Regulatory & Legal Aspects of Distributed Ledger Technology (DLT)

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- Interest evolved from the ITU Digital Financial Services Focus Group
 - Technology, Innovation and Competition Workgroup
- Looked at potential impact and use of blockchain/DLTs on financial inclusion

- Found DLTs could be used for
 - ID management, interoperability, settlement between DFS systems, property registration, smart contracts, AML/KYC, ICOs

....but study found legal and regulatory issues with DLTs that need to be investigated further.

Regulatory & Legal Aspects of DLTs

- How DLTs interact with current laws and regulations governing specific sectors
- Legal rules that are needed and invoked where regulations are silent
- All evolving.....

Regulatory Aspects - Overview

- Rules around use of technologies or services
- Usually the result of a policy framework
- Rules from specific national authorities, or supra-national bodies
- May have *multiple* regulations applicable to same technology or service
- Goal is technology neutrality

Regulatory Issues – General Questions

- What exactly should be regulated?
- Which activities related to the operation of DLT should be regulated?
- What are the competition issues relating to private DLTs that exclude others from participation?
- How do you apply consumer protection measures?

Regulatory Issues – AML/ID/KYC Questions

- Can identities registered in one jurisdiction on a DLT be seamlessly used for authentication purposes in another jurisdiction, if dis-similar enrollment techniques are used?
- Whether private DLTs might deliver sufficient information to enable a regulated bank or financial institution to discharge its AML and KYC obligations?
 - For example, one country will use a lower form of KYC enrollment methodology than another such as fingerprint versus iris scans

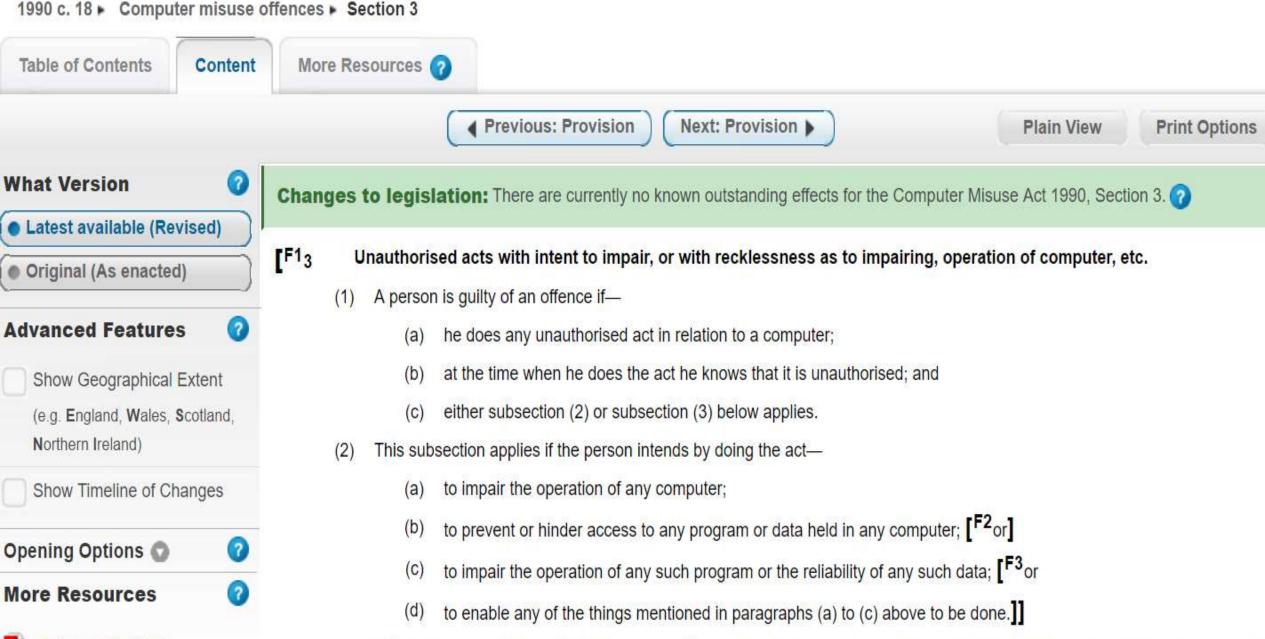
Legal Aspects of DLTs

- Specific laws that may impact on technologies or services
 - eg e-commerce, evidence, contract
- Issue:
 - There may not be specific laws on DLTs
 - So may 'extrapolate' to make relevant
- Legal aspects may fill in 'gap' where regulations silent, outdated, or contradictory ie regulatory arbitrage
- Principle of technology neutrality

Computer Misuse Act 1990

Original Print PDF

1990 c. 18 ▶ Computer misuse offences ▶ Section 3



This subsection applies if the person is reckless as to whether the act will do any of the things mentioned in paragraphs (a)

Some Evolving Legal Issues On DLTs

- Contractual provisions
 eg smart contracts, time/place, coding
- Liabilities
- Damages
- Evidence eg evidential rules

Some Evolving Legal Issues On DLTs

- Hacking eg fork?
- Validity of data
 - eg notarization vs accuracy of data