

Circular No. 25/2010

Sub: - IT Act 2000 – Amendment Act of 2008 – Instructions – Reg.

The IT Act of 2000 recognised electronic transactions, e-commerce and prescribes penalty for crimes occurring in cyber space. But due to the very fast increase in the use of computers and internet, different types of crimes have come into being about which the IT Act of 2000 was silent. Hence an amendment was brought out in 2008 which came into effect from 27.10.2009. The major amendments which are relevant to Officers are given below.

2. In Chapter IX, dealing with penalties, 2 sub sections have been added in Sec 43, viz., Sub Section (i) which prescribes punishment for a person who – “destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means” and Sub Section (j) which prescribes punishment for a person who – “steals, 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”.

3. In Chapter XI (offences) Sections 66 and 67 of the Principal Act have been substituted and Sub Sections 66 (A) to (F) have been added after Sec 66 as follows:-

<u>Offences</u>		<u>Penalty</u>
66	Computer related offences (does any act referred to in Section 43)	Imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.
66 A	Sending offensive messages through communication service etc	Imprisonment for a term which may extend to three years and with fine.
66 B	Dishonestly receiving stolen computer resource or communication device	Imprisonment of either description for a term which may extend to three years or with fine which may extend to one lakh rupees or with both.
66 C	Identity theft	Imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.
66 D	Cheating by personation by using computer resource	Imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.
66 E	Violation of privacy	Imprisonment which may extend to three years or with fine not exceeding two lakh rupees or with both.
66 F	Cyber Terrorism	Imprisonment which may extend to imprisonment for life.

4. After Sec 67, Sub Section 67 (A) to (C) were added as shown below:-

<u>Offences</u>		<u>Penalty</u>
67	Publishing or transmitting obscene material in electronic form	First conviction with imprisonment of either description for a term which may extend to 3 years and with fine which may extend to 5 lakh rupees. Second or subsequent conviction with imprisonment of either description for a term which may extend to 5 years and also with fine which may extend to 10 lakh rupees.
67 A	Publishing or transmitting of material containing sexually explicit act in electronic form	First conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees. Second or subsequent conviction with imprisonment of either description for a term which may extend to 7 years and with a fine which may extend to ten lakh rupees.
67 B	Publishing or transmitting depicting children in sexually explicit act in electronic form	First conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees. Second or subsequent conviction with imprisonment of either description for a term which may extend to 7 years and also with a fine which may extend to ten lakh rupees.
67 C	Omission to preserve and retain information by intermediaries	Imprisonment for a term which may extend to three years and fine.

5. Similarly, Sub Section 72 A envisages penalty for disclosing information in breach of lawful contract, and 77 (A) and 77 (A) (2) deal with compounding of offences by a court having jurisdiction.

6. Section 77 (B) makes all offences with three years imprisonment to be bailable.

7. Section 78 is amended to the effect that only a Police Officer of and above the rank of an Inspector has the power to investigate offences under the Act.

8. Section 91 (Amendment to the IPC) of the Principal Act has been omitted as per Section 48 of the Amendment Act.

9. Sections 4, 40, 118, 119, 464 of the IPC have been amended Vide Part III of the Amendment Act.

DIRECTOR GENERAL OF POLICE