

**Bill No. 137 of 2011**

THE ELECTRONIC DELIVERY OF SERVICES BILL, 2011

————— ARRANGEMENT OF  
CLAUSES

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**Bill No. 137 of 2011**

**THE ELECTRONIC DELIVERY OF SERVICES BILL, 2011**

A

**BILL**

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

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

**CHAPTER I**

**PRELIMINARY**

5       **1.** (1) This Act may be called the Electronic Delivery of Services Act, 2011.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall, in relation to any State, be construed as a reference to  
10 coming into force of that provision in that State.

**2.** In this Act, unless the context otherwise requires, —

(a) “assisted access” means assistance to access electronic services;

Short title,  
extent and  
commencement.

Definitions.

(b) “Central Commission” means the Central Electronic Service Delivery Commission established under sub-section (1) of section 8;

(c) “Central Chief Commissioner” means the Chief Commissioner of the Central Commission appointed under sub-section (3) of section 9;

(d) “Central Commissioner” means the Commissioner of the Central Commission appointed under sub-section (3) of section 9; 5

(e) “competent authority” means the Head of every public authority or Department of the Central Government as notified by the Central Government or the public authority or Department of the State Government as notified by the State Government, from time to time and includes, the Secretaries to the Central Government and the Secretaries to the State Government, and the Heads of Government Organisations and Government Bodies; 10

(f) “electronic mode” includes any method, process or application to deliver any service electronically;

(g) “electronic service delivery” means the delivery of public services or other services through electronic mode including, the receipt of forms and applications, issue or grant of any licence, permit, certificate, sanction or approval and the receipt or payment of money; 15

(h) “Grievance Redressal Mechanism” means the mechanism for redressal of public grievances as notified by the Central Government and the State Government; 20

(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, 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; 25

(j) “notification” means a notification published in the Official Gazette and the term “notify” shall be construed accordingly;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “public authority” means any authority or body or institution of self-government established or constituted,— 30

(i) by or under the Constitution;

(ii) by or under any other law made by Parliament;

(iii) by or under any other law made by State Legislature;

(iv) by notification issued or order made by the appropriate Government, and includes any— 35

(i) body owned, controlled or substantially financed;

(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

(m) “public service” means any service or part thereof being provided to any person by the Central Government and the State Government or public authority either directly or through any service provider and includes the receipt of forms and applications, issue or grant of any licence, permit, certificate, sanction or approval and the receipt or payment of money by whatever name called in a particular manner; 40

(n) “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 Central Government or the State Government to offer services through electronic mode;

5 (o) “State Commission” means the State Electronic Service Delivery Commission established under sub-section (1) of section 15;

(p) “State Chief Commissioner” means the Chief Commissioner of the State Commission appointed under sub-section (3) of section 17;

10 (q) “State Commissioner” means the Commissioner of the State Commission appointed under sub-section (3) of section 17;

21 of 2000. (r) words and expressions used but not defined in this Act and defined in the Information Technology Act, 2000 shall have the same meanings respectively assigned to them in that Act.

## CHAPTER II

### 15 ELECTRONIC SERVICE DELIVERY

**3.** The Central Government, the State Government and public authorities shall deliver all public services by electronic mode within five years of the commencement of this Act except such services,—

Delivery of public services through electronic mode.

(a) which cannot be delivered electronically;

20 (b) which can be delivered electronically but the Central Government or the State Government or public authority, as the case may be, notifies not to deliver electronically for the reasons to be specified in such notification:

25 Provided that the Central Government, the State Government and public authority shall consult the Central Commission or the State Commission, as the case may be, before notifying any electronic services under clause (b):

Provided further that such period of five years may be extended for a further period not exceeding three years by the Central Government or the State Government or public authority, in consultation with the Central Commission or the State Commission, for reasons to be notified.

30 **4.** (1) Every competent authority shall publish within one hundred and eighty days from the commencement of this Act, the list of all public services to be delivered by it through electronic mode.

Duty of competent authority.

(2) Every competent authority shall, after the publication of the list under sub-section (1), review the same and notify on the 1st day of January of every year—

35 (a) the date by which each such service shall be made available through electronic mode;

(b) the manner and quality of delivery of such services as may be prescribed;

(c) such other information as may be prescribed.

40 (3) The Central Government or the State Government or public authority may, while reviewing the list under sub-section (2), by notification, omit or add any public service in such list:

Provided that any omission in the list shall be subject to the approval of the Central Commission or the State Commission, as the case may be:

Provided further that the reason for such omission shall be notified.

(4) The competent authority, while introducing services in an electronic mode, shall—

(a) simplify and improve the existing process and forms relating to such services in such manner as may be prescribed; and

(b) provide assisted access to such services in such manner as may be prescribed. 5

Specification of electronic governance standards.

5. Any Department in the Government of India may, from time to time, notify, in such manner as may be prescribed, electronic governance standards, being not inconsistent with electronic governance standards notified by the Central Government, as may be necessary for ensuring inter-operability, integration, harmonisation and security of electronic services: 10

Provided that a State Government may prescribe such standards which had not been notified by the Central Government and the standards so notified by the State Government shall remain in force till such standards are notified by the Central Government.

Notification of Grievance Redressal Mechanism.

6. Every competent authority shall notify a Grievance Redressal Mechanism for the redressal of grievances under this Act, within such time and in such manner as may be prescribed. 15

Complaint in respect of non-availability of service in electronic mode.

7. (1) Any aggrieved person may file a complaint in prescribed manner to such authority as may be notified under the Grievance Redressal Mechanism notified under section 6 with respect to,— 20

(a) non-availability of public services in an electronic mode as published by the competent authority under sub-section (2) of section 4;

(b) deficiency in delivery of the electronic service.

(2) The complaints filed under sub-section (1) shall be dealt with in such manner as may be prescribed. 25

### CHAPTER III

#### THE CENTRAL ELECTRONIC SERVICE DELIVERY COMMISSION

Establishment of Central Electronic Service Delivery Commission.

8. (1) With effect from such date as the Central Government may, by notification appoint, there shall be established, for the purposes of this Act, a Commission to be known as the Central Electronic Service Delivery Commission. 30

(2) The Central 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 head office 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. 35

Qualifications for appointment of Central Chief Commissioner and Central Commissioners.

9. (1) The Central Chief Commissioner and Central Commissioners of the Central Commission shall be persons of eminence in public life who have special knowledge and not less than twenty-five years of professional experience in information technology, management, public administration or governance: 40

Provided that the Central Commissioner, at the time of his appointment, shall not be more than sixty-two years of age.

(2) The Central Chief Commissioner or Central Commissioners shall not be a Member of Parliament or Member of Legislature of any State or Union territory, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(3) The Central Chief Commissioner and Central Commissioners shall be appointed by the President of India on the recommendation of a committee consisting of—

(a) the Cabinet Secretary to the Government of India;

(b) a person of the rank of Secretary to the Government of India nominated by the Central Government;

(c) an expert of repute who has knowledge of, and experience in, information technology, public administration or governance to be nominated by the Central Government.

**10.** 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 acts and things which may be exercised or done by the Central Commission autonomously.

General superintendence, direction and control to vest in Central Chief Commissioner.

**11. (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 till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment.

Term of office and conditions of service.

(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 not be eligible for reappointment as such Central Commissioner:

Provided 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 Government or the State Government, on his selection as the Central Chief Commissioner or Central Commissioner, as the case may be, shall have to retire from service before joining as Central Chief Commissioner or Central Commissioner.

(4) The salaries and allowances payable to and other terms and conditions of service of the Central Chief Commissioner and Central Commissioner shall be such as may be prescribed:

Provided that the salaries, allowances and other conditions of service of the Central Chief Commissioner and Central Commissioner shall not be varied to their disadvantage after their appointment.

(5) In the event of the occurrence of a vacancy in the office of the Central Chief Commissioner by reason of his death, resignation or otherwise, the senior-most Central Commissioner shall act as the Central Chief Commissioner, until the date on which a new Central Chief Commissioner, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(6) When the Central Chief Commissioner is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Central Commissioner shall discharge

the functions of the Central Chief Commissioner until the date on which the Central Chief Commissioner resumes the charge of his functions.

Resignation  
and removal.

**12. (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 office, whichever is earliest.

(2) 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 had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Central Chief Commissioner or Central Commissioner referred to in sub-section (2).

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, by order, remove the Central Chief Commissioner or Central Commissioner from his office if the Central Chief Commissioner or Central Commissioner, as the case may be,—

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has engaged at any time, during his term of office, in any paid employment;  
or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Chief Commissioner or Central Commissioner, as the case may be; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has become physically or mentally incapable of acting as a Central Chief Commissioner or Central Commissioner, as the case may be.

(5) Notwithstanding anything contained in sub-section (4), no Central Commissioner or Central Chief Commissioner shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Central Commissioner or Central Chief Commissioner, ought on such ground or grounds to be removed.

Meetings.

**13.** The Central Commission shall meet at such times and places, and shall observe such rules of procedures in regard to the transaction of business at its meetings, as may be prescribed.

Vacancy, etc.,  
not to  
invalidate  
proceedings  
of Central  
Commission.

**14.** No act or proceeding of the Central Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Central Commission;

or



(b) any defect in the appointment of Central Chief Commissioner or Central Commissioner; or

(c) any irregularity in the procedure of the Central Commission not affecting the merits of the case.

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## CHAPTER IV

## THE STATE ELECTRONIC SERVICE DELIVERY COMMISSION

**15.** (1) With effect from such date as the State Government may, by notification appoint, there shall be established, for the purposes of this Act, a Commission to be known as the .....(name of the State) Electronic Service Delivery Commission.

State  
Electronic  
Service  
Delivery  
Commission.

10 (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.

15 (3) The head office of the State Commission shall be at such place as the State Government may, by notification, specify and the State Commission may, with the previous approval of the State Government, establish offices at other places in State.

20 **16.** 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.

General  
superintendence,  
direction and  
control to  
vest in  
Central Chief  
Commissioner.

**17.** (1) The State Chief Commissioner and the State Commissioners shall be appointed by the State Government from amongst the persons of eminence in public life who have special knowledge and not less than twenty-five years of professional experience in information technology, management, public administration or governance:

Qualifications  
for  
appointment  
of Chief State  
Commissioner  
and State  
Commissioners.

25 Provided that the State Commissioner, at the time of his appointment, shall not be more than sixty-two years of age.

30 (2) The State Chief Commissioner or State Commissioners shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(3) The State Chief Commissioner and State Commissioners shall be appointed by the Governor of the State on the recommendation of a committee consisting of—

(a) Chief Secretary of the State;

35 (b) a person of the rank of Principal Secretary to the State Government nominated by the State Government;

(c) an expert of repute who has knowledge and experience in information technology, public administration or governance to be nominated by the State Government.

40 **18.** (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 till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Chief Commissioner.

Term of  
office and  
conditions of  
service.

(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 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. 5

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

(4) The salaries and allowances payable to, and the terms and conditions of service of the State Chief Commissioner and State Commissioners shall be such as may be prescribed by the State Government: 10

Provided that the salaries, allowances and other conditions of service of the State Chief Commissioner and State Commissioners shall not be varied to their disadvantage after their appointment. 15

(5) In the event of the occurrence of a vacancy in the office of the State Chief Commissioner by reason of his death, resignation or otherwise, the senior-most State Commissioner shall act as the State Chief Commissioner, until the date on which a new State Chief Commissioner, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office. 20

(6) When the State Chief Commissioner is unable to discharge his functions owing to absence, illness or any other cause, the senior-most State Commissioner shall discharge the functions of the State Chief Commissioner until the date on which the State Chief Commissioner resumes the charge of his functions.

Resignation  
and removal.

**19. (1)** The State Chief Commissioner or State Commissioner may, by notice in writing under his hand addressed to the State Government, resign his office: 25

Provided that the 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 office, whichever is earliest. 30

(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, as the case may be, had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. 35

(3) The State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the State Chief Commissioner or State Commissioner referred to in sub-section (2). 40

(4) Notwithstanding anything contained in sub-section (2), the State Government may, by order, remove the State Chief Commissioner or State Commissioner from his office if such State Chief Commissioner or State Commissioner, as the case may be,—

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has engaged at any time, during his term of office, in any paid employment; or 45

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

5 (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as State Chief Commissioner or State Commissioner, as the case may be; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has become physically or mentally incapable of acting as State Chief Commissioner or State Commissioner, as the case may be.

10 (5) Notwithstanding anything contained in sub-section (4), no State Chief Commissioner or State Commissioner, shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the High Court, on a reference being made to it in this behalf by the State Government, has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the High Court, reported that the  
15 State Chief Commissioner or State Commissioner, ought on such ground or grounds to be removed.

**20.** The State Commission shall meet at such times and places, and shall observe such rules of procedures in regard to the transaction of business at its meetings as may be prescribed. Meetings.

20 **21.** No act or proceeding of the State Commission shall be invalid merely by reason of— Vacancy, etc., not to invalidate proceedings of Commission.  
(a) any vacancy in, or any defect in the constitution of, the State Commission; or

25 (b) any defect in the appointment of the State Chief Commissioner or State Commissioner; or

(c) any irregularity in the procedure of the State Commission not affecting the merits of the case.

30 **22.** No order of the Central Government or the State Government appointing any person as the Central Chief Commissioner or Central Commissioner or, as the case may be, State Chief Commissioner or State Commissioner, shall be called in question in any manner and no act or proceeding before the Central Commission or State Commission shall be called in question in any manner on the ground merely of any defect in the constitution thereof. Orders constituting Central Commission or State Commission to be final.

35 **23. (1)** The Central Government or the State Government, as the case may be, shall provide the Central Chief Commissioner and Central Commissioners or State Chief Commissioner or State Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act. Staff of Central Commission or State Commission.

40 (2) The salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for such purpose shall be such as may be prescribed.

(3) 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.

## CHAPTER V

## FUNCTIONS OF THE CENTRAL COMMISSION AND STATE COMMISSION

Functions of  
Central  
Commission  
or State  
Commission.

**24.** (1) The Central Commission or the State Commission, as the case may be, shall monitor the implementation of this Act on a regular basis.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Central Commission and State Commission shall, amongst other things, include the following, namely:—

(a) monitoring the publication of services to be delivered through electronic mode and adherence to the time schedule, manner of delivery and quality of service notified for delivery of public services by the Central Government or the State Government, as the case may be;

(b) monitoring the periodic progress made by the Central Government, the State Government and public authority, as the case may be, towards achieving the delivery of all services through electronic mode in accordance with the provisions of this Act;

(c) recommending the simplification of processes and forms relating to delivery of electronic services by the Central Government, the State Government and public authority, as the case may be;

(d) monitoring the effectiveness of feedback and Grievance Redressal Mechanisms established by the Central Government, the State Government and the public authority, as the case may be;

(e) monitoring the periodic progress made by the Central Government, the State Government and the public authority, as the case may be, towards compliance with the applicable electronic governance standards and make recommendations in respect thereof; and

(f) performing any other function as may be prescribed by the Central Government or the State Government, as the case may be.

Reporting.

**25.** (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 Act during the previous financial year and forward a copy thereof to the Central Government and the State Government.

(2) Every Ministry or Department of the Central Government and the State Government shall, in relation to the public authorities within their jurisdiction, collect and provide such information, as may be prescribed, to the Central Commission or the State Commission, as the case may be, as is required to prepare the report referred to in sub-section (1) and comply with the requirements concerning the furnishing of that information for the purpose of this section.

(3) The information referred to in sub-section (2), 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 details of compliance in respect of the provisions of section 3 and sub-section (2) of section 4;

(b) in respect of the year to which the report referred to in sub-section (1) relates,—

(i) the number of electronic service requests received and the total number of service requests in respect of that service made available through electronic mode;

5 (ii) the number of electronic service requests in response to which service was provided in accordance with the applicable quality of service and prescribed details of the remaining cases;

(iii) the number of grievances pertaining to the provision of electronic services received under the Grievance Redressal Mechanism and information related to such grievances and their disposal;

10 (iv) the steps taken by the competent authority to sustain and promote the delivery of services through electronic mode in conformity with the provisions of this Act;

(v) the steps taken by the competent authority to ensure compliance with the applicable electronic governance standards;

15 (vi) the steps taken by the competent authority to ensure the availability of assisted access;

(vii) details of the feedback received by the competent authority in respect of the implementation of various provisions of this Act and in respect of services made available through electronic mode, and the action taken by the competent authority in pursuance thereof;

20

(c) recommendations for further development, improvement, modernisation and integration of electronic services and the legal and policy interventions which may be required to improve electronic service delivery;

25 (d) any other information as the Central Commission or the State Commission, as the case may be, may require from time to time.

(4) The Central Government or the State Government, as the case may be, may, 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.

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(5) If it appears to the Central Commission or the State Commission, as the case may be, that the practice of a Ministry, Department or public authority in relation to the exercise of its functions under this Act does not conform with the provisions of this Act, it may direct the competent authority to take such steps which it considers necessary to be taken for promoting such conformity:

35

Provided that no such direction shall be issued by the Central Commission or the State Commission, as the case may be, without providing the Ministry, Department or public authority, a reasonable opportunity for taking corrective measures.

40 (6) The Ministry, Department or public authority, as the case may be, on finding that there exist circumstances which require a review of such directions, may apply to the Central Commission or the State Commission, for review of such directions of the Central Commission or the State Commission, as the case may be, and the Central Commission or the State Commission may, after review, modify or cancel the direction or issue a fresh direction.

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## CHAPTER VI

### REPRESENTATION TO CENTRAL COMMISSION OR STATE COMMISSION

26. (1) Any person aggrieved by the order of the Grievance Redressal Mechanism on the complaint filed under clause (a) of sub-section (1) of section 7, may make a representation, Representation.

in such manner as may be prescribed, to the Central Commission or the State Commission, as the case may be .

(2) The Central Commission or the State Commission, as the case may be, while disposing of the representation made under sub-section (1), shall give reasonable opportunity of hearing to the competent authority and the appellant. 5

(3) The Central Commission or the State Commission, as the case may be, shall dispose of the representation in accordance with such procedure as may be prescribed.

Appeal against  
order of  
Commission.

**27.** (1) Any person aggrieved against an order of the Central Commission may file an appeal to the High Court of Delhi.

(2) Any person aggrieved against an order of the State Commission may file an appeal 10 to the High Court of the State where such State Commission is located.

Procedure and  
powers of  
Central  
Commission  
or State  
Commission.

**28.** (1) The Central Commission or State Commission shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the 5 of 1908. principles of natural justice and, subject to the other provisions of this Act and of any rules 15 made thereunder, the Central Commission or State Commission shall have powers to regulate its own procedure including the place at which it shall hold its sittings.

(2) The Central Commission or State Commission, as the case may be, 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 20 5 of 1908. 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; 25

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) issuing directions to the competent authority for promoting conformity to the provisions of this Act;

(f) imposing penalty for contravention of any of the provisions of this Act as per 30 section 29;

(g) reviewing its decisions;

(h) dismissing an application for default or disposing it *ex parte*;

(i) any other matter which may be prescribed.

## CHAPTER VII

35

### PENALTIES

Penalty.

**29.** (1) Where a Competent Authority or any officer under it, while discharging duty relating to any provision of this Act, without any reasonable cause, contravenes any provision of this Act, or the directions issued by the Central Commission or the State Commission, then, the Central Commission or the State Commission, as the case may be, may, after providing 40 it or him, as the case may be, the opportunity of being heard, impose upon it or him a penalty which may extend up to five thousand rupees.

(2) In case of wilful and persistent default of any of the provisions of this Act or the directions issued by the Central Commission or the State Commission, on the part of any competent authority or any officer under it, the penalty referred to in sub-section (1) may 45 extend up to twenty thousand rupees.

30. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Crediting sums realised by way of penalties to Consolidated Fund of India.

#### CHAPTER VIII FINANCE,

##### ACCOUNTS AND AUDIT

5 31. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants by Central Government.

(2) The Central Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

10 32. (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

Grants by State Governments.

(2) The State Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

15 33. (1) The Central Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of Central Commission.

20 (2) The accounts of the Central Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Central Commission to the Comptroller and Auditor-General.

25 (3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Central Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Central Commission.

30 (4) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Central Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

35 34. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of State Commission.

40 (2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

40 (3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts,



connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature. 5

CHAPTER IX

MISCELLANEOUS

Act to have overriding effect. 35. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. 10

Protection of action taken in good faith. 36. 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 Act or any rule made thereunder. 15

Directions by Central Government. 37. (1) Without prejudice to the foregoing provisions of this Act, the Central Commission shall, in exercise of its powers or the performance of its functions under this Act, be guided by such directions on questions of policy involving public interest, as may be given to it by the Central Government in writing from time to time. (2) If any dispute arises between the Central Government and the Central Commission as to whether a question is or is not a question of policy involving public interest, the decision of the Central Government thereon shall be final. 20

Directions by State Government. 38. (1) Without prejudice to the foregoing provisions of this Act, the State Commission shall, in exercise of its powers or the performance of its functions under this Act, be guided by such directions on questions of policy, involving public interest, as may be given to it by the State Government in writing from time to time. 25 (2) If any dispute arises between the State Government and the State Commission as to whether a question is or is not a question of policy involving public interest, the decision of the State Government thereon shall be final.

Supersession of Central Commission. 39. (1) If at any time, the Central Government is of the opinion— 30 (a) that on account of circumstances beyond the control of the Central Commission, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or (b) that the Central Commission has persistently made default in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default, the financial position of the Central Commission or the administration of the Commission has suffered; or 35 (c) that circumstances exist which render it necessary in the public interest so to do, 40

the Central Government, after consultation with the committee appointed under sub-section (3) of section 9 may, by notification and for reasons to be specified therein, supersede the Central Commission for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give 45



a reasonable opportunity to the Central Commission to make representation against the proposed supersession and shall consider representation, if any, of the Commission.

(2) Upon the publication of a notification under sub-section (1) superseding the Central Commission,—

5 (a) the Central Chief Commissioner and Central Commissioners shall as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Central Commission shall, until the Central Commission is reconstituted under sub-section (3), be exercised and  
10 discharged by the Central Government or such authority as the Central Government may specify in this behalf;

(c) all properties owned or controlled by the Central Commission shall, until the Central Commission is reconstituted under sub-section (3), vest in the Central Government.

15 (3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Central Commission by a fresh appointment of its Central Chief Commissioner and Central Commissioners and in such case, any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

20 (4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

**40.** (1) If at any time, the State Government is of the opinion—

Supersession of  
State  
Commission.

25 (a) that on account of circumstances beyond the control of the State Commission, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the State Commission has persistently made default in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this  
30 Act and as a result of such default, the financial position of the State Commission or the administration of the Commission has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

35 the State Government, after consultation with the committee appointed under sub-section (3) of section 17, may by notification and for reasons to be specified therein, supersede the State Commission for such period, not exceeding six months, as may be specified in the notification:

40 Provided that before issuing any such notification, the State Government shall give a reasonable opportunity to the State Commission to make representation against the proposed supersession and shall consider representation, if any, of the Commission.

(2) Upon the publication of a notification under sub-section (1) superseding the State Commission,—

(a) the State Chief Commissioner and State Commissioners shall as from the date of supersession, vacate their offices as such;

45 (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the State Commission shall, until the State Commission is reconstituted under sub-section (3), be exercised and

discharged by the State Government or such authority as the State Government may specify in this behalf;

(c) all properties owned or controlled by the State Commission shall, until the State Commission is reconstituted under sub-section (3), vest in the State Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government shall reconstitute the State Commission by a fresh appointment of its State Chief Commissioner and State Commissioners and in such case, any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment. 5

(4) The State Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House. 10

Members to  
be public  
servant.

**41.** The Central Chief Commissioner and Central Commissioners and officers and other employees of the Central Commission and the State Chief Commissioner and State Commissioners and officers and other employees of the State Commission shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 15 45 of 1860.

Power of  
Central  
Government  
to make rules.

**42.** (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act. 20

(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 quality of delivery of services under clause (b) of sub-section (2) of section 4;

(b) other information under clause (c) of sub-section (2) of section 4; 25

(c) the manner of simplification and improvement of existing process and forms relating to such services under clause (a) of sub-section (4) of section 4;

(d) the manner in which assisted access to electronic services shall be provided to specified categories of users under clause (b) of sub-section (4) of section 4;

(e) the manner notifying of electronic governance standards for ensuring inter-operability, integration, harmonisation and security of electronic services under section 5; 30

(f) the time and the manner of notifying the Grievance Redressal Mechanism under section 6;

(g) the manner of filing complaint by the aggrieved person under sub-section (1) of section 7; 35

(h) the manner of dealing with complaints under sub-section (2) of section 7;

(i) the salary and allowances and other terms and conditions of service of Central Chief Commissioner and Central Commissioners under sub-section (4) of section 11;

(j) the procedure for the investigation of misbehaviour or incapacity of the Central Chief Commissioner or Central Commissioner under sub-section (3) of section 12; 40

(k) the time and places and the rules of procedure for the transaction of business of the Central Commission under section 13;

(l) salaries and allowances and other terms and conditions of service of staff of the Central Commission under sub-section (2) of section 23; 45

(m) any other function to be performed by the Central Commission under clause (f) of sub-section (2) of section 24;

(n) the form and time for preparation of the annual report of the Central Commission under sub-section (1) of section 25;

5 (o) the information to the Central Commission under sub-section (2) of section 25;

(p) details of the remaining cases under sub-clause (ii) of clause (b) of sub-section (3) of section 25;

10 (q) the manner of making representation before the Central Commission under sub-section (1) of section 26;

(r) the procedure to be followed while disposing the representation under sub-section (3) of section 26;

(s) any other matter under clause (i) of sub-section (2) of section 28;

15 (t) the form of preparation of the annual statement of accounts of the Central Commission under sub-section (1) of section 33;

20 **43.** Every rule made and every notification issued by the Central Government under this Act shall be laid, as soon as may be after it is made or issued, 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 the notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Laying of rules.

**44.** (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power of State Government to make rules.

(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:—

30 (a) the manner and quality of delivery of services under clause (b) of sub-section (2) of section 4;

(b) other information under clause (c) of sub-section (2) of section 4;

(c) the manner of simplification and improvement of existing process and forms relating to such services under clause (a) of sub-section (4) of section 4;

35 (d) the manner in which assisted access to electronic services shall be provided to specified categories of users under clause (b) of sub-section (4) of section 4;

(e) the manner of notifying electronic governance standards for ensuring inter-operability, integration, harmonisation and security of electronic services under section 5;

40 (f) the time and the manner of notifying the Grievance Redressal Mechanism under section 6;

(g) the manner of filing complaint by the aggrieved person under sub-section (1) of section 7;

(h) the manner of dealing with complaints under sub-section (2) of section 7;

45 (i) the salary and allowances and other terms and conditions of service of State Chief Commissioner and State Commissioners under sub-section (4) of section 18;

(j) the procedure for the investigation of misbehaviour or incapacity of the State Chief Commissioner or State Commissioner under sub-section (3) of section 19;

(k) the time and places and the rules of procedure for the transaction of business of the State Commission under section 20;

(l) salaries and allowances and other terms and conditions of service of staff of the State Commission under sub-section (2) of section 23;

(m) any other function to be performed by the State Commission under clause (f) of sub-section (2) of section 24; 5

(n) the form and the time for preparation of the annual report of the State Commission under sub-section (1) of section 25;

(o) the information to the State Commission under sub-section (2) of section 25;

(p) details of the remaining cases under sub-clause (ii) of clause (b) of sub-section (3) of section 25; 10

(q) the manner of making representations before the State Commission under sub-section (1) of section 26;

(r) the procedure to be followed while disposing the representation under sub-section (3) of section 26; 15

(s) any other matter under clause (i) of sub-section (2) of section 28;

(t) the form of preparation of the annual statement of accounts of the State Commission under sub-section (1) of section 34.

Laying of rules.

**45.** Every notification or rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House. 20

Power to remove difficulties.

**46.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary or expedient for removal of the difficulty: 25

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament. 30

## STATEMENT OF OBJECTS AND REASONS

The National e-Governance Plan approved by the Government in May, 2006 envisages to make all Government services accessible to the common man in his locality, through common service delivery outlets and ensure efficiency, transparency and reliability of such services at affordable costs to realise the basic needs of the common man.

2. In order to realise this, the Central Government is creating a common core and support infrastructure consisting of State Wide Area Networks, State Data Centres, Common Services Centres and Electronic Service Delivery Gateways, besides evolving and laying down Standards and Policy Guidelines to ensure sharing of information and seamless interoperability of data and e-Governance applications. The National e-Governance Plan lays down policy guidelines and stipulates service delivery orientation and strategy for identified e-Governance projects in Mission Mode in various Ministries.

3. With the enactment of the Right to Information Act, 2005 an obligation has been placed on the Central Government and State Governments and all public authorities under them to provide information to citizens to ensure transparency and accountability in their functioning. The Information Technology Act, 2000 provides for legal recognition of electronic transactions for enabling citizens to electronically access information and public services efficiently and seamlessly.

4. Though significantly the ground has been covered under the National e-Governance Plan in terms of the provisioning of necessary infrastructure and creation of institutional or organisational structures, and to a lesser extent, in the delivery of services, it is felt that the pace of implementation in enabling electronic delivery of public services is not commensurate with citizens' aspirations and expectations. It is also felt that the most critical challenge is to speed up the process of enabling electronic delivery of public services to the citizens.

5. For promoting e-Governance in the country, the second Administrative Reforms Commission, in its Eleventh Report submitted in 2008, has recommended a clear road map with set of milestones to be outlined by Government of India with the ultimate objective of transforming the citizen-Government interaction at all levels to the e-Governance mode by 2020 through a legal framework, taking into consideration the mammoth dimension of the task, the levels of required coordination between the Union and State Governments and the diverse field situations in which it would be implemented.

6. To give effect to this recommendation of the Administrative Reforms Commission, and for resolving issues like resistance to change, systemic inertia, procedural hurdles, lack of transparency and legal impediments experienced in electronic delivery of services, it is proposed to enact a legislation which would mandate provisioning of all public services compulsorily through electronic means from a specified date.

7. Accordingly, it is proposed to provide for the following matters, namely:—

(i) within a period of five years from the date of coming into force of the Act, the Central Government, the State Governments and all public authorities under them shall deliver all public services by electronic mode except such services which cannot be delivered electronically, and the said period may be extended by a further period of three years to achieve the said object;

(ii) all concerned Government Departments shall, within one hundred and eighty days from the date of coming into force of the Act, publish a list of all public services to be delivered through electronic mode;

(iii) all concerned Government departments to review and verify—

(a) the date by which each such service shall be made available through electronic mode;

(b) the manner and quality of delivery of such services;

(c) any addition or omission in the list of services so notified;

(iv) simplify and improve existing processes and forms relating to these services;

(v) provide assisted access to electronic services;

(vi) notify electronic governance standards to ensure inter-operability, integration, harmonisation and security of electronic services;

(vii) all concerned Departments to notify Grievance Redressal Mechanisms for the redressal of grievances relating to electronic delivery of services;

(viii) establishment of an oversight mechanism for implementation and monitoring of the Act in the form of the Central Electronic Service Delivery Commission at the Central Government level and the State Electronic Service Delivery Commission at the State Government level;

(ix) to empower the Central Commission or the State Commission to issue directions to the concerned Ministries or Departments to ensure actions in conformity with the Act;

(x) imposition of a penalty on defaulting officials for contravention of the provisions of this Act;

(xi) empower the Central Government and the State Government to issue directions on questions of policy involving public interest to the Central Commission or the State Commission.

8. The Bill seeks to achieve the above objects.

NEW DELHI;

KAPIL SIBAL.

The 21st December, 2011.

*Notes on clauses*

*Clause 1.*— This clause of the Bill, *inter alia*, seeks to extend the provisions of the Bill to the whole of India except the State of Jammu and Kashmir commencement of the proposed EDS Legislation. It provides that it shall come into force on such date as the Central Government may appoint by notification in the Official Gazette and the Central Government may appoint different dates for different provisions of the proposed legislation and for different States.

*Clause 2.*— This clause defines the various expressions used in the Bill which *inter alia* include “assisted access”, “Central Commission”, “Central Chief Commissioner”, “Central Commissioner”, “competent authority”, “electronic mode”, “electronic service delivery”, “Grievance redressal mechanism”, “public authority”, “public service”, “service provider”, “State Commission”, “State Chief Commissioner”, “State Commissioner” etc.

*Clause 3.*— This clause of the Bill seeks to provide for the delivery of all public services through electronic mode by the Central Government, the State Government and public authorities within five years of the commencement of the proposed legislation except certain services specified therein. However, before notifying any electronic services, the Central Government or the State Government or public authority shall consult the Central Commission or the State Commission.

It further provides that the Central Government or the State Government or public authority in consultation with the Central or the State Commission may extend such period of five years by a further period not exceeding three years.

*Clause 4.*— This clause of the Bill seeks to provide for the duty of competent authority which, *inter alia*, include publishing within one hundred and eighty days from the commencement of the proposed legislation, the list of all public services which are to be delivered by it through electronic mode, to review and notify the list of all public services which are to be delivered through electronic mode, the date by which each such service shall be made available through electronic mode, the manner and quality of delivery of such services, omission or addition of any public service in such list, the simplification and improvement of the existing process and forms relating to such services and to provide assisted access to such services.

*Clause 5.*— This clause of the Bill seeks to provide for specification of electronic governance standards which are not inconsistent with electronic governance standards notified by the Central Government in the Ministry of Communications and Information Technology (Department of Information Technology), for ensuring inter-operability, integration, harmonization and security of electronic services. This clause also empowers the State Governments to prescribe standards which are not notified by the Central Government and such standards shall be valid till the Standards are notified by the Central Government.

*Clause 6.*— This clause of the Bill seeks to provide for notification of Grievance Redressal Mechanism by the competent authority for the redressal of grievances within such time and in such manner as may be provided by rules.

*Clause 7.*— This clause of the Bills seeks to provide for filing of complaint by any aggrieved person in respect of non-availability of service in electronic mode and deficiency in delivery of electronic service in such manner as may be provided by rules.

*Clause 8.*— This clause of the Bill seeks to provide for the establishment of Central Electronic Service Delivery Commission by the Central Government which shall consist of the Central Chief Commissioner and such number of Central Commissioners not exceeding



two and that the Head Office of the Central Commission shall be at Delhi. It also empowers the Central Commission to establish offices at other places in India with the previous approval of the Central Government.

*Clause 9.*— This clause of the Bill seeks to lay down the qualifications for appointment of Central Chief Commissioner and Central Commissioners of the Central Commission who shall be persons of eminence in public life who have special knowledge of and not less than twenty-five years of professional experience in, information technology, management, public administration or governance. The age of Central Commissioner at the time of his appointment shall not be more than sixty two years of age. The Central Chief Commissioner or Central Commissioners shall not be a Member of Parliament or Member of Legislature of any State or Union territory, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

It further provides that the Central Chief Commissioner and Central Commissioners shall be appointed by the President of India on the recommendation of a committee consisting of the Cabinet Secretary to the Government of India, a person of the rank of Secretary to the Government of India nominated by the Central Government, an expert of repute who has knowledge of, and experience in information technology, public administration or governance to be nominated by the Central Government.

*Clause 10.*— This clause of the Bill seeks to provide for vesting in the Central Chief Commissioner, the general superintendence, direction and management of the affairs of the Central Commission and that he shall be assisted by Central Commissioners to exercise all such powers and do all such acts and things which may be exercised or done by the Central Commission autonomously.

*Clause 11.*— This clause of the Bill seeks to lay down conditions of service of the Central Chief Commissioner and Central Commissioners, their period of office, salaries and allowances payable and other terms and conditions of service. Sub-clause (2) thereof provides that the Central Chief 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. 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 not be eligible for reappointment as such Central Commissioner. However, 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.

Sub-clause (3) thereof provides that where an officer of the Central Government or the State Government is selected as the Central Chief Commissioner or Central Commissioner, as the case may be, he shall have to retire from service before joining as Central Chief Commissioner or Central Commissioner.

Sub-clause (4) thereof provides for salaries and allowances payable to and other term and condition of service of the Central Chief Commissioner or Central Commissioners and that the same shall not be varied to their disadvantages.

Sub-clause (5) of this clause provides that in the event of the occurrence of a vacancy in the office of the Central Chief Commissioner by reason of his death, resignation or otherwise, the senior-most Central Commissioner shall act as the Central Chief Commissioner, until the date on which a new Central Chief Commissioner, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Sub-clause (6) of this clause provides that whenever the Central Chief Commissioner is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Central Commissioner shall discharge the functions of the Central Chief Commissioner until the date on which the Central Chief Commissioner resumes the charge of his functions.



*Clause 12.*— This clause of the Bill seeks to provide for the resignation and removal of the Central Chief Commissioner or Central Commissioner. The Central Chief Commissioner or Central Commissioner may by notice in writing under his hand addressed to the Central Government, resign his office. Sub-clause (2) thereof provide that 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 had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Sub-clause (3) thereof empowers the Central Government to make rules to regular procedure for investigation of misbehaviour or in capacity.

Sub-clause (4) of this clause provides the circumstances under which the Central Chief Commissioner or the Central Commissioner may be removed. Where the Central Chief Commissioner or the Central Commissioner is, or at any time has been, adjudged as an insolvent or has engaged at any time, during his term of office, in any paid employment or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude or has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Chief Commissioner or Central Commissioner, as the case may be or due to abuse of office rendering his continuance in office prejudicial to the public interest; or due to physical or mental disability.

Sub-clause (5) of this clause provides for reference to the Supreme Court by the Central Government in some circumstances for the removal of Central Commissioner or Central Chief Commissioner.

*Clause 13.*— This clause provides for meeting of the Central Commission at such times and places and for observing such rules or procedures in regard to the transaction of business at its meetings.

*Clause 14.*— This clause provides that any vacancy in, or any defect in the constitution of the Central Commission or any defect in the appointment of Central Chief Commissioner or Central Commissioner or any irregularity in the procedure of the Central Commission not affecting the merits of the case shall not invalidate any act or proceeding of the Central Commission.

*Clause 15.*— This clause provides for the establishment of a State Commission consisting of the State Chief Commissioner and such number of State Commissioners not exceeding two and that the head office shall be at such place as the State Government may by notification specify and the State Commission with the previous approval of the State Government establish offices at other places in the State.

*Clause 16.*— This clause provides for vesting in the State Chief Commissioner the general superintendence, direction and management of the affairs of the State Commission and that he shall be assisted by State Commissioners to exercise all such powers and do all such acts and things which may be exercised or done by the State Commission autonomously.

*Clause 17.*— This clause lays down the qualifications for appointment of State Chief Commissioner and State Commissioners of the State Commission who shall be persons of eminence in public life who have special knowledge of and not less than twenty-five years of professional experience in information technology, management, public administration or governance. The age of State Commissioner at the time of his appointment shall not be more than sixty two years of age. The State Chief Commissioner or the State Commissioners shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession. The State Chief Commissioner and the State Commissioners shall be appointed by the Governor of the State on the recommendation of a committee consisting of the Chief Secretary of the State, a person of the rank of Principal Secretary to the State Government nominated by the State Government, an expert of repute who has knowledge and experience in information technology, public administration or governance to be nominated by the State Government.

*Clause 18.*— This clause of the Bill seeks to lay down the conditions of service of the State Chief Commissioner and State Commissioners, their period of office, salaries and allowances payable and other terms and conditions of service. Sub-clause (2) thereof State Chief 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. 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 not be eligible for reappointment as such State Commissioner. 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.

This clause also provides that where an officer of the Central Government or the State Government is selected as the State Chief Commissioner or State Commissioner, as the case may be, he shall have to retire from service before joining as State Chief Commissioner or State Commissioner.

Sub-clause (4) thereof provides for salaries and allowances and other terms and condition of service of the State Chief Commission and State Commission.

Sub-clause (5) of this clause provides that in the event of the occurrence of a vacancy in the office of the State Chief Commissioner by reason of his death, resignation or otherwise, the senior-most State Commissioner shall act as the State Chief Commissioner, until the date on which a new State Chief Commissioner, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Sub-clause (6) of this clause provides that whenever the State Chief Commissioner is unable to discharge his functions owing to absence, illness or any other cause, the senior-most State Commissioner shall discharge the functions of the State Chief Commissioner until the date on which the State Chief Commissioner resumes the charge of his functions.

*Clause 19.*— This clause of the Bill seeks to provide for the resignation and removal of the State Chief Commissioner or State Commissioner. The State Chief Commissioner or State Commissioner may by notice in writing under his hand addressed to the State Government, resign his office. The State Chief Commissioner or State Commissioner shall be removed from his office 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 had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Sub-clause (4) of this clause provides the circumstances under which the State Chief Commissioner or State Commissioner may be removed. Where the State Chief Commissioner or State Commissioner is, or at any time has been, adjudged as an insolvent or has engaged at any time, during his term of office, in any paid employment or has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude or has acquired such financial or other interest as is likely to affect prejudicially his functions as State Chief Commissioner or State Commissioner, as the case may be or due to abuse of office rendering his continuance in office prejudicial to the public interest; or due to physical or mental disability.

Sub-clause (5) of this clause provides for reference to the High Court by the State Government in some circumstances for the removal of the State Chief Commissioner or the State Commissioner.

*Clause 20.*— This clause of the Bill seeks to provide for meeting of the State Commission at such times and places and for observing such rules or procedures in regard to the transaction of business at its meetings.

*Clause 21.*—This clause provides that any vacancy in, or any defect in the constitution of the State Commission or any defect in the appointment of State Chief Commissioner or State Commissioner or any irregularity in the procedure of the State Commission not affecting the merits of the case shall not invalidate any act or proceeding of the State Commission.

*Clause 22.*—This clause of the Bill seeks to provide that no order of the Central Government or the State Government appointing any person as the Central Chief Commissioner or Central Commissioner or State Chief Commissioner or State Commissioner, shall be called in question in any manner and no act or proceeding before the Central Commission or State Commission shall be called in question in any manner on the ground merely of any defect in the constitution thereof.

*Clause 23.*—This clause of the Bill seeks to provide that the Central Government or the State Government, as the case may be, shall provide the Central Chief Commissioner and Central Commissioners or State Chief Commissioner or State Commissioner with such officers and employees as may be necessary for the efficient performance of their functions under the proposed legislation, the salaries and allowances payable, the terms and conditions of service of the officers and other employees appointed for such purpose and who are subject to the general superintendence of the Central Chief Commissioner or the State Chief Commissioner, as the case may be.

*Clause 24.*—This clause of the Bill seeks to provide the functions of the Central Commission or the State Commission which *inter alia* include monitoring the publication of services to be delivered through electronic mode and adherence to the time schedule, manner of delivery and quality of service notified for delivery of public services by the Central Government or the State Government as the case may be, monitoring the periodic progress made by the Central Government, the State Government and public authority as the case may be, towards achieving the delivery of all services through electronic mode in accordance with the provisions of this proposed legislation, recommending the simplification of processes and forms relating to delivery of electronic services by the Central Government, the State Government and public authority as the case may be, monitoring the effectiveness of established feedback and Grievance Redressal Mechanisms, monitoring the periodic progress made by the Central Government, the State Government and the public authority as the case may be, towards compliance with the applicable electronic governance standards and make recommendations in respect thereof.

*Clause 25.*—This clause provides for the preparation of an annual report by the Central Commission or the State Commission, as the case may be, on the implementation of the provisions of the proposed legislation containing *inter alia* the plan of action to make available all public services through electronic mode, the number of electronic service requests received and the total number of service requests in respect of that service made available through electronic mode, the number of electronic service requests in response to which service was provided in accordance with the applicable quality of service and prescribed details of the remaining cases, the number of grievances pertaining to the provision of electronic services received under the Grievance Redressal Mechanism and information related to such grievances and their disposal, the steps taken by the competent authority to sustain and promote the delivery of services through electronic mode in conformity with the provisions of the proposed legislation, the steps taken by the competent authority to ensure compliance with the applicable electronic governance standards, the steps taken by the competent authority to ensure the availability of assisted access etc.

Sub-clause (4) of this clause seeks to provide that at the end of each year the Central Government or the State Government shall cause copy of the report of the Central Commission or State Commission, as the case may be, before each House of Parliament or each House of the State Legislature, as the case may be.

*Clause 26.*—This clause provides for the representation by any person aggrieved by the order of the Grievance Redressal Mechanism to the Central or State Commission as the case may be.

*Clause 27.*—This clause of the Bill seeks to provide for appeal against the order of the Central Commissioner to the High Court of Delhi.

Sub-clause (2) of this clause provides that an appeal against the order of the State Commission shall be to the High Court of the State in which such State Commission is located.

*Clause 28.*—his clause provides that the Central Commission or State Commissions are not bound by the procedure laid down by the Code of Civil Procedure, 1908 but by the principles of natural justice and shall have same powers as are vested in a civil court while enquiring into any matter.

*Clause 29.*—This clause provides for empowering the Central Commission or the State Commission to impose penalty on a competent authority or any officer under it for contravention of any provisions of the proposed legislation which may extend up to five thousand rupees. In case of wilful and persistent default the penalty may extend up to twenty thousand rupees.

*Clause 30.*—This clause provides for crediting any sums realized by way of penalties to the Consolidated Fund of India.

*Clause 31.*—This clause provides for payment of grants to the Central Commission by the Central Government after due appropriation made by Parliament.

*Clause 32.*—This clause provides for payment of grants to the State Commission by the State Government after due appropriation made by Legislature.

*Clause 33.*—This clause provides for maintaining the accounts and other relevant records and annual statement of accounts by the Central Commission. It further provides that accounts of the Central Commission shall be audited by the Comptroller and Auditor General of India. It also provides that the accounts of Central Commission together with the Audit Report thereon shall be forwarded annually to the Central Government and the Central Government shall lay the same before each House of Parliament.

*Clause 34.*—This clause provides for maintaining the accounts and other relevant records and annual statement of accounts by the State Commission. It further provides that accounts of the State Commission shall be audited by the Comptroller and Auditor General of India. It also provides that the accounts of State Commission as certified by the Comptroller and Auditor General or any other person appointed by him in this behalf together with the Audit Report thereon shall be forwarded annually to the State Government and the State Government shall lay the same before the State Legislature.

*Clause 35.*—This clause seeks to provide that the provisions of the proposed legislation shall have overriding effect.

*Clause 36.*—This clause provides for protection of any person from legal proceedings etc., for the action taken in good faith.

*Clause 37.*—This clause seeks to empower the Central Government to issue directions on questions of policy for guiding the Central Commission from time to time.

*Clause 38.*—This clause seeks to empower the State Government to issue directions on questions of policy for guiding the State Commission from time to time.

*Clause 39.*—This clause seeks to empower the Central Government to supersede the Central Commission if it is of the opinion that the Central Commission is unable to discharge the functions or perform the duties imposed on it. However, the Central Government shall give a reasonable opportunity to the Central Commission to make representations against the proposed supersession. However, the Central Government shall cause a notification issued and a full report of any action taken and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

*Clause 40.*—This clause seeks to empower the State Government to supersede the State Commission if it is of the opinion that the State Commission is unable to discharge the functions or perform the duties imposed on it. However, the State Government shall give a reasonable opportunity to the State Commission to make representations against the proposed supersession. However, the State Government shall cause a notification issued and a full report of any action taken and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

*Clause 41.*—This clause provides that Central Chief Commissioner and Central Commissioners and officers and other employees of the Central Commission and the State Chief Commissioner and State Commissioners and officers and other employees of the State Commission shall be public servants within the meaning of section 21 of the Indian Penal Code.

*Clause 42.*—This clause seeks to empower the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the various matters in respect of which such rules may be made.

*Clause 43.*—This clause provides that every rule made and every notification issued under the proposed legislation shall be laid before each House of Parliament.

*Clause 44.*—This clause seeks to empower the State Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the various matters in respect of which such rules may be made.

*Clause 45.*—This clause provides that every rule made and every notification issued under the proposed legislation shall be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

*Clause 46.*—This clause relates to the power of the Central Government to remove difficulties. In case any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may make such provisions as may be necessary in removing the difficulties by order published in the Official Gazette. However, no such order shall be made under this clause after the expiry of a period of two years from the commencement of the proposed legislation and every such order shall also be required to be laid before each House of Parliament.

## FINANCIAL MEMORANDUM

Sub-clause (1) of clause 8 of the Bill provides for the establishment of the Central Electronic Service Delivery Commission.

Sub-clause (4) of Clause 11 of the Bill provides for salaries, allowances and other terms and conditions of service of the Central Chief Commissioner or Central Commissioners.

Sub-clause (1) of clause 15 of the Bill provides for establishment of the State Electronic Service Delivery Commission.

Sub-clause (4) of clause 18 provides for salaries, allowances and other terms and conditions of service of the State Chief Commissioner or State Commissioners.

Sub-clause (2) of Clause 23 of the Bill provides for salaries and allowances payable to and the terms and conditions of service of the officers and other employees of the Central Commission and the State Commission.

Clause 30 of the Bill provides that all sums realized by way of penalties under the proposed legislation shall be credited to the Consolidated Fund of India.

Clause 31 of the Bill provides that the Central Government shall, after due appropriation made by Parliament by law, pay to the Central Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purposes of the proposed legislation and the Central Commission may spend such sums of money as it thinks fit for performing the functions under the proposed legislation out of the grants received. The annual expenditure for the operations of the Commission will be of the order of Rs 4 crores which can initially be met from within the outlay available with the Department of Information Technology. No additional funding is being sought.

Clause 32 of the Bill provides that State Government shall, after due appropriation made by the Legislature by law, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilized for the purposes of the proposed legislation and the State Commission may spend such sums of money as it thinks fit for performing the functions under the proposed legislation out of the grants received.

The Bill if enacted, is not likely to involve any other recurring or non-recurring expenditure.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 42 of the Bill empowers the Central Government to make rules for the purpose of carrying out the provisions of the proposed legislation. Sub-clause (2) of said clause specifies the various matters in respect of which the rules may be made. These matters *inter alia*, relate to the manner and quality of delivery of services, the manner in which assisted access to electronic services shall be provided to specified categories of users, the framing of electronic governance standards for ensuring interoperability, integration, harmonisation and security under section 5, the manner of notifying the Grievance Redressal Mechanism under section 6, the manner of filing the complaint by the aggrieved person under sub-section (1) of section 7, the manner of processing of complaints under sub-section (2) of section 7, salary, allowances and other terms and conditions of service of Central Chief Commissioner, Central Commissioners, under sub section (4) of section 11, regulation of the procedure for the investigation of misbehaviour or incapacity of the Central Chief Commissioner or Central Commissioner under sub-section (3) of section 12, salaries allowances and other terms and conditions of service of staff of the Central Commission, the form of preparation of the annual report of the Central Commission, the manner of filing of representations before the Central Commission, the procedure to be followed while disposing the representation, the form of preparation of the annual statement of accounts of the Central Commission.

2. Clause 44 of the Bill empowers the State Government to make rules to carry out the provisions of the proposed legislation. Sub-clause(2) of said clause specifies the various matters in respect of which the rules may be made. These matters *inter alia*, relate to the manner and quality of delivery of services, the manner in which assisted access to electronic services shall be provided to specified categories of users, the framing of electronic governance standards for ensuring interoperability, integration, harmonisation and security under section 5, the manner of notifying the Grievance Redressal Mechanism under section 6, the manner of filing the complaint by the aggrieved person under sub-section (1) of section 7, the manner of processing of complaints under sub-section (2) of section 7, salary, allowances and other terms and conditions of service of State Chief Commissioner, State Commissioners, under sub section (4) of section 18, regulation of the procedure for the investigation of misbehaviour or incapacity of the State Chief Commissioner or State Commissioner under sub-section (3) of section 19, salaries allowances and other terms and conditions of service of staff of the State Commission, the form of preparation of the annual report of the State Commission, the manner of filing of representations before the State Commission, the procedure to be followed while disposing the representation, the form of preparation of the annual statement of accounts of the State Commission.

3. The rules made and notification issued by the Central Government under the proposed legislation shall be required to be laid before each House of Parliament and in case of the rules made and notification issued by the State Government, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

4. The matters in respect of which rules may be made under the proposed legislation are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.



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

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*(Shri Kapil Sibal, Minister of Human Resource Development)*

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