

The Information Technology Act, 2000- Definition/Intro

Salient Features of I.T Act

The salient features of the I.T Act are as follows:

- Digital signature has been replaced with electronic signature to make it a more technology neutral act.
- It elaborates on offenses, penalties, and breaches.
- It outlines the Justice Dispensation Systems for cyber-crimes.
- It defines in a new section that cyber café is any facility from where the access to the internet is offered by any person in the ordinary course of business to the members of the public.
- It provides for the constitution of the Cyber Regulations Advisory Committee.
- It is based on The Indian Penal Code, 1860, The Indian Evidence Act, 1872, The Bankers' Books Evidence Act, 1891, The Reserve Bank of India Act, 1934, etc.
- It adds a provision to Section 81, which states that the provisions of the Act shall have overriding effect. The provision states that nothing contained in the Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957.

Scheme of I.T Act

The following points define the scheme of the I.T. Act:

- The I.T. Act contains **13 chapters** and **90 sections**.
- The last four sections namely sections 91 to 94 in the I.T. Act 2000 deals with the amendments to the Indian Penal Code 1860, The Indian Evidence Act 1872, The Bankers' Books Evidence Act 1891 and the Reserve Bank of India Act 1934 were deleted.
- It commences with Preliminary aspect in Chapter 1, which deals with the short, title, extent, commencement and application of the Act in Section 1. Section 2 provides Definition.
- Chapter 2 deals with the authentication of electronic records, digital signatures, electronic signatures, etc.
- Chapter 11 deals with offences and penalties. A series of offences have been provided along with punishment in this part of The Act.
- Thereafter the provisions about due diligence, role of intermediaries and some miscellaneous provisions are been stated.
- The Act is embedded with two schedules. The First Schedule deals with Documents or Transactions to which the Act shall not apply. The Second Schedule deals with electronic signature or electronic authentication technique and procedure. The Third and Fourth Schedule are omitted.

Application of the I.T Act

As per the sub clause (4) of Section 1, nothing in this Act shall apply to documents or transactions specified in First Schedule. Following are the documents or transactions to which the Act shall not apply –

- **Negotiable Instrument**(Other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881;
- A **power-of-attorney** as defined in section 1A of the Powers-of-Attorney Act, 1882;
- A **trust** as defined in section 3 of the Indian Trusts Act, 1882;
- A **will** as defined in clause (h) of section 2 of the Indian Succession Act, 1925 including any other testamentary disposition;
- Any **contract** for the sale or conveyance of immovable property or any interest in such property;
- Any such class of documents or transactions as may be notified by the Central Government.

Amendments Brought in the I.T Act

The I.T. Act has brought amendment in four statutes vide section 91-94. These changes have been provided in schedule 1-4.

- The first schedule contains the amendments in the Penal Code. It has widened the scope of the term “document” to bring within its ambit electronic documents.
- The second schedule deals with amendments to the India Evidence Act. It pertains to the inclusion of electronic document in the definition of evidence.
- The third schedule amends the Banker’s Books Evidence Act. This amendment brings about change in the definition of “Banker’s-book”. It includes printouts of data stored in a floppy, disc, tape or any other form of electromagnetic data storage device. Similar change has been brought about in the expression “Certified-copy” to include such printouts within its purview.
- The fourth schedule amends the Reserve Bank of India Act. It pertains to the regulation of fund transfer through electronic means between the banks or between the banks and other financial institution.

Intermediary Liability

Intermediary, dealing with any specific electronic records, is a person who on behalf of another person accepts, stores or transmits that record or provides any service with respect to that record.

According to the above mentioned definition, it includes the following:

- 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

Highlights of the Amended Act

The newly amended act came with following highlights:

- It stresses on privacy issues and highlights information security.
- It elaborates Digital Signature.
- It clarifies rational security practices for corporate.
- It focuses on the role of Intermediaries.
- New faces of Cyber Crime were added.

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