

Tip of the Month for July 2009

Computer Offences and your Privacy

Under the Computer Misuse Act 2003, there are six (6) offences which complement the Data Protection (Privacy of Personal Information) Act 2003 (DPA). While the DPA is specifically concerned with protecting the privacy rights of individuals the Computer Misuse Act makes provisions to secure material against unauthorized access or modification and for connected purposes.

A synopsis of the six offences under the Computer Misuse Act 2003 is given below:-

1. **Unauthorized Access To Computer Material** – This requires a deliberate intention to access information or programs on a computer, with the knowledge that the access is unauthorized.
2. **Access With The Intent To Commit Or Facilitate The Commission Of An Offence** – This offence is committed if someone uses a computer to gain access to any other computer for the purpose of committing an offence. In this case the initial access may be authorized, however the purpose for the access may be criminal. It is also irrelevant whether or not commission of the intended offence is possible.
3. **Unauthorized Modification Of Computer Material** – This requires the deliberate alteration of the contents of a computer knowing that such alteration is unauthorized. The offence applies even if the computer affected was not the one targeted.
4. **Unauthorized Use Or Interception Of Computer Services** – This is the deliberate act of gaining access to a computer knowing there is no authority for such access, to obtain a computer service whether as computer time, data processing or the storage or retrieval of data. This offence is satisfied either by gaining direct access to the service or by utilizing any device for intercepting communications with the result that a service is obtained through subversion.
5. **Unauthorized Obstruction Of Use Of The Computer** – This covers the deliberate act of interfering with the functioning of a computer to prevent access or effectiveness of the operation of the computer, knowing that such interference is unauthorized.
6. **Unauthorized Disclosure Of Access Codes** – This creates an offence where any password, access code, etc. is deliberately released in unauthorized circumstances for the purpose of wrongful gain, illegal activity or knowing that the disclosure is likely to cause wrongful loss to any person.

The Computer Misuse Act imposes fines ranging from \$5,000 up to \$100,000 and/or imprisonment for up to 20 years depending on the nature of the offence. Indeed this Act is an important element in meeting security and privacy concerns when conducting business electronically. It is worth reading the full text of the Act which forms the basis of protection against computer misuse. This Act is also the one to rely on in tandem with the DPA in this age of **FACEBOOK, MYSPACE, TWITTER** and other social networking websites. Add to this the increase in identity theft and credit card fraud involving the use of computers and computer programs and you will soon appreciate the value of this piece of legislation in these types of issues in The Bahamas.

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