

New Law Combating information technology crimes

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Last month the President His Highness Shaikh Khalifa Bin Zayed Al Nahyan issued Federal Law No. 5 of 2012 ("New Cyber Crime Law") a comprehensive piece of legislation on combating cyber crimes. The New Cyber Crime Law protects the privacy of information published online including data, information, credit card numbers, bank account statements and details of electronic payment methods.

It further expands the definition of conduct violating the privacy of others by criminalizing eavesdropping, transmitting and disclosing communications (including audio and visual material); taking photographs of others and copying, saving or publishing them; and publishing news, comments, statements and information even if they are authentic.

The New Cyber Crime Law, most notably, creates additional categories of offenses addressing the increase in the incidence of cyber crime in the United Arab Emirates ("UAE"). Highlighted below are the most notable provisions of the New Cyber Crime Law.

1. Access to an electronic site

Federal Law No. 2 of 2006 previously provided that anyone who commits a willful act by illegally accessing an electronic site will be punished by imprisonment and/or a fine. Article 2 of the New Cyber Crime Law removes the intent requirement and prohibits any person from accessing an electronic site illegally, without permission, or by exceeding the limits of said permission, and provides for an express fine of not less than AED 100 and not exceeding AED 300. It provides an express penalty of imprisonment for a period of at least six months and/or a fine of not less than AED 150,000 and not more than AED 750,000 for changing, copying, deleting, disclosing and publishing any data or information obtained by entering an electronic site illegally and without permission. To the extent such data or information is personal; the New Cyber Crime Law increases the penalty to imprisonment for a period not less than one year and/or a fine of not less than AED 250,000 and not exceeding AED 1,000,000.

Article 4 of the New Cyber Crime Law further states that any person who enters without permission any electronic site for the purpose of obtaining government data or confidential information of a financial trade or economic establishment shall be punished by temporary imprisonment and/or a fine of not less than AED 250,000 and not exceeding AED 1,500,000. There is an increase in penalty if such data is changed, copied, deleted, disclosed, or published which includes a fine of not less than AED 250,000 and not exceeding AED 1,500,000 and/or imprisonment for a period not less than five years.

2. Medical related data

Article 7 of the New Cyber Crime Law now expands the definition of conduct in respect of medical data and information by stating that any person, who obtains, amends, damages or discloses information obtained online, related to medical records, examinations, diagnoses, treatment or care, without permission, shall be punished by temporary imprisonment.

3. Electronic card and bank account numbers; confidential codes; forgery

Article 12 expands the categories of private information and punishes any person who unlawfully accesses credit card numbers, electronic card numbers, bank account statements and details of electronic payment methods by imprisonment and/or a fine. It punishes the intent to use and the use of such information to obtain funds belonging to third parties by imprisonment of not less than six months and/or a fine not less than AED 200,000 and not exceeding AED 1,000,000.

Article 14 of the New Cyber Crime Law also prohibits a person from obtaining without permission a confidential number, code or password used to access any electronic site without permission by providing for imprisonment and/or a fine not less than AED 200,000 and not exceeding AED 500,000

Article 13 further prohibits the forgery, imitation and copying of a credit card, debit card, and any other electronic payment method and punishes persons from using and knowingly accepting such credit cards, debit cards, and/or other electronic payment methods with imprisonment and/or a fine of not less than AED 500,000 and not exceeding AED 2,000,000.

4. Electronic communication

Protecting the privacy and integrity of electronic communications, Article 10 prohibits the disruption of electronic communication by spamming electronic mail. Article 15 of the New Cyber Crime Law also provides that it is an offence for persons to intentionally and without permission capture and/or intercept communications online. The offence is punishable by a fine not less than AED 150,000 and not exceeding AED 500,000. Further, a person who discloses information obtained in this manner may be punished by imprisonment for a period not exceeding one year.

5. Gambling activities and materials that prejudice public morals

Article 17 of the New Cyber Crime Law now punishes anyone who produces, transmits, publishes and exploits through an electronic site gambling and/or pornographic material or any other material that may prejudice public morals. Any person, who establishes, operates or supervises an electronic site and/or transmits, sends or publishes through an electronic site; gambling and/or pornographic materials shall be punished by imprisonment and a fine of not less than AED 250,000 and not exceeding AED 500,000. Further, if the subject of the pornographic content is a juvenile not exceeding eighteen years, or if the content was designed to tempt juveniles, the offender shall be punished by imprisonment for a period not less than one year and a fine not less than AED 500,000 and not exceeding AED 1,500,000.

Under Article 19, any person who incites or tempts another to commit prostitution using an electronic site shall also be punished by imprisonment and a fine of not less than AED 250,000 and not exceeding AED 1,000,000. The punishment is increased for a period of not less than five year and a fine not exceeding AED 1,000,000 if the victim is a juvenile.

6. Defamation

Under Article 20, any person who insults others or has attributed to another an incident that may make him subject to punishment or contempt by others by using an electronic site shall be punished by imprisonment or a fine of not less than AED 250,000 and not exceeding AED 500,000. Insult or slander against public employees is considered an aggravating circumstance of the crime.

7. Contempt of religion

Article 35 stipulates penalties of imprisonment and a fine of not less than AED 250,000 and not more than AED 1,000,000 for any person using electronic sites to display contempt for any holy symbols, characters, figures and rituals of Islam including the Divinity (Allah, God) and the Prophets and for any other faiths or religions or any of their symbols, characters, figures and rituals.

8. Human trafficking

Article 23 of the New Cyber Crime Law prohibits any person from establishing, operating or supervising an electronic site for the purpose of organ or human trafficking and punishes the same by temporary imprisonment and a fine of not less than AED 500,000 and not exceeding AED 1,000,000. This is an increase from the penalty stipulated in the 2006 Cyber Crime Law, which previously criminalized human trafficking, by temporary detainment.

9. Sedition, sectarianism and harming national unity

Article 24 stipulates punishments for any person creating or running an electronic site to publish, online or through any information technology means, any programs or ideas which would promote disorder, hate, racism or sectarianism and damage the national unity, social peace, public order and public decency.

10. Weapon's trade and terrorist activities

Articles 25 stipulate punishment for persons who operate an electronic site for the purpose of promoting or trading weapons, ammunitions or explosives. Article 26 provides that it is an offence to establish, operate or supervise an electronic site, or publish information online for a terrorist group or any illegal group, association, organization, or body.

11. Collecting donations without a license

Article 27 prohibits any person from creating or running an electronic site to raise donations without obtaining a license from the competent authority.

12. State security

Article 29 of the New Cyber Crime Law also stipulates penalties of imprisonment and a fine not exceeding AED 1,000,000 for any person who may create or run an electronic site or any information technology means, to deride or to damage the reputation or the stature of the state or any of its institutions, its President, the Vice President, any of the Rulers of the emirates, their Crown Princes, the Deputy Rulers, the national flag, the national anthem, the emblem of the state or any of its symbols.

Article 28 prohibits any person from publishing any information, news, caricatures or any other kind of pictures that would pose threats to the security of the state and to its highest interests or violate its public order.

Article 30 punishes any person from creating or running an electronic site for the purpose of engaging in the overthrow of the system of government of the state or to seize it, or to seek to disrupt or obstruct the Constitution or the effective laws of the state, or to oppose the basic principles which constitute the foundations of the system of government of the state.

13. Promoting demonstrations without a license

Article 32 of the New Cyber Crime Law stipulates punishment for persons who operate or supervise an electronic site for the purpose of planning, organizing, planning, promoting or calling demonstrations or protests and the like without a license from the competent authority. Offenders shall be punished by imprisonment or a fine of not less than AED 500,000 and not exceeding AED 1,000,000.

14. Trade of antiquities without a right

Article 33 stipulates penalties of imprisonment and a fine of not less than AED 500,000 and not

more than AED 1,000,000 on any person using electronic to engage in the unauthorized trade of antiquities and works of art. Further, Article 34 stipulates penalties of imprisonment and a fine of not less than AED 250,000 and not exceeding AED 1,000,000 on any person using an electronic site to engage in the unauthorized use of, or provide unauthorized facilities to others to use communication services or audio and video channels.

15. Communication services online

Article 34 provides that it is an offence for any person to benefit or unlawfully facilitate for others the use of communication services or audio or visual transmission channels that are online. This provision does not sanction the “use” of communications services or audio or visual transmission channels that are online. In other words, the provision sets a penalty for unlawfully accessing / obtaining communications services on behalf of oneself or a third person online. Article 34 imposes a fine ranging between AED 250,000 and AED 1,000,000 and/or imprisonment for a period not less than one year on any person who benefits or unlawfully facilitates for others the use of communication services or audio or visual transmission channels that are online.

The official translation from the Ministry of Justice states that whoever uses communication services, audio or video broadcasting channels without legal right, or facilitates such use by others online shall be punished by imprisonment for at least one year and/or a fine of not less than AED 250,000 and not exceeding AED 1,000,000.

16. Narcotics and money laundering

The New Cyber Crime Law prohibits any person from establishing, operating or supervising an electronic site or publishing information online for the promotion of narcotics and psychotropic drugs. It stipulates a penalty of temporary imprisonment and a fine of not less than AED 500,000 and not more than AED 1,000,000 which is an increase from the penalty stipulated in the Cyber Crime Law which criminalized the same by temporary detainment.

Article 37 also stipulates penalties of imprisonment and a fine of not less than AED 500,000 and not exceeding AED 2,000,000 for any person using electronic sites to transfer or deposit illegal funds with the intention to hide or camouflage their source, or, for that matter, to hide or camouflage the facts about illegal funds, their source, movement, ownership and the rights attached to them as well as to acquire, own or use illegal funds despite knowledge by the involved person of the illegal status of their sources.