



# SHREE GURU KRIPA'S INSTITUTE OF MANAGEMENT

No.27, Akbarabad Second Street, Kodambakkam, Chennai – 600 024

E-mail: padhuka@shrigurukripa.com

## Changes Made by Information Technology (Amendment) Act 2008

| Section  | PROVISIONS OF THE ACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|          | <b>BASICS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 81       | This Act shall not restrict any person from exercising any right conferred under the Copyright Act, 1957 or the Patents Act, 1970.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1(4)     | The Act shall <b>not apply</b> to the <b>Negotiable Instrument</b> other than a cheque. Therefore, the act is applicable to Cheque.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 2(1)(j)  | Definition of Computer Network has been widened to include 'computer systems', 'communication devices' and also use of 'wire / wireless media'.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2(1)(ha) | <b>Communication Device</b> 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2(1)(na) | <b>Cyber Cafe</b> 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2(1)(nb) | <b>Cyber Security</b> means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2(1)(v)  | The term Information includes 'message'.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2(1)(d)  | The term ' <b>Digital Signature</b> ' <b>has been replaced by 'Electronic Signature'</b> .<br>Affixing Electronic Signature means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of Electronic Signature.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2(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 <b>includes digital signature</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2(1)(tb) | <b>Electronic Signature Certificate (ESC):</b> It means an Electronic Signature Certificate issued u/s 35 and includes Digital Signature Certificate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 3A(2)    | <b>Reliable Electronic Signature – Meaning:</b> Electronic signature or electronic authentication technique shall be considered reliable if –<br>(a) the signature creation data or the authentication data – (i) are within the context in which they are used, linked to the signatory or the authenticator and to no other person, (ii) were at the time of signing, under the control of the signatory or the authenticator and of no other person,<br>(b) any alteration to – (i) the electronic signature made after affixing such signature or (ii) the information made after its authentication by electronic signature is detectable, and<br>(c) it fulfils such other prescribed conditions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 6A       | 1. <b>Service Provider:</b> Service Provider includes any authorized 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.<br>2. <b>Authorisation:</b> The appropriate Government may authorise any service provider –<br>(a) to set up, maintain and upgrade the computerised facilities and perform such other notified services for efficient delivery of services to the public through electronic means,<br>(b) to collect, retain and appropriate such prescribed service charges for the purpose of providing such services, from the person availing such service even if there is no express provision under the Act, rule, regulation or notification under which the service is provided.<br>3. <b>Scale of Service Charges:</b> The appropriate Government shall specify the scale of service charges which may be charged and collected, by notification in the Official Gazette. It may also specify different scale of service charges for different types of services. |
| 7A       | <b>Audit of e-records:</b> Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Section                                  | PROVISIONS OF THE ACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| 2(1)(w)                                  | The definition of intermediary has been included in the place of network service providers and it 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 12(1)                                    | <b>Form of Acknowledgement:</b> The phrase ' <i>Where the originator and Addressee have not agreed upon a form of acknowledgement</i> ' has been replaced by ' <i>Where the Originator has not stipulated a form of acknowledgement</i> '.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 10A                                      | <b>Contracts formed through Electronic means:</b> The contract shall be deemed to be enforceable even during its formation the following are expressed in electronic form or by means of an electronic record – <ol style="list-style-type: none"> <li>1. Communication of proposals,</li> <li>2. Acceptance of proposals,</li> <li>3. Revocation of proposals and acceptances.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                  |
| 15                                       | <b>Secure Electronic Signature:</b> An electronic signature shall be deemed to be a secure if the signature creation data – <ol style="list-style-type: none"> <li>(a) at the time of affixing signature, was under the exclusive control of signatory and no other person; and</li> <li>(b) was stored and affixed in such exclusive manner as may be prescribed.</li> </ol> <b>Note:</b> In case of digital signature, the "signature creation data" means the private key of the subscriber.                                                                                                                                                                                                                                                                                             |
| CERTIFYING AUTHORITIES                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 17                                       | The Central Government can also appoint other officers and employees as it deems fit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 82                                       | Definition of Public Servants has been amended by replacing Presiding officer with Chairperson and members.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 29                                       | Access to Computers and data by Controller or authorized person can be done only if there is contravention of the Chapter of the Act relating to regulation of Certifying Authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 30                                       | Every Certifying Authority shall– <ol style="list-style-type: none"> <li>(a) be the repository of all the ESCs issued under this act,</li> <li>(b) publish information regarding its practices, ESCs and current status of such certificates</li> </ol> <b>(Note:</b> 1. The above 2 clauses have been added to the existing clauses<br>2. Students may note that Controller is now not the repository of ESCs.) <b>)</b>                                                                                                                                                                                                                                                                                                                                                                   |
| 34(1)                                    | The clause relating to disclosure of public key of the DSC of Certifying Authority has been removed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 35                                       | Conditions for Grant of DSC have been removed and it has been left to the Certifying Authority to decide whether to issue ESCs or not to the applicant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 36                                       | In Representations made under DSC, the following points have been added: <ol style="list-style-type: none"> <li>1. The subscriber holds a private key capable of creating a digital signature.</li> <li>2. The public key to be listed in the certificate can be used to verify the signature affixed by the private key.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 40A                                      | In respect of ESC, the subscriber shall perform such duties as may be prescribed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| PENALTIES, COMPENSATION AND ADJUDICATION |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 43                                       | Ceiling limit for Penalty for offence under Section 43 of the Act which was previously limited to Rs. 1 crore, has been removed.<br>Acts constituting an offence: Instead of 'any act' as mentioned earlier, acts without the permission of owner / person in charge only constitutes an offence.<br>The following clauses have been added to acts constituting an offence: <ol style="list-style-type: none"> <li>(a) Destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means.</li> <li>(b) Steal, 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.</li> </ol> |
| 43                                       | <b>Computer Source Code:</b> It means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 43A                                      | <b>Liability of Body Corporate to pay compensation on failure to implement reasonable security procedures:</b> <ol style="list-style-type: none"> <li>1. <b>Circumstance:</b> Where a <b>body corporate</b>, possessing, dealing or handling any <b>sensitive personal data or information</b> in a computer resource which it owns, controls or operates, <ol style="list-style-type: none"> <li>(a) is negligent in implementing and maintaining <b>reasonable security practices and procedures</b> and</li> <li>(b) thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.</li> </ol> </li> </ol>                                                                            |

| Section | PROVISIONS OF THE ACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|         | <p>2. <b>Body Corporate</b> means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities.</p> <p>3. <b>Reasonable security practices and procedures</b> means security practices and procedures designed to protect such information from unauthorized access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.</p> <p>4. <b>Sensitive personal data or information</b> means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 66      | This Section on 'Hacking with Computer System' has been replaced with ' <b>Damage</b> to Computer and Computer System'. Offence u/s 63 means dishonestly or fraudulently, doing any act referred to in Sec. 43. Maximum fine amount has been raised to Rs. 5 lakhs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 73      | <b>Publishing false ESCs:</b> Publication shall be made for verifying an Electronic Signature created prior to such suspension or revocation.<br>(See Table of Offences and Penalties below)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 63      | <b>Compounding:</b> 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 77B     | <b>Cognisable:</b> Any offence punishable with imprisonment of 3 years and above shall be cognizable offence.<br><b>Bailable:</b> Any offence punishable with imprisonment of 3 years shall be bailable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 79A     | <b>Examiner of Electronic Evidence:</b> <ol style="list-style-type: none"> <li>The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.</li> <li>Electronic form evidence means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 80      | <b>Powers of police for entry and search:</b> Minimum rank of a police officer for entry and search has been changed to rank of an Inspector.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 79      | <p><b>Excluding the liability of Intermediaries:</b> <i>(It replaces the same section known earlier as 'Excluding the liability of Network Service providers')</i></p> <ol style="list-style-type: none"> <li>Notwithstanding anything contained in any law for the time being in force, an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.</li> <li>Point 1 shall apply if – <ol style="list-style-type: none"> <li>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; or</li> <li>the intermediary does not – <ul style="list-style-type: none"> <li>initiate the transmission,</li> <li>select the receiver of the transmission, and</li> <li>select or modify the information contained in the transmission;</li> </ul> </li> <li>the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.</li> </ol> </li> <li>Point 1 shall not apply if – <ol style="list-style-type: none"> <li>the intermediary has conspired or abetted or aided or induced, whether by threats or promise or authorize in the commission of the unlawful act;</li> <li>upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.</li> </ol> </li> </ol> <p><b>Note:</b> For the purposes of this section, the expression "third party information" means any information dealt with by an intermediary in his capacity as an intermediary.</p> |
| 64      | Recovery as land arrears may be made also for compensation awarded under this Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Section                              | PROVISIONS OF THE ACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| 47                                   | <b>Jurisdiction:</b><br>The Adjudicating officers shall exercise jurisdiction to adjudge matters in which claim for injury or damage does not exceed Rs.5 Crores. Competent court shall exercise jurisdiction if the claim exceeds Rs.5 Crores.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 47                                   | All proceedings before Cyber Appellate Tribunal shall be deemed to be a Civil Court for the purposes of Order XXI of the Civil Procedure Code, 1908.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>CYBER LAWS APPELLATE TRIBUNAL</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2(1)(n)                              | Cyber Regulations Appellate Tribunal has been renamed as Cyber Appellate Tribunal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 49                                   | <b>Composition of Cyber Appellate Tribunal:</b><br><ol style="list-style-type: none"> <li>1. Cyber Appellate Tribunal shall consist of a chairperson and such number of other members. They shall be appointed, by notification, by the Central Government.</li> <li>2. The selection of such chairperson or members shall be made by the Central Government in consultation with the Chief Justice of India.</li> <li>3. The presiding officer appointed immediately before the commencement of Information Technology (Amendment) Act, 2008 shall be deemed to be the chairperson under the provisions of this act amended by Information Technology (Amendment) Act, 2008.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 58                                   | <b>Powers of Cyber Appellate Tribunal:</b><br><ol style="list-style-type: none"> <li>(a) The jurisdiction, powers and authority of the Cyber Appellate Tribunal may be exercised by the Benches thereof.</li> <li>(b) A Bench may be constituted by the Chairperson with one or two Members of such Tribunal as he may deem fit.</li> <li>(c) The Benches shall sit at New Delhi and at such other places as may be specified in notification by the Central Government in consultation with the Chairperson.</li> <li>(d) Central Government shall, by notification, specify the jurisdiction areas of each Bench.</li> <li>(e) Chairperson may transfer a Member from one Bench to another Bench.</li> <li>(f) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member, that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more Members, then they may be transferred by the Chairperson to such Bench as he may deem fit.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 50                                   | <b>Qualifications for appointment:</b><br><ol style="list-style-type: none"> <li>1. <b>Chairperson:</b> Only the person who is, or has been, or is qualified to be, a Judge of a High Court shall be appointed as a chairperson of Cyber Appellate Tribunal.</li> <li>2. <b>Judicial Members:</b> The Judicial Members of the shall be appointed by the Central Government from amongst persons who is or has been a member of the Indian Legal Service and has held the post of Additional Secretary for a period of not less than 1 year or Grade I post of that Service for a period of not less than 5 years.</li> <li>3. <b>Other Members:</b> Members other than Judicial Member with the following qualification shall be appointed by the Central Government – <ol style="list-style-type: none"> <li>(a) Person having special knowledge of and professional experience in, information technology, telecommunication, industry, management or consumer affairs,</li> <li>(b) He is, or has been, in the service of the Central Government or a State Government, and <ul style="list-style-type: none"> <li>• has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than one years or</li> <li>• Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years.</li> </ul> </li> </ol> </li> </ol> |
| 51                                   | <b>Conditions of Service:</b><br><ol style="list-style-type: none"> <li>1. Before appointing any person as the Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.</li> <li>2. An officer of the Central Government or State Government on his selection as the Chairperson or Member of the Cyber Appellate Tribunal, as the case may be, shall have to retire from service before joining as such Chairperson or Member.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 52                                   | Salary, Allowances and other terms and conditions of service shall be prescribed by the Government                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| Section       | PROVISIONS OF THE ACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| 52A to 52C    | <p><b>Powers of Chairperson:</b></p> <ol style="list-style-type: none"> <li>1. The Chairperson of shall have powers of general superintendence and directions in the conduct of the affairs of the Tribunal and he shall, in addition to presiding over the meetings of the Tribunal, exercise and discharge such powers and functions of the Tribunal as may be prescribed.</li> <li>2. Where Benches are constituted, the Chairperson may, by order, distribute the business of the Tribunal amongst the Benches and also the matters to be dealt with by each Bench.</li> <li>3. The Chairperson may transfer any case pending before one Bench, for disposal to any other Bench—               <ol style="list-style-type: none"> <li>(a) on the application of any of the parties and after notice to the parties, and after hearing such of them as he may deem proper to be heard, or</li> <li>(b) suo motu without such notice.</li> </ol> </li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 52D           | <p><b>Difference of opinion among members:</b></p> <p>If Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall hear the point or points himself and decide the issue according to the opinion of the majority of the Members who have heard the case, including those who first heard it.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| MISCELLANEOUS |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 70            | <p><b>Critical Information Infrastructure:</b> It means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 69            | <p><b>Powers of Government to issue direction or authorization for the safety of information:</b></p> <ol style="list-style-type: none"> <li>1. Power to issue interception/ monitoring/ decryption of information through computer resource</li> <li>2. Power to issue directions for the blocking for public access of any information through Computer resource</li> <li>3. Power to authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received, stored in any computer resource.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 70A           | <p><b>National Nodal Agency:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. Such designated national nodal agency shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.</li> <li>3. The manner of performing functions and duties of the agency shall be such as may be prescribed.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 70B           | <p><b>Indian Computer Emergency Response Team:</b></p> <ol style="list-style-type: none"> <li>1. The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.</li> <li>2. The Central Government shall provide the agency with a Director General and such other officers and employees as may be prescribed.</li> <li>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.</li> <li>4. The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security –               <ol style="list-style-type: none"> <li>(a) collection, analysis and dissemination of information on cyber incidents;</li> <li>(b) forecast and alerts of cyber security incidents;</li> <li>(c) emergency measures for handling cyber security incidents;</li> <li>(d) coordination of cyber incidents response activities;</li> <li>(e) issue guidelines, advisories, vulnerability notes and whitepapers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;</li> <li>(f) such other functions relating to cyber security as may be prescribed.</li> </ol> </li> <li>5. For carrying out the above functions, the agency may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.</li> <li>6. The manner of performing functions and duties of the agency shall be such as may be prescribed.</li> <li>7. Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction, shall be punishable with imprisonment upto 1 year or with fine upto Rs.1 lakh or with both.</li> <li>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.</li> </ol> |

| Section | PROVISIONS OF THE ACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 87      | <p><b>General Rule–Making Powers of Central Government:</b></p> <p>The following clauses have been included–</p> <ol style="list-style-type: none"> <li>1. The powers and functions of the Chairperson of the Cyber Appellate Tribunal u/s 52A;</li> <li>2. The information, duration, manner and form of such information to be retained and preserved u/s 67C;</li> <li>3. The procedures and safeguards for interception, monitoring, or decryption u/s 69(2);</li> <li>4. The procedure and safeguards for blocking for access by the public u/s 69A(2);</li> <li>5. The procedure and safeguards for monitoring and collecting traffic data or information u/s 69B(3);</li> <li>6. The information security practices and procedures for protected system u/s 70;</li> <li>7. Manner of performing functions and duties of the agency u/s 70A(3);</li> <li>8. The officers and employees u/s 70B(2);</li> <li>9. Salaries and allowances and terms and conditions of service of the Director General and other officers and employees u/s 70B(3);</li> <li>10. The manner in which the functions and duties of agency shall be performed u/s 70B(5);</li> <li>11. The guidelines to be observed by the intermediaries u/s 79(4);</li> <li>12. The modes or methods for encryption u/s 84A.</li> </ol> |
| 90      | State Government's rule making powers is limited to provisions relating to electronic forms and the manner and format of e–records and the fees for their filing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 84A     | <b>Areas to be covered by legislation in e-commerce:</b> 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**OFFENCES AND PENALTIES**

| <b>Sec. and Title</b>                                                    | <b>Offence</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Penalty</b>                                                                                                                        |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| <b>Sec. 66A: Sending offensive messages</b><br>through computer resource | <p>Sending by means of a computer resource or a communication device –</p> <ol style="list-style-type: none"> <li>any information that is grossly offensive or has menacing character, or</li> <li>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,</li> <li>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</li> </ol> <p><b>Note:</b> For the purposes of this section, the 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.</p>                                                                                                                                                                                                                                                                                  | <ul style="list-style-type: none"> <li>Imprisonment upto 3 years and</li> <li>Fine.</li> </ul>                                        |
| <b>Sec. 66B: Dishonestly receives stolen computer resource</b>           | Dishonestly receiving or retaining any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>Imprisonment upto Three years, or</li> <li>Fine upto Rs.1,00,000, or</li> <li>Both.</li> </ul> |
| <b>Sec. 66C: Identity theft</b>                                          | Fraudulently or dishonestly making use of the electronic signature, password or any other unique identification feature of any other person, shall be punished.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>Imprisonment upto 3 years and</li> <li>Fine upto Rs.1,00,000.</li> </ul>                       |
| <b>Sec. 66D: Cheating by personation</b>                                 | By means for any communication device or computer resource cheats by personating.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>Imprisonment upto 3 years and</li> <li>Fine upto Rs.1,00,000.</li> </ul>                       |
| <b>Sec. 66E: Violation of Privacy</b>                                    | <p>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.</p> <p><b>Note:</b> For the purposes of this section –</p> <ul style="list-style-type: none"> <li>“transmit” means to electronically send a visual image with the intent that it be viewed by a person or persons;</li> <li>“capture”, with respect to an image, means to videotape, photograph, film or record by any means;</li> <li>“private area” means the naked or undergarment clad genitals, public area, buttocks or female breast;</li> <li>“publishes” means reproduction in the printed or electronic form and making it available for public;</li> <li>“under circumstances violating privacy” means circumstances in which a person can have a reasonable expectation that –               <ol style="list-style-type: none"> <li>he or she could disrobe in privacy, without being concerned that an image of his private area was being captured, or</li> <li>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.</li> </ol> </li> </ul> | <ul style="list-style-type: none"> <li>Imprisonment upto 3 years, or</li> <li>Fine upto Rs.2,00,000, or</li> <li>Both.</li> </ul>     |

| Sec. and Title                                                                                     | Offence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Penalty                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Sec. 66F: Cyber terrorism</b>                                                                   | <p>Whoever, –</p> <ul style="list-style-type: none"> <li>• 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—               <ul style="list-style-type: none"> <li>(i) denying or cause the denial of access to any person authorized to access computer resource; or</li> <li>(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or</li> <li>(iii) introducing or causing to introduce any computer contaminant;</li> </ul> </li> </ul> <p>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</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> | <ul style="list-style-type: none"> <li>• Imprisonment upto imprisonment for life.</li> </ul>                                                                                                                                   |
| <b>Sec. 67:</b><br>Publishing <b>obscene</b> information in e-form<br>[See Note 1 below]           | <p>Publishing or transmitting or causes to publish or transmit in the e-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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>• First conviction – imprisonment upto 3 years and fine upto Rs.5,00,000.</li> <li>• Second / subsequent conviction – imprisonment upto 5 years and fine upto Rs.10,00,000.</li> </ul>  |
| <b>Sec. 67A:</b> Publishing material containing sexually explicit act in e-form [See Note 1 below] | <p>Publishing or transmitting or causes to publish or transmit in e-form any material which contains sexually explicit act or conduct.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <ul style="list-style-type: none"> <li>• First conviction – imprisonment upto 5 years and fine upto Rs.10,00,000.</li> <li>• Second / subsequent conviction – imprisonment upto 7 years and fine upto Rs.10,00,000.</li> </ul> |

| Sec. and Title                                                                             | Offence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Penalty                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Sec. 67B:</b> Publishing material depicting children in sexually explicit act in e-form | <ul style="list-style-type: none"> <li>• 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</li> <li>• 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</li> <li>• 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</li> <li>• facilitates abusing children online, or</li> <li>• records in any electronic form own abuse or that of others pertaining to sexually explicit act with children.</li> </ul> <p><b>Note:</b> For the purposes of this section “children” means a person who has not completed the age of 18 years.</p> | <ul style="list-style-type: none"> <li>• First conviction – imprisonment upto 5 years and fine upto Rs.10,00,000.</li> <li>• Second / subsequent conviction – imprisonment upto 7 years and fine upto Rs.10,00,000.</li> </ul> |
| <b>Sec. 67C:</b> Preservation of information by intermediaries                             | Intermediary intentionally or knowingly does not preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>• Imprisonment upto 3 years and</li> <li>• Fine.</li> </ul>                                                                                                                             |
| <b>Sec. 68:</b> Non-Compliance with Controller's directions                                | Intentionally or knowingly <b>not complied</b> with directions issued by the Controller of Certifying Authorities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>• Imprisonment upto 2 years, or</li> <li>• Fine upto Rs. 1,00,000, or</li> <li>• Both.</li> </ul>                                                                                       |
| <b>Sec. 69:</b> Failure to assist in information decryption                                | Failure to assist the agency to extend facilities to intercept, monitor or decrypt information as required u/s 69.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>• Imprisonment upto 7 years, and</li> <li>• Fine.</li> </ul>                                                                                                                            |
| <b>Sec. 69A:</b> Failure to comply with Central Government Direction                       | Failure by intermediary to comply with direction issued for blocking any information through Computer resource to public access.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• Imprisonment upto 7 years, and</li> <li>• Fine.</li> </ul>                                                                                                                            |
| <b>Sec. 69B:</b> Failure to assist in online access to computer resource                   | Intentionally or knowingly intermediary fails to assist agency in online access u/s 69B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <ul style="list-style-type: none"> <li>• Imprisonment upto 3 years, and</li> <li>• Fine.</li> </ul>                                                                                                                            |
| <b>Sec. 70:</b> Securing access to protected system                                        | Securing access or attempting to secure access to a <b>protected system</b> in contravention of Sec.70.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <ul style="list-style-type: none"> <li>• Imprisonment upto 10 years, and</li> <li>• Fine.</li> </ul>                                                                                                                           |
| <b>Sec. 70B:</b> Failure to provide information                                            | Failure to provide information called for and comply with direction issued by Indian Computer Emergency Response Team u/s 70B.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>• Imprisonment upto 1 year, or</li> <li>• Fine upto Rs.1,00,000, or</li> <li>• Both.</li> </ul>                                                                                         |
| <b>Sec. 72A:</b> Disclosure of information in breach of lawful contract                    | 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,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <ul style="list-style-type: none"> <li>• Imprisonment upto 3 years, or</li> <li>• Fine upto Rs.5,00,000, or</li> <li>• Both.</li> </ul>                                                                                        |
| <b>Sec. 84B:</b> Abetment of Offence                                                       | 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.<br><b>Note:</b> 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Punishment provided for the offence under this Act.                                                                                                                                                                            |

| Sec. and Title                             | Offence                                                                                                                                                                                                                                                          | Penalty                                                                                                                                                                                                                                                                          |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Sec. 84C:</b> Attempt to commit offence | 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. | <ul style="list-style-type: none"> <li>• Imprisonment of any description provided for the offence, for a term upto one-half of the longest term of imprisonment provided for that offence, or</li> <li>• With such Fine provided for the offence, or</li> <li>• Both.</li> </ul> |

**Note:**

- Provisions of Sec. 67, 67A and 67B does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form –
  - 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
  - which is kept or used for bonafide heritage or religious purposes.