Information Technology Act, 2000

Chapter XI - Offences

Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy, or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation.For the purposes of this section, "computer source code" means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

Section 66 - Computer related offences

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[1]**[66. Computer related offences.--**

If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

Explanation.-- For the purposes of this section,--

(a) the word "dishonestly" shall have the meaning assigned to it in section 24 of the Indian Penal Code;(45 of 1860).

(b) the word "fraudulently" shall have the meaning assigned to it in section 25 of the Indian Penal Code(45 of 1860).]

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

(1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hacking.

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend upto two lakh rupees, or with both.

Section 66A - Punishment for sending offensive messages through communication service, etc.

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[1]**[66A. Punishment for sending offensive messages through communication service, etc.** Any person who sends, by means of a computer resource or a communication device,-

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device,

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,

shall be punishable with imprisonment for a term which may extend to three years and with fine.

'Explanation.- For the purpose of this section, terms "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, images, audio, video and any other electronic record, which may be transmitted with the message.

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 66B - Punishment for dishonestly receiving stolen computer resource or communication device.

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[1]**[66B.Punishment for dishonestly receiving stolen computer resource or communication device.-** Whoever dishonestly received or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 66C - Punishment for identity theft.

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[1]**[66C. Punishment for identity theft.-**Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine with may extend to rupees one lakh Rupees.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 66D - Punishment for cheating by personation by using computer resource.

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[1]**[66D. Punishment for cheating by personation by using computer resource.-** Whoever, by means for any communication device or computer resource cheats by personating, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupee.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 66E - Punishment for violation of privacy.

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[1]**[66E. Punishment for violation of privacy.-** Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

Explanation.- For the purposes of this section-

(a) "transmit" means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) "capture", with respect to an image, means to videotape, photograph, film or record by any means;

(c) "private area" means the naked or undergarment clad genitals, public area, buttocks or female breast:

(d) "publishes" means reproduction in the printed or electronic form and making it available for public;

(e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that-

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 66F - Punishment for cyber terrorism.

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[1]**[66F. Punishment for cyber terrorism.**

(1) Whoever,-

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by-

(i) denying or cause the denial of access to any person authorized to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant; and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70, or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons for the security of the State or foreign relations, or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise, commits the offence of cyber terrorism.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 67 - Publishing of information which is obscene in electronic form

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[1]**[67. Punishment for publishing or transmitting obscene material in electronic form.-** Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

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

Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees.

Section 67A - Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.

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[1]**[67A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.-** Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 67B - Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.

[1]**[67B. Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.-** Whoever,-

(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or

(c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or

(d) facilitates abusing children online, or

(e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees: Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form-

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing drawing, painting representation or figure is the interest of science, literature, art or learning or other objects of general concern; or

(ii) which is kept or used for bonafide heritage or religious purposes.

Explanation- For the purposes of this section "children" means a persons who has not completed the age of 18 years.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 67C - Preservation and retention of information by intermediaries.

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[1]**[67C Preservation and retention of information by intermediaries.-** (1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and also be liable to fine.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 68 - Power of Controller to give directions

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(1) The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made thereunder.

[1][(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or both.]

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

"(2) Any person who fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding two lakh rupees or to both."

Section 69 - Power to issue directions for interception or monitoring or decryption of any information through any computer resource

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[1]**[69. Power to issue directions for interception or monitoring or decryption of any information through any computer**

resource.-(1) Where the Central Government or a State Government or any of its officer specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to-

(a) provide access to or secure access to the computer resource generating transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.]

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

(1) If the Controller is satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence, for reasons to be recorded in writing, by order, direct any agency of the Government to intercept any information transmitted through any computer resource.

(2) The subscriber or any person incharge of the computer resource shall, when called upon by any agency which has been directed under sub-section (1), extend all facilities and technical assistance to decrypt the information.

(3) The subscriber or any person who fails to assist the agency referred to in subsection (2) shall be punished with an imprisonment for a term which may extend to seven years.

Section 69A - Power to issue directions for blocking for public access of any information through any computer resource

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[1]**[69A. Power to issue directions for blocking for public access of any information through any computer resource.-** (1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2) for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 69B - Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security

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[1]**[69B. Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.-**

(1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge or the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which any extend to three years and shall also be liable to fine.

Explanation.-For the purposes of this section,-

(i) "computer contaminant" shall have the meaning assigned to it in section 43;

(ii) "traffic data" means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 70 - Protected system

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[1][(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

Explanation.-- For the purposes of this section, "Critical Information Infrastructure" means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.]

(2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1).

(3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

[1][(4) The Central Government shall prescribe the information security practices and procedures for such protected system.]

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

(1) The appropriate Government may, by notification in the Official Gazette, declare that any computer, computer system or computer network to be a protected system.

Section 70A - National nodal agency

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[1]**[70A. National nodal agency.-** (1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 70B - Indian Computer Emergency Response Team to serve as national agency for incident response

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[1]**[70B Indian Computer Emergency Response Team to serve as national agency for incident response**.-(1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computter

Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,-

(a) collection, analysis and dissemination of information on cyber incidents;

(b) forecast and alerts of cyber security incidents;

(c) emergency measures for handling cyber security incidents;

(d) coordination of cyber incidents response activities;

(e) issue guidelines, advisories, vulnerability notes and white papers relating to information security practices, procedures, preventation, response and reporting of cyber incidents;

(f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.

(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under subsection (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 71 - Penalty for misrepresentation

Whoever makes any misrepresentation to, or suppresses any material fact from the Controller or the Certifying Authority for obtaining any licence or [1][Electronic]Digital Signature Certificate, as the case may be, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

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

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Section 72 - Penalty for Breach of confidentiality and privacy

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Save as otherwise provided in this Act or any other law for the time being in force, if any person who, in pursuance of any of the powers conferred under this Act, rules or regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

Section 72A - Punishment for disclosure of information in breach of lawful contract

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[1]**[72A. Punishment for disclosure of information in breach of lawful contract.--**

Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other

person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 73 - Penalty for publishing Electronic Signature Certificate false in certain particulars

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(1) No person shall publish a [1][Electronic] Signature Certificate or otherwise make it available to any other person with the knowledge that

(a) the Certifying Authority listed in the certificate has not issued it; or

(b) the subscriber listed in the certificate has not accepted it; or

(c) the certificate has been revoked or suspended,

unless such publication is for the purpose of verifying a [1][Electronic] signature created prior to such suspension or revocation.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

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

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Section 74 - Publication for fraudulent purpose

Whoever knowingly creates, publishes or otherwise makes available a [Electronic] Signature Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

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

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Section 75 - Act to apply for offence or contravention committed outside India

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(1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

(2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

Section 76 - Confiscation

Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made thereunder has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of the provisions of this Act, rules, orders or regulations made thereunder, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made thereunder as it may think fit.

Section 77 - Penalties or confiscation not to interfere with other punishments

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[1]**[77.Compensation, penalties or confiscation not to interfere with other punishment.-**No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

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

"No penalty imposed or confiscation made under this Act shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force."

Section 77A - Compounding of offences

[1]**[77A. Compounding of offences.-** A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman.

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973 shall apply.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 77B - Offences with three years imprisonment to be bailable

[1]**[77B. Offences with three years imprisonment to be bailable.-** Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.]

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1. Inserted vide Information Technology (Amendment) Act, 2008.

Section 78 - Power to investigate offences

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), a police officer not below the rank of [1][Inspector] shall investigate any offence under this Act.

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

"Deputy Superintendent of Police "