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# **PENALTIES, COMPENSATION**

## **Penalty and compensation IT ACT, 2000**

### **Section 43. Penalty and compensation for damage to computer, computer system, etc.–**

If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network,—

- (a) accesses or secures access to such computer, computer system or computer network or computer resource-
- (b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;
- (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;
- (d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;
- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;
- (g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder;
- (h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network;

(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means;

(j) steal, conceal, 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;

**Explanation.** –For the purposes of this section,–

- (i) computer contaminant means any set of computer instructions that are designed–
  - (a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or
  - (b) by any means to usurp the normal operation of the computer, computer system, or computer network;
- (ii) computer database - means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;
- (iii) computer virus - means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;
- (iv) Damage - means to destroy, alter, delete, add, modify or rearrange any computer resource by any means.
- (v) computer source code - means the listing of programme, computer commands, design and layout and programme analysis of computer resource in any form.

### **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.

**Explanation.**—For the purposes of this section,—

- (i) body corporate - means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;
- (ii) reasonable security practices and procedures - means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;
- (iii) sensitive personal data or information - means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.

#### **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 thereunder 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 therefor in the regulations fails to file return or furnish the same within the time specified therefor 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.