

THE ELECTRONIC SERVICE DELIVERY BILL, 2011

A

BILL

to provide for delivery of public services by the Government to all persons by electronic mode to enhance transparency, efficiency, accountability, accessibility and reliability in delivery of such services, and including matters connected therewith or incidental thereto.

WHEREAS it is considered necessary to provide a legal framework to promote efficient electronic delivery of government services.

Be it enacted by Parliament in theas follows:

CHAPTER I

PRELIMINARY

- 1 **Short title, extent, commencement and application** – (1) This Bill may be called the Electronic Service Delivery Bill, 2011.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the appropriate Government may, by notification, appoint and different dates may be appointed for different provisions of this Bill at Central and State level and any reference in any such provision to the commencement of this Bill shall be construed as a reference to the commencement of that provision.

- 2 **Definitions.** – (1) In this Bill, unless the context otherwise requires, —
- (a) “access”, shall have the meaning assigned to it in section 2(1)(a) of the Information Technology Act, 2000;
 - (b) “appropriate Government” means as respects any matter,—
 - i) enumerated in List II of the Seventh Schedule to the Constitution;
 - ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution,the State Government and in any other case, the Central Government;
 - (c) “central commission” means the Central Electronic Service Delivery Commission constituted under sub section (1) of section 4;
 - (d) “central chief commissioner” means the Chief Commissioner of the Central Electronic Service Delivery Commission appointed under sub-section (3) of section 4;
 - (e) “central commissioner” means the Commissioner of the Central Electronic Service Delivery Commission appointed under sub-section (3) of section 4;
 - (f) “competent authority” means the Head of every Department of the appropriate Government as notified by the appropriate Government from time to time and may include, *inter alia*, the Secretaries to the appropriate Government, the Heads of the Department of the

appropriate Government, and the Heads of Government Organisations and Government Bodies;

(g) “electronic service delivery” means the delivery of services through electronic mode including, *inter alia*, the receipt of forms and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money;

(h) “electronic mode” shall include any method, process or application to deliver any service electronically;

(i) “law” includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under Article 240, Bills enacted as President’s Act under sub-clause (a) of clause (1) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;

(j) “notification” with its grammatical variations and cognate expressions means a notification published in the Official Gazette;

(k) “person” shall include any company or association or body of individuals, whether incorporated or not;

(l) “prescribed” means prescribed by rules made under this Bill;

(m) “public authority” means any authority or body established or constituted by law and includes, *inter alia*, any other body owned and controlled by the appropriate Government;

- (n) “public service” means any service provided by the appropriate Government either directly or through any service provider; which shall include, *inter alia*, the receipt of forms and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money by whatever name called in a particular manner;
- (o) “rule” means a rule made by the appropriate Government under this Bill;
- (p) “service provider” means any individual, agency, company, partnership firm, sole proprietor firm or any such other body or agency which has been authorised by the appropriate Government to offer services through electronic mode;
- (q) “state commission” means the State Electronic Service Delivery Commission constituted under sub section (1) of section 7;
- (r) “state chief commissioner” means the Chief Commissioner of the State Electronic Service Delivery Commission appointed under sub-section (2) of section 7;
- (s) “state commissioner” means the Commissioner of the State Electronic Service Delivery Commission appointed under sub-section (2) of section 7

CHAPTER II

ELECTRONIC SERVICE DELIVERY

3 Duty of the appropriate Government to deliver all public services through electronic mode. –

(1) Every competent authority of the appropriate Government shall publish as prescribed within one hundred and eighty days from the commencement of this bill –

- a) the public services which are to be delivered through electronic mode;
- b) the date by which each such service shall be made available through electronic mode;
- c) the manner of delivery of such services and their service levels;
- d) the grievance redressal mechanism available to any person aggrieved about the outcome of any request made by him for such service through electronic mode;
- e) any other information as may be prescribed;

and, thereafter, review and update these publications every year.

(2) Notwithstanding anything stated above, all public services shall be delivered in electronic mode within 5 years from the commencement of this Bill;

Provided that this period may, for reasons to be recorded, be extended for a further period not exceeding 3 years by the appropriate Government;

Provided further that if it is not feasible to render a public service

through electronic mode, then the appropriate government shall issue a notification to that effect.

(3) The competent authority, while introducing electronic services, shall ensure that

a) the processes and forms relating to such services are simplified initially and periodically thereafter; and

b) assisted access to such electronic services is also made available.

(4) The Central Government may, from time to time, prescribe electronic governance standards as may be necessary for ensuring interoperability and security.

CHAPTER III

THE ELECTRONIC SERVICE DELIVERY COMMISSIONS

4 Constitution of Central Electronic Service Delivery Commission. –

(1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Electronic Service Delivery Commission hereinafter referred to as Central Commission to perform the functions assigned under this Bill.

(2) The Central Electronic Service Delivery Commission shall consist of –

a. the Central Chief Commissioner, and

b. such number of Central Commissioners, not exceeding two, as may be deemed necessary

- (3) The Central Chief Commissioner and Central Commissioners shall be appointed by the Central Government.
- (4) The Central Chief Commissioner and Central Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media, or administration and governance.
- (5) The Central Chief Commissioner or Central Commissioner shall have worked as Secretary or an equivalent level to Government of India either in the Central Government or in the State Government.
- (6) The general superintendence, direction and management of the affairs of the Central Commission shall vest in the Central Chief Commissioner who shall be assisted by Central Commissioners, and may exercise all such powers and do all such things which may be exercised or done by the Central Commission autonomously.
- (7) The headquarters of the Central Commission shall be at Delhi and the Central Commission may, with the previous approval of the Central Government, establish offices at other places in India.

5 Terms of office and conditions of service, etc. of Central Chief Commissioner and Central Commissioners. –

- (1) The Central Chief Commissioner shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment.
- (2) Every Central Commissioner shall hold office for a term of five years from

the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Central Commissioner:

Provided that every Central Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Central Chief Commissioner in the manner specified in sub-section (3) of section 4.

Provided further that where the Central Commissioner is appointed as the Central Chief Commissioner, his term of office shall not be more than five years in aggregate as the Central Commissioner and the Central Chief Commissioner.

(3) An officer of the Central or State Government on his selection as the Central Chief Commissioner or Central Commissioner of the Central Electronic Service Delivery Commission, as the case may be, shall have to retire from service before joining as Central Chief Commissioner or Central Commissioner.

(4) Salary, allowances and other terms and conditions of service of Central Chief Commissioner and Central Commissioners. – The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Central Chief Commissioner or Central Commissioner shall be such as may be prescribed.

6 Resignation and removal. – (1) The Central Chief Commissioner or Central Commissioner may, by notice in writing under his hand

addressed to the Central Government, resign his office;

Provided that the said Central Chief Commissioner or Central Commissioner shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice, or until a person, duly appointed as his successor enters upon his office, or until the expiry of his term of his term of office, whichever is earliest.

(5) The Central Chief Commissioner or Central Commissioner shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which the Central Chief Commissioner or the Central Commissioner concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

(6) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Central Chief Commissioner or such Central Commissioner.

7 The State Electronic Service Delivery Commission (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Electronic Service Delivery Commission hereinafter referred to as State Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Bill.

- (2) The State Commission shall consist of—
- a. the State Chief Commissioner, and
 - b. such number of State Commissioners, not exceeding two, as may be deemed necessary.
- (3) The State Chief Commissioner and the State Commissioners shall be appointed by the State Government.
- (4) The general superintendence, direction and management of the affairs of the State Commission shall vest in the State Chief Commissioner who shall be assisted by the State Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Commission autonomously.
- (5) The State Chief Commissioner and the State Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media, or administration and governance.
- (6) The State Chief Commissioner or a State Commissioner shall have worked as Secretary or an equivalent level to Government of India either in the Central Government or in the State Government
- (7) The headquarters of the State Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Commission may, with the previous approval of the State Government, establish offices at other places in the State.

8 Term of office and conditions of service (1) The State Chief Commissioner shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment;

(2) Every State Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Commissioner;

Provided that every State Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Commissioner in the manner specified in sub-section (3) of section 7;

Provided further that where the State Commissioner is appointed as the State Chief Commissioner, his term of office shall not be more than five years in aggregate as the State Commissioner and the State Chief Commissioner.

(3) The State Chief Commissioner or a State Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office;

Provided that the State Chief Commissioner or a State Commissioner may be removed in the manner specified under section 9.

(4) Salary, allowances and other terms and conditions of service of Chief State Commissioner and State Commissioners. – The salary and allowances payable to, and the other terms and conditions of service

including pension, gratuity and other retirement benefits of, the Chief State Commissioner and State Commissioners shall be such as may be prescribed by the State Government.

- 9 **Resignation and removal.** – (1) The State Chief Commissioner or State Commissioner may, by notice in writing under his hand addressed to the State Government, resign his office;

Provided that the said State Chief Commissioner or State Commissioner shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice, or until a person, duly appointed as his successor enters upon his office, or until the expiry of his term of his term of office, whichever is earliest.

- (2) The State Chief Commissioner or State Commissioner shall not be removed from his office except by an order by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which the State Chief Commissioner or the State Commissioner concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

- (3) The State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the State Chief Commissioner or such State Commissioner.

10 **Orders constituting Central or State Electronic Service Delivery**

Commission to be final – No order of the Central Government or the State Government appointing any person as the Chief Commissioner or Commissioner of the Central or State Electronic Service Delivery Commission shall be called in question in any manner and no act or proceeding before the Central or State Electronic Service Delivery Commission shall be called in question in any manner on the ground merely of any defect in the constitution of Central or State Electronic Service Delivery Commission.

11 Staff of the Central or State Electronic Service Delivery

Commission. – (1) The Central or State Government, as the case may be, shall provide the Chief Commissioner and Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Bill, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Bill shall be such as may be prescribed.

(2) The officers and employees of the Central Commission or the State Commission as the case may be shall discharge their functions under the general superintendence of the Central Chief Commissioner or the State Chief Commissioner as the case may be.

12 Functions of the Central or State Electronic Service Delivery

Commission. (1) The Central Commission and the State Commission,

as the case may be, shall :-

- a. monitor the implementation of this Bill on a regular basis which shall include, *inter alia*,
 - i. the publication of services to be delivered through electronic mode and adherence to the published timelines, manner of delivery and service levels by the appropriate government;
 - ii. the periodic progress made by the appropriate Government towards achieving the delivery of all services through electronic mode in accordance with the provisions of this Bill;
 - iii. the simplification of processes and forms relating to delivery of electronic services;
 - iv. the effectiveness of public consultation, feedback and grievance redressal mechanisms;
 - v. the periodic progress made by the appropriate Government towards compliance with the applicable electronic governance standards; and
- b. perform any other function with the previous approval of the appropriate Government.

13 (1) The Central Commission or the State Commission, as the case may be, shall, prepare, in such form and at such time every year, as may be

prescribed, an annual report on the implementation of the provisions of this Bill during the previous financial year and forward a copy thereof to the appropriate Government.

(2) Each Ministry or Department shall, in relation to the public authorities within their administrative control, collect and provide such information, as may be prescribed, to the Central Commission or State Commission, as the case may be, and comply with the requirements concerning the furnishing of that information. The information shall include –

a. till such time as all public services offered by the public authorities under their control have been made available through electronic mode, the plan to achieve compliance to sub-section (2) of section (3) and the implementation status of the plan published as per sub-section (1) of section (3);

b. in respect of the year to which the report relates,—

i. the number of electronic service requests and the total service requests in respect of services that have been made available through electronic mode;

ii. the number of electronic service requests in response to which service was provided in accordance with the applicable service levels and an analysis of the remaining cases;

iii. the number of grievances pertaining to the provision of electronic services that were received under the

grievance redressal mechanism and an analysis of such grievances and their disposal;

- iv. the steps taken by the competent authority to strengthen the delivery of services through electronic mode in conformity with the spirit and intent of this Bill;
 - v. the steps taken by the competent authority to ensure compliance with the applicable electronic governance standards;
 - vi. the steps taken by the competent authority to ensure the availability of assisted access;
 - vii. an analysis of the feedback received by the competent authority in respect of the implementation of various provisions of this Bill and in respect of services that have been made available through electronic mode, and the action taken by the competent authority in pursuance thereof;
- c. recommendations for further development, improvement, modernisation, and integration of electronic services across departments and the legal and policy interventions that may be required to improve electronic service delivery.
- d. any other information as the Central Commission or the State Commission, as the case may be, may require from time to time.

The Central Government or the State Government, as the case may be, as soon as practicable after the end of each year, cause a copy of the report of the Central Commission or the State Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature, before that House.

- 14 If it appears to the Central or State Commission, as the case may be, that the practice of a Ministry or Department in relation to the exercise of its functions under this Bill does not conform with the provisions or spirit of this Bill, it may give a recommendation to the appropriate Government specifying the steps which ought, in its opinion, to be taken for promoting such conformity.

CHAPTER IV

PENALTIES AND APPEAL

- 15 (1) A person may file a complaint in the manner as may be prescribed, before the Competent Authority in relation to non-compliance of the Bill and in case of failure by the Competent Authority to redress the complaint, file an appeal to the Central Commission or the State Commission, as the case may be.
- (2) Where any Competent Authority or his subordinate has without any reasonable cause, failed to comply with the provisions of this Bill, within the

period specified under sub-section (1) and (2) of section 3, or has knowingly given incomplete, false or misleading information, the Central or State Commission, as the case may be, may impose a penalty of upto Rupees five thousand, after giving such Competent Authority or his subordinate a reasonable opportunity of being heard.

16. Procedure and powers of Central or State Commission. –

(1) The Central or State Commission shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Bill and of any rules thereunder, the Central or State Commission shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The Central or State Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: -

- a. summoning and enforcing the attendance of any person and examining him on oath;
- b. requiring the discovery and production of documents or other electronic records;
- c. receiving evidence on affidavits;
- d. issuing commissions for the examination of witnesses or

documents;

e. reviewing its decisions;

f. dismissing an application for default or deciding it ex parte;

g. any other matter which may be prescribed.

CHAPTER V

MISCELLANEOUS

17 Bill to have overriding effect. – The provisions of this Bill shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

18 Protection of action taken in good faith. – No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Bill or any rule made thereunder.

19 Removal of difficulties. (1) If any difficulty arises in giving effect to the provisions of this Bill, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Bill as appear to it to be necessary or expedient for removal of the difficulty:

(2) Every order made under this section shall, as soon as may be after it is made, be laid, before each House of Parliament.

20 Power of Central Government to make rules. – (1) The Central

Government may, by notification in the Official Gazette make rules to carry out the provisions of this Bill.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- a) the framing of electronic governance standards for ensuring interoperability and security under sub-section (4) of section (3);
and
- b) any other matter relating to integration and harmonisation of electronic service delivery across the Central and State Governments.

21 Power of appropriate Government to make rules. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Bill.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

- (a) the manner and form in which public services shall be identified, published and delivered through electronic mode under clause (c) of sub-section 1 of section 3.
- (b) the manner of identification of the designated officer and the roles and responsibilities of concerned officials responsible for delivery of each service under clause (d) of sub-section (1) of section 3;

(c) the grievance redressal mechanism for any person aggrieved about the outcome of the public service requested by him under clause (e) of sub-section (1) of section 3;

(d) the modalities and the process of extension of period for any service to be delivered electronically under the *first proviso* of sub-section (2) of section 3;

(e) the process by which it would be determined whether a service is feasible for delivery in an electronic mode under the *second proviso* of sub-section (2) of section 3;

(f) the quality of service delivery, including service levels under clause (c) of sub section (1) of section 3;

(g) the mechanism for public consultation and feedback on service prioritization, process simplification and user satisfaction;

(h) the manner in which assisted access to electronic services shall be provided to specified categories of users under sub section (3) of section 3;

(i) the manner of filing of complaint before the Competent Authority under sub-section (1) of section 13;

(j) Salary, allowances and other terms and conditions of service of Central Chief Commissioner, Central Commissioners, State Chief Commissioner and State Commissioners under sub section (4) of section 5 and sub-section (4) of section 8 respectively;

(k) Staff of the Central Commission and State Commission and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Bill under section 11; and

(l) preparation of an annual report on the implementation of the provisions of this Bill in such form under sub-section (1) of section 13.

(3) Every notification or rule made by the Central Government under this Bill, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

(4) Every notification or rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.