

Section 477.1

Division 477—Serious computer offences

477.1 Unauthorised access, modification or impairment with intent to commit a serious offence

Intention to commit a serious Commonwealth, State or Territory offence

- (1) A person is guilty of an offence if:
 - (a) the person causes:
 - (i) any unauthorised access to data held in a computer; or
 - (ii) any unauthorised modification of data held in a computer; or
 - (iii) any unauthorised impairment of electronic communication to or from a computer; and
 - (c) the person knows the access, modification or impairment is unauthorised; and
 - (d) the person intends to commit, or facilitate the commission of, a serious offence against a law of the Commonwealth, a State or a Territory (whether by that person or another person) by the access, modification or impairment.
- (3) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the offence was:
 - (a) an offence against a law of the Commonwealth, a State or a Territory; or
 - (b) a serious offence.

Penalty

- (6) A person who is guilty of an offence against this section is punishable, on conviction, by a penalty not exceeding the penalty applicable to the serious offence.

Impossibility

- (7) A person may be found guilty of an offence against this section even if committing the serious offence is impossible.

No offence of attempt

- (8) It is not an offence to attempt to commit an offence against this section.

Meaning of serious offence

- (9) In this section:

serious offence means an offence that is punishable by imprisonment for life or a period of 5 or more years.

477.2 Unauthorised modification of data to cause impairment

- (1) A person is guilty of an offence if:
- (a) the person causes any unauthorised modification of data held in a computer; and
 - (b) the person knows the modification is unauthorised; and
 - (c) the person is reckless as to whether the modification impairs or will impair:
 - (i) access to that or any other data held in any computer; or
 - (ii) the reliability, security or operation, of any such data.

Penalty: 10 years imprisonment.

- (3) A person may be guilty of an offence against this section even if there is or will be no actual impairment to:
- (a) access to data held in a computer; or
 - (b) the reliability, security or operation, of any such data.
- (4) A conviction for an offence against this section is an alternative verdict to a charge for an offence against section 477.3 (unauthorised impairment of electronic communication).

477.3 Unauthorised impairment of electronic communication

- (1) A person is guilty of an offence if:
- (a) the person causes any unauthorised impairment of electronic communication to or from a computer; and
 - (b) the person knows that the impairment is unauthorised.