

Lecture- 20



Certifying authorities

Appointment of Controller

Section 17 talks about the appointment of the controller, deputy controllers, assistant controllers, and other employees of certifying authorities. The deputy controllers and assistant controllers are under the control of the controller and perform the functions as specified by him. The term, qualifications, experience and conditions of service of the Controller of certifying authorities will be determined by the Central Government. It will also decide the place of the head office of the Controller.

Functions of the Controller

According to Section 18, the following are the functions of the Controller of certifying authority:

- He supervises all the activities of certifying authorities.
- Public keys are certified by him.
- He lays down the rules and standards to be followed by certifying authorities.
- He specifies the qualifications and experience required to become an employee of a certifying authority.
- He specifies the procedure to be followed in maintaining the accounts of authority.
- He determines the terms and conditions of the appointment of auditors.
- He supervises the conduct of businesses and dealings of the authorities.
- He facilitates the establishment of an electronic system jointly or solely.
- He maintains all the particulars of the certifying authorities and specifies the duties of the officers.
- He has to resolve any kind of conflict between the authorities and subscribers.
- All information and official documents issued by the authorities must bear the seal of the office of the Controller.
- License for electronic signatures

It is necessary to obtain a license certificate in order to issue an electronic signature. Section 21 of the Act provides that any such license can be obtained by making an application to the controller who, after considering all the documents, decides either to accept or reject the application. The license issued is valid for the term as prescribed by the central government and is transferable and heritable. It is regulated by terms and conditions provided by the government.

According to Section 22 of the Act, an application must fulfill the following requirements:

- A certificate of practice statement.
- Identity proof of the applicant.
- Fees of Rupees 25,000 must be paid.
- Any other document as specified by the central government.

The license can be renewed by making an application before 45 days from the expiry of the license along with payment of fees, i.e., Rupees 25000. (Section 23)

Any license can be suspended on the grounds specified in Section 24 of the Act. However, no certifying authority can suspend the license without giving the applicant a reasonable opportunity to be heard. The grounds of suspension are:

- The applicant makes a false application for renewal with false and fabricated information.
- Failure to comply with the terms and conditions of the license.
- A person fails to comply with the provisions of the Act.
- He did not follow the procedure given in Section 30 of the Act.
- The notice of suspension of any such license must be published by the Controller in his maintained records and data.

Powers of certifying authorities

Following are the powers and functions of certifying authorities:

- Every such authority must use hardware that is free from any kind of intrusion. (Section

30)

- It must adhere to security procedures to ensure the privacy of electronic signatures.
- It must publish information related to its practice, electronic certificates and the status of these certificates.
- It must be reliable in its work.
- The authority has the power to issue electronic certificates. (Section 35)
- The authority has to issue a digital signature certificate and certify that:
 - The subscriber owns a private key along with a public key as given in the certificate.
 - The key can make a digital signature and can be verified.
 - All the information given by subscribers is accurate and reliable.
- The authorities can suspend the certificate of digital signature for not more than 15 days. (Section 37)
- According to Section 38, a certificate can be revoked by the authorities on the following grounds:
 - If the subscriber himself makes such an application.
 - If he dies.
 - In case, the subscriber is a company then on the winding up of the company, the certificate is revoked.
- Circumstances where intermediaries are not held liable

Section 2(1)(w) of the Act defines the term ‘intermediary’ as one who receives, transmits, or stores data or information of people on behalf of someone else and provides services like telecom, search engines and internet services, online payment, etc. Usually, when the data stored by such intermediaries is misused, they are held liable. But the Act provides certain instances where they cannot be held liable under Section 79. These are:

- In the case of third-party information or communication, intermediaries will not be held liable.
- If the only function of the intermediary was to provide access to a communication system and nothing else, then also they are not held liable for any offence.
- If the intermediary does not initiate such transmissions or select the receiver or modify

any information in any transmission, it cannot be made liable.

- The intermediary does its work with care and due diligence.
- However, the section has the following exemptions where intermediaries cannot be exempted from the liability:
 - It is involved in any unlawful act either by abetting, inducing or by threats or promises.
 - It has not removed any such data or disabled access that is used for the commission of unlawful acts as notified by the Central Government.