

Information Technology Act, 2000

Chapter VI - Regulation of Certifying Authorities

- (1) The Central Government may, by notification in the Official Gazette, appoint a Controller of Certifying Authorities for the purposes of this Act and may also by the same or subsequent notification, appoint such number of Deputy Controllers and [1](#)[Assistant Controllers, other officers and employees] as it deems fit.
- (2) The Controller shall discharge his functions under this Act subject to the general control and directions of the Central Government.
- (3) The Deputy Controllers and Assistant Controllers shall perform the functions assigned to them by the Controller under the general superintendence and control of the Controller.
- (4) The qualifications, experience and terms and conditions of service of Controller, Deputy Controllers [2](#)[Assistant Controllers, other officers and employees] shall be such as may be prescribed by the Central Government.
- (5) The Head Office and Branch Office of the office, of the Controller shall be at such places as the Central Government may specify, and these may be established at such places as the Central Government may think fit.
- (6) There shall be a seal of the Office of the Controller.

1. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-

"Assistant Controllers"

2. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-

"and Assistant Controllers"

Section 18 - Functions of Controller

The Controller may perform all or any of the following functions, namely:--

- (a) exercising supervision over the activities of the Certifying Authorities;
- (b) certifying public keys of the Certifying Authorities;
- (c) laying down the standards to be maintained by the Certifying Authorities;
- (d) specifying the qualifications and experience which employees of the Certifying Authority should possess;
- (e) specifying the conditions subject to which the Certifying Authorities shall conduct their business;
- (f) specifying the contents of written, printed or visual materials and advertisements that may be distributed or used in respect of a [1](#)[Electronic] Signature Certificate and the public key;
- (g) specifying the form and content of a [1](#)[Electronic] Signature Certificate and the key;
- (h) specifying the form and manner in which accounts shall be maintained by the Certifying Authorities;
- (i) specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them;
- (j) facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems;
- (k) specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers;
- (l) resolving any conflict of interests between the Certifying Authorities and the subscribers;
- (m) laying down the duties of the Certifying Authorities;
- (n) maintaining a database containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

1. Substituted vide Information Technology Amendment Act, 2008. Previous text was digital.

Section 19 - Recognition of foreign Certifying Authorities

(1) Subject to such conditions and restrictions as may be specified, by regulations, the Controller may, with the previous approval of the Central Government, and by notification in the Official Gazette, recognise any foreign Certifying Authority as a Certifying Authority for the purposes of this Act.

(2) Where any Certifying Authority is recognised under sub-section (1), the [1](#)[Electronic] Signature Certificate issued by such Certifying Authority shall be valid for the purposes of this Act.

(3) The Controller may, if he is satisfied that any Certifying Authority has contravened any of the conditions and restrictions subject to which it was granted recognition under sub-section (1) he may, for reasons to be recorded in writing, by notification in the Official Gazette, revoke such recognition.

1. Substituted vide Information Technology (Amendment) Act, 2008. Previous text was digital

Section 20 - Controller to act as repository (omitted)

[1](#)[***]

1. Omitted vide Information Technology (Amendment) Act, 2008 Prior to omission text read as under :-

"(1) The Controller shall be the repository of all Digital Signature Certificates issued under this Act.

(2) The Controller shall--

(a) make use of hardware, software and procedures that are secure from intrusion and misuse;

(b) observe such other standards as may be prescribed by the Central Government, to ensure that the secrecy and security of the digital signatures are assured.

(3) The Controller shall maintain a computerised data base of all public keys in such a manner that such data base and the public keys are available to any member of the public."

Section 21 - Licence to issue Digital Signature Certificates

(1) Subject to the provisions of sub-section (2), any person may make an application to the Controller for a licence to issue [1](#)[Electronic] Signature Certificates.

(2) No licence shall be issued under sub-section (1), unless the applicant fulfills such requirements with respect to qualification, expertise, manpower, financial resources and other infrastructure facilities, which are necessary to issue [1](#)[Electronic] Signature Certificates as may be prescribed by the Central Government,

(3) A licence granted under this section shall--

- (a) be valid for such period as may be prescribed by the Central Government;
 - (b) not be transferable or heritable;
 - (c) be subject to such terms and conditions as may be specified by the regulations.
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1. Substituted vide Information Technology (Amendment) Act, 2008. Previous text was digital

Section 22 - Application for licence

- (1) Every application for issue of a licence shall be in such form as may be prescribed by the Central Government.
 - (2) Every application for issue of a licence shall be accompanied by--
 - (a) a certification practice statement;
 - (b) a statement including the procedures with respect to identification of the applicant;
 - (c) payment of such fees, not exceeding twenty-five thousand rupees as may be prescribed by the Central Government;
 - (d) such other documents, as may be prescribed by the Central Government.
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Section 23 - Renewal of licence

An application for renewal of a licence shall be--

- (a) in such form;
- (b) accompanied by such fees, not exceeding five thousand rupees,

as may be prescribed by the Central Government and shall be made not less than forty-five days before the date of expiry of the period of validity of the licence.

Section 24 - Procedure for grant or rejection of licence

The Controller may, on receipt of an application under sub-section (1) of section 21, after considering the documents accompanying the application and such other factors, as he deems fit, grant the licence or reject the application:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

Section 25 - Suspension of licence

- (1) The Controller may, if he is satisfied after making such inquiry, as he may think fit, that a Certifying Authority has--

(a) made a statement in, or in relation to, the application for the issue or renewal of the licence, which is incorrect or false in material particulars;

(b) failed to comply with the terms and conditions subject to which the licence was granted;

1[(c) failed to maintain the procedures and standards specified in section 30 ;]

(d) contravened any provisions of this Act, rule, regulation or order made thereunder;

revoke the licence:

Provided that no licence shall be revoked unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed revocation.

(2) The Controller may, if he has reasonable cause to believe that there is any ground for revoking a licence under sub-section (1), by order, suspend such licence pending the completion of any enquiry ordered by him:

Provided that no licence shall be suspended for a period exceeding ten days unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed suspension.

(3) No Certifying Authority whose licence has been suspended shall issue any 2[Electronic] Signature Certificate during such suspension.

1. Substituted S.O. 1015(E), dated 19th September, 2002, for clause "(c) failed to maintain the standards specified under clause (b) of sub-section (2) of section 20;" (w.e.f. 19-9-2002).

2. Substituted vide Information Technology (Amendment) Act, 2008. Previous text was digital.

Section 26 - Notice of suspension or revocation of licence

(1) Where the licence of the Certifying Authority is suspended or revoked, the Controller shall publish notice of such suspension or revocation, as the case may be, in the data base maintained by him.

(2) Where one or more repositories are specified, the Controller shall publish notices of such suspension or revocation, as the case may be, in all such repositories:

Provided that the data base containing the notice of such suspension or revocation, as the case may be, shall be made available through a web site which shall be accessible round the clock:

Provided further that the Controller may, if he considers necessary, publicise the contents of data base in such electronic or other media, as he may consider appropriate.

Section 27 - Power to delegate

The Controller may, in writing, authorise the Deputy Controller, Assistant Controller or any officer to exercise any of the powers of the Controller under this Chapter.

Section 28 - Power to investigate contraventions

(1) The Controller or any officer authorised by him in this behalf shall take up for investigation any contravention of the provisions of this Act, rules or regulations made thereunder.

(2) The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act, 1961 (43 of 1961), and shall exercise such powers, subject to such limitations laid down under that Act.

Section 29 - Access to computers and data

(1) Without prejudice to the provisions of sub-section (1) of section 69, the Controller or any person authorised by him shall, if he has reasonable cause to suspect that any contravention of the provisions of this Act, rules or regulations made thereunder has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

(2) For the purposes of sub-section (1), the Controller or any person authorised by him may, by order, direct any person incharge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary.

Section 30 - Certifying Authority to follow certain procedures

Every Certifying Authority shall,--

- (a) make use of hardware, software, and procedures that are secure from intrusion and misuse;
- (b) provide a reasonable level of reliability in its services which are reasonably suited to the performance of intended functions;
- (c) adhere to security procedures to ensure that the secrecy and privacy of the [1](#)[Electronic] signatures are [2](#)[***]; and
- [3](#)[(ca) be the repository of all Electronic Signature Certificates issued under this Act;
- (cb) publish information regarding its practices, Electronic Signature Certificates and current status of such certificates; and".]
- (d) observe such other standards as may be specified by regulations.

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1. Substituted vide Information Technology (Amendment) Act, 2008. Previous text was digital.
 2. Omitted vide Information Technology (Amendment) Act, 2008 Prior to omission text read as under :-

"assured"
 3. Inserted vide Information Technology (Amendment) Act, 2008.

Section 31 - Certifying Authority to ensure compliance of the Act, etc

Every Certifying Authority shall ensure that every person employed or otherwise engaged by it complies, in the course of his employment or engagement, with the provisions of this Act, rules, regulations or orders made thereunder.

Section 32 - Display of licence

Every Certifying Authority shall display its licence at a conspicuous place of the premises in which it carries on its business.

Section 33 - Surrender of licence

(1) Every Certifying Authority whose licence is suspended or revoked shall immediately after such suspension or revocation, surrender the licence to the Controller.

(2) Where any Certifying Authority fails to surrender a licence under subsection (1), the person in whose favour a licence is issued, shall be guilty of an offence and shall be punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both.

Section 34 - Disclosure

(1) Every Certifying Authority shall disclose in the manner specified by regulations--

- (a) its [1](#)[Electronic Signature] Certificate [2](#)[***]
- (b) any certification practice statement relevant thereto;
- (c) notice of the revocation or suspension of its Certifying Authority certificate, if any; and
- (d) any other fact that materially and adversely affects either the reliability of a [1](#)[Electronic] Signature Certificate, which that Authority has issued, or the Authority's ability to perform its services.

(2) Where in the opinion of the Certifying Authority any event has occurred or any situation has arisen which may materially and adversely affect the integrity of its computer system or the conditions subject to which a [1](#)[Electronic Signature] Certificate was granted, then, the Certifying Authority shall--

- (a) use reasonable efforts to notify any person who is likely to be affected by that occurrence; or

(b) act in accordance with the procedure specified in its certification practice statement to deal with such event or situation.

1. Substituted vide Information Technology (Amendment) Act, 2008. Previous text was "digital Signature".

2. Omitted vide Information Technology (Amendment) Act, 2008 Prior to omission text read as under :-

"which contains the public key corresponding to the private key used by that Certifying Authority to digitally sign another Electronic Signature Certificate;"