

## **B.A.LL.B. X SEMESTER**

### **Subject: Cyber Laws**

**Code: BL-913**

## **TOPIC – Offences & Penalties under the I.T. Act**

### **Cyber Crime**

Cybercrime, or computer-oriented crime, is a crime that involves a computer and a network. The computer may have been used in the commission of a crime, or it may be the target.

### **Penalty and Compensation under the Information Technology Act, 2000**

**Sec. 43 - Penalty and compensation for damage to computer, computer system etc.** if any person introduces any computer contaminant or computer virus to a computer resources without the owner's permission will be liable to pay damages by way of compensation to the person so affected.

#### **Section 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 44 – Penalty for failure to furnish information return, etc.-**

If any person who is required under this Act or any rules or regulations made there under 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 therefore in the regulations, fails to file return or furnish the same within the time specified therefore 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 45 – 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**.

# Offences and Punishment under the Information Technology Act, 2000

The various offences and the punishment provided under the Information Technology Act 2000 is as under:

Section	Contents	Imprisonment	Fine
65	Tampering with computer source documents	Up to 3 years or	With Fine which may extend to 2 Lakh Rupees
66	Hacking with computer system dishonestly or fraudulently	Up to 3 years or	With fine which may extend to 5 Lakh Rupees
66A*	Punishment for Sending offensive messages through communication devise	Up to 3 years and	With fine
66B	Punishment for dishonestly receiving Stolen computer resource or communication device	Up to 3 years or	With fine which may extend to 1 Lakh Rupees
66C	Punishment for Identity Theft - fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person	Up to 3 years and	With fine which may extend to 1 Lakh Rupees
66D	Punishment for cheating by Personation by using computer resource	Up to 3 years and	With fine which may extend to 1 Lakh Rupees

66E	Punishment for Violation of Privacy	Up to 3 years or	With fine not exceeding 2 Lakh Rupees
66F	Punishment for Cyber Terrorism	With Imprisonment which may extend to imprisonment for Life.	----
67	Punishment for Publish or transmitting Obscene material in electronic form - First time  Second Time or Subsequent conviction	Up to 3 years and  Up to 5 years and	With fine which may extend to 5 Lakh Rs.  With fine which may extend to 10 Lakh Rs.
67A	Punishment for Publishing or transmitting material containing Sexually Explicit Act etc. in electronic form First time  Second time or subsequent conviction	Up to 5 years and  Up to 7 years and	With fine which may extend to 10 Lakh Rs  With fine which may extend to 10 Lakh Rs
67B	Punishment for Publishing or transmitting material containing Children in Sexually Explicit Act –	Up to 5 years and	With fine which may extend to 10 Lakh Rs.

	First time  second time or Subsequent conviction		With fine which may extend to 10 Lakh Rs
		Up to 7 years and	
67C	Preservation and retention of information by intermediaries	Up to 3 years and	Shall also be liable to Fine
68	Power of controller to give directions	Up to 2 years or	With fine not exceeding 1 Lakh Rs.
69	Failure to comply with directions for Intercepting, monitoring or decryption of any info transmitted through any computer system/network	Up to 7 Years and	Shall also be liable to Fine
69A	Failure to comply with directions for Blocking for Public Access of any information through any computer resource	Up to 7 Years and	Shall also be liable to Fine
69B	Failure to comply with directions to Monitor and Collect Traffic Data or information generated, transmitted, received or stored in any computer resource	Up to 3 Years and	Shall also be liable to Fine
70	Protected system. Any unauthorized access to such system	Up to 10 years and	Shall also be liable to Fine

70B	Failure to provide information called for by the Indian Computer Emergency Response Team or comply with directions	Up to 1 year or	With fine which may extend to 1 Lakh Rs
71	Penalty for Misrepresentation or suppressing any material fact	Up to 2 years or	With fine which may extend to 1 Lakh Rs
72	Penalty for breach of confidentiality and privacy of electronic records, books, register, information etc without consent of person to whom they belong.	Up to 2 years or	With fine which may extend to 1 Lakh Rs
72A	Punishment for Disclosure of information in breach of lawful contract	Up to 3 years or	With fine which may extend to 5 Lakh Rs
73	Penalty for publishing Electronic Signature Certificate False in certain particulars	Up to 2 years or	With fine which may extend to 1 Lakh Rs
74	Publication for Fraudulent purpose	Up to 2 years or	With fine which may extend to 1 Lakh Rs
75	Act to apply for offences or contravention committed outside India if the act or conduct constituting the offence involves a computer, computer system or computer		

	network located in India		
76	Confiscation - Any computer, computer system, floppies, CDs, tape drives or other accessories related thereto in contravention of any provisions of the Act, Rules, Orders or Regulations made there under has been or is being contravened shall be liable to confiscation		
77	Compensation, Penalties or Confiscation not to interfere with other punishment		
77A	Compounding of offences		
77B	Offences with three years imprisonment to be bailable		
78	Power to investigate offences by police officer not below rank of Dy. Superintendent of Police.		

\* On 24/03/2015 the Supreme Court struck down Sec.66A of Information Technology Act, 2000 in Shreya Singhal vs. Union of India (2015). Honb'le Supreme Court said that Section 66A of the Information Technology Act, 2000 is struck down in its entirety being violative of Article 19(1)(a) and not saved under Article 19(2).

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