

# Information Technology [Amendment] Act, 2008

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This material is prepared for use with Padhukas, Management Information and Control Systems for CA Final [Existing Syllabus]. This material only gives amendments in the form of corrections to the existing chapter, and shall be useful to those who have the old version of the book. Only relevant amendments in the form corrections and insertions have been given. Except as otherwise given here, the remaining provisions or questions stands as they are in the book.

Only topics which I felt important are discussed here. Please ensure correctness of this material before using. Any suggestion or correctness may be sent to [budaykiran@in.com](mailto:budaykiran@in.com) or [udaykiranbagade@gmail.com](mailto:udaykiranbagade@gmail.com)

1. **Q2** - Objectives of the act – **strike off point (6)**

2. **Q5** - Definitions

- In point (3) Computer Network in (a) insert “**wire, wireless**” after “terrestrial line”.
- Add the following definitions :
  - (a) “**Cyber Café**” 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.
  - (b) “**Cyber Security**” means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorized access, use, disclosure, disruption, modification or destruction.
  - (c) “**Intermediary**” with respect to any particular electronic records, means any person who on behalf of another person receives, stores 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.
  - (d) “**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.

3. **Q11** - Sec 12 has been modified, only wordings have been changed – hence ignore.

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4. **Q13** - Replace Point (2) Secure Digital Signature [section 15] & Point (3) Security Procedure [section 16] with the following:

## 2. Secure Electronic Signature [Sec 15]

An electronic signature shall be deemed to be a secure electronic signature if-

- i. the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and
- ii. the signature creation data was stored and affixed in such exclusive manner as may be prescribed

## 3. Security Procedures and Practices [Sec 16]

The Central Government may for the purposes of sections 14 and 15 prescribe the security procedures and practices.

Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.

5. **Q14** -

In Point 1(a) - insert "other officers and employees" after "assistant controllers".

In Point 3(d) - amended, but no substantial change, so, ignore

In Point 3(f) — Delete this point, due to amendment the power has been shifted.

6. **Q17** - Delete point 2 - Controller to act as repository, as section 20 has been omitted.

7. **Q20** -

In Point 1(c) - replace "Digital Signatures" with "Electronic Signatures".

In Point 4(a) - Same as above.

8. **Q22** -

In Point (3) - add below:

- a. The subscriber holds the private key which is capable of creating digital signature.
- b. The public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber.

9. **Q24** -

In Point 3 — Generating Key Pair [Section 40] delete "then" [in second line] and replace "the" with "that" in third line. This was old amendment but not updated.

10. **Q25**
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In Point 1 — Penalty has been termed as “pay damages by way of compensation to the person affected” — omit rupees one crore.

In Point 2 — Add the following lines after point (h)

- i. destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means
- j. Steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage,

Also add point 7 as follows:

- 7. "Computer Source code" means the listing of programs, computer commands, design and layout and program analysis of computer resource in any form.

#### 11. Q28

Read only this [relevant and short]

### PROVISIONS RELATING TO CYBER APPELLATE TRIBUNAL

- a. **Constitution of CAT:** Central Government by notification
  - b. **Composition:** Chairperson and such number of other members as notified.
  - c. **Selection of Chairperson and members:** by Central Government.
  - d. **Benches:**
    - CAT shall exercise jurisdiction, powers and authority through benches with one or two members.
    - Benches shall sit at New Delhi and others places as notified.
  - e. **Qualifications of Chairperson & Members:**
    - **Chairperson:** is or has been or is qualified to be a judge of High Court.
    - **Member (Judicial):** Member of ILS or held post of Addl. Secretary for not less than a year or Grade I of that post for at least 5 years.
    - **Member (Non Judicial):** persons having specialized knowledge and experience in IT, telecommunications, industry, management or consumer affairs and is CG or SG employee and held post of addl. Secretary or equivalent for 2 years or Joint Secy. Or equivalent for 7 years.
  - f. **Term of Office of Chairperson and Members**
    - 5 years or attainment of 65 years of age, whichever is earlier
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- They shall not have any financial or other interest which effects their functions
- g. **Salary, allowances, terms of service:** as prescribed
- h. Chairperson shall have **general power** of superintendence and directions in conduct of affairs.
- i. Chairperson shall distribute business to the benches
- j. Chairperson, *suo moto* or on application may transfer cases from one bench to other.
- k. Decisions by majority, if opinions differ, reference shall be made to Chairperson.
- l. Vacancies are filled by Central Government.
- m. **Resignation:** by giving notice in writing. Unless permitted, he shall hold office unto:
  - Expiry of 3 months or
  - Another person is appointed or
  - Expiry of his term
 Whichever is earliest.
- n. **Removal** - By order of CG.

## 12. **Q33** - Offences and Related Penalties

*Separate file has been provided [Penalties.docx]*

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