

LOK SABHA

PP
List No. 2

INFORMATION TECHNOLOGY (AMENDMENT) BILL, 2006

[As introduced in Lok Sabha]

Notice of Motions under Rule 388

S. No.	Name of Member and text of Motion	Clause No.
	SHRI A. RAJA:	
59.	“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 12* to the Information Technology (Amendment) Bill, 2006 and that this amendment may be allowed to be moved.”	7A (New)
60.	“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 13* to the Information Technology (Amendment) Bill, 2006 and that this amendment may be allowed to be moved.”	10A (New)
61.	“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 41* to the Information Technology (Amendment) Bill, 2006 and that this amendment may be allowed to be moved.”	37A (New)

NEW DELHI;
December 16, 2008
Agrahayana 25, 1930 (Saka)

P. D. T. ACHARY,
Secretary-General.

*Vide Amendments list No. 1 circulated on 16.12.2008.

Bills

List No. 1

LOK SABHA

INFORMATION TECHNOLOGY (AMENDMENT) BILL, 2008

[As introduced in Lok Sabha]

Notice of Amendments

<i>S. No.</i>	<i>Name of Member and text of Amendment</i>	<i>Clause No.</i>
SHRI A. RAJA:		
1.	Page 1, line 1, for "Fifty-seventh", substitute "Fifty-ninth".	Enacting formula
2.	Page 1, line 5 for "2006", substitute "2008",	1
3.	Page 2, after line 35, insert— '(A) after clause (h), the following clause shall be inserted, namely:— '(ha) "communication device" means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;'.	4
4.	Page 2, line 36, for "(A)", substitute "(AA)".	4
5.	Page 2, line 38, after "computer systems", insert "or communication device".	4
6.	Page 2, line 39, after "terrestrial line", insert "wire,".	4
7.	Page 2, line 42, after "computers", insert "or communication device".	4
8.	Page 3, line 1, for "following clause", substitute "following clauses".	4
9.	Page 3, after line 4, insert— '(nb) "cyber security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;'.	4
10.	Page 3, after line 10, insert— '(DA) after clause (u), the following clause shall be inserted, namely:— '(ua) "Indian Computer Emergency Response Team" means an agency established under sub-section (1) of section 70B;'.	4

<i>S. No.</i>	<i>Name of Member and text of Amendment</i>	<i>Clause No.</i>
11. Page 3,	lines 19 and 20, <i>omit</i> “,but does not include body corporate referred to in section 43A”.	4
12. Page 4,	<i>after</i> line 30, <i>insert</i> —	7A (New)
Insertion of new section 7A.	‘7A. After section 7 of the principal Act, the following section shall be inserted, namely:—	
Audit of documents etc. maintained in electronic form	“7A. Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form.”.	
13. Page 5,	<i>after</i> line 7, <i>insert</i> —	10A (New)
Amendment of Section 17.	‘10A. In section 17 of the principal Act,— (a) in sub-section (1), for the words “and Assistant Controllers”, the words “,Assistant Controllers, other officers and employees” shall be substituted; and (b) in sub-section (4), for the words “and Assistant Controllers”, the words “,Assistant Controllers, other officers and employees” shall be substituted.’	
14. Page 5,	<i>for</i> line 39, <i>substitute</i> — “(a) in the marginal heading, for the word “Penalty”, the words “Penalty and Compensation”.	19
15. Page 5,	<i>after</i> line 40, <i>insert</i> — “(aa) in clause (a), after the words “computer network”, the words “or computer resource” shall be inserted;”.	19
16. Page 5,	line 41, <i>for</i> “following clause”, <i>substitute</i> “following clauses”.	19
17. Page 5,	<i>after</i> line 43, <i>insert</i> — “(j) steals, conceals, 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, (c) for the portion beginning with the words “he shall be liable to pay damages” and ending with the words “person so affected” the following shall be substituted, namely:— “he shall be liable to pay damages by way of compensation to the person so affected”;	19

<i>S. No.</i>	<i>Name of Member and text of Amendment</i>	<i>Clause No.</i>
	(d) in the <i>Explanation</i> , after clause (iv), the following clause shall be inserted, namely:— '(v) "computer source code" means the listing of programmes computer commands, design and layout and programme analysis of computer resource in any form.".'.	
18. Page 6,	lines 7 and 8, <i>omit</i> "not exceeding five crore rupees,".	20
19. Page 6,	<i>for</i> lines 24 to 26, <i>substitute</i> — '21. In section 46 of the principal Act,— (a) in sub-section (1), for the words "direction or order made therunder", the words "direction or order made thereunder which renders him liable to pay penalty or compensation," shall be substituted; (b) after sub-section (1), the following sub-section shall be inserted, namely:— “(1A). The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore: Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crore shall vest with the competent court.”; (c) in sub-section (5), after clause (b), the following clause shall be inserted, namely:— “(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908.”.’.	21
20. Page 6,	<i>after</i> line 35, <i>insert</i> — “Provided that the person appointed as the Presiding Officer of the Cyber Appellate Tribunal under the provisions of this Act immediately before the commencement of the Information Technology (Amendment) Act, 2008 shall be deemed to have been appointed as the Chairperson of the said Cyber Appellate Tribunal under the provisions of this Act as amended by the Information Technology (Amendment) Act, 2008”.	24
21. Page 6,	<i>Omit</i> lines 45 and 46.	24
22. Page 7,	line 23, <i>for</i> "two years", <i>substitute</i> "one year".	24
23. Page 8,	line 34, <i>for</i> "two years", <i>substitute</i> "three years".	31
24. Page 8,	line 43, <i>for</i> "content", <i>substitute</i> "information".	31
25. Page 8,	line 44, <i>for</i> "content", <i>substitute</i> "information".	31
26. Page 8,	line 46, <i>for</i> "makes", <i>substitute</i> "by making".	31

S. No.	Name of Member and text of Amendment	Clause No.
✓ 27/ Page 8,	after line 47, insert— “(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages.”.	31
✓ 28/ Page 9,	line 1, for “two years”, substitute “three years”.	31
✓ 29/ Page 9,	for lines 3 to 5, substitute— ‘Explanation.—For the purposes of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.	31
Punishment for dishonestly receiving stolen computer resource or communication device.	66B. Whoever, dishonestly receives or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.	
Punishment for identity theft.	66C. Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.	
Punishment for cheating by personation by using computer resource.	66D. Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.	
	for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages.”.	
✓ 28/ Page 9,	line 1, for “two years”, substitute “three years”.	31
✓ 29/ Page 9,	for lines 3 to 5, substitute— ‘Explanation.—For the purposes of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.	31
Punishment for dishonestly receiving stolen computer resource or communication device.	66B. Whoever, dishonestly receives or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to	

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(b) "capture", with respect to an image, means to videotape, photograph, film or record by any means;

(c) "private area" means the naked or undergarment clad genitals, public area, buttocks or female breast;

(d) "publishes" means reproduction in the printed or electronic form and making it available for public;

(e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that—

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

Punishment for
cyber terrorism.

66F. (1) Whoever,—

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by—

(i) denying or cause the denial of access to any person authorised to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant;

and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70, or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States,

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	<p><u>public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise,</u></p> <p><u>commits the offence of cyber terrorism.</u></p> <p><u>(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life'.</u></p>	
30.	Page 9, line 11, for "two years", substitute "three years".	31
31.	Page 9, for lines 22 to 28, substitute—	31
	<p>'67 B. Whoever,—</p> <p>(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or</p> <p>(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or</p> <p>(c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or</p> <p>(d) facilitates abusing children online; or</p> <p>(e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,</p> <p>shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:</p> <p>Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting, representation or figure in electronic form—</p> <p>(i) The publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper writing drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or</p>	
	<p>Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form.</p>	

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	<p>(ii) which is kept or used for bonafide heritage or religious purposes.</p> <p><i>Explanation.</i>— For the purposes of this section “children” means a person who has not completed the age of 18 years.</p>	
	<p>Preservation and retention of information by intermediaries.</p> <p>67 C. (1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribed.</p> <p>(2) Any intermediary who internationally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and also be liable to fine.¹</p>	
32.	<p>Page 9, line 35, for “following section” <i>Substitute</i> “following sections”.</p>	33
33.	<p>Page 9, for lines 37 to 50, <i>substitute</i>—</p> <p><u>“69. (1) Where the Central Government or a State Government or any of its officer specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.</u></p> <p><u>(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.</u></p> <p><u>(3) The subscriber or intermediary or any person incharge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to—</u></p> <p><u>(a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or</u></p> <p><u>(b) intercept, monitor, or decrypt the information, as the case may be; or</u></p> <p><u>(c) provide information stored in computer resource.</u></p>	33
	<p><u>Power to issue directions for interception or monitoring or decryption of any information through any computer resource.</u></p>	

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(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Power to issue directions for blocking for public access of any information through any computer resource.

69A. (1) Where the Central Government or any of its officer specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.

Power to authorize to monitor and collect traffic data or information through any computer resource for cyber security.

69B. (1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge of the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of

S. No.	Name of Member and text of Amendment	Clause No.
	<p><u>sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.</u></p> <p><i>Explanation.</i>—For the purposes of this section,—</p> <p>(i) <u>“Computer contaminant” shall have the meaning assigned to it in section 43;</u></p> <p>(ii) <u>“Traffic data” means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, date, size, duration or type of underlying service and any other information.”</u></p>	
34.	Page 10, omit lines 1 to 5.	33
35.	Page 10, line 19, for “following section” substitute “following sections”.	35
36.	Page 10, for lines 21 to 33, substitute—	35
	<p>National nodal agency.</p> <p>“70A. (1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.</p> <p>(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.</p> <p>(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.</p>	
	<p>Indian Computer Emergency Response Team to serve as national agency for incident response.</p> <p>70B. (1) <u>The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.</u></p> <p>(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officer and employees as may be prescribed.</p> <p>(3) The salary and allowances and terms and conditions of the Director General and other officers and employees shall be such as may be prescribed.</p> <p>(4) <u>The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,—</u></p> <p>(a) <u>collection, analysis and dissemination of information on cyber incidents;</u></p>	

S. No.	Name of Member and text of Amendment	Clause No.
	<p>(b) <u>forecast and alerts of cyber security incidents;</u></p> <p>(c) <u>emergency measures for handling cyber security incidents;</u></p> <p>(d) <u>coordination of cyber incidents response activities;</u></p> <p>(e) <u>issue guidelines, advisories, vulnerability notes and whitepapers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;</u></p> <p>(f) <u>such other functions relating to cyber security as may be prescribed.</u></p> <p>(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.</p> <p>(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate, and any other person.</p> <p>(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.</p> <p>(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).”.</p>	
37.	Page 10, line 42, for “two years”, substitute “Three years”.	36
38.	Page 10, line 44, for “sections 77 and 78” substitute “section 77”.	37
39.	Page 11, for lines 4 to 12, substitute –	37
Compounding of offences.	<p>“77A. A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:</p> <p>Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:</p> <p>Provided further that the court shall not compound any offence where such offence affects the socio-economic conditions of the country or has been committed against a child below the age of 18 years or a woman.</p>	

S. No.	Name of Member and text of Amendment	Clause No.
	(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of section 265B and 265C of the Code of Criminal Procedure, 1973 shall apply.	
	Offences with three years imprisonment to be bailable. 77B. (1) Notwithstanding anything contained in Criminal Procedure Code, 1973, the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.”	2 of 1974.
40.	Page 11, <i>omit</i> lines 13 to 23.	37
41.	Page 11, <i>after</i> line 23, <i>insert</i> , — Amendment of section 78. “37A. In section 78 of the principal Act, for the words “Deputy Superintendent of Police” the word “Inspector” shall be substituted.”	37A (New)
42.	Page 11, line 28, <i>omit</i> “other”.	38
43.	Page 11, line 31, <i>after</i> “available”, <i>insert</i> “or hosted”.	38
44.	Page 11, line 35, <i>after</i> “stored”, <i>insert</i> “or hosted”.	38
45.	Page 11, <i>after</i> line 39, <i>insert</i> — “(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf”.	38
46.	Page 11, line 41, <i>after</i> “abetted”, <i>insert</i> “or aided or induced, whether by threats or promise or otherwise,”.	38
47.	Page 12, <i>omit</i> lines 3 and 4.	38
48.	Page 12, <i>for</i> line 18, <i>substitute</i> — Amendment of section 80. “39. In section 80 of the principal Act, in sub-section (1), for the words “Deputy Superintendent of Police”, the word “Inspector” shall be substituted.”	39
49.	Page 13, <i>after</i> line 20, <i>insert</i> — “(iiiia) in clause (f), for the words “and Assistant Controllers”, the words, “Assistant Controllers, other officers and employees” shall be substituted.’	44
50.	Page 13, <i>after</i> line 35, <i>insert</i> — “(wa) the information, duration, manner and form of such information to be retained and preserved under section 67 C;”	44
51.	Page 13, <i>for</i> lines 36 and 37, <i>substitute</i> — “(x) the procedures and safeguards for interception, monitoring, or decryption under sub-section (2) of section 69; (xa) the procedure and safeguards for blocking for access by the public under sub-section (2) of section 69A;	44

<i>S. No.</i>	<i>Name of Member and text of Amendment</i>	<i>Clause No.</i>
	(xb) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;".	
52.	Page 13, <i>after line 39, insert—</i> “(ya) manner of performing functions and duties of the agency under sub-section (3) of section 70A; (yb) the officers and employees under sub-section (2) of section 70B; (yc) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of section 70B; (yd) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;”.	44
53.	Page 13, lines 40 and 41, <i>for</i> “sub-section (4)”, <i>substitute</i> “sub-section (2)”.	44
54.	Page 13, <i>for</i> line 46, <i>substitute—</i> “every rule made by it”, the words “Every notification made by the Central Government under sub-section (1) of section 70A and every rule made by it”.	44
55.	Page 14, <i>for</i> lines 1 to 3, <i>substitute—</i> Amendment of section 90. “45. In section 90 of the principal Act, in sub-section (2), clause (c) shall be omitted.”.	45
56.	Page 15, <i>omit</i> lines 20 to 32.	49
57.	Page 15, <i>omit</i> lines 35 to 45.	49
58.	Page 16, <i>omit</i> lines 1 to 13.	49

NEW DELHI;
December 16, 2008
Agrahayana 25, 1930 (*Saka*)

P. D. T. ACHARY,
Secretary-General.