

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The central area is white, providing a clean space for the text.

# INFORMATION TECHNOLOGY ACT, 2000

# Introduction

- ▶ *Information Technology Act, 2000*, it to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as electronic commerce, which involves the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the government agencies and further to amend the *Indian Penal Code*, the *Indian Evidence Act, 1872*, the *Bankers' Book Evidence Act, 1891* and *the Reserve Bank of India Act, 1934* and for matters connected therewith or incidental thereto.
- ▶ Information Technology Act, 2000, is based on *UNCITRAL (United Nations Commission on International Trade Law) Model Law*.

- ▶ Information Technology Act, 2000 has 13 chapters, 94 sections and 4 schedule.
- ▶ First 14 sections deal with some legal aspects concerning digital signature.
- ▶ Further other sections deal with certifying authorities who are licensed to issue digital signature certificate.
- ▶ Sections 43 to 47 provide for penalties and compensation.
- ▶ Sections 48 to 64 deals with tribunals a appeal to high court.
- ▶ Section 65 to 79 of the act deals with offences.
- ▶ Section 80 to 94 deals with miscellaneous of the Act.

# Objectives

- ▶ The Information Technology Act, 2000 provides legal recognition to the transaction done via electronic exchange of data and other electronic means of communication or electronic commerce transactions.
- ▶ This also involves the use of alternatives to a paper-based method of communication and information storage to facilitate the electronic filing of documents with the Government agencies.

- ▶ Further, this act amended the Indian Penal Code 1860, the Indian Evidence Act 1872, the Bankers' Books Evidence Act 1891, and the Reserve Bank of India Act 1934.

The objectives of the Act are as follows:

1. Grant legal recognition to all transactions done via electronic exchange of data or other electronic means of communication or e-commerce, in place of the earlier paper-based method of communication.
2. Give legal recognition to digital signatures for the authentication of any information or matters requiring legal authentication.
3. Facilitate the electronic filing of documents with Government agencies and also departments.
4. Facilitate the electronic storage of data.
5. Give legal sanction and also facilitate the electronic transfer of funds between banks and financial institutions.
6. Grant legal recognition to bankers under the Evidence Act, 1891 and the Reserve Bank of India Act, 1934, for keeping the books of accounts in electronic form.

# Section 41 - 47



► *Acceptance of Digital Signature Certificate.-*

(1) A subscriber shall be deemed to have accepted a Digital Signature Certificate if he publishes or authorizes the publication of a Digital Signature Certificate-

- (a) to one or more persons;
- (b) in a repository; or otherwise demonstrates his approval of the Digital Signature Certificate in any manner.

(2) By accepting a Digital Signature Certificate the subscriber certifies to all who reasonably rely on the information contained in the Digital Signature Certificate that-

- (a) the subscriber holds the private key corresponding to the public key listed in the Digital Signature Certificate and is entitled to hold the same;
- (b) all representations made by the subscriber to the Certifying Authority and all material relevant to the information contained in the Digital Signature Certificate are true;
- (c) all information in the Digital Signature Certificate that is within the knowledge of the subscriber is true.

## Section 41

## Section 42

### ► *Control of private key.-*

- (1) Every subscriber shall exercise reasonable care to retain control of the private key corresponding to the public key listed in his Digital Signature Certificate and take all steps to prevent its disclosure.
- (2) If the private key corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the subscriber shall communicate the same without any delay to the Certifying Authority in such manner as may be specified by the regulations. Explanation.-For the removal of doubts, it is hereby declared that the subscriber shall be liable till he has informed the Certifying Authority that the private key has been compromised.

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► ***[Penalty and compensation]for damage to computer, computer system, etc.-***

If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network,-

- (a) accesses or secures access to such computer, computer system or computer network [or computer resource];
- (b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;
- (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;
- (d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programs residing in such computer, computer system or computer network;
- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorized to access any computer, computer system or computer network by any means;

## Section 43

(g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder;

(h) Charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network;

(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means;

(j) steal, conceal, 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;

he shall be liable to pay damages by way of compensation to the person so affected.

► **43A. Compensation for failure to protect data.-**

Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and 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.

## Section 43

- *Penalty for failure to furnish information, return, etc.*

If any person who is required under this Act or any rules or regulations made thereunder to-

- (a) furnish any document, return or report to the Controller or the Certifying Authority fails to furnish the same, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;
- (b) file any return or furnish any information, books or other documents within the time specified therefor in the regulations fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;
- (c) maintain books of account or records, fails to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues

## Section 44

- *Residuary penalty.*-

Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees

## Section 45

## Section 46

- *Power to adjudicate.-*
  - (1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, [direction or order made thereunder which renders him liable to pay penalty or compensation,] the Central Government shall, subject to the provisions of sub-section. (1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore: Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crores shall vest with the competent court.
  - (2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.
  - (3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.
  - (4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

## Section 46

- (5) Every adjudicating officer shall have the powers of a civil court which are conferred on the –Appellate Tribunal II under sub-section (2) of section 58, and -
- (a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);
  - (b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974);
  - (c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908(5 of 1908).



- ***Factors to be taken into account by the adjudicating officer.-***

While adjudging the quantum of compensation under this Chapter, the adjudicating officer shall have due regard to the following factors, namely:-

- (a) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to any person as a result of the default;
- (c) the repetitive nature of the default

## Section 47