

# **REGULATORY FRAMEWORK OF BUSINESS**

## **UNIT- V**

### **INFORMATION TECHNOLOGY ACT**

Government of India enacted a new law in the year 2000 known as Information Technology Act, 2000. Information Technology Act 2000, Information Technology Act, 2000 is the Indian Cyber Law.

Information Technology law governs the processing and dissemination of information electronically. These are paper laws for paper less environment. These are technology intensive laws to control and safeguard electronic transactions in the electronic medium.

### **ESSENCE OF THE ACT**

- 1) Legal Recognition of electronic documents.
- 2) Legal Recognition of Digital Signatures
- 3) Offences and Contraventions
- 4) Justice Dispensation System for Cybercrimes.

### **OBJECTIVES OF THE ACT**

- 1) To grant legal recognition to transactions carried out by means of electronic data interchange and other means of electronic communication commonly referred to as "electronic commerce" in place of paper based method of communication.
- 2) To give legal recognition Digital Signature for authentication of any information or matter which requires authentication under any law.
- 3) To facilitate electronic filing of documents with government departments.
- 4) To facilitate electronic storage of data.
- 5) To set up licensing, monitoring and certifying authorities to oversee issues like jurisdiction, origin, authentication, privacy protection and computer crimes.

- 6) To establish Cyber Regulations Appellate Tribunal for hearing appeals against decisions of the adjudicating officers.
- 7) To give legal recognition for keeping books of account by bankers in electronic form.

#### DOCUMENTS EXCLUDED FROM THE SCOPE OF THE ACT

- 1) Negotiable instruments
- 2) A power of attorney
- 3) A trust as defined in section 3 of the Indian Trusts Act, 1882
- 4) A Will
- 5) Any contract for the sale of immovable property.

#### DIGITAL SIGNATURE (Section 3)

Digital signature means authentication of any electronic record by a subscriber by means of an electronic method or procedure. It is an electronic analogue of a written signature.

The provisions as given in section 3 of the act are-

- 1) Subject to the provisions of this section any subscriber may authenticate a electronic record by affixing his digital signature.
- 2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record. Sec 3(2)
- 3) Any person by the use of a public key of the subscriber can verify the electronic record. Sec 3(3)
- 4) The private key and the public key is unique to the subscriber and constitute a functioning key pair. Sec 3(4)

#### USE OF ELECTRONIC RECORDS AND DIGITAL SIGNATURES IN GOVERNMENT AND ITS AGENCIES

Section 6 lays down the foundation of electronic governance. The filing of any form, application or other documents, creation, retention or preservation of records, issue or grant of any license or permit or receipt or payment in Government offices and its agencies may be done through the means of electronic form.

The appropriate government may prescribe by rules:

- (a) the manner and format in which such electronic records shall be filed, created or issued;
- (b) the manner or method of payment of any fee or charges for filing, creation or issue of any electronic record under above clause.

#### POWER TO MAKE RULES BY CENTRAL GOVERNMENT IN RESPECT OF DIGITAL SIGNATURE

Section 10 contains Rules relating to digital signature. It provides that the Central Government may by rules prescribe-

- (a) the type of digital signature
- (b) the manner and format in which the digital signature shall be affixed.
- (c) the manner or procedure which facilitates identification of the person affixing the digital signature
- (d) Control processes and procedures to ensure adequate integrity, security and confidentiality of electronic records or payments; and
- (e) any other matter which is necessary to give legal effect to digital signatures.

## **SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992**

Securities and Exchange Board of India (SEBI) was first established in 1988 as a non-statutory body for regulating the securities market. It became an autonomous body on 12<sup>th</sup> April 1992 and was accorded statutory powers with the passing of the SEBI Act 1992 by the Indian Parliament.

SEBI has its headquarters at the business district of Bandra Kurla Complex in Mumbai and has Northern, Eastern, Southern and Western Regional Offices in New Delhi, Kolkata, Chennai and Ahmedabad respectively.

## **OBJECTIVES OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992**

The objectives of SEBI Act are as follows:

- (a) Protection of the interests of investors in securities.
- (b) Promoting orderly and healthy growth of the securities market.
- (c) Regulation of the securities market and other incidental matters.
- (d) Promoting the fair dealings by the issuer of securities and ensuring a marketplace where they can raise funds at a relatively low cost.
- (e) Regulating and developing a code of conduct and fair practices by the intermediaries like brokers, merchant bankers etc., with a view to making them more competitive and professional.
- (f) Monitoring the activities of stock exchanges, mutual funds, merchant bankers etc.

## **FUNCTIONS OF SEBI**

Section 11 (2) empowers SEBI to take the following measures for the purpose of due performance of its duties under the Act:

- 1) Regulate business in stock exchanges and other securities market
- 2) Registering and regulating working of stock brokers, sub-brokers, share transfer agents, bankers to issue, trustees of trust deed, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;
- 3) Registering and regulating working of venture capital funds and collective investment schemes, including mutual funds;

- 4) Promoting and regulating self-regulatory organizations;
- 5) Prohibiting fraudulent and unfair trade practices relating to securities markets;
- 6) Promoting investor's education and training of intermediaries of securities markets;
- 7) Prohibiting insider trading in securities.

## POWERS OF SEBI

The powers of SEBI can be exercised by way of regulations. The following powers have been given to SEBI with the enactment of the Securities and Exchange Board of India Act, 1992.

- 1) Power to control and regulate Stock Exchanges.
- 2) Power to compel listing of securities by public companies.
- 3) Power to call for periodical returns from recognized stock exchanges in the country.
- 4) Power to call for any information or explanation from recognized stock exchanges or its members.
- 5) Power to make or amend bye-laws of recognized stock exchanges.
- 6) Power to direct inquiries to be made in relation to affairs of stock exchanges or its members.
- 7) Power to grant approval to bye-laws of recognized stock exchanges.
- 8) Power to register and regulate working of collective investment schemes including mutual funds.
- 9) Power to levy fees and fines.
- 10) Power to promote and regulate self regulatory bodies.
- 11) Power to prohibit fraudulent and unfair trade practices relating to securities.
- 12) Power to prohibit insider trading.
- 13) Power to promote investors's education and training of intermediaries in capital market.
- 14) Power to conduct investigations in respect of transactions in securities, which SEBI believes to be against the interests of investors or against market intermediaries.
- 15) Power to conduct research and other functions.