

Jurisdiction of Information Technology Act

- The laws apply to the **whole of India**.
- As per **Sec.75** Persons of other nationalities can also be made liable under the law, if the **crime involves a**
- **computer**
or
- **Network - located in India.**

Example:

Jasmine Thumketu Australian national, residing in USA, gains unauthorized access to a computer located in India and deletes information. In this case, she will be liable under the provisions of the IT Act.

Certain persons are exempt from prosecution under the IT Act. These include

- the **President of India** and
- the **Governors of Indian** states, **Foreign Heads of State** and
- **Ambassadors** of foreign countries.

Applicability Of IT Act

- **Indian Penal Code 1860:**

The **Indian Penal Code (IPC)** is the official [criminal code](#) of [India](#).

After the implementation of It Act it amended various sections of IPC to make it **more competent** with the modern technology.

The issue of **defamatory** websites, especially **profiles** on public networking websites, is penalised by **section 500** of the Indian Penal Code.

The punishment is imprisonment upto **2 years** and / or fine.

- **Indian Evidence Act 1872 :**

Keeping in mind the peculiarities of digital evidence, Indian Evidence Act was amended by the IT Act

The most important amendment was the introduction of section 65B which relates to the admissibility of electronic records as evidence. It mainly relates to admissibility of Secondary Evidence.

- **Code of Criminal Procedure:**

It covers several relevant issues including:

1. **procedure to be followed** for the **filing of criminal complaints**,
2. procedure to be **followed by the police for** investigation,
3. procedure to be followed for **the conviction** of offenders,
4. **search and seizure** operations,
5. **confiscation** of computers etc,
6. **hierarchy of courts** in India,
7. **sentences that various** Courts can pass,
8. **summons and** warrants,
9. **appeals, reference and reviews of judgments** and Court orders,
10. **bails and bonds**.

- **Bankers' Books Evidence Act :**

Banker's Books Evidence Act, **1891** lays down the **rules of evidence** in relation to **bankers' books**

Generally, bankers' books would **be cited as evidence where any financial transaction involving the banking system is in question** or has to be examined.

The IT Act has amended the Banker's Books Evidence Act to confer **equal status on electronic records as compared to paper based documents**

Non Applicability of IT Act

- **Negotiable instrument (other than a cheque)**

“negotiable instrument” as a promissory note, bill of exchange or cheque payable either to order or to bearer.

IT Act applies to cheques but not to other negotiable instruments such as bills of exchange, promissory notes etc.

- **Power-of-attorney:** instruments empowering a specified person to act for and in the name of the person executing it

- **Trust:**

According to **section 3** of the **Indian Trusts Act, 1882**, a trust is an **obligation** annexed to the **ownership of property**.

Thus, when a **property is held by one person as trustee for the benefit of another**, it can be regarded as a trust. To summarize, a testator sets up a trust for the benefit of the beneficiary.

The trustee looks after the trust property

- **Any contract for the sale of immovable property:**

A **sale** is a transfer of ownership in **exchange for a price**.

- **Will :**

A will is the **legal declaration of the intention of the testator, with respect to his property, which he desires to be realized after his death.** In other words, a Will or a Testament means a document made by a person whereby he disposes of his property. However, such disposal comes into effect only after the death of the testator

- **Any such class of documents or transactions as may be notified by the Central Government in the Official Gazette.**

Key terms under IT Act (As amended 2008)

- **Access**
- **Computer**
- **Data**
- **Computer System**
- **Computer Network**

Access

As per Section 2(1)(a) of the IT Act

"**access**" with its grammatical variations **means**

- **gaining entry** into, instructing or
- **communicating** with the logical, arithmetical, or memory function **resources**
- **of a computer, computer system or computer network;**

Example: A Government computer contains critical information in its hard disk. Sameer unscrews the cabinet of the computer in order to steal the hard disk. He has gained entry into the computer.

Computer

section 2(1)(i) of the IT Act "computer" means

- any **electronic, magnetic, optical or other high-speed data processing device or**
- **system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and**
- includes all input, output, processing, storage, computer software, or communication facilities which are **connected or related to the computer in a computer system or computer network;**

Computer

Simply put, a computer has the following characteristics:

1. It is a high-speed **data processing device** or system.
2. It may be electronic, magnetic, optical etc.
3. It performs logical, arithmetic, and memory functions
4. These functions are performed by manipulations of electronic, magnetic or optical impulses.

Computer includes

1. all input facilities,
2. all output facilities,
3. all processing facilities,
4. all storage facilities,
5. all computer software facilities, and
6. all communication facilities which are connected or related to the computer in a computer system or network.

Computer

- **Illustrations:** Considering the wide definition given to the term computer by the IT Act the following are examples of “computers”:
 1. desktop personal computers
 2. mobile phones
 3. microwave ovens
 4. computer printers
 5. scanners
 6. installed computer software
 7. Automatic Teller Machine (ATM)
 8. “smart” homes which can be controlled through the Internet

Data

According to section 2(1)(o) of the IT Act “ **Data**” means:

- Any information, knowledge, facts, concepts or instructions, prepared in formal manner
- Intended to process or has been processed in any
- Computer System, Computer Networks and
- **(It May be) in any Form or**
- Stored Internally in the memory of Computer.

Data

Data can be **in many forms** such as

1. computer printouts,
2. magnetic storage media e.g. hard disks,
3. optical storage media e.g. CD ROMs, DVDs, VCDs
4. punched cards or tapes i.e. a paper card in which holes are punched.

Illustration: The electronic version of this book stored on your computer or on a CD would be “data”.

A printout of the electronic version of this book will also be “data”

Computer System

Section 2(1)(l) of the IT Act "computer system" **means**

- Device or collection of devices, including **Input and output support devices** and **excluding non programable calculators**.
- Device containing computer programs (Continuous interconnection not necessary)

Illustrations: Laptop computers, Cell phones, sophisticated laser printers, high-end scanners. In an interesting judgment, it was held by an American court that the **Internet** falls under the definition of computer system and the use of e email is accessing a computer.

Computer Network

Simply put, a computer network as per sec 2(1)(j) of the IT Act it is the **interconnection of one or more computers or computer systems or devices** through:

- Communication Media (satellite, wire, wireless etc.)
- Terminals
- Complex Consisting more than one computer
(**continuous interconnection not mandatory**)