

THE KERALA INFORMATION TECHNOLOGY (ADDITIONAL PROVISIONS) BILL, 2008

A bill for incorporating further provisions to control, regulate and strengthen the system of electronic communication and electronic commerce in the State of Kerala.

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Information Technology (Supplementary Provisions) Bill, —.

(2) It shall extend to the whole of the State of Kerala.

(3) It shall come into force on such date as notified by the State Government in the Gazette.

2. *Definitions.*—(1) *In this Act, unless the context otherwise requires.*—

(a) “Cyber-smearing” means using the Internet to tarnish the reputation of any person or a company or its product;

(b) “Cyber-stalking” means indulging in repeated harassment or threat of harassment of any individual, individuals, firms or companies through the Internet;

(c) “Cyber-terrorism” means the use of cyber space to wreak large scale destruction to national infrastructures such as power plants, pipelines, transportation and communication systems and even defence infrastructure.

(d) “Spams” means unsolicited mass advertisements sent using internet;

(e) “spoofing” means impersonation, where the person gives a return address other than his own while communicating through the computer network;

(2) Words used in this Act, which are not defined in this Act shall be having the same meaning as assigned to them in the Information Technology Act, 2000. (Act 21 of 2000).

3. *Presumption of authentication of electronic records.*—Notwithstanding anything contained in section 3 of the Information Technology Act, 2000 (Act 21 of 2000), if any electronic record contains sufficient indications as to the identity of the person who has generated the record and the fact of his approval of the same expressed using any known technology; it shall be treated as his authentication.

4. *Power to take copy of confiscated records.*—Save as otherwise provided in the Information Technology Act, 2000 (Act 21 of 2000) or any other law for the time being in force, on the confiscation of computer and other accessories in a case, the authorities are also empowered to retain a copy of any data stored in the computer confiscated and render such data inaccessible, while maintaining the integrity of the data.

5. *Penalty for breach of privacy of personal information.*—Save as otherwise provided in the Information Technology Act, 2000 (Act 21 of 2000) or any other law for the time being in force, if any person who, has secured any personal

information including that of ethnic, religious, marital, educational, employment, medical and similar information of a personal nature, unauthorizedly discloses such information to any other person or to the public in general; shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

6. *Penalty for online fraud.*—Whoever unauthorizedly collects the information of others and makes use of the same for the collection of funds by impersonation and causes damages to the original owners, shall be liable for imprisonment upto five years or fine up to ten lakhs or with both;

7. *Possession of illegal devices with intent to commit any offence under the Act is also an offence.*—(a) Any person possessing any illegal device with intent to facilitate the Commission of any offence under the Act, shall be prosecuted and punished with fine, which may extend to the amount of fine which is provided as a punishment for the Commission of the offence.

(b) where many such devices are possessed by a person, there shall be a presumption of intent to commit any offence unless rebutted by the person proceeded against.

8. *Penalty for spoofing, cyber-smearing, cyber-stalking, etc.*—Whoever sends any hoax messages, or indulges in any Spoofing, Cyber-smearing, Cyber-stalking or Spams shall be liable for punishment which may extend to imprisonment up to five years or fine upto ten lakhs or with both, unless the accused proves that the concerned activity was one carried on by him as a legitimate activity.

9. *Penalty for Cyber terrorism.*—Whoever commits or abets the Commission of a Cyber-terrorism as defined in this Act shall be punished with imprisonment for a period of 15 years or fine of Rs.25 lakhs or with both.

Statement of Objects and Reasons

The Information Technology Act, 2000 (Act 21 of 2000) has recognized the paperless world. The extensive use of the electronic media required some more safeguards for which certain amendments are required. The amendments proposed are intended to achieve the said purposes in the State of Kerala.