# SUBJECT INDEX

### ARREST 211

#### ASSESSORS 209

CHILD PORNOGRAPHY Convention on Cybercrime 148 Films and Publications Act 150 Publication 150 Constitutionality 150 Distribution 151 Definition of child pornography 151 Pseudo child pornography 152 Film 153 Sentence 153

COMPUTER Definition 12 Computer system 13 Computer hardware 13 Computer software 13

COMPUTER-RELATED FRAUD General 161 Data Diddling 161 Spoofing 161 Phising 161 Input fraud 162 Data fraud 162 Output fraud 162 Program fraud 162 United States of America 162 United Kingdom 163 Australia 164 Council of Europe 166 Convention on Cybercrime 167 Common law crime of fraud 168 Elements 169 Misrepresentation 169

Prejudice 173 Unlawfulness and culpability 174 Attempted fraud 174 Electronic Communications and Transactions Act 174 Conduct 175 Unlawfulness and intent 176 Attempt 176 Aiding and abetting 176 Sentence 177 Spamming 177

CONVENTION ON CYBERCRIME 8, 13, 46, 102, 123, 142, 130, 148, 167,205, 210

CYBER CRIME (INFORMATION TECHNOLOGY CRIME) Definitions 16 Proposed definition 21

CYBER INSPECTORS Appointment 217 Powers 218 Assistance to police 218 Obtaining of a warrant 219

DATA Definition 14, 58

DENIAL OF SERVICE Denial of service attack 120 Distributed denial of service attack 120 E-mail bombing 121 Smurf attacks 121 United States of America 122 United Kingdom 122 Canada 123 Convention on Cybercrime 123 South African Law Commission 124 Electronic Communications and Transactions Act 125 Conduct 125 Unlawfulness 126

Sentence 126 DEVICES Meaning of 137 Spyware or snoopware 137 Packet sniffing 137 War dialer 137 Sniffers 138 Skimming devices 138 Keyboard loggers 139 United States of America 139 Canada 141 Convention on Cybercrime 142 South African Law Commission 143 Electronic Communications and Transactions Act 143 Conduct 144 Unlawfulness and intent 144 Attempt 146 Aiding and abetting 146 Sentence 146

Intention 126

DOCUMENTARY EVIDENCE, REAL EVIDENCE & HEARSAY International position 224 Definitions 225 Admissibility and requirements 226 Computer Evidence Act 227 Law of Evidence Amendment Act 227 Section 221 of the Criminal Procedure Act 228 Section 236 of the Criminal Procedure Act 228 Electronic Communications and Transactions Act 230 Definition of data message 231 Admissibility of data messages 231 Evidential weight 232

ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT 9, 14, 54, 109, 125, 135, 143, 157,174, 206, 215, 217, 230

ELECTRONIC SIGNATURES Definitions 239 Distinction between digital signature and electronic signature 239 European Union directives 240 Electronic Communication and Transactions Act 240 Electronic signature 241 Advanced electronic signature 241 Accreditation 241 Criteria for accreditation 242

## ENCRYPTION

Definitions 232 Symmetric encryption 233 Public key infrastructure 234 Electronic Communication and Transactions Act 235 Cryptography product 235 Cryptography service 235 Registration and regulation of cryptography provider's 236 Key recovery 237 Decryption direction 237

EXTORTION General 155 United States of America 156 Electronic Communications and Transactions Act 157 Conduct 157 Advantage 158 Attempt 159 Comparison with common law crime of extortion 158

## **EXTRADITION 213**

#### **INFORMATION TECHNOLOGY SECURITY 246**

## INTERNATIONAL CO-OPERATION 210, 247

#### INTERNET 14

JURISDICTION General 204 Convention on Cybercrime 205 Electronic Communications and Transactions Act 206 Magistrates' Courts Act 208

PING FLOODING 111, 125

PORT SCANNING 57

REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION FOR COMMUNICATION-RELATED INFORMATION ACT 10, 133, 237

**SEARCH AND SEIZURE 214** 

SMART CARDS 15, 58, 136

SOUTH AFRICAN LAW COMMISSION REPORT 8, 13, 50, 109, 124, 143

THEFT

General 180 Electronic funds transfer 180 Salami technique 180 Data leakage 180 United States of America 181 Canada 182 United Kingdom 183 South African common law of theft ("theft" of information) 183 **Definition 183 Appropriation 185** A certain kind of property 186 Intention to permanently deprive the owner of his property 195 Unauthorised use or borrowing 196 Copying 196 Copyright infringement 197 Proposed legislative intervention 201 Identity theft 201

UNAUTHORISED ACCESS (HACKING) Meaning of and definition 24 *et* Cracking 25 Should hacking be criminalised? 27

United States of America 29 United Kingdom 36 Germany 41 Greece 42 Australia 43 Singapore 45 Malaysia 45 Council of Europe 46 Convention on Cybercrime 47 Applicability of the offence of housebreaking 47 Applicability of the Trespassing Act 50 Applicability of the offence of malicious injury to property 51 Applicability of the offence of fraud 52 Applicability of the offence of *crimen iniuria* 52 South African Law Commission 54 Electronic Communications and Transactions Act 54 Criminal act (conduct) 55 Access 55 Unlawfulness 59 Authority 64 Exceeding scope and ambit of authority 60 Culpability 64 Addiction defence 39, 66 Attempt 67 Aiding and abetting 67 Conspiracy 67 Sentence 68 South African Police Services Act 69 Correctional Services Act 70 National Prosecuting Authority Act 68, 70 Financial Intelligence Centre Act 70 Defence Act 71

#### UNAUTHORISED INTERCEPTION

General 128 Wire tapping 128 Packet sniffing 128, 132 United States of America 129 Singapore 129 Council of Europe 130

Convention on Cybercrime 130 Interception and Monitoring Prohibition Act 131 Interception and Monitoring Bill 132 Regulation of Interception of Communications and Provision of Communication-Related Information Act 133 Conduct/intercept 133 Sentence 134 Statutory exceptions 134 Electronic Communications and Transactions Act 135 Conduct/intercept 135 UNAUTHORISED MODIFICATION Dangerous/rogue code 76 Viruses 77 Worms 79 Trojan horse 80 Logic bombs 81 Bacterium 82 Crab 82 Hoaxes or virtual viruses 83 Should unauthorised modification be criminalised? 83 United States of America 84 United Kingdom 91 Germany 95 Greece 96 Singapore 97 Philippines 98 Australia 99 Canada 100 Council of Europe 101 Convention on Cybercrime 101 Applicability of the crime of malicious injury to property 103 Applicability of the crime of housebreaking 108 Applicability of the Trespass Act 109 Electronic Communications and Transactions Act 109 Criminal action (conduct) 110 Unlawfulness 112 Authority 112 Culpability 113 Attempt 115

Aiding and abetting 115 Conspiracy 115 Sentence 116 South African Police Services Act 117 Correctional Services Act 118 National Prosecuting Authority Act 116, 118 Financial Intelligence Centre Act 116, 118 Defence Act 116, 119