

Unit 1: E-Services Delivery Laws in India

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UNIT STRUCTURE

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1.1 LEARNING OBJECTIVES

After going through this chapter, you should be able to understand:

- E-Service Delivery Concept in India
- Purpose of the Electronic Delivery of Services Bill (EDS), 2011
- Functions and Powers of Director of Electronic Service Delivery.

1.2 INTRODUCTION

Government of India has been at the forefront of using technology in different aspects of governance, be it satellite-based communication in the 1980s or use of electronic messaging much before the origin of the internet in the country or even the use of video conference for monitoring of government programme and schemes across the country. National Informatics Centre, an attached office of Ministry of Electronics & IT has been closely working with the government in provisioning state-of-the-art infrastructure in the form of nationwide network

(NICNET), data centres and video conferencing facilities to name a few. Digital technologies are vital for the inclusive growth for a country like India, which is at the peak of its demographic dividend.

The story of India's digital transformation is one of an **Information and Communications Technology (ICT)** led development by use of technology that is affordable, inclusive and transformative. By ensuring digital access, digital inclusion and digital empowerment, the '**Digital India**' programme¹⁰⁹ have brought digital technologies a positive change towards good governance that is easy, economical, transparent and efficient in governance. Digital delivery of services to citizens forms the driving force for the next generation growth and knowledge-based economy. India is now poised for the next phase of growth - the creation of tremendous economic value and empowerment for citizens as a new digital application sector.

Digital India has given boost to entrepreneurship and has enhanced access to health, education and public utilities. It has led India to revolutionize governance by delivering speedy and transparent services to citizens, ensuring their participation and empowering them with the conducive environment to connect and grow.

1.3 ELECTRONIC DELIVERY OF SERVICES BILL INTRODUCED IN PARLIAMENT OF INDIA

The Electronic Delivery of Services Bill (EDS), 2011, aimed at bringing transparency in public dealings and checking corruption, was tabled in Parliament. The Bill seeks to reduce the interface between public and government officials to save time and costs as people will get access to documents like driving license and other permits online. The EDS Bill allows for **"delivery of public services through electronic mode including the receipt of forms and applications, issue or grant of license, permit, certificate, sanction or approval and the receipt and payment of money."** Centre, as well as the states, will have to deliver the said public services electronically within five years of the commencement of the Act. The period may be extended for a further period of up to three years in consultation with the Central Commission or the State Commission, the Bill said.

¹⁰⁹ 'E-Governance In India : Empowering Citizens - Current Affair Article For UPSC, IAS, Civil Services And State PCS Examinations | Dhyeya IAS Best Coaching For UPSC, IAS,Civil Services, State PSC/PCS Exam' (Dhyeyaias.com, 2020) <<https://www.dhyeyaias.com/current-affairs/perfect-7-magazine/e-governance-in-india>>

"Every competent authority shall publish within 180 days from the commencement of the Act, the list of all public services to be delivered through electronic mode," it added. The Bill requires each Ministry or Department to identify the basket of citizen-centric services to be delivered through the electronic means along with the delivery channels, with stipulated timelines and service levels for each service. An aggrieved person may file a complaint under the Grievance Redressal Mechanism, the Bill imposes penalties of up to Rs 5,000 for officials in case they fail to adhere to the norms.

In case of persistent default, the penalty may extend up to Rs 20,000, the Bill said. The Bill also envisages setting up a Central Electronic Service Delivery Commission and a State Electronic Service Delivery Commission to monitor the implementation of the Act on a regular basis. Any person aggrieved by the order of the Grievance Redressal Mechanism may make a representation to the Central Electronic Service Delivery Commission or the State Commission as the case may be, the Bill said.

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 the 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, 2011.¹¹⁰

1.4 DUTY OF THE COMPETENT AUTHORITY TO NOTIFY THE LIST OF PUBLIC SERVICES TO BE DELIVERED THROUGH ELECTRONIC MODE
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(1) Every Competent Authority shall notify within a period of thirty days 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;

¹¹⁰ THE ELECTRONIC SERVICE DELIVERY BILL, 2011
<<https://www.prsindia.org/uploads/media/draft/Draft%20Electronic%20Service%20Delivery%20Bill-2011.pdf>>

- (b) The date by which each such service shall be made available through electronic mode,
- (c) Lay down 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) 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.¹¹¹

1.5 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 authorise, suspend or terminate the services of the Authorized Service Providers;

¹¹¹ (Environment.delhigovt.nic.in, 2020)
<<http://environment.delhigovt.nic.in/wps/wcm/connect/29bf44804dd72a98a833ec8291a3c3a2/ESD+Rules.pdf?MOD=AJPERES&lmod=-1976042643>>

- b. To determine norms relating to the selection of authorised agents by the authorised Service Providers and authorised agents;¹¹²
 - c. To determine functions, responsibilities and liabilities of authorised Service Providers and authorised agents;
 - d. To determine norms on the service levels to be complied with by the authorised Service Providers and authorised agents;
 - e. To determine service charges be charged by the authorised Service Providers and authorised agents for providing e-services;
 - f. To determine terms and conditions relating to the authorisation, suspension or termination of the services of the authorised Service Providers and authorised agents; and
 - g. To make alternative arrangements for delivery of e-services, in case of such suspension or termination of services of authorised Service Providers and authorised agents.
- Director of Electronics Service delivery may delegate any of his power to any official of Government of NCT of Delhi or Autonomous Body/Local Body of Government of NCT of Delhi through an administrative order.
- ***Authorised Service Providers for Electronic Service Delivery*** - The Authorised 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.
- ***Appointment of authorised agents by the authorised Service Provider*** -
The authorised Service Provider may appoint such number of authorised Agents, as may be required to deliver the services electronically to fulfil the norms of efficiency, quality and accuracy laid down by the Competent Authority.¹¹³

¹¹² Das, Sudhir Chandra. (2012). E-Governance Mechanism in India: Experiences from Selected E-Governance Projects. Mirror: Peer Referred Bi-annual Research Journal of Commerce, Management and Social Science, Kerala INDIA II 166-177

- The authorised Service Provider shall ensure that he as well as all the authorised agents obtain Digital Signature Certificates before they commence operations for delivery of public service electronically.
- The authorised Service Provider may also impart appropriate training to the authorised agent to impart them the skills required to deliver the electronic services efficiently and in an error-free manner.¹¹⁴
- ***Commencement of operations by Authorised Service Provider -***
The Authorised Service Provider shall commence its commercial operation for Electronic Service Delivery only after –
 - 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
 - He has installed facilities and infrastructure needed for efficient delivery of electronic 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 email duly signed by digital signature to the Director of Electronic Service Delivery.
- ***Authorised Service Provider to collect service charge -*** (1) The application for an e service submitted by a user to an authorised Service Provider or an authorised agent shall be accompanied by such service charge as may be determined by the Director of Electronic Service Delivery which is payable in cash to the authorised Service Provider, at the time of making the application.¹¹⁵

¹¹³ Alanezi, M A, Kamil, A and Basri, S (2010), “A proposed instrument dimensions for measuring e-government service quality”, International Journal of u- and e-Service, Science and Technology, Vol 3 No 4, pp 1-17

¹¹⁴ Bhattacharya, Debjani & Gupta, MP (2012) E-service quality model for Indian government portals: Citizens' perspective. Journal of Enterprise Information Management

¹¹⁵ Carter, L. and Belanger, F (2005), “The utilization of e-government services: citizen trust, innovation and acceptance factors”, Information Systems Journal, Vol 15, pp 5-25

- The Director of Electronic Service Delivery may determine service charges by notification for e-services.
- The service charges may be different for different e-services such as, -
 - The status enquiry;
 - print-outs related to e-services;
 - The scanning of documents related to e-services;
 - The acknowledgement receipt; and
 - Any other e-service.
- The service charge shall not include any duly authorized taxes, charges, dues or any other moneys due in respect of 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.
- ***The fee to be collected by the service provider -***
 - a. Any fee or duly authorized taxes, charges, dues or any other money 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 authorised Service Provider or the authorized agent as the case may be, except for those payments that are ordinarily required to be made in the form of court fee stamps or treasury challans.
 - b. The fee collected by the authorised Service Provider or the authorised agent shall be remitted with the Government treasury as may be determined by the Director of Electronic Service Delivery by the authorised Service Provider or the authorised agent as the case may be, in its entirety.
- ***Remittance or service charge and fee by the service provider -***

Out of the service charge collected by the authorised Service Provider or the authorised agent for an e-service, a percentage of the service charge as may be determined from time to time by the Director of Electronics Delivery may be apportioned to the Government.

- The share of the Government out of the service charge so collected shall be remitted by the Authorised Service Provider or the authorised agent to Government treasury as may be determined by the Director of Electronic Service Delivery.¹¹⁶
- ***Presumption with regard to service charge paid to service provide and other conditions of obtaining e-services*** - (1) Where any person pays a service charge to an authorised Service Provider or an authorised agent in respect of any notified e-service, the print-out 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 authorised Service Provider or authorised 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 charges to the authorised Service Provider or the authorised 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 does not necessarily ensure the delivery of services if all conditions associated with the delivery of the service are not met fully at the time of making payment to the authorised Service Provider or the authorised agent.¹¹⁷
- ***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 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.¹¹⁸
- ***Filing of form, application or any other document*** -
Any form, application or any other document referred to in clause (a) of sub-section (1) of section 6 of the Act may be filed with any office, authority, body, agency or authorised Service Provider authorised by the Government of National Capital Territory of Delhi using the application software specified by it.

¹¹⁶ Chawla Rajeev and Mukerji Anirban (2007), E-Governance Initiatives of Karnataka”, Yojana, Vol 51, pp 26-29

¹¹⁷ Heeks, Richard (1999), “I-Development, not E-Development”, Journal of International Development, Vol 14(1), pp1-11

¹¹⁸ Holmes, D (2001), E-Gov: E-Business Strategies for Government, Nicholas Brealey, London

(2) The office, authority, agency or authorised Service Provider referred to in sub-clause (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) augment ability.

Issue or grant of any license, permit, sanction or approval -

- 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.
- 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 the creation of such record.
- ***Creation or repository of digitally signed electronic records*** - (1) The Competent Authority 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 authorised Service Provider or the authorised agents to access such licenses, permits, certificates, sanctions or approvals, as the case may be, and deliver them to the user.¹¹⁹
- 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.
- ***Procedure for making changes in a repository of digitally signed electronic records*** -
 - a) 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.

¹¹⁹ Kochhar Sameer and Dhanjal (2005), “E-Governance Report Card”, Yojana, Vol 49, pp 60-69

- b) Any such authority shall have privileges for making or ordering changes only in respect of the electronic records pertaining to its own jurisdiction.

1.6 LET'S SUM UP

In this chapter, we have studied the meaning of electronic delivery and the duties of competent authority to notify the list of public services to be delivered through electronic mode. We also discussed the powers and functions of the director of electronic service delivery. Finally, we have ended the discussion with the electronic delivery of services bill introduced in the Parliament of India in 2011.

1.7 FURTHER READING

- Adb.org (2019), <https://www.adb.org/sites/default/files/publication/467826/adbi-wp890.pdf> (last visited Nov 19, 2019).
- Nazir, Mohsin & Wani, Sani & Arif, Tasleem. (2014). Current Scenario of the e-Governance Related Initiatives in India.
- Isec.ac.in (2019), <http://www.isec.ac.in/WP%20-%20165.pdf> (last visited Nov 19, 2019).
- <https://www.nisg.org/files/documents/D01010001.pdf>

1.8 CHECK YOUR PROGRESS: POSSIBLE ANSWERS

1. What is the aim of Electronic Delivery of Services Bill (EDS), 2011?

- A. The aim of Electronic Delivery of Services Bill (EDS), 2011 is aimed at bringing transparency in public dealings and checking corruption in public dealing. The EDS Bill allows for "delivery of public services through electronic mode including the receipt of forms and applications, issue or grant of license, permit, certificate, sanction or approval and the receipt and payment of money.

2. What are the main Functions and Powers of Director of Electronic Service Delivery?

- A. To authorise, suspend or terminate the services of the Authorized Service Providers; To determine norms relating to the selection of authorised agents by the authorised Service Providers and authorised agents; To determine functions, responsibilities and liabilities of authorised Service Providers and authorised agents; To determine norms on the service levels to be complied with by the authorised Service Providers and authorised agents; To determine service charges to be charged by the authorised Service Providers and authorised agents for providing e-services; To determine terms and conditions relating to the authorisation, suspension or termination of the services of the authorised Service Providers and authorised agents; and To make a alternative arrangements for delivery of e-services, in case of such suspension or termination of services of authorised Service Providers and authorised agents.

3. What is the stipulated timeline for the competent authority to publish the list of all public services to be delivered through electronic mode?

- A. 180 Days.

1.9 ACTIVITY

Elaborate the pros and cons of the Electronic Delivery of Services Bill, 2011 along with the critiques with respect to it. (800 words)