

Information Technology Act, 2000

The Information Technology Act, 2000 or ITA, 2000 or IT Act, was notified on October 17, 2000. It is the law that deals with cybercrime and electronic commerce in India. In this article, we will look at the objectives and features of the Information Technology Act, 2000.

Information Technology Act, 2000

In 1996, the United Nations Commission on International Trade Law (UNCITRAL) adopted the model law on electronic commerce (e-commerce) to bring uniformity in the law in different countries.

Further, the General Assembly of the United Nations recommended that all countries must consider this model law before making changes to their own laws. India became the 12th country to enable cyber law after it passed the Information Technology Act, 2000.

While the first draft was created by the Ministry of Commerce, Government of India as the ECommerce Act, 1998, it was redrafted as the 'Information Technology Bill, 1999', and passed in May 2000.

Objectives of the Act

The Information Technology Act, 2000 provides legal recognition to the transaction done via an 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:

- i. Grant legal recognition to all transactions done via an electronic exchange of data or other electronic means of communication or e-commerce, in place of the earlier paper-based method of communication.
- ii. Give legal recognition to digital signatures for the authentication of any information or matters requiring legal authentication
- iii. Facilitate the electronic filing of documents with Government agencies and also departments
- iv. Facilitate the electronic storage of data
- v. Give legal sanction and also facilitate the electronic transfer of funds between banks and financial institutions
- vi. 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.

Features of the Information Technology Act, 2000

- a. All electronic contracts made through secure electronic channels are legally valid.
- b. Legal recognition for digital signatures.
- c. Security measures for electronic records and also digital signatures are in place

- d. A procedure for the appointment of adjudicating officers for holding inquiries under the Act is finalized
- e. Provision for establishing a Cyber Regulatory Appellant Tribunal under the Act. Further, this tribunal will handle all appeals made against the order of the Controller or Adjudicating Officer.
- f. An appeal against the order of the Cyber Appellant Tribunal is possible only in the High Court
- g. Digital Signatures will use an asymmetric cryptosystem and also a hash function
- h. Provision for the appointment of the Controller of Certifying Authorities (CCA) to license and regulate the working of Certifying Authorities. The Controller to act as a repository of all digital signatures.
- i. The Act applies to offenses or contraventions committed outside India
- j. Senior police officers and other officers can enter any public place and search and arrest without warrant
- k. Provisions for the constitution of a Cyber Regulations Advisory Committee to advise the Central Government and Controller.

Applicability

According to Section 1 (2), the Act extends to the entire country, which also includes Jammu and Kashmir. In order to include Jammu and Kashmir, the Act uses Article 253 of the constitution. Further, it does not take citizenship into account and provides extra-territorial jurisdiction.

Section 1 (2) along with Section 75, specifies that the Act is applicable to any offense or contravention committed outside India as well. If the conduct of person constituting the offense involves a computer or a computerized system or network located in India, then irrespective of his/her nationality, the person is punishable under the Act.

Lack of international cooperation is the only limitation of this provision.

Non-Applicability

According to Section 1 (4) of the Information Technology Act, 2000, the Act is not applicable to the following documents:

1. Execution of Negotiable Instrument under Negotiable Instruments Act, 1881, except cheques.
2. Execution of a Power of Attorney under the Powers of Attorney Act, 1882.
3. Creation of Trust under Indian Trust Act, 1882.
4. Execution of a Will under the Indian Succession Act, 1925 including any other testamentary disposition by whatever name called.
5. Entering into a contract for the sale of conveyance of immovable property or any interest in such property.
6. Any such class of documents or transactions as may be notified by the Central Government in the Gazette.

What are the objectives of the Information Technology Act, 2000?

The primary objectives of the IT Act, 2000 are:

- Granting legal recognition to all transactions done through an electronic data exchange, other means of electronic communication or e-commerce in place of the earlier paper-based communication.

- Providing legal recognition to digital signatures for the authentication of any information or matters requiring authentication.
- Facilitating the electronic filing of documents with different Government departments and also agencies.
- Facilitating the electronic storage of data
- Providing legal sanction and also facilitating the electronic transfer of funds between banks and financial institutions.
- Granting legal recognition to bankers for keeping the books of accounts in an electronic form. Further, this is granted under the Evidence Act, 1891 and the Reserve Bank of India Act, 1934.

CYBER CRIME AND INFORMATION TECHNOLOGY ACT 2000

~ AN OVERVIEW ~

I INTRODUCTION

The Term 'Cyber Crime' needs no introduction in today's E-world. In this world, where everything is available at a click, crimes are also been committed at a click. Cyber Crime thus is the darker side of technology. It is a Crime where the computer is either a tool or a target. The term WWW which stands for World Wide Web has now become World Wide Worry because of mushroom growth in cyber crimes. Crime in a developing nation is a hindrance to its development. It not only adversely affects all the members of the society but it also pulls down the economic growth of the country. Computer Technology provided a boost to the human life. It made the life of human being easier and comfortable. It not only added speed to the life of human being, but it also added accuracy and efficiency. But this computer was exploited by the criminals. This illegal use of computers for commission of crime leads to Cyber Crime. To combat Cyber Crime India got armed herself with The Information Technology Act 2000. This act got drastically amended in year 2008. The Amended Information Technology Act is not only effective than the previous Act it is more powerful and stringent than the previous one.

II IMPACT OF COMPUTER ON HUMAN LIFE Change is the rule of universe. Nothing in this world is static and technology is providing a pace to this change. The highlight of this era is e-governance. That means the government is available to its citizens at just a click. A farmer is not required to the village officer for obtaining his property extract, its available online to him. The long queues for paying bills are becoming history, people are preferring to pay bills online. Ecommerce is becoming a part of business. Shopping on internet through e-commerce website is becoming a trend. Telegram technology has already said good bye to the World, because mobile is available in every pocket. The impact of globalization and computerisation is phenomenal. It is an era when now we can dream of a paperless world. The United Nations Commission on International Trade Law (UNCITRAL) adopted the Model Law on e-commerce in 1996. The General Assembly of United Nations passed a resolution in January 1997 inter alia, recommending all States in the UN to give favourable considerations to the said Model Law, which provides for recognition to electronic records and according it the same treatment like a paper communication and record.

III CYBER CRIME Cyber Crime is the darker side of technology. The term 'Cyber Crime' finds no mention either in The Information Technology Act 2000 or in any legislation of the Country. Cyber Crime is not different than the traditional crime. The only difference is that in Cyber Crime the computer technology is involved. This can be explained by following instance; Traditional Theft : A thief enters in B's house and steals an object kept in the house.

Hacking : A Cyber Criminal sitting in his own house, through his computer hacks the computer of B and steals the data saved in B's computer without physically touching the computer or entering in B's house. Hence Cyber Crime is a Computer related crime. The I.T. Act, 2000 defines the terms access in computer network in section 2(a), computer in section 2(i), computer network in section (2j), data in section 2(0) and information in section 2(v). These are all the necessary ingredients that are useful to technically understand the concept of Cyber Crime. In a cyber crime, computer or the data are the target or the object of offence or a tool in committing some other offence. The definition of term computer elaborates that computer is not only the computer or laptop on our tables, as per the definition computer means any electronic, magnetic, optical or other high speed data processing devise of system which performs logical, arithmetic and memory function 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. Thus the definition is much wider to include mobile phones, automatic washing machines, micro wave ovens etc...

IV PREAMBLE OF INFORMATION TECHNOLOGY ACT

The Preamble of the I. T. Act reflects the objectives with which The Government of India enacted The Act. The objectives of the Act are;

1. 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 involve the use of alternatives to paper-based methods of communication and storage of information,
2. 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' Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto." The Information Technology Act, 2000, was thus passed as the Act No.21 of 2000.

The I. T. Act got President assent on 9th June 2000 and it was made effective from 17th October 2000. By adopting this Cyber Legislation India became the 12th Nation in the world to adopt a Cyber Law regime during 2000.

V SILENT FEATURES OF INFORMATION TECHNOLOGY ACT The silent features of the Act are;

- The Act gives legal recognition of Electronic Documents.
- The Act gives legal recognition of Digital Signatures.
- It describes and elaborates Offences, penalties and Contraventions.
- It gives outline of the Justice Dispensation Systems for cyber crimes.
- The Act also provides for the constitution of the Cyber Regulations Advisory Committee, which shall advice the government as regards any rules, or for any other purpose connected with the said act.
- The said Act also proposed to amend to; The Indian Penal Code, 1860, The Indian Evidence Act, 1872, The Bankers' Books Evidence Act, 1891, The Reserve Bank of India Act, 1934 etc...

APPLICATION OF THE INFORMATION TECHNOLOGY ACT

As per Section 1 of The I. T. Act, the Act extends to the whole of India and except as otherwise provided, it applies to also any offence or contravention there under committed outside India by any person. As per sub clause (4) of Section 1, Nothing in this Act shall apply to documents or transactions specified in First Schedule. As per this first schedule following are the documents or transactions to which the Act shall not Apply;

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

Indian Contract Act 1872: Part I

The Indian Contract Act is one of the oldest mercantile laws of our country. It came into effect on the 1st of September 1872 and is applicable to the whole of India with the exception of Jammu & Kashmir. Containing a total of 266 sections it is the principal law regulating contracts in India. Let us see some important aspects related to it.

What is a Contract?

The Contracts or agreements between various parties are framed and validated by the Indian Contract Act. Contract Act is one of the most central laws that regulates and oversees all the business wherever a deal or an agreement is to be reached at. The following section will tell us what a contract is.

We will see how a contract is defined by The Indian Contract Act, 1872. We will also define the terms as per the Act and see what that means. In these topics, we will decipher all the vivid aspects of the Contract Act. Let us begin by understanding the concept of a contract.

Contract Act

The Indian Contract Act, 1872 defines the term “Contract” under its section 2 (h) as “An agreement enforceable by law”. In other words, we can say that a contract is anything that is an agreement and enforceable by the law of the land.

This definition has two major elements in it viz – “agreement” and “enforceable by law”. So in order to understand a contract in the light of The Indian Contract Act, 1872 we need to define and explain these two pivots in the definition of a contract.

Agreement

The Indian Contract Act, 1872 defines what we mean by “Agreement”. In its section 2 (e), the Act defines the term agreement as “every promise and every set of promises, forming the consideration for each other”. Now that we know how the Act defines the term “agreement”, there may be some ambiguity in the definition of the term promise.

Promise

This ambiguity is removed by the Act itself in its section 2(b) which defines the term “promise” here as: “when the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. Proposal when accepted, becomes a promise”.

In other words, an agreement is an accepted promise, accepted by all the parties involved in the agreement or affected by it. This definition thus introduces a flow chart or a sequence of steps that need to be triggered in order to establish or draft a contract. The steps may be described as under:

- i. The definition requires a person to whom a certain proposal is made.
- ii. The person (parties) in step one have to be in a position to fully understand all the aspects of a proposal.
- iii. “signifies his assent thereto” – means that the person in point one accepts or agrees with the proposal after having fully understood it.
- iv. Once the “person” accepts the proposal, the status of the proposal changes to “accepted proposal”.
- v. “accepted proposal” becomes a promise. Note that the proposal is not a promise. For the proposal to become a promise, it has to be accepted first.

Thus, in other words, an agreement is obtained from a proposal once the proposal, made by one or more of the participants affected by the proposal, is accepted by all the parties addressed by the agreement. To sum up, we can represent the above information below:

Agreement = Offer + Acceptance.

Enforceable By Law

Now let us try to understand this aspect of the definition as is present in the Act. Suppose you agree to sell a unicorn for ten magic beans with a friend. Can you have a contract for this? Well if you follow the steps in the previous section, you will argue that once you and your friend agree on the promise, it becomes an agreement. But in order to be a contract as per the definition of the Act, the agreement has to be legally enforceable.

Thus we can say that for an agreement to change into a Contract as per the Act, it must give rise to or lead to legal obligations or in other words must be within the scope of the law. Thus we can summarize it as Contract = Accepted Proposal (Agreement) + Enforceable by law (defined within the law)

Difference Between Agreement And Contract

Let us see how a contract and agreement are different from each other. This will help you summarize and make a map of all the important concepts that you have understood.

Indian Penal Code (IPC)

The **Indian Penal Code (IPC)** is the official criminal code of India. It is a comprehensive code intended to cover all substantive aspects of criminal law. The code was drafted in 1860 on the recommendations of first law commission of India established in 1834 under the Charter Act of 1833 under the Chairmanship of Lord Thomas Babington Macaulay.^{[1][2][3]} It came into force in British India during the early British Raj period in 1862. However, it did not apply automatically in the Princely states, which had their own courts and legal systems until the 1940s. The Code has since been amended several times and is now supplemented by other criminal provisions.

After the partition of the British Indian Empire, the Indian Penal Code was inherited by its successor states, the Dominion of India and the Dominion of Pakistan, where it continues independently as the Pakistan Penal Code. The Ranbir Penal Code (R.P.C) applicable in Jammu and Kashmir is also based on this Code.^[2] After the separation of Bangladesh(former East Pakiatan) from Pakistan, the code continued in force there. The Code was also adopted by the British colonial authorities in Colonial Burma, Ceylon (modern Sri Lanka), the Straits Settlements (now part of Malaysia), Singapore and Brunei, and remains the basis of the criminal codes in those countries.

History[edit]

The draft of the Indian Penal Code was prepared by the First Law Commission, chaired by Thomas Babington Macaulay in 1834 and was submitted to Governor-General of India Council in 1835. Its basis is the law of England freed from superfluities, technicalities and local peculiarities. Elements were also derived from the Napoleonic Code and from Edward Livingston's Louisiana Civil Code of 1825. The first final draft of the Indian Penal Code was

submitted to the Governor-General of India in Council in 1837, but the draft was again revised. The drafting was completed in 1850 and the Code was presented to the Legislative Council in 1856, but it did not take its place on the statute book of British India until a generation later, following the Indian Rebellion of 1857. The draft then underwent a very careful revision at the hands of Barnes Peacock, who later became the first Chief Justice of the Calcutta High Court, and the future puisne judges of the Calcutta High Court, who were members of the Legislative Council, and was passed into law on 6 October 1860.^[4] The Code came into operation on 1 January 1862. Macaulay did not survive to see his masterpiece come into force, having died near the end of 1859.

Objective

The objective of this Act is to provide a general penal code for India.^[5] Though not the initial objective, the Act does not repeal the penal laws which were in force at the time of coming into force in India. This was so because the Code does not contain all the offences and it was possible that some offences might have still been left out of the Code, which were not intended to be exempted from penal consequences. Though this Code consolidates the whole of the law on the subject and is exhaustive on the matters in respect of which it declares the law, many more penal statutes governing various offences have been created in addition to the code.

Structure

The Indian Penal Code of 1860, sub-divided into 23 chapters, comprises 511 sections. The Code starts with an introduction, provides explanations and exceptions used in it, and covers a wide range of offences.

Indian Copyright Act

The Copyright Act, 1957, along with the Copyright Rules, 1958, is the governing law for copyright protection in India.

Copyright laws serve to create property rights for certain kinds of intellectual property, generally called works of authorship. Copyright laws protect the legal rights of the creator of an 'original work' by preventing others from reproducing the work in any other way.

Kinds of Intellectual Property:

Modern copyright laws serve to protect a variety of intellectual property ranging from songs and jingles to computer software and proprietary databases. The intellectual property protected under copyright laws can be classified as follows:

Literary Works:

These cover published works including books, articles, journals, and periodicals, as well as manuscripts. Even adaptations, translations, and abridgements are taken as original works and are protected under copyright law. Very importantly, these also cover computer programs and computer databases.

Dramatic Works:

A dramatic work is a work capable of being physically performed. It need not be fixed in writing or otherwise. Some examples of dramatic works are a piece of recitation, choreographic work, elements of a dance or ballet, costumes, and scenery associated with a drama, etc.

Musical Works:

A musical work means a work consisting of music and it includes graphical notation of such a work. The words in a song and the music have separate rights and the rights cannot be merged.

Artistic Works:

Artistic works are works such as paintings, sculptures, drawings, engravings, photographs, and architectural works, irrespective of judgements on their artistic quality.

Cinematographic Films and Sound Recordings:

Cinematography covers any method used to record moving images, including video recording and recordings of short clips using webcams and cell-phones. Soundtracks of movies also come under cinematography. Similarly, stand-alone sound recordings are also protected under copyright laws.

Registration of Copyright:

Though the Indian Copyright Act provides for a procedure for registration of copyright, registration is not necessary for acquiring a copyright. In fact, it is not advisable to go through the trouble of registering a copyright.

In Indian laws, a copyright is created when the original work is created and unlike laws in the US, registering it does not confer any special rights. The particulars with the Registrar of Copyrights will serve as evidence of existence of the work on the date of registration. Many creators of original work use other methods to prove existence of their work on a particular date such as depositing manuscripts in a bank locker.

Copyright Protection for Computer Programs:

In 1994, the definition of the term literary work in the Copyright Act was amended to include 'computer programs, tables and compilations, including computer databases.'

Owners of computer programs get protection under copyright laws. A computer program can be registered with the Registrar of Copyrights by giving the first 25 and the last 25 lines of the source code. Here again, it is preferred to establish date of development by submitting logbooks detailing development work, etc.

Making copies of legally obtained computer programs for purposes of making back-up copies as a temporary protection against damage or destruction is permitted. Knowingly making use of an infringing copy of a computer program is a punishable offence.

The penalty for such an offence is imprisonment (minimum of seven days and maximum of three years) and a fine (Rs. 50,000 to Rs. 2, 00,000). If the offender pleads and proves that he/she used the infringing copy for personal use and not in the course of trade, court is likely to take a lenient view of the matter and impose the minimum fine of Rs. 50,000.

Consumer Protection Act

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With changing times the economic and business environment of India also went through a change. In the 1980s and 1990s, we opened our economy and truly became a global trading partner with the world. This exposed customers to new products but also new problems. And we finally introduced the Consumer Protection Act to safeguard consumers. Let us take a look.

Consumer Protection Act

Consumer Protection Act has been implemented(1986) or we can bring into existence to protect the rights of a consumer. It protects the consumer from exploitation that business practice to make profits which in turn harm the well being of the consumer and society.

This right help to educate the consumer on the right and responsibilities of being a consumer and how to seek help or justice when faced exploitation as a consumer. It teaches the consumer to make right choices and know what is right and what is wrong.

Learn more about the Consumer Organisation and NGOs here in detail.

Who is a consumer according to the Consumer Protection Act, 1986? A consumer is one that buys good for consumption and not for the resale or commercial purpose. The consumer also hires service for consideration.

- If any defect found the seller should remove the mentioned defects from the whole batch or the goods affected. For example, there have been cases where car manufacturing unit

found a defect in parts of the vehicle usually they remove the defect from every unit or they call of the unit.

- They should replace the defective product with a nondefective product and that product should be of similar configuration or should be the same as the product purchased.

The salient features of Consumer Protection Act are-

- The Consumer Protection Act covers all public, private and cooperative sector.
- This applies to all the goods and services until and unless the Union government exempts it.
- Provisions of the Consumer Protection Act are compensatory in nature.