

Jammu and Kashmir, Information Technology (Electronic Service Delivery) Rules, 2013

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-INFORMATION-TECHNOLOGY-ELECTRONIC- of 2013

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Jammu and Kashmir, Information Technology (Electronic Service Delivery) Rules, 2013Published vide Notification No. SRO-89, dated 18.3.2013SRO-89. - In exercise of the powers conferred by section 90 read with sections 6 and 6A of the Information Technology Act, 2000. the Government of Jammu and Kashmir here by makes the following rules, namely :-

1. Short title and commencement.

(1)These rules may be called the Jammu and Kashmir, Information Technology (Electronic Service Delivery) Rules, 2013.(2)They shall come into force from the date of their publication in the Government 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)"Authorized Agent" means an agent of the authorized service provider and includes an operator of an electronically enabled kiosk or front office who is permitted 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 ;(c)"Authorized service provider" means an agency including a body corporate or an agency of the Government, authorized by the Director of Electronic Service Delivery, to establish and manage a system of delivering services electronically , in accordance with these rules ;(d)" Body Corporate" means any company and includes a firm, sole proprietorship or other association of individuals engaged in

commercial or professional activities ;(e)"Certificate" means a certificate required to be issued by an authority empowered under the Act, rule, regulation or order in force in the State for issuance of a certificate to confirm the status, right or responsibility of a person, either 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 service provider with electronic signature on such stationary as may be determined by the Director of Electronic Service Delivery ;(f)"Competent Authority" means the Secretaries to the Government, the Head of every Department of the State Government and the Heads of Government Organizations and Government Bodies and such other authority as may be notified by Government from time to time by notification in the Government Gazette;(g)"Director of Electronic Service Delivery" means the official of the Government notified as the Director of Electronic Service Delivery ;(h)" e-service" means a service as may be specified by notification in the Government Gazette and delivered electronically to the users ;(i)" Electronic Service Delivery" means the delivery of public services in the form of receipt of forms and applications, delivery of any license, permit, certificate, sanction or approval and the receipt or payment of money by electronic means or any other such public service rendered by following the procedure specified under these rules ;(j)"Government" means the Government of Jammu and Kashmir;(k)"Notification" means a notification published in the Government Gazette ;(l)"Government Gazette" means the Government Gazette of the Government;(m)" Public Service " means any service provided by the Government either through its competent authorities or any of its agencies either directly or through any authorized service provider, which shall include, inter alia the receipt of forms and applications, delivery of any license, permit, certificate, sanction or approval and the receipt or payment of money ;(n)" Service charge" means the amount as may be specified by the Government to be payable to the authorized service provider for electronic delivery of services rendered and does not include any duly authorized taxes, charges, dues or any other money due in respect of a service payable by any person to the Competent Authority concerned at the time of making applications that are otherwise payable under any Act, rule, regulation or order in force in the State ;(o)" Signing Authority" means an authority empowered under the respective Act, rules, regulations or order of the Government to issue any license, permit, certificate, sanction or approval;(p)"Specified" means specified by notification in the Government Gazette by the Government ;(q)"State Electronic Records Repository" means as electronic repository of all electronically signed records, maintained by competent authorities, for the purpose of accessing such records and delivering them to the citizens.(2)Words and expressions used and not defined in these but defined in the Act shall have the same meanings assigned to them in the Act.

3. System of Electronic Service Delivery.

(1)For the purpose of efficient delivery', the Government may authorize an authorized service provider to deliver public services through electronically enabled kiosks or any other mechanism for electronic service delivery.Explanation : - It is hereby clarified that the present rules provide for the administration of e-service delivery through authorized service providers and authorized agents whereas other mechanisms of e-services delivery such as State online portal, Government departmental outlets and online services provided to the users directly on the web shall be administered in the normal manner by the respective Government departments and agencies.(2)The form of application and the format of certificate issued under these rules in relation to any e-service

shall be such as may be specified by the Government.

4. Duty of the Competent Authority to notify the list of public services to be delivered through electronic mode.

(1) Every Competent Authority shall notify within a period of one hundred and eighty day from the coming into force of these rules, - (a) the public services of the department, agency or body which can be delivered through electronic mode; (b) the date norms for efficiency, quality and accuracy in the form of service levels; and (d) the designated officers for delivery of each such service through electronic mode. (2) The Competent Authority shall thereafter, review and update the publications every year or as frequently as required.

5. Notification of signing authorities.

(1) The competent authorities shall notify the list of signing authorities in respect of different public services and local limits of their respective jurisdictions in the State duly specifying the nature of such service, the names of the signing authorities, the duration of the authority and the extent of jurisdiction of each such authority. (2) The competent authorities shall inform the Director of Electronic Service Delivery immediately with respect to retirements, transfers, suspensions or termination from services of employees holding positions of signing authorities. (3) The signing authorities shall also inform their competent authorities immediately with respect to their retirements, transfers, suspensions and terminations and the competent authorities shall get the changes mentioned in clause (2) implemented in their respective application software.

6. Functions and powers of Director of Electronic Service Delivery.

- The Director of Electronic Service Delivery shall discharge the following functions and powers, namely: - (a) to authorize, suspend or terminate the services of the authorized service providers; (b) to determine norms relating to the selection of authorized agents by the authorized service providers; (c) to determine functions, responsibilities and liabilities of authorized service providers and authorized agents; (d) to determine norms on the service levels to be complied with by the authorized service provider and authorized agents; (e) to determine service charges by the authorized service provider and authorized agents for providing e-services; (f) to determine terms and conditions relating to the authorization, suspension or termination of the service of the authorized service providers and authorized agents; and (g) to make alternative arrangements for delivery of e-service, in case of such suspension or termination of services of authorized service providers and authorized agents.

7. Authorized service providers for Electronic Service Delivery.

- The authorized service provider shall provide the notified public services electronically to the users in conformity with these rules, by establishing appropriate delivery infrastructure and a network of authorised agents, as determined by the Director of Electronic Service Delivery.

8. Appointment of authorized agents by the authorized service provider.

(1)The authorized service provider may appoint such number of authorized agents, as may be required to deliver the services electronically to fulfill the norms of efficiency, quality and accuracy laid down by the Competent Authority.(2)The authorized service provider shall ensure that he as well as all the authorized agents obtains Digital Signature Certificates before they commence operations for delivery of public service electronically.(3)The authorized service provider may also impart appropriate training to the authorized agent to impart them the skills required to deliver the electronic services efficiently and in an error-free manner.

9. Commencement of operations by authorized service provider.

- The authorized service provider shall commence its commercial operation for Electronic Service Delivery only after-(a)he has confirmed in writing or through e-mail duly signed by digital signature to the Director of Electronic Service Delivery with respect to the adoption of procedures and standards specified under these rules ; and(b)he has installed facilities and infrastructure needed for efficient delivery of electronics services and in an error-free manner in terms of norms laid down by the Director of Electronic Service Delivery and confirm the same in writing or through e-mail duly signed by digital signature to the Director of Electronic Service Delivery.

10. Authorized service provider to collect service charge

(1)The application for an e-service submitted by a user to an authorized service provider or an authorized agent shall be accompanied by such service charge as may be determined by the Director of Electronic Service Delivery which is payable in cash or any other mode as may be specified in this behalf to the authorized service provider, at the time of making the application.(2)The Director of Electric Service Delivery may determine service charges by notification for e-services.(3)The service charges may be different for different e-services such as :-(a)the status enquiry ;(b)printouts related to e-services ;(c)the scanning of documents related to e-services ;(d)the acknowledgement receipt ; and(e)any other e-service.(4)The service charge shall not include any duly authorized taxes, charges, dues or any other moneys due in respect of a service payable by any person to the Competent Authority concerned that are otherwise payable under the respective Act, rule, regulation or order of the Government when making an application to the concerned Competent Authority.

11. Fee to be collected by service provider.

(1)Any fee or duly authorized taxes, charges, dues or any other moneys due in respect of a service payable by any person to the Competent Authority concerned that are otherwise payable under the respective Act, rule, regulation or order of the Government when making an application to the concerned Competent Authority, shall also be collected by the authorized service provider or the authorized agent as the case may be, except for those payment that are ordinarily required to be made in the form of court fee, stamps or treasury challans or provided otherwise by any Act, rule or regulation.(2)The fee collected by the authorized service provider or the authorized agent shall be

remitted with the Government treasury as may be determined by the Director of Electronic Service Delivery by the authorized service provider or the authorized agent, as the case may be in its entirety.

12. Remittance of service charge and fee by the service provider.

(1) Out of the service charge collected by the authorized service provider or the authorized agent for an e-service a percentage of the service charges, as may be determined from time to time by the Director Electronic Service Delivery, may be apportioned to the Government. (2) The share of the Government out of the service charge so collected shall be remitted by the authorized service provider or the authorized agent to Government treasury as may be determined by the Director of Electronic Service Delivery.

13. Presumption with regard to service charge paid to service provider and other conditions of obtaining e-services.

(1) Where any person pays a service charge to an authorized service provider or an authorized agent in respect of any notified e-service, the printout or the electronic prompt acknowledging the payment in the relevant form and manner as may be determined by the Director of Electronic Service Delivery and provided to such person by the authorized service provider or authorized agent shall normally be taken as proof of such payment and it shall be presumed that in normal circumstances the dues or claims, for which the acknowledgement is purportedly issued, have been satisfied to that extent. (2) The payment of service charge to the authorized service provider or the authorized agent shall by no means create any right or title, temporary or permanent in nature in favour of a person concerned regarding obtaining the notified e-services. (3) Mere payment of service charge will not necessarily ensure the delivery of services, if all conditions associated with delivery of the service are not met fully at the time of making payment to the authorized service provider or the authorize.

14. Receipt or payment of money by or in favour of Government adopting the system of Electronic Service Delivery.

- The receipt or payment of money by or in favour of the Government adopting the system of Electronic Service Delivery shall be deemed to be a receipt or payment effected in compliance with the Financial Code and Treasury Code of the Government.

15. Filling of form, application or any other document.

(1) Any form, application or any other document referred to in clause (a) of subsection (1) of section 6 of the Act may be filed with any office, authority, body, agency or authorized service provider authorized by the Government using the application software specified by it. (2) The office, authority, agency or authorized service provider referred to in sub-rule (1) shall, while developing such software, take into account the following features of the electronic record, namely :- (a) lifetime; (b) preservability; (c) accessibility; (d) readability; (e) comprehensibility in respect of linked

information;(f)evidentiary value in terms of authenticity and integrity;(g)controlled destructibility; and(h)augmentability.

16. Issue or grant of any license, permit, sanction or approval.

(1)Any license, permit, sanction or approval referred to in clause (b) of sub-section (1) of section 6 of the Act may be issued or granted by using the application software specified under rule 15.(2)The license, permit, certificate, sanction or approval so issued shall be in the form prescribed in the respective Act, rule, regulation or order and shall contain the name and designation of the signing authority who had digitally signed and approved the electronic record along with the date and time of creation of such record and shall be admissible in any court of law.

17. Creation of repository of digitally signed electronic records.

(1)The competent authorities may, as soon as, after the coming into effect of these rules create, establish and maintain a repository and database of digitally signed electronic records together with the associated application software and workflow to enable authorized service providers or the authorized agents to access such license, permits, certificates, sanctions or approvals, as the case may be, and deliver them to the user.(2)The relevant security procedures, as specified by the Government shall be followed by such competent authorities, in respect of the electronic data, information, applications, repository of digitally signed electronic records and information technology assets under their respective control.

18. Procedure for making changes in a repository of digitally signed electronic records.

(1)Any Competent Authority or any signing authority, either suo motu, or on an application by an interested party, may make or order to make an appropriate change in a repository of digitally signed electronic records, after following the procedure prescribed in the respective Act, rule, regulation or order.(2)Any such authority shall have privileges for making or ordering changes only in respect of the electronic records pertaining to its own jurisdiction.(3)Any change effected to any record in a repository of digitally signed electronic records, and any addition or deletion of a record from such repository of electronic records shall invariably be digitally signed by the respective authority and an electronic audit trail of all such changes shall be maintained.

19. Creation of secure application software for Electronic Service Delivery.

(1)The competent authorities shall get appropriate application software created, using which, the signing authorities, shall digitally sign the license, permit, certificate, sanction or approvals, and get the same audited by a third party agency, so as to ensure its security, reliability, performance and consistency, before it is deployed.(2)Every such application software shall, inter alia, possess the capability to assign a unique identification to each license, permit, certificate, sanction or approval.(3)Every authorized service provider shall create its own application software in

consultation with the respective Competent Authorities, which shall enable such authorized service providers to deliver electronic services in accordance with these rules.(4)Every such application software created either by the Competent Authority or the authorized service provider shall, inter alia, possess the following features and capabilities, namely :-(a)secure Login of authorized agents, as are required to access the application system, through use of Digital Signature Certificate;(b)secure access of authorized agents, to the repositories of digitally signed electronic records maintained by the competent authorities, for printing and delivery of the digitally signed license, permit, certificate, sanction or approvals ; and(c)assign a unique identification to the voucher or receipt issued by any authorized agent while providing electronic services to the citizens.(5)The Director of Electronic Service Delivery shall get such application software audited by a third party agency, as to ensure its security, reliability , performance and consistency, before it is deployed by the authorized service provider and also as and when changes are made in the application software.

20. Delivery of e-services by the authorized service provider or authorized agent.

(1)On a request made by a user for provision of a service, relating to the issue of any license, permit, certificate, sanction or approval and to the receipt or payment of money, the authorized service provider or the authorized agent shall access the respective departmental repository of digitally signed electronic records through their secured application specified in rule 19, in respect of any license, permit, certificate or approval or the database in respect of any payment or receipt.(2)The authorized service provider or the authorized agent shall be permitted to have such access only with the use of its digital signature certificate.(3)The authorized service provider or the authorized agent shall accept the specified fees, tax duty or payment along with the service charge, download the related license, permit, certificate, sanction or approval or the database record relating to any payment or receipt, print the license, permit, certificate, sanction or approval from the repository of digitally signed electronic records, or the payment voucher or receipt from the relevant database , and print the document using the secure application software and the secure stationery.

21. Verification of Digitally Signed documents.

(1)The competent authorities shall cause to be created a system (portal/website) of online verification of any license, permit, certificate, sanction, approval or receipt delivered by any authorized service provider or the authorized agent or the State Electronic Records Repository.(2)Any person or authority, desirous of verifying the authenticity of any document or certificate issued under these rules, may access such portal or the website using the unique identification printed on the document sought to be verified.

22. Audit of the Information Systems and Accounts of authorized service provider unauthorized agents.

(1)The Director of Electronic Service Delivery shall cause an audit to be conducted of the records and accounts of the Authorized Service Providers and their authorized agents in the State at such intervals as deemed necessary by an agency empaneled as an information security auditing organization.(2)The audit referred to in sub-rule (1) may cover aspects such as security, confidentiality and privacy of information, the functionality and performance of any application software used in the electronic delivery of services and the accuracy of accounts kept by the Authorized Service Providers and their authorized agents.(3)It shall be incumbent on the authorized service provider and their authorized agents to provide such information and assistance to the audit agencies appointed by the Director of Electronic Service Delivery to comply with the directions given by the audit agencies and to rectify the defects and deficiencies pointed out by the audit agencies.

23. Use of special stationery on Electronic Service Delivery.

(1)The special stationery used by the authorized service providers and its agents for delivery of the services shall be determined by the Director of Electronic Service Delivery with accompanying security features for forms, applications, licenses, permits, certificates, receipt of payment and such other documents as part of the Electronic Service Delivery.(2)The certificates, licenses and permits shall carry a declaration the format as may be determined by the Director of Electronic Service Delivery.