

**CRIMES (COMPUTERS AND FORGERY) AMENDMENT
ACT 1989 No. 71**

NEW SOUTH WALES



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CRIMES (COMPUTERS AND FORGERY) AMENDMENT ACT 1989
No. 71

NEW SOUTH WALES



Act No. 71, 1989

An Act to amend the Crimes Act 1900 with respect to computers and forgery; and for other purposes. [Assented to 29 May 1989]

Crimes (Computers and Forgery) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Computers and Forgery) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Crimes Act 1900 No. 40

3. The Crimes Act 1900 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 1 (Short title and contents of Act)—

Omit the matter relating to Part 5, insert instead:

PART 5—FORGERY AND FALSE INSTRUMENT OFFENCES—

CHAPTER 1—Forgery—

- (1) *Declaratory and general—ss. 250, 251*
- (2) *Forgery, etc., of public seals—s. 253*
- (3) *Forgery of Acts, Proclamations, etc.—s. 255*
- (4) *Forgery of India bonds, Exchequer bills, etc.—s. 260*
- (5) *Forgery, etc., of, or engraving plate, etc., for, Bank notes, etc.—ss. 265–270*
- (6) *Forgery, etc., of wills, etc.—s. 271*
- (7) *Forgery of signatures of Judge—s. 278*
- (8) *Forgery, etc., of instruments of evidence—ss. 285–291*
- (9) *Falsifying entries of births, deaths, etc.—ss. 296, 297*
- (10) *Obtaining or demanding property on forged instruments—s. 298*

CHAPTER 2—False instruments—

- (1) *False instruments—ss. 299–307*

PART 6—OFFENCES RELATING TO COMPUTERS—ss. 308–310

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SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 178BA (**Obtaining money etc. by deception**)—

Omit section 178BA (2), insert instead:

(2) In subsection (1)—

“deception” means deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including—

(a) a deception as to the present intentions of the person using the deception or of any other person; and

(b) an act or thing done or omitted to be done with the intention of causing—

(i) a computer system; or

(ii) a machine that is designed to operate by means of payment or identification,

to make a response that the person doing or omitting to do the act or thing is not authorised to cause the computer system or machine to make.

(3) Section 184A—

After section 184, insert:

Personating owner of stock or property

184A. A person who falsely and deceitfully personates—

(a) any owner of any share or interest of or in any stock, annuities or other public funds or of or in the capital stock of any body corporate; or

(b) any owner of any dividend or money payable in respect of a share or interest referred to in paragraph (a); or

(c) any owner of any property, or any estate or interest in or charge or encumbrance on property,

and transfers, or endeavours to transfer, any share, estate or interest belonging to the owner or receives, or endeavours to receive, any money due to the owner as if the person were the true owner is liable to penal servitude for 10 years.

(4) Part 5, heading—

Omit the heading, insert instead:

**PART 5—FORGERY AND FALSE INSTRUMENT
OFFENCES**

CHAPTER 1—*Forgery*

(5) Sections 252, 254, 256–259, 261–264, 272–277, 279–284, 286–288, 290, 292–295—

Omit the sections.

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SCHEDULE 1—AMENDMENTS—*continued*

- (6) Sections 252, 256–259, 264, 279–283, 293, 294, 295, short headings—
Omit the short headings.
- (7) Section 253, short heading—
Omit “*or official signatures*”.
- (8) Sections 271–276, short heading—
Omit “*, deeds, bills of exchange*”.
- (9) Sections 277–278, short heading—
Omit the short heading, insert instead:
Forgery of signature of Judge
- (10) Sections 299–307—
At the end of Part 5, insert:
CHAPTER 2—*False instruments*

Interpretation

299. (1) In this Chapter—
“instrument” means—
- (a) any document, whether of a formal or informal character; or
 - (b) a card by means of which property or credit can be obtained; or
 - (c) a disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means.
- (2) For the purposes of this Chapter, an instrument is false if it purports—
- (a) to have been made in the form in which it is made by a person who did not in fact make it in that form; or
 - (b) to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form; or
 - (c) to have been made in the terms in which it is made by a person who did not in fact make it in those terms; or
 - (d) to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms; or
 - (e) to have been altered in any respect by a person who did not in fact alter it in that respect; or

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SCHEDULE 1—AMENDMENTS—*continued*

- (f) to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect; or
- (g) to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered; or
- (h) to have been made or altered by an existing person who did not in fact exist.

Making or using false instruments

300. (1) A person who makes a false instrument, with the intention that he or she, or another person, will use it to induce another person—

- (a) to accept the instrument as genuine; and
- (b) because of that acceptance, to do or not do some act to that other person's, or to another person's, prejudice,

is liable to penal servitude for 10 years.

(2) A person who uses an instrument which is, and which the person knows to be, false, with the intention of inducing another person—

- (a) to accept the instrument as genuine; and
- (b) because of that acceptance, to do or not do some act to that other person's, or to another person's, prejudice,

is liable to penal servitude for 10 years.

Making or using copies of false instruments

301. (1) A person who makes a copy of an instrument which is, and which the person knows to be, a false instrument, with the intention that he or she, or another person, will use it to induce another person—

- (a) to accept the copy as a copy of a genuine instrument; and
- (b) because of that acceptance, to do or not do some act to that other person's, or to another person's, prejudice,

is liable to penal servitude for 10 years.

(2) A person who uses a copy of an instrument which is, and which he or she knows to be a false instrument, with the intention of inducing another person—

- (a) to accept the copy as a copy of a genuine instrument; and
- (b) because of that acceptance, to do or not do some act to that other person's, or to another person's, prejudice,

is liable to penal servitude for 10 years.

SCHEDULE 1—AMENDMENTS—*continued***Custody of false instruments etc.**

302. A person who has in his or her custody, or under his or her control, an instrument which is false, and which he or she knows to be false, with the intention that the person or another person will use it to induce another person—

- (a) to accept the instrument as genuine; and
- (b) because of that acceptance, to do or not do some act to that other person's, or to another person's, prejudice,

is liable to penal servitude for 10 years.

Response of machine to false instrument etc.

303. (1) In this Chapter, a reference to inducing a person to accept—

- (a) a false instrument as genuine; or
- (b) a copy of a false instrument as a copy of a genuine instrument,

includes a reference to causing a machine to respond to the instrument or copy as if it were a genuine instrument or a copy of a genuine instrument.

(2) If—

- (a) a machine responds to an instrument or copy in that way; and
- (b) the act or omission intended to be caused by the response is an act or omission that would be (if it were an act or omission of a person) to a person's prejudice,

the act or omission intended to be caused by the machine's so responding shall, for the purposes of this Chapter, be taken to be an act or omission to a person's prejudice.

When a false instrument is made

304. For the purposes of this Chapter, a person is to be treated as making a false instrument if the person alters an instrument so as to make it false in any respect (whether or not it is false in some other respect apart from that alteration).

When an act or omission is prejudicial

305. For the purposes of this Chapter, an act or omission is to a person's prejudice if, and only if, it is one that (if it occurs)—

- (a) will result—
 - (i) in the person's temporary or permanent loss of property; or

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- (ii) in the person's being deprived of an opportunity to earn remuneration or greater remuneration; or
- (iii) in the person's being deprived of an opportunity to obtain a financial advantage otherwise than by way of remuneration; or
- (b) will result in any person being given an opportunity—
 - (i) to earn remuneration or greater remuneration from the first-mentioned person; or
 - (ii) to obtain a financial advantage from the first-mentioned person otherwise than by way of remuneration; or
- (c) will be the result of the person's having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with the person's performance of a duty.

Intention to induce may be general

306. In proceedings for an offence against this Chapter, if it is necessary to allege an intent to induce a person to accept—

- (a) a false instrument as genuine; or
- (b) a copy of a false instrument as a copy of a genuine one,

it is not necessary to allege that the accused intended so to induce a particular person.

Abolition of common law offence

307. The offence of forgery at common law is abolished for all purposes not relating to offences committed before the commencement of this Chapter (as inserted by the Crimes (Computers and Forgery) Amendment Act 1989).

(11) Part 6—

After Part 5, insert:

PART 6—OFFENCES RELATING TO COMPUTERS**Definitions**

308. In this Part—

- (a) a reference to data includes a reference to information; and
- (b) a reference to a program or data includes a reference to part of the program or data; and
- (c) a reference to data stored in a computer includes a reference to data entered or copied into the computer.

*Crimes (Computers and Forgery) Amendment 1989*SCHEDULE 1—AMENDMENTS—*continued***Unlawful access to data in computer**

309. (1) A person who, without authority or lawful excuse, intentionally obtains access to a program or data stored in a computer is liable, on conviction before two justices, to imprisonment for 6 months, or to a fine of \$5,000, or both.

(2) A person who, with intent—

- (a) to defraud any person; or
- (b) to obtain for himself or herself or another person any financial advantage of any kind; or
- (c) to cause loss or injury to any person,

obtains access to a program or data stored in a computer is liable to imprisonment for 2 years, or to a fine of \$50,000, or both.

(3) A person who, without authority or lawful excuse, intentionally obtains access to a program or data stored in a computer, being a program or data that the person knows or ought reasonably to know relates to—

- (a) confidential government information in relation to security, defence or inter-governmental relations; or
- (b) the existence or identity of any confidential source of information in relation to the enforcement or administration of the law; or
- (c) the enforcement or administration of the criminal law; or
- (d) the maintenance or enforcement of any lawful method or procedure for protecting public safety; or
- (e) the personal affairs of any person (whether living or deceased); or
- (f) trade secrets; or
- (g) records of a financial institution; or
- (h) information (other than trade secrets) that has a commercial value to any person that could be destroyed or diminished if disclosed,

is liable to imprisonment for 2 years, or to a fine of \$50,000, or both.

(4) A person who—

- (a) without authority or lawful excuse, has intentionally obtained access to a program or data stored in a computer; and

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SCHEDULE 1—AMENDMENTS—*continued*

(b) after examining part of that program or data, knows or ought reasonably to know that the part of the program or data examined relates wholly or partly to any of the matters referred to in subsection (3); and

(c) continues to examine that program or data,

is liable to imprisonment for 2 years, or to a fine of \$50,000, or both.

Damaging data in computer

310. A person who intentionally and without authority or lawful excuse—

(a) destroys, erases or alters data stored in or inserts data into a computer; or

(b) interferes with, or interrupts or obstructs the lawful use of a computer,

is liable to penal servitude for 10 years, or to a fine of \$100,000, or both.

(12) Section 476 (**Indictable offences punishable summarily with consent of accused**)—

(a) Section 476 (6) (a) (iii)—

Omit “, 249F, 273, 274 or 275” insert instead “or 249F”.

(b) Section 476 (6) (d)—

Omit “or 252”, insert instead “, 300, 301, 302, 309 (2), (3) or (4) or 310”.

(13) Tenth Schedule (**Offences punishable by the Supreme Court in its summary jurisdiction**)—

From paragraph (f) (i), omit “185, 252, 256, 257, 258, 259, 272, 273, 274, 275, 276, 292”, insert instead “184A, 185”.

[Minister's second reading speech made in—
Legislative Assembly on 3 May 1989
Legislative Council on 11 May 1989]