

THE INFORMATION TECHNOLOGY ACT, 2000

(21 of 2000)

[9th June, 2000]

An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto;

WHEREAS the General Assembly of the United Nations by resolution A/RES/51/162, dated 30th January, 1997 has adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law;

AND WHEREAS the said resolution recommends, *inter alia*, that all States give favourable consideration to the said Model Law when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

AND WHEREAS it is considered necessary to give effect to the said resolution and to promote efficient delivery of Government services by means of reliable electronic records;

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Information Technology Act, 2000.

(2) It shall extend to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date¹ as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

²(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule:

1. Came into force on 17-10-2000 *vide* G.S.R. 788(E), dated 17th October, 2000.

2. Subs. by Act 10 of 2009, sec. 3, for sub-section (4) (w.e.f. 27-10-2009). Sub-section (4), before substitution, stood as under:

"(4) Nothing in this Act shall apply to—

(a) a negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881);

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

- (a) "access", with its grammatical variations and cognate expressions, means gaining entry into, instructing or communicating with the logical, arithmetical or memory function resources of a computer, computer system or computer network;
- (b) "addressee" means a person who is intended by the originator to receive the electronic record but does not include any intermediary;
- (c) "adjudicating officer" means an adjudicating officer appointed under sub-section (1) of section 46;
- (d) "affixing ¹[electronic signature]", with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of ¹[electronic signature];
- (e) "appropriate Government" means as respects any matter,—
 - (i) enumerated in List II of the Seventh Schedule to the Constitution;
 - (ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution,
 the State Government and in any other case, the Central Government;
- (f) "asymmetric crypto system" means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;
- (g) "Certifying Authority" means a person who has been granted a licence to issue a ¹[electronic signature] Certificate under section 24;
- (h) "certification practice statement" means a statement issued by a Certifying Authority to specify the practices that the Certifying Authority employs in issuing ²[Electronic Signature] Certificates;

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- (b) a power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882 (7 of 1882);
- (c) a trust as defined in section 3 of the Indian Trusts Act, 1882 (2 of 1882);
- (d) a Will as defined in clause (h) of section (2) of the Indian Succession Act, 1925 (39 of 1925), including any other testamentary disposition by whatever name called;
- (e) any contract for the sale or conveyance of immovable property or any interest in such property;
- (f) any such class of documents or transactions as may be notified by the Central Government in the Official Gazette."

1. Subs. by Act 10 of 2009, sec. 2, for "digital signature" (w.e.f. 27-10-2009).

2. Subs. by Act 10 of 2009, sec. 2, for "Digital Signature" (w.e.f. 27-10-2009).

- ¹[(ha) "communication device" means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;]
- (i) "computer" means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;
- ²[(j) "computer network" means the inter-connection of one or more computers or computer systems or communication device through—
- (i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and
- (ii) terminals or a complex consisting of two or more interconnected computers or communication device whether or not the inter-connection is continuously maintained;]
- (k) "computer resource" means computer, computer system, computer network, data, computer data base or software;
- (l) "computer system" means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files which contain computer programmes, electronic instructions, input data and output data that performs logic, arithmetic, data storage and retrieval, communication control and other functions;
- (m) "Controller" means the Controller of Certifying Authorities appointed under sub-section (l) of section 17;
- (n) "Cyber Appellate Tribunal" means the Cyber ³[***] Appellate Tribunal established under sub-section (1) of section 48;
- ⁴[(na) "cyber cafe" means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;]
- ⁴[(nb) "cyber security" means protecting information, equipment, devices computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;]

1. Ins. by Act 10 of 2009, sec. 4(A) (w.e.f. 27-10-2009).

2. Subs. by Act 10 of 2009, sec. 4(B), for clause (j) (w.e.f. 27-10-2009). Clause (j), before substitution, stood as under:

'(j) "computer network" means the interconnection of one or more computers through—

(i) the use of satellite, microwave, terrestrial line or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained;'

3. The word "Regulations" omitted by Act 10 of 2009, sec. 4(C) (w.e.f. 27-10-2009).

4. Ins. by Act 10 of 2009, sec. 4(D) (w.e.f. 27-10-2009).

- (o) "data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;
- (p) "digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;
- (q) "Digital Signature Certificate" means a Digital Signature Certificate issued under sub-section (4) of section 35;
- (r) "electronic form", with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;
- (s) "Electronic Gazette" means the Official Gazette published in the electronic form;
- (t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;
- ¹[(ta) "electronic signature" means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;]
- ¹[(tb) "Electronic Signature Certificate" means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;]
- (u) "function", in relation to a computer, includes logic, control, arithmetical process, deletion, storage and retrieval and communication or telecommuni-cation from or within a computer;
- ²[(ua) "Indian Computer Emergency Response Team" means an agency established under sub-section (1) of section 70B;]
- (v) "information" includes ³[data, message, text], images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche;
- ⁴[(w) "intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores

1. Ins. by Act 10 of 2009, sec. 4(E) (w.e.f. 27-10-2009).

2. Ins. by Act 10 of 2009, sec. 4(F) (w.e.f. 27-10-2009).

3. Subs. by Act 10 of 2009, sec. 4(G), for "data, text" (w.e.f. 27-10-2009).

4. Subs. by Act 10 of 2009, sec. 4(H), for clause (w) (w.e.f. 27-10-2009). Clause (w), before substitution, stood as under:

'(w) "intermediary", with respect to any particular electronic message, means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message.'

or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;]

- (x) "key pair", in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;
- (y) "law" includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under article 240, Bills enacted as President's Act under sub-clause (a) of clause (1) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;
- (z) "licence" means a licence granted to a Certifying Authority under section 24;
- (za) "originator" means a person who sends, generates, stores or transmits any electronic message; or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;
- (zb) "prescribed" means prescribed by rules made under this Act;
- (zc) "private key" means the key of a key pair used to create a digital signature;
- (zd) "public key" means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;
- (ze) "secure system" means computer hardware, software, and procedure that—
 - (a) are reasonably secure from unauthorised access and misuse;
 - (b) provide a reasonable level of reliability and correct operation;
 - (c) are reasonably suited to performing the intended functions; and
 - (d) adhere to generally accepted security procedures;
- (zf) "security procedure" means the security procedure prescribed under section 16 by the Central Government;
- (zg) "subscriber" means a person in whose name the ¹[Electronic Signature] Certificate is issued;
- (zh) "verify", in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions, means to determine whether—
 - (a) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;

1. Subs. by Act 10 of 2009, sec. 2, for "Digital Signature" (w.e.f. 27-10-2009).

- (b) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II

¹[DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE]

3. Authentication of electronic records.—(1) Subject to the provisions of this section, any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

Explanation.—For the purposes of this sub-section, "hash function" means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as "hash result" such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible—

- (a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;
- (b) that two electronic records can produce the same hash result using the algorithm.

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

²[3A. **Electronic signature.**—(1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which—

- (a) is considered reliable; and
- (b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if—

- (a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;

1. Subs. by Act 10 of 2009, sec. 5, for the heading "DIGITAL SIGNATURE" (w.e.f. 27-10-2009).

2. Ins. by Act 10 of 2009, sec. 6 (w.e.f. 27-10-2009).

- (b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;
 - (c) any alteration to the electronic signature made after affixing such signature is detectable;
 - (d) any alteration to the information made after its authentication by electronic signature is detectable; and
 - (e) it fulfils such other conditions which may be prescribed.
- (3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.
- (4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:
- Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.
- (5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

CHAPTER III ELECTRONIC GOVERNANCE

4. **Legal recognition of electronic records.**—Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is—

- (a) rendered or made available in an electronic form; and
- (b) accessible so as to be usable for a subsequent reference.

COMMENTS

If any information or matter is rendered or made available in an electronic form, and accessible so as to be usable for a subsequent reference, shall be deemed to have satisfied the requirement of the law which provides that information or any other matter shall be in writing or in the typewritten form.

5. **Legal recognition of ¹[electronic signature].**—Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of ²[electronic signature] affixed in such manner as may be prescribed by the Central Government.

Explanation.—For the purposes of this section, "signed", with its grammatical variations and cognate expressions, shall, with reference to a person, mean

1. Subs. by Act 10 of 2009, sec. 2, for "digital signatures" (w.e.f. 27-10-2009).

2. Subs. by Act 10 of 2009, sec. 2, for "digital signature" (w.e.f. 27-10-2009).

affixing of his hand written signature or any mark on any document and the expression "signature" shall be construed accordingly.

COMMENTS

If any information or any other matter is required by law to be authenticated by affixing the signature, then such requirement shall be deemed to have been satisfied if such information or matter is authenticated by means of electronic signature affixed in the prescribed manner.

6. Use of electronic records and ¹[electronic signatures] in Government and its agencies.—(1) Where any law provides for—

- (a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate Government in a particular manner;
- (b) the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;
- (c) the receipt or payment of money in a particular manner,

then, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe—

- (a) the manner and format in which such electronic records shall be filed, created or issued;
- (b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record under clause (a).

²6A. Delivery of services, by service provider.—(1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set-up, maintain and upgrade the computerised facilities and perform such other services as it may specify by notification in the Official Gazette.

Explanation.—For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service

1. Subs. by Act 10 of 2009, sec. 2, for "digital signatures" (w.e.f. 27-10-2009).

2. Ins. by Act 10 of 2009, sec. 7 (w.e.f. 27-10-2009).