

Criminal Code provisions re Cybercrime

(R.S.C., 1985, c. C-46)

Unauthorized use of computer

- **342.1 (1)** Everyone is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years, or is guilty of an offence punishable on summary conviction who, fraudulently and without colour of right,
 - **(a)** obtains, directly or indirectly, any computer service;
 - **(b)** by means of an electro-magnetic, acoustic, mechanical or other device, intercepts or causes to be intercepted, directly or indirectly, any function of a computer system;
 - **(c)** uses or causes to be used, directly or indirectly, a computer system with intent to commit an offence under paragraph (a) or (b) or under section 430 in relation to computer data or a computer system; or
 - **(d)** uses, possesses, traffics in or permits another person to have access to a computer password that would enable a person to commit an offence under paragraph (a), (b) or (c).

- **Definitions**

(2) In this section,

computer data means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system; (*données informatiques*)

computer password means any computer data by which a computer service or computer system is capable of being obtained or used; (*mot de passe*)

computer program means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function; (*programme d'ordinateur*)

computer service includes data processing and the storage or retrieval of computer data; (*service d'ordinateur*)

computer system means a device that, or a group of interconnected or related devices one or more of which,

- **(a)** contains computer programs or other computer data, and
- **(b)** by means of computer programs,
 - **(i)** performs logic and control, and
 - **(ii)** may perform any other function; (*ordinateur*)

data[Repealed, 2014, c. 31, s. 16]

electro-magnetic, acoustic, mechanical or other device means any device or apparatus that is used or is capable of being used to intercept any function of a computer system, but does not include a hearing aid used to correct subnormal hearing of the user to not better than normal hearing; (*dispositif électromagnétique, acoustique, mécanique ou autre*)

function includes logic, control, arithmetic, deletion, storage and retrieval and communication or telecommunication to, from or within a computer system; (*fonction*)

intercept includes listen to or record a function of a computer system, or acquire the substance, meaning or purport thereof; (*intercepter*)

traffic means, in respect of a computer password, to sell, export from or import into Canada, distribute or deal with in any other way. (*trafic*)

Possession of device to obtain unauthorized use of computer system or to commit mischief

- **342.2 (1)** Everyone who, without lawful excuse, makes, possesses, sells, offers for sale, imports, obtains for use, distributes or makes available a device that is designed or adapted primarily to commit an offence under section 342.1 or 430, under circumstances that give rise to a reasonable inference that the device has been used or is or was intended to be used to commit such an offence, is
 - **(a)** guilty of an indictable offence and liable to imprisonment for a term of not more than two years; or
 - **(b)** guilty of an offence punishable on summary conviction.
- **Marginal note:Forfeiture**

(2) If a person is convicted of an offence under subsection (1), in addition to any punishment that is imposed, any device in relation to which the offence was committed or the possession of which constituted the offence may be ordered forfeited to Her Majesty and may be disposed of as the Attorney General directs.
- **Marginal note:Limitation**

(3) No order of forfeiture may be made under subsection (2) in respect of any thing that is the property of a person who was not a party to the offence under subsection (1).
- **Definition of device**

(4) In this section, **device** includes
 - **(a)** a component of a device; and
 - **(b)** a computer program within the meaning of subsection 342.1(2).

Mischief

- **430 (1)** Every one commits mischief who wilfully
 - **(a)** destroys or damages property;
 - **(b)** renders property dangerous, useless, inoperative or ineffective;
 - **(c)** obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
 - **(d)** obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.
- **Mischief in relation to computer data**
 - (1.1)** Everyone commits mischief who wilfully
 - **(a)** destroys or alters computer data;
 - **(b)** renders computer data meaningless, useless or ineffective;
 - **(c)** obstructs, interrupts or interferes with the lawful use of computer data; or
 - **(d)** obstructs, interrupts or interferes with a person in the lawful use of computer data or denies access to computer data to a person who is entitled to access to it.
- **Punishment**
 - (2)** Every one who commits mischief that causes actual danger to life is guilty of an indictable offence and liable to imprisonment for life.
- **Punishment**
 - (3)** Every one who commits mischief in relation to property that is a testamentary instrument or the value of which exceeds five thousand dollars
 - **(a)** is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or
 - **(b)** is guilty of an offence punishable on summary conviction.
- **Idem**
 - (4)** Every one who commits mischief in relation to property, other than property described in subsection (3),
 - **(a)** is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years; or
 - **(b)** is guilty of an offence punishable on summary conviction.