

Section 476.2

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- (a) access to data held in a computer; or
- (b) modification of data held in a computer; or
- (c) the impairment of electronic communication to or from a computer;

is limited to such access, modification or impairment caused, whether directly or indirectly, by the execution of a function of a computer.

**476.2 Meaning of *unauthorised access, modification or impairment***

- (1) In this Part:
  - (a) access to data held in a computer; or
  - (b) modification of data held in a computer; or
  - (c) the impairment of electronic communication to or from a computer; or
  - (d) the impairment of the reliability, security or operation of any data held on a computer disk, credit card or other device used to store data by electronic means;by a person is unauthorised if the person is not entitled to cause that access, modification or impairment.
- (2) Any such access, modification or impairment caused by the person is not unauthorised merely because he or she has an ulterior purpose for causing it.
- (3) For the purposes of an offence under this Part, a person causes any such unauthorised access, modification or impairment if the person's conduct substantially contributes to it.
- (4) For the purposes of subsection (1), if:
  - (a) a person causes any access, modification or impairment of a kind mentioned in that subsection; and
  - (b) the person does so:
    - (i) under a warrant issued under the law of the Commonwealth, a State or a Territory; or
    - (ii) under an emergency authorisation given to the person under Part 3 of the *Surveillance Devices Act 2004* or

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under a law of a State or Territory that makes provision to similar effect; or

(iii) under a tracking device authorisation given to the person under section 39 of that Act;

the person is entitled to cause that access, modification or impairment.

### 476.3 Geographical jurisdiction

Section 15.1 (extended geographical jurisdiction—Category A) applies to offences under this Part.

### 476.4 Saving of other laws

- (1) This Part is not intended to exclude or limit the operation of any other law of the Commonwealth, a State or a Territory.
- (2) Subsection (1) has effect subject to section 476.5.

### 476.5 Liability for certain acts

- (1) A staff member or agent of ASIS, AGO or ASD (the *agency*) is not subject to any civil or criminal liability for any computer-related act done outside Australia if the act is done in the proper performance of a function of the agency.
- (2) A person is not subject to any civil or criminal liability for any act done inside Australia if:
  - (a) the act is preparatory to, in support of, or otherwise directly connected with, overseas activities of the agency concerned; and
  - (b) the act:
    - (i) taken together with a computer-related act, event, circumstance or result that took place, or was intended to take place, outside Australia, could amount to an offence; but
    - (ii) in the absence of that computer-related act, event, circumstance or result, would not amount to an offence; and