

Commission of an Offence relating to Computer Act, B.E. 2550 (2007)

BHUMIBOL ADULYADEJ, REX.

Given on the 10th Day of June B.E. 2550;

Being the 62nd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on commission of an offence relating to computer;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1

This Act is called the "Commission of an Offence relating to Computer Act, B.E. 2550 (2007)".

Section 2

This Act shall come into force after the expiration of thirty days as from the date of its publication in the Government Gazette.

Section 3

In this Act:

"Computer system" means computer device or set of computer devices that are connected and co-operated with another whereby command, program or else, and work process for automatic data processing thereof has been set up;

"Computer data" means data, text, command, program or else stored in computer system and being able to be processed by computer system, including electronic data under the law on electronic transaction;

"Computer traffic data" means data in relation to the communication of computer system that indicates the origin, source, terminal, route, time, date, size, duration, type of service or anything else relating to the communication of such computer system;

"Service provider" means;

- (1) the one who provides the others an internet access service or any other services that enable their communication via computer system irrespective of whether he provides that service on his behalf or on behalf of or for the benefit of the others;
- (2) the one who provides computer data storage service for the benefit of the others;

"Client" means the one who makes use of service provided by a service provider without regard to service charge;

"Competent official" means a person appointed by the Minister for the execution of this Act;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 4

The Minister of Information and Communication Technology shall have charge and control of the execution of this Act and shall have the power to issue the Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publications in the Government Gazette.

CHAPTER I
Offences Relating to Computer

Section 5

Whoever wrongfully accesses any computer system that having specific security measure and such measures is not for his use shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding ten thousand Baht or to both.

Section 6

Whoever knows of security measure specially prepared by other persons and wrongfully discloses that measure in a manner that is likely to cause injury to other persons shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht or to both.

Section 7

Whoever wrongfully accesses computer data that having specific security measure and such security measure is not for his use shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht or to both.

Section 8

Whoever acts wrongfully by using of any electronic means so as to intercept any transmitting computer data of other persons in computer system and such computer data is not available for public interest or for public use shall be liable to imprisonment for a term of not exceeding three years or to a fine of not exceeding sixty thousand Baht or to both.

Section 9

Whoever wrongfully causes damage, destroys, revises, modifies or adds, wholly or partly, to computer data of other persons shall be liable to imprisonment for a term of not exceeding five years or to a fine of not exceeding one hundred thousand Baht or to both.

Section 10

Whoever acts wrongfully by blocking, slowing down, obstructing or interfering computer system of other person till it fails to perform its function normally shall be liable to imprisonment for a term of not exceeding five years or to a fine of not exceeding one hundred thousand Baht or to both.

Section 11

Whoever sends computer data or electronic mail to other persons by concealing or counterfeiting its origin which interferes normal utilization of computer system of other persons shall be liable to a fine of not exceeding one hundred thousand Baht.

Section 12

If the commission of the offences under Section 9 or Section 10:

- (1) causes damage to public irrespective of whether that offence causes damage at once or later and whether that damage occurs simultaneously or not, the offender shall be liable to imprisonment for a term of not exceeding ten years and to a fine of not exceeding two hundred thousand Baht;
- (2) being an offence that is likely to cause damage to computer data or computer system in concerning with the protection of national security, public safety, national economic security or public service or being an offence against computer

data or computer system provided for public benefit, the offender shall be liable to imprisonment from three years to fifteen years and to a fine from sixty thousand Baht to three hundred thousand Baht.

If the commission of the offences under (2) causes death to other persons, the offender shall be liable to imprisonment from ten years to twenty years.

Section 13

Whoever disposes of or disseminates a program specifically prepared for use in the commission of the offences under Section 5, Section 6, Section 7, Section 8, Section 9, Section 10 or Section 11 shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht or to both.

Section 14

Whoever commits the following offences shall be liable to imprisonment for a term of not exceeding five years or to a fine of not exceeding one hundred thousand Baht or to both:

- (1) entering wholly or partially spurious computer data or false computer data into computer system in a manner that is likely to cause injury to other persons or the public;
- (2) entering false computer data into computer system in a manner that is likely to cause damage to national security or stir up public agitation;
- (3) entering into computer system any computer data which is an offence relating to the security of the Kingdom or terrorism offence under the Penal Code;
- (4) entering any obscene computer data into computer system and that computer data may be accessed by the public;
- (5) sending or forwarding computer data despite knowing that it is computer data under (1), (2), (3) or (4).

Section 15

A service provider who intentionally supports or gives consent to the commission of the offences under Section 14 to computer system under his control shall be liable to the same penalty as the offender under Section 14.

Section 16

Whoever enters computer data that displays pictures of other persons into computer system which may be accessed by the public whereby such pictures have been created, edited, added or modified by electronic method or by any other means, if that commission is made in a manner that is likely to injure the reputation of such other persons or to expose such other persons to public hatred or contempt or humiliation, shall be liable to imprisonment for a term of not exceeding three years or to a fine of not exceeding sixty thousand Baht or to both.

If the entering of computer data under paragraph one is made in good faith, the offender shall not be guilty.

The offence under paragraph one is compoundable offence.

If the injured person from the commission of the offence under paragraph one is deceased before filing a complaint, his father, mother, spouse or child may file a complaint and that person shall be deemed to be the injured person.

Section 17

Whoever commits the offences under this Act outside the Kingdom and:

- (1) the offender is Thai and the government of the country where the offence has occurred or the injured person requests for punishment; or
- (2) the offender is an alien and the Royal Thai Government or Thai people is an injured person and the injured person requests for punishment; shall be punished within the Kingdom.

CHAPTER II

Competent Official

Section 18

Subject to Section 19, the competent official shall, for the benefit of investigation and inquiry in the case where there is a reasonable ground to believe that there is a commission of an offence under this Act, have any of the following powers which is necessary for use as evidence in relation to the commission of an offence or in search for the offender:

- (1) to notify or summon in writing any person who relates with the commission of an offence under this Act to give statement or submit written clarification or submit any other document, data or evidence which is in perceivable form;
- (2) to request computer traffic data from a service provider in concerning with the communication via computer system or from concerned person;
- (3) to order a service provider to submit information relating to his clients which shall be maintained under Section 26 or which is in possession or control of a service provider to the competent official;
- (4) to duplicate computer data and computer traffic data from computer system if there is a reasonable ground to believe that there is a commission of an offence under this Act in the case where that computer system has not yet in possession of the competent official;
- (5) to order the possessor or controller of computer data or storage device of computer data to deliver such computer data or device to the competent official;
- (6) to inspect or access computer system, computer data, computer traffic data or storage device of computer data of any person which is evidence or may be evidence of the commission of an offence or for the ascertainment of the offender, and to order such person to submit relevant computer data and computer traffic data as necessary;
- (7) to conduct decryption computer data of any person or order a person who is relevant to the encryption of computer data to conduct decryption or facilitate the competent official to that decryption;
- (8) to seize or attach computer system as necessary in order to identify details of the offence or the offender under this Act.

Section 19

In exercising of powers under Section 18 (4), (5), (6), (7) and (8), the competent official shall apply motion to the court that having jurisdiction for the order allowing the competent official to exercise the power as requested. The motion shall state a reasonable ground for believing that any person commits or is going to commit any act which is an offence under this Act, justification for the exercising of power, nature of the commission of an offence, details of devices used for the commission of an offence and the offender as much as possible. The court shall consider the motion without delay.

If the court's order has been given, the competent official shall, prior to carrying out that order, send a copy of the statement on the ground for exercising of powers under Section 18 (4), (5), (6), (7) and (8) to the owner or possessor of computer system as evidence. In the absence of the owner or possessor thereof, the competent official shall send a copy of that statement to the owner or possessor promptly when it is possible to do so.

The leader of the competent officials who carrying out the conduct under Section 18 (4), (5), (6), (7) and (8) shall submit the record of that conduct and justifications thereof to the court that having jurisdiction as evidence within forty-eight hours as from the beginning of that conduct.

The duplication of computer data under Section 18 (4) shall be made only if there is a reasonable ground to believe that there is a commission of an offence under this Act and the duplication shall not produce unnecessary obstacles to business of the owner or possessor of computer data.

In seizure or attachment under Section 18 (8), the competent official shall send a copy of the letter stating the seizure or attachment to the owner or possessor of computer system as evidence and the period for seizure or attachment shall not exceed thirty days. If it is necessary to extend the period for seizure or attachment, the motion requesting the extension of that period shall be applied to the court having jurisdiction. The court may extend such period one or several times, but not exceeding sixty days. When the seizure or attachment is unnecessary or the said period has lapsed, the competent official shall return the seized computer system or revoke the attachment at once.

The letter stating the seizure or attachment under paragraph five shall be prescribed by the Ministerial Regulation.

Section 20

In the case where the commission of an offence under this Act is the distribution of computer data that may affect the security of the Kingdom as prescribed in Book II, Title I or Title I/I of the Penal Code or may be inconsistent with public order or good morals, the competent official may, with approval of the Minister, apply a motion together with evidence to the court that having jurisdiction for the order to block the distribution of that computer data.

In the case where the court has the order to block the distribution of the computer data under paragraph one, the competent official may conduct blocking himself or order the service provider to do so.

Section 21

If it appears to the competent official that any computer data consisting of undesirable program, the competent official may apply a motion to the court that having jurisdiction to ban the sale or distribution of that computer data, to order the owner or possessor of that computer data to stop using, destroy or modify that computer data or imposes condition for use, having in possession or distributing that undesirable program.

The undesirable program under paragraph one means any program that affects computer data, computer system or other programs by causing damage, destruction, alteration, interruption or deviation from determined command or causing any other things as prescribed by the Ministerial Regulation, except the program which is designed to protect or modify the aforesaid program as notified by the Minister in the Government Gazette.

Section 22

The competent official shall not disclose or deliver computer data, computer traffic data or client data obtained under Section 18 to any person.

The provisions of paragraph one shall not apply to the commission of any act in relation to the carrying out of legal actions against the offender under this Act or against the competent

official who abuses of power or the commission of any act in accordance with the order or permission of the court.

Any competent official who violates the provisions of paragraph one shall be liable to imprisonment for a term of not exceeding three years or to a fine of not exceeding sixty thousand Baht or to both.

Section 23

Any competent official who acts negligently causing any other person known of computer data, computer traffic data or client data obtained under Section 18 shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht or to both.

Section 24

Whoever known of computer data, computer traffic data or client data obtained by the competent official under Section 18 and discloses such data to any person shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht or to both.

Section 25

Any data, computer data or computer traffic data obtained by the competent official under this Act shall be alleged and admissible as evidence in accordance with the provisions of the Criminal Procedure Code or other laws in relation to evidence, but not including those obtained through any inducement, promise, threat, deceit or other unlawful means.

Section 26

A service provider shall maintain computer traffic data for not less than ninety days as from the date that data entered into computer system.

If it is necessary, the competent official may, in particular case and situation, order any service provider to maintain computer traffic data for more than ninety days, but not exceeding one year.

The service provider shall maintain client data which is necessary for identifying client since his first use of service and shall maintain such data for not less than ninety days as from the ending date of service.

The applicable of the provisions of paragraph one to any sort of service provider, how and when shall be in accordance with the notification of the Minister as published in the Government.

A service provider who fails to comply with this Section shall be liable to a fine of not exceeding five hundred thousand Baht.

Section 27

Whoever fails to comply with the order of the court or the competent official made under Section 18 or Section 20 or fails to comply with the order of the court made under Section 21 shall be liable to a fine of not exceeding two hundred thousand Baht and a daily fine of not exceeding five thousand Baht a day until he acts in compliant therewith.

Section 28

In an appointment of the competent official under this Act, the Minister shall appoint the competent official from a person having knowledge and skill in computer system and having qualifications as specified by the Minister.

Section 29

In the performance of duties under this Act, the competent official shall be an administrative official or a superior police official under the Criminal Procedure Code and shall have the powers to obtain a complaint or incrimination and shall have the power to conduct investigation and inquiry the offences under this Act.

In conducting an arrest, restraint, search, file of inquiry and legal proceedings against the offender under this Act, all powers of the administrative officer or superior police officer or inquiry official under the Criminal Procedure Code shall be exercised by the competent official with cooperation with responsible of inquiry official.

The Prime Minister as the supervisor of the Royal Thai Police and the Minister shall jointly issue the regulation in relation to rules and procedure for the execution under paragraph two.

Section 30

In the performance of duties, the competent official shall produce his identification card to all related persons.

The form of identification card of the competent official shall be notified by the Minister in the Government Gazette.

Countersigned by

General Surayud Chulanont

Prime Minister

Remark: The rationale for the issue of this Act as of today is that a computer system is essential to business operations and the human way of life, as such, if any person commits an act that disables the working of a computer system according to the pre-determined instructions or that causes a working error -a deviation from that required by the pre-determined instructions or that resorts to any means to illegally know of, correct or destroy a third party's data contained in a computer system or that uses a computer system to disseminate false or pornographic computer data, then that act will damage and affect the country's economy, society and security including people's peace and good morals. Therefore, it is deemed appropriate to stipulate measures aimed at preventing and suppressing such acts. Therefore, it is necessary to enact this Act.

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