c.18.
(c) 1995 c.40.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends only to Scotland, brings into force provisions in the Police and Justice Act 2006 (“the 2006 Act”) relating to computer misuse on 1st October 2007.

The European Union Framework Decision on Attacks Against Information Systems, adopted on 24th February 2005 requires the approximation of Member States’ criminal law (offences, penalties and jurisdiction) on attacks against information systems (it is available at: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_069/l_06920050316en00670071.pdf).

The provisions brought into force by this Order give effect to the Framework Decision by amending the Computer Misuse Act 1990 (“the 1990 Act”).

Section 35 of the 2006 Act amends section 1 of the 1990 Act (offence of unauthorised access to computer material) which deals with the unauthorised access to computer systems or data, commonly known as “hacking” or “cracking”. The offence has been made indictable, and the maximum sentence is increased from six months imprisonment to two years.

Section 36 of the 2006 Act substitutes a new section 3 in the 1990 Act to deal with unauthorised acts with intent to impair, or recklessness as to impairing, the operation of a computer, etc. The maximum penalty for an offence has been increased from five years’ imprisonment and/or a fine to ten years’ imprisonment and/or an unlimited fine.

Section 37 inserts a new section 3A into the 1990 Act and creates three new offences, each punishable on conviction on indictment with a maximum of two years’ imprisonment, or a fine or both.

Section 38 makes transitional and saving arrangements for the 1990 Act so as to provide that the amendments do not apply in relation to offences committed before the coming into force of the amendments or acts done before that time.

Section 52 gives effect to Schedules 14 and 15 which make minor and technical amendments to the 1990 Act and repeal certain provisions.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Police and Justice Act 2006 have been brought into force by commencement order made before the date of this Order:–

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 2 (partially) as to England and Wales	15th January 2007	2006/3364
	1st April 2007	2007/709
	29th June 2007	2007/1614
Section 3 as to England and Wales	29th June 2007	2007/1614
Section 6 as to England and Wales and Northern Ireland	1st April 2007	2007/709

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 7 (partially), 8, 9 (partially) and 10 as to England and Wales	1st April 2007	2007/709
Section 11 as to England and Wales	15th January 2007	2006/3364
Section 12 as to England and Wales	1st April 2007	2007/709
Section 13 as to England and Wales	29th June 2007	2007/1614
Section 13 as to Northern Ireland	30th July 2007	2007/2052
Sections 15 and 16 as to England and Wales	1st April 2007	2007/709
Section 18 as to England and Wales	29th June 2007	2007/1614
Section 22 as to England and Wales	1st August 2007	2007/1614
Sections 23 to 25 as to England and Wales	29th June 2007	2007/1614
Sections 26 and 27 as to England and Wales	6th April 2007	2007/709
Sections 28 to 33 as to England and Wales	1st April 2007	2007/709
Section 41 as to England and Wales	29th June 2007	2007/1614
Sections 42 and 44 as to England and Wales	15th January 2007	2006/3364
Section 45 as to England and Wales	15th January 2007	2006/3364
	1st April 2007	2007/709
Section 46 (partially) as to England and Wales	1st April 2007	2007/709
Sections 47 and 48 as to England and Wales	15th January 2007	2006/3364
Section 52 (partially)	15th January 2007	2006/3364
	1st April 2007	2007/709
	6th April 2007	2007/709
	29th June 2007	2007/1614
Schedule 2 (partially) as to England and Wales	15th January 2007	2006/3364
	29th June 2007	2007/1614
Schedule 4 as to England and Wales and Northern Ireland	1st April 2007	2007/709

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 5 (partially) as to England and Wales	1st April 2007	2007/709
Schedules 6 and 7 as to England and Wales	1st April 2007	2007/709
Schedules 14 and 15 (partially)	15th January 2007	2006/3364
	1st April 2007	2007/709
	6th April 2007	2007/709
	29th June 2007	2007/1614
	1st August 2007	2007/1614

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