



# The Companies Act 2013

*Enlightening Nation*

## E-newsletter

### ABOUT THE E-NEWSLETTER

Dear Users,

To keep you updated about the latest notifications, circulars & orders issued during the month, thecompaniesact2013.com present herewith its monthly e-newsletter. This is the issue of the April month comprising contemporary articles & monthly amendments.

The notion is to render all the updates in a compiled format and serve a better pavement for easy accessibility.

### CONTENTS

ARTICLE

NOTIFICATION

WEBSITE UPDATES



## ***Information Technology & Cyber Crime***

- **INTRODUCTION:**

Internet has become the most significant technology all over the world, which is not only used by the people to contact each other but also utilized by business organizations to become global. Computer and internet enable business organizations to execute the Electronic commerce business model, which has become very popular. Computers and Internet are a powerful source in the success of globalization and international business. Computers are being used worldwide and cybercrime is a global issue plaguing the world. Cybercrime has become an important concern for not only the business firms, government, law enforcement agencies but also for the common people because these kinds of issues are related to the consumer's day-to-day activities. Due to these types of crimes, consumer's money, business organization's integrity, consumer and company's privacy, etc. are in danger.

- **CYBER CRIME :**

There is no single definition of cybercrime but it can be generally termed as any unlawful or criminal activity done with the help of computer system, communication devices, Internet, Network, Cyberspace and web. There are crimes that are only committed on the Internet and are created exclusively because of the World Wide Web. Now-a-days, Cloud computing has become more popular among the people and Corporates which concentrates and encompasses more and more sensitive data. Inadequate security makes it susceptible to cyber criminals. Cybercrime includes hacking, Data Diddling, Data Theft, Cyber Stalking, Cyber terrorism, email spoofing, Email Spamming, Email Bombing, Terrorism funding, Online fraud, Phishing/ wishing, Web defacement, Denial of service, Virus and worms, pornography, software piracy, digital signature, etc.

- **SOURCE OF ATTACK :**

Insiders: Current employees, former employees, Current service providers/consultants/ contractors, former service providers/ consultants/contractors, Suppliers, Business partners and customers  
Outsiders: Terrorists organized Crime, competitors, Information broker, activists/hackers, foreign states/entities and many others.

- **CATEGORIES OF CYBER CRIMES:**

**1) Data diddling:**

Data diddling involves changing data prior or during input into a computer. In other words, the data is not entered in the system in the way it should have been entered. Section 43(d) read with section 66 of IT Act, which prescribes a punishment of imprisonment which may extend to three years or fine up to Rupees five lakhs or both.

## **2) Data Theft:**

Data Theft means stealing company data and this can be done through USB, E-mail, Etc. Data Theft also includes copying or stealing the web pages of the company. Data Theft Protection tool: Falconstor Continues data protector, McAfee Data Loss Prevention, PKware partner Link, RSA Data Loss Prevention Suite, Websense's Content Protection Suite, etc. A person can be prosecuted under Section 43(b) of IT Act read with section 66. The penalty is fine which may extend to Rs. five Lakhs or imprisonment which may extend to three years or both.

## **3) Cyber Stalking:**

Constantly sending messages to harass the recipient emotionally. No provision in IT Act but prosecution under Indian Penal Code is possible.

## **4) Cyber Terrorism:**

It is an activity of potentially attacking large number of people by cheaper methods than traditional. It is act of doing real world crime using cyberspace. Section 66F of IT Act prescribes a punishment of imprisonment which may extend for Life.

## **5) Email Spoofing:**

Here the e-mail will appear to have been sent from one source but actually it will be sent from another source. Section 66D of IT Act prescribes the punishment for this offence which may extend to three years of imprisonment.

## **6) Other Categories:**

Other category includes, Email Spamming, Email Bombing, Phishing/vishing, Unauthorized Access & Hacking, Virus, Website Defacement, Denial of services, Pornography/pedophiles, etc.

## **• CYBER SECURITY :**

Cyber security comprises technologies, processes and controls that are designed to protect systems, networks and data from cyber attacks.

Effective cyber security reduces the risk of cyber attacks, and protects organizations and individuals from the unauthorized exploitation of systems, networks and technologies.

### **Consequences of absence of cyber security:**

- i) Data/Information may get destroyed, stolen or exposed
- ii) System availability may be denied or degraded
- iii) Present or former employees or customers may get personally impacted
- iv) Lawsuits
- v) Damage to Corporate/Brand Image Security Measures
- vi) Don't leave the unencrypted data (words, images, reports, etc.) in the email boxes
- vii) Complying with requirement of laws (HIPAA, SOX, etc.) is not enough to secure your data; it is equally important to follow standards issued by various International bodies like ISACA, ISO, ICAI, IIA, etc.)
- viii) Security Assessment and building a roadmap with the help of standards like ISO 27001

- ix) Involvement of Top level management (BOD) and availability of enough financial resources
- x) Review and update of Security policies, procedures and supporting resources
- xi) Design and regular testing of business continuity plans and disaster recovery plans

- **CASES WHICH CAN BE REGISTERED UNDER IPC:**

Offences by/against Public Servant (Sections 167, 172, 173, 175) False electronic evidence (Section 193) Destruction of electronic evidence (Sections 204, 477) Forgery (Sections 463, 465, 466, 468, 469, 471, 474, 476, 477A) Criminal Breach of Trust (Sections 405, 406, 408, 409) Counterfeiting Property Mark (Sections 482, 183, 483, 484, 485) Tampering (Section 489) Counterfeiting Currency/Stamps (Sections 489A to 489E).

- **THE CONCLUSION :**

It can be seen that the threat of computer crime is not as big as the authority claim. There will always be new and unexpected challenges to stay ahead of cyber criminals and cyber terrorists but we can win only through partnership and collaboration of both individuals and Government. There is much we can do to ensure a safe, secure and trustworthy computing environment. It is crucial not only to our national sense of well-being, but also to our national security and economy.

## **NOTIFICATIONS**

### **A. S.O. 529 (E) Notification regarding designation of Special Court the State Of Uttar Pradesh. Dated – 23.04.2018**

The High Court Of Allahabad hereby designates 9<sup>th</sup> Court of Additional District and Session Judge, Kanpur Nagar as Special Court for the purpose of speedy trial of offences punishable with imprisonment of 2 years or more.

### **B. G.S.R. (E): Companies (Share Capital and Debentures) Amendment Rules, 2018, Dated 09.02.2018**

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:-

1. Short title and Commencement: -

(1) These rules may be called the Companies (Share Capital and Debentures) Amendment Rules, 2018.

(2) They shall come into force on the date of their Publication in the Official Gazette.

2. In the Companies (Share Capital and Debentures) Rules, 2014, in rule 5, for sub-rule (3) of, the following sub-rule shall be substituted.

### **C. G.S.R. (E): Notification regarding Amendments made in Schedule I in Table F, in paragraph II, in sub - paragraph (2) for item (ii). Dated – 10.04.2018**

In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following alteration to the Schedule I of the said Act, namely:-

In the Companies Act, 2013, in Schedule I, -

(i) in Table F, in paragraph II, -

(a) in sub-paragraph (2), for item (ii), the following item shall be substituted, namely:-

"Every certificate shall specify the shares to which it relates and the amount paid-up thereon and shall be signed by two directors or by a director and the company secretary, wherever the company has appointed a company secretary:

Provided that in case the company has a common seal it shall be affixed in the presence of the persons required to sign the certificate.

#### **D. G.S.R. (E): Notification with regard to Government Companies. Dated – 02.04.2018**

In exercise of the powers conferred by sub-section (6) of section 129 of the Companies Act, 2013 (18 of 2013), the Central Government, in the interest of public, hereby makes the following amendments in the notification of the Government of India, Ministry of Corporate Affairs, number S.O. 529(E), dated the 5th February, 2018, namely:-

1. In the said notification, in the opening paragraph, the words “for seven years” shall be omitted.

### **LATEST UPDATES ON [thecompaneisact2013.com](http://thecompaneisact2013.com)**

- **[S.O. 529 \(E\) Notification regarding designation of Special Court the State Of Uttar Pradesh. Dated – 23.04.2018](#)**
- **[G.S.R. \(E\): Companies \(Share Capital and Debentures\) Amendment Rules, 2018, Dated 09.02.2018](#)**
- **[G.S.R. \(E\): Notification regarding Amendments made in Schedule I in Table F, in paragraph II, in sub - paragraph \(2\) for item \(ii\). Dated – 10.04.2018](#)**
- **[G.S.R. \(E\): Notification with regard to Government Companies. Dated – 02.04.2018](#)**

An Initiative by [www.thecompaniesact2013.com](http://www.thecompaniesact2013.com)

In Association with:

**Arms & Associates LLP**

**Practicing Company Secretaries**

**24 ka 1 Jyoti Nagar, Jaipur**

**Ph.No. 0141-2740924, 5119323**

## **DISCLAIMER**

The e-newsletter of thecompaniesact2013.com is designed to provide information of a general nature and is not intended as a substitute for professional consultation and advice in a particular matter. The opinions and interpretations expressed within are those of the author only and may not reflect those of other identified parties. Thecompaniesact2013.com does not warrant the accuracy and completeness of this newsletter, nor endorse or make any representations about its content. In no event will hecompaniesAct2013.com be liable for any damages whatsoever arising out of the use of or reliance on the contents of this newsletter.