

Draft Rules under Section 6A of the Information Technology (Amendment) Act 2008

Ministry of Communication & Information Technology

Department of Information Technology

New Delhi. Dated _____

G.S.R. - In exercise of the powers conferred by section 87 of the Information Technology Act, 2000 (Central Act 21 of 2000), the Central Government hereby makes the following Rules, namely:-

1. Short title, extent and commencement:-

- a) These Rules may be called the Information Technology (Electronic Service Delivery) Rules, 2009.
- b) They shall extend to the whole of India.
- c) State Governments can adopt these Rules or notify their own Rules under section 90 of the Information Technology Act, 2000 (Central Act 21 of 2000).
- d) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions- In these Rules, unless the context otherwise defines, -

- (a) “**Act**” means the Information Technology Act, 2000 (Central Act 21 of 2000) and Information Technology (Amendment) Act, 2008;
- (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) “**Signing Authority (SA)**” means a statutory authority or Government authority empowered under any Act, Rules, Regulations or Order of the Government to issue a certificate;

- (d) **“Electronic Service Delivery” (ESD)** means the delivery of public services in the form of receipt of forms and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money by electronic means or any other such public service by following the procedure specified under the rules.
- (e) **“Certificate”** means a certificate required to be issued by a statutory authority empowered under any Act, rule, regulation or Order of the Government to issue a certificate to confirm the status, right or responsibility of a person, natural or artificial, in accordance with any such Act, rule, regulation or Order of the Government and includes a certificate in electronic form printed and delivered by an authorized agent on such stationery and/ or form as may be specified by the appropriate authority;
- (f) **“Service Provider” as defined in the explanation of Section 6A of the Act**
- (g) **“Authorized Agent” (AA)** means an agent of the Government or service provider and includes an operator of an electronically enabled kiosk or Front office who is permitted under these Rules to deliver public services to the users with the help of a computer resource or any communication device, by following the procedure specified under these Rules;
- (h) **“Communication Device”** means cell phone, personal digital assistant, or combination of both or any other such device used to communicate, send or transmit any text, video, audio or image;
- (i) **“Electronic Signature”** means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule of the Act and includes digital signatures;
- (j) **“Electronic Signature Certificate”** means an Electronic Signature Certificate issued under section 35 of the Act and includes Digital Signature Certificate;
- (k) **“Repository of Electronically Signed Electronic Records”** means collection of all electronically signed electronic records, stored and managed in accordance with these Rules.
- (l) **“Official Gazette”** means the Official Gazette of the Government;

3. System of Electronic Service Delivery:-

For the purpose of Electronic Service Delivery the appropriate Government may on its own or through an agency authorized by it deliver public services through electronically enabled kiosks or any other electronic service delivery mechanism.

- (2) The appropriate Government or its agencies may prescribe the form and the manner in which license, permit, certificate, approval or the receipt of payment or any other such public service can be delivered under the Electronic Service Delivery system.
- (3) The appropriate Government shall notify the names and addresses of Service Providers and their agents authorized for Electronic Service Delivery from time to time.
- (4) Any license, permit, certificate, sanction, payment receipt or approval delivered in accordance with these Rules shall be admissible in any legal or otherwise proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein, provided it is verifiable by one or more of the following manner as explained below:
 - a. The license, permit, certificate, sanction, payment receipt or approval or any other such public service has a unique identification number given by the appropriate authority which can be used to verify its authenticity and content .
 - b. The license, permit, certificate, sanction or approval or any other such public service has a bar code which can be used to verify its authenticity and content.
 - c. The license, permit, certificate, sanction, payment receipt or approval can be verified with the electronic signatures of the authority which has issued it.
 - d. Any other means as notified by the appropriate authority.
- (5) The appropriate Government may allow receipt of payments made by adopting Electronic Service Delivery system to be deemed receipt of payment effected in compliance with the financial code and treasury code of such Government.
- (6) The appropriate Government may under sub section of the Act authorize Service Providers or their authorized agents to collect, retain and appropriate such service charges as may be prescribed by the appropriate Government for the purpose of providing such services from the person availing such services. Provided

apportioned service charges are clearly indicated on the receipt to be given to the person availing services.

- (7) Subject to the provisions of sub-clause (6) of clause (3) above, the appropriate Government may authorize the Service Providers their Authorized Agents to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect retain and appropriate e service charges by the Service Providers.
- (8) The appropriate Government may by notification specify the scale of service charges which may be charged and collected by the Service Providers and their Authorized Agents for various kinds of services.

4. Notification of Electronic Service Delivery:-

- (1) The appropriate Government may notify the services that will be delivered electronically in accordance with these Rules.
- (2) The appropriate Government may notify any computer, computer system or computer network located within the jurisdiction of the appropriate Government as 'protected systems', within the meaning assigned to the same under the Act, and such other powers as the Government may notify from time to time.
- (3) The appropriate Government may identify and notify, from time to time, the list of Signing Authorities in respect of different classes of licenses , permits, certificates, sanction, payment receipt , approvals and local limits of their respective jurisdictions. The notification shall specify the nature of certificate, the names/ designation of the Signing Authorities, as approved by the appropriate Government, the period of effectiveness of the authority and the extent of their jurisdiction.
- (4) The appropriate Government may notify changes to the list of Signing Authorities (SA) from time to time, taking into consideration the retirements, transfers, suspensions or termination etc. from services of employees holding positions of SA.

5. Creation of Repository of Electronically Signed Electronic Records by Government Authorities.

- (1) All authorities that are permitted to issue any license, permit, certificate, sanction or approval, electronically, will create, archive and maintain a repository of electronically signed electronic records of such licenses, permits, certificates, sanctions or approvals, as the case may be.
- (2) Such authorities shall electronically sign the electronic records of such licenses, permits, certificates, sanctions or approvals by each record of the repository or repository as a whole for a specific duration.
- (3) The Appropriate Government may prescribe security measures/procedures which, will be followed by the Head of the Department and the Signing Authorities, in respect of the electronic data, information, applications, repository of digitally signed electronic records and IT assets under their respective control.

6. Procedure for making changes in a repository of electronically signed electronic records:-

- (1) The appropriate Government may either *suo motto* or on an application made by an interested party, make or order to make an appropriate change in a repository of electronically signed electronic records provided any change effected to any record in a repository of electronically signed electronic records and any addition or deletion of a record from such repository of electronically signed electronic records shall invariably be electronically signed by the person who is authorized to make such changes..

7. Responsibility of Service Provider and authorized agents for financial management and accounting :-

- (1) The appropriate Government may require every Service Provider and authorized agent to keep an updated and accurate account of the transactions, receipts, vouchers and specify the formats for maintaining accounts of transactions, receipt of payment in respect of the electronic services delivered.

8. Audit of the Information Systems and Accounts of Service Provider and authorized agents :-

- (1) The appropriate Government may cause an audit to be conducted of the affairs of the Service Providers and authorized agents at such intervals as deemed necessary by nominating such audit agencies.
- (2) Such an audit may cover aspects such as the security, confidentiality and the privacy of information, the functionality and performance of any software application used in the ESD and the accuracy of accounts kept by the Service Providers and authorized agents.
- (3) It shall be incumbent on the Service Providers and the authorized agents to provide such information and assistance to the audit agencies nominated by the appropriate authority to comply with the directions given by the audit agencies and to rectify the defects and deficiencies pointed out by the audit agencies.

9. Use of special stationery in ESD :-

1. The appropriate Government may prescribe different types of stationery, with accompanying security features for the purposes of Electronic Service Delivery.

10. Removal of Difficulties.

- (1) If any difficulty arises in giving effect to the provisions of these Rules, the appropriate Government may, by order, make such provisions not inconsistent with the provisions of these Rules as appear to it to be necessary or expedient for removing the difficulty.
- (2) Every order made under this rule shall be laid, as soon as may be after it is made, before the Parliament or State's Legislative Assembly as the case may be.

11. Miscellaneous

- (1) The appropriate Government, by notification in the Official Gazette, may specify, -

