

Electronic Record and E-Governance

According to the World Bank, E-Governance is when government agencies use information and communication technologies to transform relations with citizens, businesses, and other government agencies. One of the prime objectives of the IT Act, 2000 is the promotion of electronic governance. In this article, we will talk about electronic records and e-governance.

In the IT Act, 2000, there are special provisions under Chapter III to grant legal recognition to electronic records, signature, and also encourage the government and its agencies to use them.

Provisions for e-governance under the IT Act, 2000

These are the provisions under the IT Act, 2000 in the context of e-governance:

1. Legal Recognition of Electronic Records (Section 4)

Let's say that a certain law requires a matter written, typewritten, or printed. Even in the case of such a law, the requirement is satisfied if the information is rendered or made available in an electronic form and also accessible for subsequent reference.

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2. Legal recognition of digital signatures (Section 5)

Let's say that the law requires a person's signature to authenticate some information or a document. Notwithstanding anything contained in such law, if the person authenticates it with a digital signature in a manner that the Central Government prescribes, then he satisfies the requirement of the law.

For the purpose of understanding this, signature means a person affixing his handwritten signature or a similar mark on the document.

3. Use of electronic records and digital signatures in Government and its agencies (Section 6)

(1) If any law provides for –

- a. the filing of a form, application, or any document with any Government-owned or controlled office, agency, body, or authority
- b. the grant or issue of any license, sanction, permit or approval in a particular manner
- c. also, the receipt or payment of money in a certain way

Then, notwithstanding anything contained in any other law in force such as filing, grant, issue, payment, or receipt is satisfied even if the person does it in an electronic form. The person needs to ensure that he follows the Government-approved format.

(2) With respect to the sub-section (1), may prescribe:

- a. the format and manner of filing, creating or issuing such electronic records
- b. also, the manner and method of payment of any fees or charges for filing, creating or issuing any such records

4. Retention of electronic records (Section 7)

(1) Let's say that the law requires the retention of certain records, documents or information for a specific period. In such cases, the requirement is also satisfied if the retention is in an electronic form, provided:

- a. the information contained therein is accessible and also usable for a subsequent reference.
- b. the format of the electronic record is the same as the one originally created, received or sent. Even if the format is changed, then it must accurately represent the original information.
- c. the electronic record contains details to facilitate the identification of the origin, destination, and also the date and time of the dispatch or receipt of the record.

This is provided that the clause does not apply to any information which is automatically generated primarily for the purpose of enabling an electronic record for dispatch or receipt.

(2) Nothing in this section applies to any law which expressly provides for the retention of records, documents or information electronically.

5. Publication of rules, regulations, etc., in Electronic Gazette (Section 8)

Let's say that law requires the publishing of official regulation, rule, by-law, notification or any other matter in the Official Gazette. In such cases, the requirement is also satisfied if such rule, regulation, order, bye-law, notification or any other matter is published in the Official Gazette or Electronic Gazette.

However, the date of publication of the rule, regulation, by-law, notification or any other matter is the date of the Gazette first published in any form – Official or Electronic.

6. Section 6,7 and 8 do not confer a right to insist document should be accepted in Electronic form (Section 9)

It is important to note that, nothing contained in Sections 6, 7, and 8 confer a right upon any person to insist either the acceptance, issuance, creation or also retention of any document or a monetary transaction in the electronic form from:

- Ministry or Department of the Central/State Government
- Also, any authority or body established under any law by the State/Central Government

7. Power to make rules by Central Government in respect of digital signature (Section 10)

The IT Act, 2000 empowers the Central Government to prescribe:

- Type of digital signature
- Also, the manner and format of affixing the digital signature
- Procedures which facilitate the identification of the person affixing the digital signature
- Control processes and procedures to ensure the integrity, security, and confidentiality of electronic payments or records
- Further, any other matter which is legally important for digital signatures

Data Protection

Section 43A of the Information Technology Act, 2000:

Let's say that a body corporate which possesses, deals or handles any sensitive personal data or information in a computer resource which it owns, controls or operates, is certainly negligent in implementing and maintaining reasonable security practices and procedures leading to a wrongful loss or gain to a person.

In such cases, the body corporate is liable to pay damages by way of compensation. Further, these damages cannot exceed five crore rupees.

Further, the Government of India notified the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011, under section 43A of the IT Act, 2000. These rules specifically pertain to sensitive personal information or data and are applicable to all body corporates within India.

Solved Question E-Governance

Q1. Name the different provisions under the IT Act, 2000 pertaining to electronic records and e-governance.

Answer:

The provisions are:

- Legal recognition of electronic records – Section 4
- Legal recognition of digital signatures – Section 5
- Use of electronic records and digital signatures in the Government and also its agencies – Section 6
- Retention of electronic records – Section 7
- Publication in Electronic Gazette – Section 8
- No right to insist on the acceptance of documents in the electronic form – Section 9
- Central Government's power to make rules pertaining to digital signatures – Section 10