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Computer Misuse (Amendment) Bill

Bill No. 13/2023.

Read the first time on 18 April 2023.

A BILL

intituled

An Act to amend the Computer Misuse Act 1993.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Computer Misuse (Amendment) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of long title

2. In the Computer Misuse Act 1993 (called in this Act the principal Act), in the long title, after “modification”, insert “, for preventing abuse of the national digital identity service,”.

Amendment of section 2

10 3. In the principal Act, in section 2(1) —

(a) after the definition of “intercept”, insert —

““national digital identity service” has the meaning given by paragraph 1(1) of the Schedule;”;

15 (b) in the definition of “program or computer program”, replace the full-stop at the end with a semi-colon; and

(c) after the definition of “program or computer program”, insert —

20 ““user”, in relation to the national digital identity service, has the meaning given by paragraph 1(1) of the Schedule.”.

New sections 8A and 8B

4. In the principal Act, after section 8, insert —

“Disclosure of password, access code, etc., in relation to national digital identity service

25 **8A.**—(1) Any user of the national digital identity service —

30 (a) who discloses any password or access code of the user in relation to the national digital identity service, or provides any other means of securing access in the identity of the user to any program or data held in any computer by way of the national digital identity service; and

- (b) who does so knowing, or having reasonable grounds to believe, that the purpose of the disclosure or provision is for any person to commit, or to facilitate the commission by any person of, any offence under any written law,

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shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) For the purpose of proving an offence under subsection (1), it is not necessary for the prosecution to prove —

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(a) that the purpose of committing, or facilitating the commission of, an offence was carried out;

(b) that the user knew, or had reasonable grounds to believe, that the purpose was to commit, or facilitate the commission of, any specific offence; or

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(c) that the disclosure or provision was made to any specific person, if the disclosure or provision was made by the user in a manner that was intended to be accessible or retrievable by another person, whether or not that other person is known to the user.

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(3) For the purposes of subsection (1)(b), a user of the national digital identity service who does an act mentioned in subsection (1)(a) is presumed, until the contrary is proved, to have reasonable grounds to believe that the purpose of the disclosure or provision is for a person to commit, or to facilitate the commission by a person of, an offence under any written law, if —

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(a) the user does the act for any gain —

(i) whether or not the gain is a wrongful gain;

(ii) whether or not the gain is realised; and

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(iii) whether the gain is to the user or to another person;

(b) the user does the act knowing that it is likely to cause wrongful loss to any person; or

(c) at the time the user does the act, the user fails to take reasonable steps to ascertain the identity and physical location of the person to whom the password, access code or means of securing access is disclosed or provided.

(4) It is not an offence under subsection (1) if the user of the national digital identity service had reasonable grounds to believe that the purpose of the disclosure or provision is to use or access the national digital identity service to carry out a transaction in the identity of the user for a lawful purpose.

Supplying, etc., credential of another person

8B.—(1) A person shall be guilty of an offence if the person —

(a) obtains or retains any credential of another person in relation to the national digital identity service; or

(b) supplies, offers to supply, transmits or makes available, by any means, any credential of another person in relation to the national digital identity service.

(2) It is not an offence under subsection (1)(a) if the person obtained or retained the credential of the other person for a purpose that is not any of the following purposes:

(a) for use in committing, or in facilitating the commission of, any offence under any written law;

(b) for the supply or transmission of, or making available, by any means, the credential to be used in committing, or in facilitating the commission of, any offence under any written law.

(3) It is not an offence under subsection (1)(b) if —

(a) the person did the act for a purpose other than for the credential of the other person to be used in committing, or in facilitating the commission of, any offence under any written law; and

(b) the person did not know or have reason to believe that the credential of the other person will be or is likely to be used to commit, or facilitate the commission of, any offence under any written law.

(4) For the purposes of subsection (1)(b), a person does not transmit or make available any credential of another person in relation to the national digital identity service merely because the person provides, or operates facilities for network access, or provides services relating to, or provides connections for, the transmission or routing of data.

(5) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years or to both.

(6) In this section —

(a) a reference to a credential of another person in relation to the national digital identity service has the meaning given by paragraph 1(2) of the Schedule; and

(b) a reference to an offence under any written law includes an offence under subsection (1).”.

Amendment of section 13

5. In the principal Act, in section 13(3) —

(a) in paragraph (b), delete “or” at the end;

(b) in paragraph (c), replace the full-stop at the end with “; or”; and

(c) after paragraph (c), insert —

“(d) the offence is one under section 8A(1) or 8B(1).”.

New section 20 and Schedule

6. In the principal Act, after section 19, insert —

“Amendment of Schedule

20. The Minister may, by order in the *Gazette*, amend the Schedule.

THE SCHEDULE

Sections 2(1), 8B(6)(a) and 20

DEFINITIONS RELATING TO NATIONAL DIGITAL IDENTITY SERVICE

1.—(1) In this Act —

“application”, in relation to the national digital identity service, means the mobile software application known as “Singpass” published under the name of “Government Technology Agency” that is registered to a user;

“biometric identifier”, in relation to the national digital identity service, means an image or video, or an aggregation of images or videos, of a user’s face captured electronically through the national digital identity service;

“national digital identity service” means the electronic service known as “Singpass” that is owned by the Government, by which the identity of an individual may be authenticated;

“user”, in relation to the national digital identity service, means an individual who has an account registered with the national digital identity service.

(2) In section 8B, a reference to a credential of another person in relation to the national digital identity service is a reference to a password, access code or biometric identifier of that other person in relation to the national digital identity service, or any application registered with the national digital identity service in the identity of that other person.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Computer Misuse Act 1993 to prevent the national digital identity service owned by the Government (commonly known as Singpass) from being used for criminal purposes.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to extend its scope to include preventing abuse of the national digital identity service.

Clause 3 amends section 2 to insert definitions of “national digital identity service” and “user”.

Clause 4 introduces two new sections 8A and 8B.

The new section 8A(1) creates a new offence that applies to Singpass users. The first element of the new offence is constituted if a Singpass user discloses a password or access code of the user in relation to Singpass, or provides any other means of securing access in the user’s identity to any program or data held in any computer, via Singpass. The second element of the new offence is constituted if the Singpass user knows, or has reasonable grounds to believe, that the purpose of the disclosure or provision is for any person to commit, or to facilitate the commission by any person of, any offence under any written law.

For the purposes of the new section 8A(1), a person discloses a password or access code if the person, by any means, intentionally communicates, reveals, or otherwise makes known, the password or access code. A person does not disclose a password or access code if he or she unintentionally reveals the password or access code — for example, if a person writes a password in a diary, the diary is stolen by a thief, and the thief finds the password in the diary and thereby knows the password.

The new section 8A(2) makes clear that, to constitute the second element of the offence under the new section 8A(1), it is not necessary to prove that the purpose of committing, or facilitating the commission of, an offence was carried out, that the Singpass user knew, or had reasonable grounds to believe, that the purpose of the disclosure or provision was to commit, or facilitate the commission of, any specific offence, or that the disclosure or provision was made to any specific person, if the disclosure or provision was made by the user in a manner that was intended to be accessible or retrievable by another person, whether or not that other person is known to the user.

The new section 8A(3) provides for certain rebuttable presumptions, under which a Singpass user is presumed to have reasonable grounds to believe that which is mentioned in the new section 8A(1). Under the new section 8A(4), it is not an offence under the new section 8A(1) if the Singpass user proves that he or she had reasonable grounds to believe that the purpose of the disclosure or

provision is to use or access Singpass to carry out a transaction in the identity of the user for a lawful purpose.

The new section 8B applies to all persons, and makes it an offence if a person —

- (a) obtains or retains any credential of another person in relation to the national digital identity service; or
- (b) supplies, offers to supply, transmits or makes available, by any means any credential of another person in relation to the national digital identity service,

but not in the circumstances set out in the new section 8B(2), (3) or (4).

Clause 5 amends section 13(3) to provide that the Act applies whether the offences in new sections 8A and 8B are committed in or outside Singapore.

Clause 6 inserts a new section 20 to provide that the new Schedule may be amended by the Minister by order in the *Gazette*. The clause also inserts a new Schedule that defines terms used in relation to Singpass.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
