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PART-IIA

GOVERNMENT OF MEGHALAYA
DEPARTMENT OF INFORMATION TECHNOLOGY
ORDERS BY THE GOVERNOR

NOTIFICATION

The 17th September, 2012.

No.ITR.49/2011/61.—In exercise of the powers conferred by section 90 of the Information Technology Act, 2000 (Central Act No. 21 of 2000), the State Government hereby makes the following rules;

1. **Short title and commencement.** — (1) These Rules may be called Meghalaya Cyber Cafe Rules 2012.
(2) They shall come in to force on the date of their publishing in the Official Gazette.
2. **Definitions.**—(1) In these rules, unless the context otherwise requires,-
 - a) **“Act”** means the Information Technology Act, 2000 (Central Act No. 21 of 2000)
 - b) **“computer resource”** means computer, computer system, computer network, data, computer data base or software;
 - c) **“Cyber Cafe”** means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;
 - d) **“Data”** means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;
 - e) **“Government”** means Government of the State of Meghalaya.
 - f) **“Information”** includes data, text, images, sound, voice, codes, computer programmes, software and databases or micro film or computer generated micro fiche:
 - g) **“Intermediary”** with respect to any particular electronic message means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message;
 - h) **“Licensing Agency”** means an agency designated by Meghalaya State Government to issue licences to cyber cafe for their operation on such application;

- i) **“Log Register”** - means a register maintained by the Cyber Cafe for access to computer resource;
 - j) **“User”** means a person who uses the computer resource and includes other persons jointly participating in using the computer resource in a cyber cafe,
 - k) **“Police Authority”** mean the Police officers not below the rank of Inspector of Police.
- (2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Agency for registration/issuing of license for cyber cafe : The Deputy Commissioner of the Districts, Government of Meghalaya are nominated as the Nodal Agency for issuing of Licenses for establishing of a cyber cafe in their respective Districts.

4. Powers to refuse license: The Licensing Agency may refuse a License for Cyber Cafe, if :

- a. The premises appears to him/her to be likely to cause obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passersby or create traffic problems in the locality or may harm national interest or cause law and order problem:
- b. If he/she is satisfied after such enquiry as he/she thinks fit that the applicant for license of the premises in question is not fit or unsuitable to grant such License.

5. Responsibilities of the Cyber Cafe Owners:

- 1. The owner of the Cyber cafe shall take sufficient precaution so that computers and computer systems in the Cyber Cafe are not used for any illegal or criminal activity
- 2. Cyber Cafe shall not allow any user to use its computer resource without the identity of the User being established.

6. Identification of User:

- 1. The intending user may establish his or her identify by producing a document which shall identify the users to the satisfaction of the Cyber Cafe. Such documents may include any of the following:
 - a) identity card issued by any School or College;
 - b) photo Credit Card or debit card issued by a Bank or Post Office;
 - c) passport;
 - d) voters Identity Card;
 - e) permanent Account Number (PAN) card issued by Income-Tax Authority;
 - f) photo Identity Card issued by the employer or any government agency; and
 - g) driving License issued by the appropriate government department.
 - h) Unique Identification(UID) Number issued by the Unique Identification Authority of India (UIDAI)
- 2. All users are required to be photographed by the Cyber Cafe using a web camera. Such web camera photographs shall be part of the log register which may be maintained in physical or electronic form.

3. Minor without photo Identity card shall be accompanied by an adult with any of the documents as prescribed in sub-rule (1).
4. In case, the user does not agree to reveal his or her identity or refuses to be photographed as mentioned above, the Cyber Cafe shall not allow the user to access any computer resource of the Cyber Cafe.
5. Cyber Cafe shall incorporate sufficient measures, to ensure that the identity of user availing or accessing the services of the Cyber Cafe through any means is established.

7. Log Register:

1. After the identity of the user has been established as per sub-rule (1) of rule 6 above, the Cyber Cafe shall record and maintain the required information of each user in the log register for a minimum period of one year. Also, Cyber Cafe may maintain an online version of the log register.
2. Cyber Cafe shall prepare a monthly report of the log register showing date-wise details on the usage of the computer resource and submit a hard and soft copy of the same to the person or agency as directed by the licensing agency by 5th day of next month or immediately as referred.
3. The cyber cafe owner shall be responsible for storing and maintaining following backups of logs and computer resource records for at least one year for each access or login by any user:
 - a. history of websites accessed using computer resource at cyber cafe
 - b. logs of proxy server installed at cyber cafe
 - c. mail server logs
 - d. logs of network devices such as router, switches, systems etc. installed at cyber cafe and
 - e. Logs of firewall or Intrusion Prevention/Detection systems, if installed.
4. Cyber Cafe shall ensure that log register is not altered and maintained in secure manner for a period of at least one year.

Note: Cyber Cafe may refer to "Guidelines for auditing and logging - CISG-2008-01" prepared by Indian Computer Emergency Response Team (CERT-In) for any assistance related to logs. This document is available at www.cert-in.org.in

8. Management of Physical Layout and computer resource:

- a. Partitions of Cubicles built or installed if any, inside the Cyber Cafe, shall not exceed four and half feet in height from the floor level;
- b. The screen of all computers, installed other than in Partitions or Cubicles, shall face 'outward', i.e. they shall face the common open space of the Cyber Cafe;
- c. Any Cyber Cafe having cubicles or partitions shall not allow minors to use any computer resource in cubicles or partitions except when they are accompanied by their guardians or parents;
- d. All time clocks in the Cyber Cafe System shall be synchronized with the Indian Standard Time;
- e. All the computers in the cyber cafe shall be equipped with the safety/filtering software so as to the avoid access to the websites relating to pornography, obscenity, terrorism and other objectionable materials;

- f. Cyber Cafe shall take sufficient precautions to ensure that their computer resources are not utilized for any illegal activity;
- g. Cyber Cafe shall display a board, clearly visible to the users, prohibiting them from viewing pornographic sites; and
- h. Cyber Cafe shall incorporate sufficient preventive measures to disallow the user from tampering with the computer system settings.

9. Inspection of Cyber Cafe:

- 1. Officer not below the rank of an Inspector of Police or any other officer specifically authorized by the registration agency on his behalf shall be competent to inspect Cyber Cafes at all reasonable time to ensure compliance of these Rules.
- 2. If any Cyber Cafe Owner/Network Service Provider fail to maintain the Log register and fail to provide every related document, registers and any necessary information to the Police authorities, he shall be liable for penalties as provided in the Act or any other Law, for the time being enforce.

10. Penalties:

If any person fails to comply or furnish information return etc. under these rules, he shall be liable for penalty as per Section 43, 43A, 44 & 45 of the Act.

D. P. WAHLANG,
Commissioner & Secretary to the Govt. of Meghalaya,
Information Technology Department.