



Scheme for
Notifying
Examiner of Electronic
Evidence

Under section 79A of the Information Technology Act 2000

Government of India
Ministry of Electronics & Information Technology
(MeitY)

Table of Content

1. Introduction of the Scheme for Notifying Examiner of Electronic Evidence
2. Scope of the Scheme
3. Criteria for Accreditation
4. Eligibility Criteria
5. Procedure for Application, Evaluation and Recommendation
6. Notification and Validity
7. Maintenance, Suspension and De-notification
8. New/ Modification / Enhancement of the Scope
9. Appeal
10. Fee for Application, Assessment and Certification / Notification

1. Introduction of the Scheme for Notifying Examiner of Electronic Evidence

CHAPTER XIIA of the Information Technology Act, 2000 empowers the Central Government under section 79A to notify any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence for the purposes of providing expert opinion on electronic form evidence before any court or other authority specified by notification in the Official Gazette. The *Explanation* clause of section 79A further articulates that the “Electronic Form Evidence” means any information of probative value that is either stored or transmitted in electronic form and includes evidence, digital data, digital video, cell phones, digital fax machine etc.

- a) In line with the above requirement, MeitY has formulated a scheme for notifying the Examiner of Electronic Evidence. The objective of the scheme is to ascertain the competence of all the desiring Central Government or a State Government agencies and to qualify them to act as Examiner of Electronic evidence as per their scope of approval through a formal accreditation process. Once notified, such Central, State Government agencies can act as the “Examiner of Electronic Evidences”, and provide expert opinion of digital evidences before any court.

- b) The scheme is based on international standards like ISO/IEC 17025 (A Standard on General requirements for the competence of testing and calibration laboratories) and ISO/IEC 27037 (A Standard on Information technology - Security techniques - Guidelines for identification, collection, acquisition and preservation of digital evidence). The evaluation process includes examination of the technical, skilled professional manpower in digital forensics, licensed tools and equipment, availability of suitable environment to carry out such evaluation as also the availability of a proper quality management system and reasonable experience to demonstrate their overall competency in this area.

2. Scope of the Scheme

Any Department, body or agency of the Central Government or a State Government seeking to be notified as an Examiner of Electronic Evidence can apply to Ministry of Electronics & Information Technology (MeitY), Ministry of Communications and Information Technology, Government of India by submitting application as prescribed in the Annexure – I. The scope of approval will be one or more of disciplines/ areas of activity in the applicant Forensic Science Laboratories:

1. Computer (Media) Forensics
2. Network (Cyber) Forensics
3. Mobile Devices Forensics
4. Digital Video / Image & CCTV Forensics
5. Digital Audio Forensics
6. Device Specific Forensics
7. Digital Equipment / Machines (having embedded firmware)
8. Any other

Accreditation in additional disciplines may be offered in future as per requirement.

3. Criteria for Accreditation:

The Lab has to follow general requirements for the competence of testing and calibration laboratories as per ISO/ IEC 17025:2005.

It is also expected that the Lab follows the best practices as stated in ISO/IEC 27037:2012: Information technology - Security techniques - Guidelines for identification, collection, acquisition and preservation of digital evidence or any other National / International Standard (s).

4. Eligibility Criteria

- a. As defined in the IT Act 2000, Applicant has to be any Department, body or agency of the Central Government or a State Government and working in the area of Electronic Evidence.
- b. All the interested organisation meeting the minimum eligibility criteria as specified, shall submit a formal application to MeitY. The applicant lab will have to provide all the details including the scope of accreditation sought, details of quality management system maintained, including the organisational structure, roles and responsibilities, tools and fixtures, software tools, software applications, details of manpower, operating environment and such other things necessary to establish their competence in this area.

5. Procedure for Application, Evaluation and Recommendation

The organization will submit the duly filled application form (published on MeitY website) along with specified enclosures for a site with a well-defined scope. MeitY. On the receipt of application, after cursory evaluation of application, for it being complete in all respects, a unique Lab Registration Number (LRN) will be allocated to laboratory for further processing of application.

Each such application is evaluated through a **three stage** process as per the following details:

Stage I: The focus of stage-I is on offline evaluation of the application followed by appointment of a suitable assessment team including relevant experts. The relevancy of the scope in context of applicant organization and adequacy of quality manual and related processes shall be evaluated during this phase. This is similar to stage-I / Desktop audit as defined in certification parlance.

Stage II: This objective of this assessment is to ascertain the adherence to the processes and procedures as stated out in the quality manual and the application. It involves onsite assessment by the team constituted by MeitY in stage I. This assessment includes evaluation of technical aspects, competency of manpower in digital forensics, availability of up to date licensed tools and equipment, availability of suitable environment to carry out such examination as also the availability of a proper quality management system and reasonable experience to demonstrate their overall competency in this area. The duration of assessment depends upon the Scope and its complexity. This may vary from a minimum of two mandays to higher number of mandays. The details of the process are as follows:

Stage III: This objective of this assessment is to carry out an overall review the findings of assessment team and its recommendations; ensure quality and completeness of the assessment done. This is an independent review carried out by high level accreditation committee consisting of members independent of people directly involved in assessment.

On the recommendation of this committee and after seeking formal approval from the Secretary, MeitY, the notification with an approved scope of work will be issued.

6. Notification and Validity

The notification will be based on evaluation as detailed in previous section. A notification declaring the applicant lab as “Examiner of Electronic Evidence” will be issued subject to continued compliance to the requirement of this scheme document. Hence, a Lab will continue to remain notified unless the approval of the lab is suspended or withdrawn for the reasons as stated in de-notification process.

7. Maintenance, Suspension and De-notification

Accreditation to a laboratory once notified shall be valid for the notified scope of work until suspended or de-notified. A laboratory once notified, shall be liable to ensure continuation of competence / quality. All notified labs will submit a detailed yearly report by 15th of January every year covering aspects like manpower, tools and technology and their licence status, court case details, proficiency etc. The detailed checklist is as placed at Annexure-I.

8. New/ Modification/ Enhancement of the scope:

For any New / Enhanced/ Modified scope, the complete process (Stage I, II and III) as listed in step 5 will have to be followed. Only in case of Minor changes / Editorial changes, Group Coordinator, Cyber Laws and E-Security Group, MeitY can decide to waive off the stage II and III of step 5.

9. Appeal

Laboratories are free to appeal against the findings of assessment or decision on accreditation by writing to the group coordinator, Cyber Laws and E-Security Group, MeitY. Decision of GC, Cyber Laws and E-Security Group, MeitY will be final.

10. Fee for Application, Assessment and Certification / Notification

Serial Number	Stages of Application, Assessment and Certification / Notification	Fee Details
1	Application Fee	Nil
2	Offline Evaluation Fee	Nil
3	Onsite Assessment (Stage II) Fee	Travel, stay and complete logistics for the assessors / experts (generally not exceeding one number) from outside MeitY shall be provided by the applicant organisation.
4	Certification / Notification Fee	Nil
5	Surveillance Fee	Nil

(List of Documents to be submitted annually)

- a. Addition/deletion of skilled staff
- b. Details of licensed tools/software
- c. Validity / updation of tools and Technology
- d. Number of cases referred to by the prosecuting agency/court (details alongwith case title)
- e. Number of cases handled and reports filed before the court
- f. Number of times, examiner appeared before the court as an expert (give case title)
- g. Observation including any strictures passed by the Courts .
- h. Number of cases pending, nature and reasons of pendency /
- i. Number. of refused due to lack of requisite skills
- j. Proficiency Testing details during the period
- k. Self declaration w.r.t continued compliance to ISO/ IEC 17025

The above list is indicative and minimum required to be submitted every year or as specified by MeitY. All such documents submitted to MeitY to be marked as confidential.