

Information Technology Act, 2000

Chapter XIII - Miscellaneous

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer, not below the rank of a ¹[Inspector], or any other officer of the Central Government or a State Government authorised by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act.

Explanation.-For the purposes of this sub-section, the expression "public place" includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.

(2) Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section.

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

"Deputy Superintendent of Police"

Section 81 - Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

¹[Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 (14 of 1957) or the Patents Act, 1970.]"(39 of 1970)]

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

Section 81A - Application of the Act to electronic cheque and truncated cheque

¹ [81A. Application of the Act to electronic cheque and truncated cheque

(1) The provisions of this Act, for the time being in force, shall apply to, or in relation to, electronic cheques and the truncated cheques subject to such modifications and amendments as may be necessary for carrying out the purposes of the Negotiable Instruments Act, 1881 (26 of 1881) by the Central Government, in consultation with the Reserve Bank of India, by notification in the Official Gazette.

(2) Every notification made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Explanation.-For the purposes of this Act, the expressions "electronic cheque" and "truncated cheque" shall have the same meaning as assigned to them in section 6 of the Negotiable Instruments Act, 1881 (26 of 1881).]

1. Inserted by Act 55 of 2002, Section 13 (w.e.f. 6-2-2003).

Section 82 - Controller, Deputy Controller and Assistant Controllers to be public servants

The ¹[Chairperson, Members] and other officers and employees of a Cyber Appellate Tribunal, the Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

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

"Presiding Officer"

Section 83 - Power to give directions

The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule, regulation or order made thereunder.

Section 84 - Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, the ¹[Chairperson, Members], adjudicating officers and the staff of the Cyber Appellate Tribunal for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

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

"Presiding Officer"

Section 84A - Modes or methods for encryption

¹[**84A. Modes or methods for encryption.**- The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption.

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

Section 84B - Punishment for abetment of offences

¹[**84B. Punishment for abetment of offences.** - Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

Explanation.-An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.]

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

Section 84C - Punishment for attempt to commit offences

¹[**84C. Punishment for attempt to commit offences.**- Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.]

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

Section 85 - Offences by companies

(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such

contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this section,

- (i) "company" means any body corporate and includes a firm or other association of individuals; and
- (ii) "director", in relation to a firm, means a partner in the firm.

Section 86 - Removal of difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Section 87 - Power of Central Government to make rules

(1) The Central Government may, by notification in the Official Gazette and in the Electronic Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

²[(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;]

(b) the electronic form in which filing, issue, grant or payment shall be effected under sub-section (1) of section 6;

(c) the manner and format in which electronic records shall be filed, or issued and the method of payment under sub-section (2) of section 6;

³[(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;]

(d) the matters relating to the type of ¹[Electronic] signature, manner and format in which it may be affixed under section 10;

⁴[(e) the manner of storing and affixing electronic signature creation data under section 15;

(ea) the security procedures and practices under section 16;"]

(f) the qualifications, experience and terms and conditions of service of Controller, Deputy Controllers and ⁵[Assistant Controllers, other officers and employees] under section 17;

⁶[***]

(h) the requirements which an applicant must fulfil under sub-section (2) of section 21;

(i) the period of validity of licence granted under clause (a) of subsection (3) of section 21;

(j) the form in which an application for licence may be made under subsection (1) of section 22;

(k) the amount of fees payable under clause (c) of sub-section (2) of section 22;

(l) such other documents which shall accompany an application for licence under clause (d) of sub-section (2) of section 22;

- (m) the form and the fee for renewal of a licence and the fee payable thereof under section 23;
- ³[(ma) the form of application and fee for issue of Electronic Signature Certificate under section 35]
- (n) the form in which application for issue of a ¹[Electronic] Signature Certificate may be made under sub-section (1) of section 35;
- (o) the fee to be paid to the Certifying Authority for issue of a ¹[Electronic] Signature Certificate under sub-section (2) of section 35;
- ³[(oa) the duties of subscribers under section 40A;
- (ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;]
- (p) the manner in which the adjudicating officer shall hold inquiry under sub-section (1) of section 46;
- (q) the qualification and experience which the adjudicating officer shall possess under sub-section (3) of section 46;
- (r) the salary, allowances and the other terms and conditions of service of the ²[Chairperson and Members] under section 52;
- (s) the procedure for investigation of misbehaviour or incapacity of the ²[Chairperson and Members] under sub-section (3) of section 54;
- (t) the salary and allowances and other conditions of service of other officers and employees under sub-section (3) of section 56;
- (u) the form in which appeal may be filed and the fee thereof under subsection (3) of section 57;
- (v) any other power of a civil court required to be prescribed under clause (g) of sub-section (2) of section 58; and
- ⁸[(w) the powers and functions of the Chairperson of the Cyber Appellate Tribunal under section 52A;
- (x) the information, duration, manner and form of such information to be retained and preserved under section 67C;
- (y) the procedures and safeguards for interception, monitoring or decryption under sub-section (2) of section 69A;
- (z) the procedures and safeguards for blocking for access by the public under sub-section (3) of section 69 B;
- (za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;
- (zb) the information security practices and procedures for protected system under section 70;
- (zc) manner of performing functions and duties of the agency under sub-section (3) of section 70 A;
- (zd) the officers and employees under sub-section (2) of section 70B;
- (ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of Section 70B
- (zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;
- (zg) the guidelines to be observed by the intermediaries under subsection (40 of section 79;
- (zh) the modes or methods for encryption under section 84 A]
- (3) ⁹[Every notification made by the Central Government under sub-section(1) of section 70 A and every rule made by it] shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in ¹⁰[***] the rule or both Houses agree that ¹⁰[***] the rule should not be made, ¹⁰[***] the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

2. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-
 "(a) the manner in which any information or matter may be authenticated by means of digital signature under section 5;"
3. Inserted vide Information Technology (Amendment) Act, 2008.
4. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-
 "(e) the security procedure for the purpose of creating secure electronic record and secure digital signature under section 16;"
5. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-
 "Assistant Controllers"
6. Omitted vide Information Technology (Amendment) Act, 2008 Prior to omission text read as under :-
 "(g) other standards to be observed by the Controller under clause (b) of subsection (2) of section 20;"
7. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-
 "Presiding Officer"
8. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-
 "(w) any other matter which is required to be, or may be, prescribed."
9. Substituted vide Information Technology (Amendment) Act, 2008 Prior to substitution text read as under :-
 "Every notification made by the Central Government under clause (f) of sub-section (4) of section 1 and every rule made by it"
10. Omitted vide Information Technology (Amendment) Act, 2008 Prior to omission text read as under :-
 "the notification or"

Section 88 - Constitution of Advisory Committee

- (1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Cyber Regulations Advisory Committee.
- (2) The Cyber Regulations Advisory Committee shall consist of a Chairperson and such number of other official and non-official members representing the interests principally affected or having special knowledge of the subject-matter as the Central Government may deem fit.
- (3) The Cyber Regulations Advisory Committee shall advise
 - (a) the Central Government either generally as regards any rules or for any other purpose connected with this Act;
 - (b) the Controller in framing the regulations under this Act.
- (4) There shall be paid to the non-official members of such Committee such travelling and other allowances as the Central Government may fix.

Section 89 - Power of Controller to make regulations

- (1) The Controller may, after consultation with the Cyber Regulations Advisory Committee and with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-
 - (a) the particulars relating to maintenance of data-base containing the disclosure record of every Certifying Authority under clause¹[(n)] of section 18;
 - (b) the conditions and restrictions subject to which the Controller may recognise any foreign Certifying Authority under sub-section (1) of section 19;
 - (c) the terms and conditions subject to which a licence may be granted under clause (c) of sub-section (3) of section 21;
 - (d) other standards to be observed by a Certifying Authority under clause (d) of section 30;
 - (e) the manner in which the Certifying Authority shall disclose the matters specified in sub-section (1) of section 34;
 - (f) the particulars of statement which shall accompany an application under sub-section (3) of section 35.
 - (g) the manner by which the subscriber shall communicate the compromise of private key to the Certifying Authority under sub-section (2) of section 42.
- (3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be

made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

1. Substituted by S.O. 1015 (E), dated 19th September, 2002, for "(m)" (w.e.f. 19-9-2002).

Section 90 - Power of State Government to make rules

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the electronic form in which filing, issue, grant, receipt or payment shall be effected under sub-section (1) of section 6;

(b) for matters specified in sub-section (2) of section 6;

[1\[***\]](#)

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

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

"(c) any other matter which is required to be provided by rules by the State Government."

Section 91 - Amendment of Act 45 of 1860 (omitted)

[1\[***\]](#)

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

"The Indian Penal Code shall be amended in the manner specified in the First Schedule to this Act."

Section 92 - Amendment of Act 1 of 1872 (omitted)

[1\[***\]](#)

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

"The Indian Evidence Act, 1872 shall be amended in the manner specified in the Second Schedule to this Act."

Section 93 - Amendment of Act 18 of 1891 (omitted)

[1\[***\]](#)

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

"The Bankers' Books Evidence Act, 1891 shall be amended in the manner specified in the Third Schedule to this Act."

Section 94 - Amendment of Act 2 of 1934 (omitted)

[1\[***\]](#)

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

"The Reserve Bank of India Act, 1934 shall be amended in the manner specified in the Fourth Schedule to this Act."
