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INFORMATION TECHNOLOGY ACT 2000

Introduction –

Information Technology is one of the important law relating to Indian cyber law. The Information Technology Bill having been passed by both the houses of parliament, received the assent of the president on 9th june, 2000 and came on the statute book as “ The Information Technology Act, 2000.

- It came into force on 17-10-2000.
- The original act of 2000 contained-
94 sections, 13 chapters, 4 schedules
- The Indian parliament brought changes by the following amendment acts to this original IT Act , 2000.

Amendment act is The Information Technology (amendment) act, 2008.

- By these amendment Acts, 31 new sections –

3(A), 6(A), 7(A), 10(A), 40(A), 43(A), 52(A) to 52(D), 66(A) to 66(F), 67(A) to 67(C), 69(A), 69(B), 70(A), 70(B), 72(A), 77(A), 77(B), 79(A), 81(A), 84(A) to 84(C) are added to the 2000 act.

- Chapter XII-A has been added to the 2000 Act.
- Five sections namely 20, 91 to 94 were repealed from the 2000 Act.
- Third and Fourth schedules were repealed from the 2000 Act

Objectives of the IT 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.

- To facilitate electronic filing of document with government agencies and E-payments.
- To give legal recognition to digital signature for authenticate of any information.
- To amend the Indian Penal Code, Indian Evidence Act 1872, The Banker's Books Evidence Act 1891, Reserve Bank of India Act.
- Aims to provide for the legal framework so that legal sanctity is accorded to all electronic records and other activities carried out by electronic means.

SALIENT FEATURES OF I.T. ACT 2000

In 1996, the United Nations Commission on International Trade Law (UNCITRAL) adopted the model law on electronic commerce (e-commerce) to bring uniformity in the law in different countries

While the first draft was created by the Ministry of Commerce, Government of India as the ECommerce Act, 1998, it was redrafted as the 'Information Technology Bill, 1999', and passed in May 2000.

The Salient Features Of I.T.(Amendment) Act 2000 are as follows:-

- Digital signature has been replaced with electronic signature to make it a more technology neutral act.
- It elaborates on offenses, penalties and breaches.
- It defines in a new section that cyber café is any facility from where the access to the internet is offered by any person in the ordinary course of business to the members of the public.
- It provides for the constitution of the cyber regulations advisory committee.
- A bill was passed in the budget of 2000 and signed by president K.R.Narayanan on 9th may 2000.
- Finalized by group of officials headed by then Minister of Information Technology Pramod mahajanji.
- Contains 94 sections, divided in 13 chapters and 4 schedules.
Enacted by parliament of india on june 9, 2000 and signed on may 9, 2000.
- Last amendment took place in 2008.
- Enacted on 17 may 2000 – India is 12th nation in the world to adopt cyber law.
- IT Act is based on model law on e-commerce adopted by UNCITRAL.

SALIENT FEATURES OF I.T. ACT 2008

The Information Technology (Amendment) Bill, was introduced in parliament in 2006, but it was referred to the standing committee of parliament. In December, 2008 the bill was passed by the parliament and it became Information Technology (Amendment) Act, 2008.

The Salient Features Of I.T.(Amendment) Act 2008 are as follows:-

- Change of the term ‘digital signature’ as ‘electronic signature’.
- Some new definitions-
A new sub-section has been inserted to define (section 2(ha) ‘communication device’) and (section 2(na) ‘cyber café’) and (section 2(w) intermediary).
- A new section 10A has been inserted to the effect that contracts concluded electronically shall not be deemed to be unenforceable solely on the ground that electronic form or means was used.
- A new section 43A has been inserted to protect sensitive personal data or information possessed, dealt or handled by a body corporate in a computer resource which such body corporate owns,

controls or operates. If such body corporate is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, it shall be liable to pay damages by way of compensation to the person so affected.

- Sections 66A to 66F has been added to Section 66 prescribing punishment for offences such as obscene electronic message transmissions, identity theft, cheating by impersonation using computer resource, violation of privacy and cyber terrorism.
- Section 67 of the IT Act, 2000 has been amended to reduce the term of imprisonment for publishing or transmitting obscene material in electronic form to three years from five years and increase the fine thereof from Rs.one lakh to Rs.five lakh. Sections 67A to 67C have also been inserted. While Sections 67A and B deals with penal provisions in respect of offences of publishing or transmitting of material containing sexually explicit act and child pornography in electronic form, Section 67C deals with the obligation of an intermediary to preserve and retain such information as may be specified for such duration and in such manner and format as the central government may prescribe.
- In view of the increasing threat of terrorism in the country, the new amendments include an amended section 69 giving power to the state to issue directions for interception or monitoring of

decryption of any information through any computer resource. Further, sections 69A and B, two new sections, grant power to the state to issue directions for blocking for public access of any information through any computer resource and to authorize to monitor and collect traffic data or information through any computer resource for cyber security.

- Section 79 of the Act which exempted intermediaries has been modified to the effect that an intermediary shall not be liable for any third party information data or communication link made available or hosted by him if;

(a) The function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted;

(b) The intermediary does not initiate the transmission or select the receiver of the transmission and select or modify the information contained in the transmission;

(c) The intermediary observes due diligence while discharging his duties.

However, section 79 will not apply to an intermediary if the intermediary has conspired or abetted or aided or induced whether

by threats or promise or otherwise in the commission of the unlawful act or upon receiving actual knowledge or on being notified that any information, data or communication link residing in or connected to a computer resource controlled by it is being used to commit an unlawful act,

- A proviso has been added to Section 81 which states that the provisions of the Act shall have overriding effect. The proviso states that nothing contained in the Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957.
- The major dilutions of the Amendment Act, 2008 are less punishment for violation of privacy under section 66 and for failure to comply with the direction of controller under section 68(2).