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**STANDING COMMITTEE ON
INFORMATION TECHNOLOGY
(2011-12)**

FIFTEENTH LOK SABHA

**MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY
(DEPARTMENT OF ELECTRONICS AND INFORMATION TECHNOLOGY)**

THE ELECTRONIC DELIVERY OF SERVICES BILL, 2011

THIRTY-SEVENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2012/ Bhadrapada, 1934 (Saka)

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Presented to Lok Sabha on _____

Laid in Rajya Sabha on _____



LOK SABHA SECRETARIAT

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COMPOSITION OF STANDING COMMITTEE ON INFORMATION TECHNOLOGY

(2011-12)

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* Nominated to the Committee w.e.f. 29th November, 2011.

** Nominated to the Committee w.e.f. 4th May, 2012 *vice* Shri P. Rajeeve, M.P. Rajya Sabha

Nominated to the Committee w.e.f. 17th May, 2012

@ Nominated to the Committee w.e.f. 11th July, 2012 *vice* Shri Rajeev Chandrasekhar and Shri Ravi Shankar Prasad, M.P. Rajya Sabha

INTRODUCTION

I, the Chairman, Standing Committee on Information Technology (2011-12) having been authorized by the Committee to submit the Report on their behalf, present this Thirty-seventh Report on 'The Electronic Delivery of Services Bill, 2011', relating to the Ministry of Communications and Information Technology (Department of Electronics and Information Technology).

2. The Electronic Delivery of Services Bill, 2011 was introduced in Lok Sabha on 17 December, 2011 and referred to the Committee on 5 January, 2012 for examination and report thereon by the Hon'ble Speaker, Lok Sabha under Rule 331 E (1) (b) of the Rules of Procedure and Conduct of Business in Lok Sabha within three months. On the request of the Committee, the time given was extended till the last week of Monsoon Session of Parliament by the Hon'ble Speaker, Lok Sabha to enable the Committee to have wider consultations and present the Report to the House.

3. The Committee took evidence of the representatives of the Ministry of Communications and Information Technology (Department of Electronics and Information Technology) at their sittings held on 14 and 22 August, 2012. The representatives of the Ministry of Law and Justice (Departments of Legal Affairs and Legislative Department) assisted the Committee in clarifying the legal position with regard to the aforesaid amending legislation.

4. The Report was considered and adopted by the Committee at their sitting held on 28 August, 2012.

5. The Committee wish to express their thanks to the representatives of the Department of Electronics and Information Technology for tendering evidence before the Committee and providing information that the Committee desired in connection with examination of the Bill. The Committee also wish to express their thanks to the representatives of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) in assisting the Committee. The Committee, further, wish to express their thanks to the State Governments/UT Administrations for furnishing their valuable inputs as well as to experts/ individuals/ organizations/stakeholders and public at large who furnished written information/views for consideration of the Committee.

6. For facility of reference and convenience, the Recommendations/Observations of the Committee have been printed in bold in Part-II of the Report.

New Delhi
29 August, 2012
07 Bhadrapada, 1934 (Saka)

RAO INDERJIT SINGH
Chairman,
Standing Committee on
Information Technology

REPORT

PART-I

NARRATION ANALYSIS

Genesis and the Background of the Electronic Delivery of Services Bill, 2011

The Electronic Delivery of Services Bill, 2011 (Appendix-I) was introduced in Lok Sabha on 27 December, 2011 and was referred to the Standing Committee on 5 January, 2012 by Hon'ble Speaker for examination and report to the House within three months i.e. by 4 April, 2012. The Committee at their sitting held on 3 April, 2012 decided that Hon'ble Speaker might be requested to give extension of time for presentation of Report on the aforesaid Bill till the last week of the Eleventh Session of Parliament so as to facilitate wider consultations on the provisions made under the Bill. Hon'ble Speaker, accordingly, agreed to the request of the Committee.

2. The proposed Electronic Delivery of Services Bill, 2011, consists of 46 Clauses in Nine Chapters. While enumerating the objectives of legislation the Statement of Objects and Reasons states as under:-

"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."

3. The Statement of Objects and Reasons while giving the genesis of the bringing the aforesaid legislation states as under:-

"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.

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.

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."

4. In regard to the process of consultations before bringing the aforesaid legislation, the Committee were informed by the Department that the draft of the Electronic Delivery of Services Bill, 2011 was initially drafted on 8th February 2011 and was placed in the DeitY website (www.mit.gov.in) twice for public consultations. Subsequently, a draft Cabinet Note on the proposed EDS bill was prepared on 15th April 2011 and shared with the various Central Government Ministries. In response, thereto 39 Central Government Ministries and Departments have provided their responses on the draft legislation. The Department also undertook consultations with State Governments. Subsequently, Consultative Meeting on the draft Bill was organized on 18th July, 2011, under the chairmanship of Minister for Communication and Information Technology to provide an opportunity to all stakeholders to give their suggestions on the draft Bill. Further, a Public notice on the Electronic Delivery of Services Bill was inserted in all the editions of a national daily i.e., the Times of India.

5. The Electronic Delivery of Services Bill, 2011 was then introduced in Lok Sabha on 27 December, 2011 and referred to the Standing Committee on Information Technology by the Hon'ble Speaker, Lok Sabha, for examination and report to the House.

6. Considering the immense importance of the Bill, the Committee invited memoranda containing views/suggestions from various individuals /experts /organisations /stakeholders/ interested on the subject matter of the Bill through advertisements in print and electronic media. Accordingly, various memoranda from various stakeholders and public at large were received.

7. Considering the fact that the State Governments/UT Administrations would have major role in implementation of various provisions in the Bill with regard to providing electronic delivery of services, the Committee decided to have wider consultations of State Governments/UT Administrations. As such the views/suggestions of State Governments/UT Administrations were invited after

seeking the approval of Hon'ble Speaker. In the process, the Committee received several write-ups/ views/ suggestions from 15 States/UT administrations viz. Delhi, Goa, Pudducherry, Dadar and Nagar Haveli, Andaman and Nicobar Islands, Tripura, Meghalaya, Manipur, Sikkim, Nagaland, Uttar Pradesh, Andhra Pradesh, Himachal Pradesh, Arunachal Pradesh and Jharkhand.

8. The representatives of the nodal Ministry i.e. the Department of Electronics and Information Technology deposed before the Committee at the sitting held on 14th and 22nd August, 2012. The Committee in the process of examination of the Bill called for written replies to various issues that emerged during the course of deliberations on the provisions made under the Bill from the nodal Ministry .e. the Department of Electronics and Information Technology. The representatives of the Legislative Department and Department of Legal Affairs of the Ministry of Law and Justice assisted the Committee in clarifying the various legal issues.

9. Having examined the provisions made under the Bill in the light of the write-ups/ views/ suggestions from various individuals /experts /organisations /stakeholders/ State Governments/UT Administrations and clarifications /written responses made by the Nodal Ministry as well as clarifications given by the Legislative Department and Department of Legal Affairs, the Committee could arrive at their views on the provisions made under the Bill. The detailed position with regard to the deliberations along with the recommendations/observations of the Committee with regard to the provisions made under the Bill is given in the subsequent parts of the Report.

CHAPTER-II

ANALYSIS OF THE ELECTRONIC DELIVERY OF SERVICES BILL, 2011

I. Delivery of Public Services through Electronic Mode (Clause 3 of the Bill)

10. Clause 3 and 4 of the Electronic Delivery of Services Bill, 2011 states as under:-

Clause 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,—

- (a) which cannot be delivered electronically;
- (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:

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."

Clause 4

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.

(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—

- (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.

(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.

11. Further, the Objects and Reasons of the Bill states that it is proposed to enact a legislation which would mandate provisioning of all public services compulsorily through electronic means from a specified date.

12. One of the individual in the written memorandum submitted to the Committee suggested to incorporate the provisions in the Bill to work manually in case it becomes difficult or impossible to provide electronic delivery of services, particularly with the existing scenario of power/computer breakdown.

13. Besides, the Union Ministry of Social Justice and Empowerment during the course of consultations held by the Department of Electronics and Information Technology on the issue of making electronic delivery of services mandatory suggested as under:

“The Bill mandates that all services have to be delivered only electronically. It should instead provide a choice to the citizen to receive public services either in the electronic or the non-electronic mode.”

In this connection, the Department in the written note clarified as under:-

“Though the EDS Bill mandates delivery of all public services in electronic mode, the Bill does not preclude the delivery of services in manual mode. Thus, there is a window available to States to switch to manual mode in case of emergencies in the electronic mode.”

14. When specifically asked whether there is a provision to have simultaneous services through electronic mode as well as manual mode except emergencies, the Department informed that the Bill is silent on simultaneous delivery of services through electronic mode as well as manual mode.

15. The Committee wanted to know the position prevalent internationally regard to mandatory electronic delivery of services. The Department in this

connection indicated the objectives of respective legislations of five countries viz. USA, Australia, UK, Republic of Korea and Austria as reproduced below:-

“ (a) The E-Government Act of 2002 of the United States of America aims to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

(b) The Electronic Transactions Act, 1999 of Australia aims to facilitate electronic transactions, and for other purposes.

(c) The Electronic Communications Act, 2000 of the United Kingdom aims to make provision to facilitate the use of electronic communications and electronic data storage; to make provision about the modification of licences granted under section 7 of the Telecommunications Act 1984; and for connected purposes.

(d) In Republic of Korea, the Framework Act on Electronic Commerce (1999); and the Digital Signatures Act (1999) were enacted to promote e-commerce but are different in terms of basic objectives. While the Electronic Transactions Act provides for general and policy measures to promote e-commerce, the Digital Signature Act focuses on achieving security and reliability of digital documents with clear provisions regarding digital signature technologies and the designation and management of the accredited certification authorities.

(e) In Austria, the E-Government Act aims to promote legally relevant electronic communication. Electronic communications with public bodies are to be facilitated, having regard to the principle of freedom to choose between different means of communication when making submissions to such bodies.”

16. The Department, in a written note, furnished the details with regard to number of electronic delivery of services transactions made per month in various States/UTs as on 30 June, 2012. The analysis of the data indicates that only Andhra Pradesh and Bihar have delivered electronic services more than 1 crore, whereas, bigger States like Uttar Pradesh has not even delivered 1 lakh services per month. On the other side, State of Goa, which has claimed to be far ahead in implementation of the electronic delivery of services and have 173 public serves online, has done e-transaction of only 6 thousand per month, which is even less than Puducherry. The data shows poor e-transactions in all the North Eastern States, Jammu and Kashmir, Jharkhand, Odisha etc. The total e-transactions in one month in the country having billion plus population is only 641.77 lakhs.

17. The Committee took note of the scenario of Broadband expansion in the Country in the context of examination of the aforesaid Bill. As per the

information made available to the Committee, during the course of examination of Demands for Grants 2012-13, by the Department of Telecommunications, there are 13.54 million broadband connection in the Country. The broadband penetration is just 1.44 per cent. **(Refer Para No. 25 of 31st Report 15th Lok Sabha).**

II. Timelines for implementation of the provision made under the current legislation

18. *Clause 3* of the Bill provides that the Central Government, State Government and public authorities shall deliver all public services by electronic mode within 5 years of the commencement of the Act and the period of five years can be further extended by 3 years in consultation with the Central Commission or the State Commission. However, few States like Tripura and Arunachal Pradesh who submitted their Memoranda to the Committee, have expressed their reservations on the targeted time period of eight years (5 +3) on account of the following reasons:-

“1. Tripura – The targeted timeline may be applicable for more advanced States in the country where ICT penetration has had a head-start advantage in the government. However, for the underdeveloped NE region the Bill may have adverse effects arising out of service level maintenance due to unreliable infrastructure facilities. It may perhaps be more appropriate to firstly address the provision of reliable and fail-proof infrastructure facility, especially ICT facilities, in a time-bound manner and thereafter pursue the Bill.

2. Arunachal Pradesh - “Arunachal Pradesh is a difficult terrain so provisioning of Telecom Services should be given special care. For Delivery of Electronic Services the first and foremost requirement is the constant power supply throughout the day which is not available in the state.”

19. Some States/UTs who submitted their memoranda to the Committee have outlined following concerns/ hindrances in implementing this Bill:

Delhi	There are a few concerns regarding the implementation of the Bill which are listed below:- Awareness/Training Co-ordination among departments Third party software But these can be overcome by Government of NCT of Delhi.
Goa	The Department should work in coordination and give equal importance to the application received through electronic mode and dispose the same in time bound manner. State should amend the rules & regulations to deliver the services

	<p>online</p> <p>Awareness & acceptance of the key services</p>
Puducherry	<p>State Government does not foresee any hindrance in implementing the Bill once it becomes an Act. All State/UT Government departments have their own challenges like unavailability of digitized data, infrastructure, software applications, IT manpower, etc, in implementing e-Governance and delivery of services in electronic mode.</p>
Dadar and Nagar Haveli	<p>No</p>
Meghalaya	<p>As mentioned above, the core infrastructure projects are ready and functional. However, not many services are available as backend MMPs of different departments are still pending for approval. This is a major challenge. Lack of services is also a big hindrance for the sustainability of even CSCs. Capacity building and change management are other challenges which could be handled with proper planning and execution.</p>
Manipur	<p>Yes, A large effort will have to be made on publicizing the new look certificates and documents which will have digital signature instead of ink signature. Officers have to be trained on how to use digital signature.</p>
Sikkim	<p>No the State has a fully functional IT Department whose role is to impart computerization in the Government processes.</p>
Nagaland	<p>While appreciating the Bill, the state also foresees the following challenges.</p> <ol style="list-style-type: none"> Lack of manpower with the right skillset to drive the delivery of services. Lack of fund to undertake computerization of departmental services. Lack of regular and stable electricity in the State. Mindset change among the Government machinery to ICT base administration and ICT base delivery of service.
Uttar Pradesh	<p>No</p>
Andhra Pradesh	<p>True process transformation in all Government services is taking place and this process transformation implies reallocation of current resources and functions.</p> <p>Internal infrastructure (Computers, Process, Manpower) in Departments is to be strengthened and may demand investment.</p>
Himachal Pradesh	<p>There are factors which need to be looked into or re-visited :</p> <ul style="list-style-type: none"> Since, the electronic delivery of services required extensive back end data entry, the GoI must separately structure a scheme to fund the State Governments for creating back end databases. Because of challenging terrain region make provisions to provide multiple connectivity options to the State Departments such as Broadband, Satellite, Optical Fibre etc.

	<ul style="list-style-type: none"> The provision of creating a separate State Electronic Service Delivery Commission. Since, Himachal Pradesh is a small State, therefore, instead of creating a State Electronic Service Delivery Commission (which may entail unnecessary cost on the State exchequer), the States should have freedom to choose from amongst its autonomous regulatory bodies to take on this responsibility.
Arunachal Pradesh	<p>Constant power supply not available Telecom services coverage not reaching most of the Districts and Blocks consequently Network coverage lagging in the state. Transportation difficulty in remote areas. Computer literacy rate is low.</p>
Jharkhand	<p>That the State of Jharkhand foresees no hindrance in the implementation of the Bill once it becomes an Act.</p>

20. The Committee desired to know about the sufficiency of existing infrastructure facility with the Centre and States/UTs for implementing the proposed legislation and preparedness of the Department to overcome the infrastructure and other hurdles. Besides, the Committee also asked as to how the implementation of the Bill would be ensured in villages/areas where basic infrastructure like electricity, internet connectivity etc. has not yet reached and where existing infrastructure facility is not sufficient to implement the proposed legislation. Responding to this, the Department, in their written note stated that existing infrastructure facility with the Centre and States/UTs is sufficient enough for implementing the proposed legislation and there is adequate time with the States to overcome the infrastructure and other hurdles. The Department also proposed to address these concerns through the implementation of flagship programme of NeGP.

21. Since, computer literacy of the masses is imperative to avail the services through electronic delivery mechanism, the Committee took note of the fact that the Government is yet to conduct the survey to know about the literacy level in the country. More so, literacy level is still to be defined as emerged during the course of deliberations of Demands for Grants (2012-13) of the Department of Electronic and Information Technology. (Refer Para No. 19 of 34th Report 15th Lok Sabha).

22. Andhra Pradesh and Jharkhand Government in their written suggestion submitted to the Committee in this regard furnished the following constraints:-

"Andhra Pradesh - Literacy and Computer literacy rates are adequate in urban areas. However, there is a shortfall in rural areas. Technology alternatives could be touch based or mobile based applications incorporating more symbols than language.

Jharkhand - The literacy rate and computer literacy rate are not sufficient enough to deliver the services electronically.”

23. To provide e-infrastructure at various levels of the Government, the National e-Governance Plan was approved by the Government in May, 2006. The Statement of Objects and Reasons while analyzing the objective of the proposed legislation *inter-alia* states as under:-

“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 realize the basic needs to the common man.

In order to realize 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.”

24. The Committee have consistently been raising concerns over shifting of deadlines of implementation of various components of e-Governance programme. The Committee in the context of examination of the Bill took note of the status of implementation of various component of e-Governance as made available during the course of examination of Demands for Grants (2012-13). The relevant extract from 34th Report 15th Lok Sabha are reproduced below:-

“The under CSCs, the target was for setting up of one lakh CSCs in various States. In spite of shifting the deadline for several times, out of the target of one lakh CSCs, 97871 CSCs could be established till 31.12.2011. Not only that out of 97871 CSCs that could be established around 88,000 CSCs could be made operational in the Thirty-three States. Besides, only 68,754 CSCs could be connected by the internet. Now, the deadline for completing the task of one lakh CSCs has been shifted to March, 2013. State Wide Area Network (SWAN) could be made operational in 30 States/UTs and now the deadline has been shifted to March, 2013. In respect of the State Data Centres (SDCs), 16 SDCs have been declared operational and now the extended deadline is by March, 2013. With regard to MMP, NSDG target completion date is January, 2014, NLRMP is expected to be completed in August, 2016 and for Treasuries, Municipalities, Commercial Taxes, the completion date is 2013-14. The target date for one of the ambitious programme Gram Panchayat is still to be firmed up. With regard to other important MMPs like, employment exchange, public distribution system, health and

education, the target dates have not been indicated. The MMPs are still at the conceptual/design and development stages.”

25. With regard to the functioning of CSCs, the Committee has referred to the independent evaluation done by M/s IMRB International at paragraph no. 11, page 25 of 23rd Report on Demands for Grants (2011-12). The study revealed that only 58 per cent of CSCs were found to be fully operational out of a sample size of 1727. The irregular power connectivity in various States as known to everybody is another constraint. Above all, the biggest challenge is Broadband connectivity. With the existing Broadband penetration of just 1.44 per cent, it is not understandable how the implementation of the mandatory electronic delivery of services would be ensured.

26. Irregular power supply is another constraint in implementation of the provisions made under the current legislation. When specifically asked as to how the Department would address to the challenge of irregular power supply and poor connectivity particularly in the view of the existing scenario, the Committee have been apprised that under the National e-Governance Plan, Department of Electronics & Information Technology (DeitY) is tackling the issues related to connectivity and power in the Common Service Centres. It is targeted to provide Broadband Connectivity for all CSCs by December 2012. Besides, National Optical Fibre Network (NOFN) will also provide connectivity to all the Panchayats by December 2013. On the power issue, the Central/State Governments would work in tandem to ensure adequate supply of power to the CSCs. DeitY is also exploring various options like Solar Power, in consultation with Ministry of New and Renewable Energy (MNRE), to address the problem of inadequacy of power.

27. In this connection, the Secretary, during course of oral evidence submitted as under:-

“There are a couple of issues like powerxxxxx..... On the power front, we are in dialogue with the Ministry of Non-Conventional Energy Sources. They have agreed to sanction a scheme of solar power for all those villages in the North-East and in hilly States. We need to provide these services in respect of chaos and for Government offices. It exists with 90 per cent subsidy. We are on the verge of submitting a proposal. We have had a detailed discussion with them. We are going to visit there very soon. In the current year itself, we are going to take up that scheme. A scheme of 40 per cent exists for remaining phase which is outside the North-Eastern hills. We will consider it in the next phase.

28. On being pointed out by the Committee that this type of energy would not be available in winter/cloudy days, the Secretary further added as under:-

“We are also addressing the power problems in our own way so that they are not dependent exclusively on the grid power. Even if there is a failure, then they should be able to run on solar power. “

III. Delivery of Public services on payment basis

29. The Ministry in their replies has stated that public services would be available through internet, Common Service Centres, cyber café, internet kiosks, mobile phones and devices as well as through Departmental outlets.

30. When asked whether such services would be paid services, the Department in the written reply stated as under:-

“Under Section 6A of the Information Technology Act the appropriate Government may also authorise any service provider to collect, retain and appropriate such service charges as may be prescribed by the appropriate Government for the purpose of providing such services from the person availing such service. The service charges would be nominal and as approved by the ‘appropriate Government’. Central Government and several State Governments have notified rules under this section prescribing such service charges. The existing provisions do not preclude a situation where some services can be provided free.”

31. On the specific query of the Committee, who would help the illiterate masses in making their applications through all these techno savvy application centers, the Department responded as under:-

“Sub-clause(a) of clause 2 of the Bill defines ‘assisted access’ which means assistance to access electronic services. It would be the responsibility of the Central Government/State Government/Public authority to provide assistance to users including, illiterate people, while delivering a public service in electronic mode. The scheme of Common Service Centres is meant to provide assistance to illiterate users in rural areas to avail all the e-services on par with others.”

32. The Committee in the context of the examination of the Bill, referred to their observations regarding shifting of deadlines of CSCs made in 34th Report of the Committee. Extracts of Para no. 5 of the aforesaid Report are reproduced below:

“In spite of shifting the deadline for several times, out of the target of one lakh CSCs, 97871 CSCs could be established till 31.12.2011. Not only that out of 97871 CSCs that could be established around 88,000 CSCs could be made operational in the Thirty-three States. Besides, only 68,754 CSCs could be

connected by the internet. Now, the deadline for completing the task of one lakh CSCs has been shifted to March, 2013. State Wide Area Network (SWAN) could be made operational in 30 States/UTs and now the deadline has been shifted to March, 2013.
"

33. Planning Commission during the course of consultation by the Department on the Bill had made the observation that if the services are to be charged for in the form of fee then the bill should specifically contain a provision, considering that a legislative basis for a fiscal charge is the norm.

34. To this, the Ministry, responded as under:-

"The same has been provided for under the Rules framed under Section 6A of IT Act amended as on 2008 and necessary approvals for quantum and nature of service charges will be decided by the concerned Department/State Government by following the laid down process."

IV. Requirement of Financial Resources for implementation of Electronic Delivery of Services Bill, 2011

35. The Financial Memorandum appended to the Bill provides as under:-

Clause 31

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.

(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).

Clause 32

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.

(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)

36. The Committee during the course of consultations received memoranda from 15 States. All the States have raised the issue of financial constraints the details of which are given as under:-

Delhi	Additional financial resources are required in Government of NCT of Delhi. Additional infrastructure will need to be set up and there will be requirement of additional resources at Government of NCT of Delhi.
Goa	In order to do an assessment on financial, a DPR needs to be prepared with the help of Consultant, who will study the requirements. Accordingly, it is proposed that a central funding needs to be provided to the States for successful implementation.
Puducherry	Fund requirement is very important for implementation of e-Governance projects and ensure delivery of services online.
Dadar and Nagar Haveli	The UT is in the process on implementing the NeGP projects of SDC/UTWAN/SSDG & SP through assistance of Goa, which is expected to be operational by September, 2013. The requirement of financial resources for the above projects will be sourced through the Central Government through Department of Information Technology, Government of India.
Meghalaya	The existing financial resources with the state are considered grossly insufficient to implement and sustain these projects. Core infrastructure has been created with the help of NeGP funds and further allocations will certainly be required for various MMPs of the departments. The State Government will also provision for the unique requirements in its own Budget and Annual Plan outlays. Detailed project reports along with expected fund requirements for more than ten different departments have already been forwarded to respective central line ministries for approval. Without automating the department back ends, no services can be delivered seamlessly.
Manipur	Additional resources will required.
Andman and Nicobar Island	—
Sikkim	Yes
Tripura	The State Government has very limited financial resources to address the ongoing initiatives. Adequate financial resources would therefore be required towards preparedness for successful implementation of the Bill. No, the Central Government shall be informed on analysis of the gap requirements for implementation of the law.

Nagaland	Financial resources available with the state government is not sufficient so as to employ concerned officials (State Chief Commissioner, State Commissioner, State Commissioner, other official staff etc.)
Uttar Pradesh	The current infrastructure is grossly insufficient for implementing this Law. There is huge requirement of Systems and Capacity Building to enact the Law. The delivery end needs to be well equipped before making the electronic services delivery mandatory.
Andhra Pradesh	Yes. A proposal on 'Mee Seva' has been sent to Planning Commission, GoI and 30% has been granted as one time assistance.
Himachal Pradesh	The existing financial resources are not sufficient to undertake the activity for the implementation of Electronic service Delivery law. The same was conveyed during the meeting held in GoI on 18.07.2011.
Arunachal Pradesh	<p>We would like to take this opportunity to highlight our concerns to Central Government. We need Financial resources for Infrastructure and Capacity Building development across the state. The infrastructure part covers for</p> <ul style="list-style-type: none"> • Telecom Services • Gensets • Power supply • Roadways development • Computer/Network infrastructure <p>With regard to infrastructure and capacity building development, can you give us the address to whom we should approach for financial resource assistance?</p>
Jharkhand	The existing financial resources available with the State Government may be sufficient for the implementation of this law. In case of any further financial constraint, financial aid may be sought for from the Central Government. Since no certain financial constraint was visualized the same has not been communicated to the Central Government.

37. Planning Commission during the course of consultations held by the Department had raised the following issue:-

“DIT has shown ₹ 4 core as the financial implications for setting up of Central Electronic Service Delivery Commission. However, DIT needs to take into consideration the overall cost involved as the proposal envisages establishment of State Electronic Service Deliver Commission also.”

38. In response to the observation of Planning Commission, the Department of Electronics and Information Technology has stated that the State Government will make financial provisions for the State Electronic Delivery Commission.

39. On a specific query raised by the Committee, with regard to requirement of additional funds as sought by various States/UTs, the Department has stated that most States have expressed their agreement with the provisions of the Bill during consultations with them. Under the National e-Governance Plan, funds are provided to the State Governments to implement several electronic service delivery projects. Specific and additional fund requirements of States/UTs can also be considered on a case to case basis.

V. Penalties provided under the legislation

40. *Clause 29* of the Bill provides as under:-

“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 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.’

29 (2) In case of willful 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 extend up to twenty thousand rupees.”

41. When asked to clarify as to who would be the competent authority/officer for discharging the duty/held accountable for handling ‘Electronic Service Delivery’ the Department has stated as under:-

“Competent authorities would be notified by the Central/State Governments. Depending on the facts of the case, the Commission would impose penalty on the Competent Authority or any officer under it, if it or he while discharging duty relating to any provisions of this Act, without any reasonable cause contravenes any provisions of the Act and it or he would be made responsible for all acts related to electronic delivery of services.”

42. In view of the fact, that most of the IT services in Government Departments are outsourced and employees also work on contract, the Committee desired to know about the provisions incorporated in the Bill to ensure/fix accountability of these outsourced employees. The Department has clarified that the outsourced employees are under contract with the Government and Government can proceed against them for any contravention of the

contract. Besides, in cases of fraud, the Government can always prosecute under criminal laws.

43. The Department, when further asked to clarify as to whether the provisions of *clause 29(1)* would be applicable in the case of outsourced employees or the outsourced employees would be governed by the terms and conditions of the contract, they have stated that the outsourced employee who is working on an outsourced job are not covered by the provisions of the Bill. In addition, they have submitted as under:-

“The provisions of clause 29(1) are applicable to any competent authority or any officer under it. Employees on contract working for the Central Government or State Government or the public authority would be governed by the Act, if the word ‘officer’ is changed to ‘employee’. This change is proposed for the consideration of the Standing Committee.”

44. The Secretary, further clarifying about the provisions during the course of evidence stated as under:-

“In the Government today, there are permanent Government employees or employees who are taken on contract, who is also a Government employee only but he is hired on a contract basis for three or four years. He is a private man; he is taken on a contract. He can sign the Government file, he will have the authority to exercise everything. He is on par with other employees except that he is hired on contract from the market for a fixed term.

Third category is, what is called outsource, who is not a Government employee, now or any time. That means, I want certain activity to be done. For instance, printing of certain publications, etc. I do not have the adequate capacity or press. So, I outsource it to some company outside or I will ask that company to supply certain people on my premise, on an outsource basis. I pay to the company; I do not pay salary to the individual; then, he is not with the government. He is not a Government employee in any manner. So, these provisions do not apply to him but to the person who has employed; who has given that service to that company. So what we are saying is – category one, it applies to pure Government employees; category two – employing in a contract basis, the provision would apply; but for an outsourced employee, who is working on an outsourced job, it will not apply to him. Currently, that is the situation because the relationship is between the contractor and the Government, and not between the person and the Government. ”

45. When specifically enquired about the applicability of the applicant in case of outsourced service provider, the Secretary clarified as under:-

“The current law does not spell it out. It is not covering that contingency of a pure private person. He is not under the penal provision here.”

46. The Secretary further added as under:-

"We will consult legal experts as to how to handle outsourced work."

47. In the post evidence communication, the following amendments in Section 29 of the Bill were suggested by the Department:-

"In Clause 29 insertion of the words " or any person on contract" after the words "Where a Competent Authority or any officer under it".

In Clause 29 (2) insertion of the words "or any person on contract", after the words "or any officer under it."

VI. Issues related to persons with physical disabilities

48. One of the Stakeholders 'Inclusive Planet Centre of Disability Law and Policy', in their Memorandum has expressed concerns on accessibility requirement of persons with disabilities. To this, the Department, in their comment on the Memoranda, has stated that the EDS Bill does not discriminate against persons with disabilities. The Bill also defines 'assistance access' which means 'assistance to access electronic means'. On being asked about their opinion on the definition of 'assisted access' being too general, the Department has negated the view and has stated that the term assisted access is a generic provision under the EDS Bill which would include assistance to persons with disabilities.

49. Further, when asked to clarify about the facilities for providing hard copy documents/forms in Braille and large print or for using thumb impressions instead of signatures while submitting the form or receiving the services / provision for providing intermediaries/ professional sign language interpreters etc, for assisting the persons from disabilities at the electronic delivery centre, the Department, in the written reply has submitted as under:-

"Clause 4(4)(a) of the Bill provides for "(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;"
Further, Central /State Governments under Clause 42(2)(c)/44(2)(c) of the Bill have been empowered to frame Rules to "simplify and improve the existing process and forms relating to such services.

That is, at the time of making of Rules, special needs of physically handicapped in terms of "assisted access" would be taken care of.
"

50. In the post evidence communication, the following amendment has been proposed by the Department in the Clause 2 (a):-

“In Clause 2(a), insertion of the words “by the users including users with special needs” after the words ‘electronic services’.”

51. When the issue was specifically raised during the course of oral evidence, the Secretary suggested as under:-

“In Section IV, Sub-section (iv), the Bill provides for assisted access in such manner as may be provided. So, in the rules, we can give more detailed specifications. There is already a provision for assisted access in the Bill itself. Under these rules, we can elaborate what kind of disabilities are there and what kinds of provisions are needed.

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We are to come up with those guidelines which will supplement or elaborate it about the ground level, what are all to be done for the people who are physically-challenged, visually-challenged, mentally-challenged, who have hearing impairment, etc. What needs to be done has been put in the form of a policy document by the Department for the electronic procedures.”

52. Highlighting the issue of removal of Commissioners, one of the disability organisation, during the course of consultation, in their memorandum submitted to the Committee, stated as under:-

“There is a provision for removal of Commissioners on the ground of disability without providing reasonable accommodation, therefore Section 12 and Section 19 of Bill must be reworded to state that Commissioners may be removed from office on the grounds of disability only if they are incapable of acting as Commissioners in spite of the provision of reasonable accommodation. The concept of reasonable accommodation is clearly articulated in the UNCRPD and India is mandated to provide reasonable accommodation.”

53. Relevant Provision of the Electronic Delivery of Services Bill, 2011 are reproduced as below:-

Clause 12

12. (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,—

.....XXXXX.....XXXX.....XXX....

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

12. (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.

Clause 19

19. (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:

.....XXXXX.....XXXX.....XXX....

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

19. (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 State Chief Commissioner or State Commissioner, ought on such ground or grounds to be removed.

In this context, the Department in their reply has stated as under:-

"...xxxx.... As regards the suggestion on reasonable accommodation, drafting of the relevant Clauses are as per similar provisions in other legislations. However, suggestion can be considered while prescribing rules under clause 12 and 19."

VII. Security and the privacy issues

54. When asked how far the services delivered under National e-Governance Programmes in the State/UT are secured, few States/UTs like Delhi, Nagaland, Andhra Pradesh and Haryana responded as under:-

"Delhi - Every State has its data in the State-run and sometimes State-owned Data Center. The data center is managed by the Service Provider who is responsible for adhering to and maintaining best practices for security of Government owned data.

However, when data is used at the Departmental end, there is a huge scope of re-engineering of processes to create a robust and tamper – proof system in place.

Nagaland - Yes, the services will be provided through an electronic mode and through an online system. Hence, tempering can be restricted. However there should be provision in the Bill to restrict tempering.

Andhra Pradesh - The services need to be audited and certified periodically at least once in a year by a Third Party then only it can be confirmed whether the services are tamper proof or not.

Himachal Pradesh - The security audit of the NeGP programmes needs to be conducted through CERT-In to ensure that these applications are tamper proof.”

55. Further, when the Committee desired to know whether the existing mechanism of electronic delivery of services is foolproof and will not digitizing the same faulty system increase errors and frauds in service delivery mechanism, the Department stated as under:-

“The competent authorities, under clause 4(4), while introducing services in an electronic mode, are expected to simplify and improve the existing processes and forms relating to such services. The Central/State Governments can prescribe the manner of such process reengineering.”

56. In addition, the State of Goa has submitted as under:-

“The EDS Bill does not talk about the change in technology and associated steps to be taken for ensuring the integrity and safety of documents during technological upgradation and migration of data from one platform to an advanced platform.”

57. State of Tripura and Arunachal Pradesh, in this regard, has submitted as under:

“Tripura - The said disaster recovery mechanism should be able to sustain major disaster events and ensure minimal downtime for the services.

Arunachal Pradesh - This is true. Necessary preventive measures should be incorporated. As such the Bill in the current state doesn't have the provision to tackle the issues addressed above. It should be addressed before the bill prevails and is passed as an Act.”

58. With regard to the exigency plans that have been chalked out to have an alternate back-up system/mechanism for maintaining data / delivering services, the Department responded as under:-

“For all common core and support infrastructure under the NeGP, alternate back-up system/mechanism for maintaining data/ delivering services in the form of “disaster recovery” and

“business continuity” plans have been envisaged. The Disaster Recovery Sites for all States/UTs have already been identified in the respective National Data Centres at Delhi, Hyderabad, Pune and Bhubaneswar.”

59. On being asked about the need of dealing privacy and security issue in holistic manner in the legislation itself instead of leaving such sensitive matter to be decided by rules by Central/State Governments, the Department stated as under:-

“Clause 5 provides for specification of electronic governance standards and Clauses 42(2)(e) and 44(2)(e) are the corresponding rule making powers of the Central/State Governments regarding electronic governance standards. As e-Governance is a technological and dynamic subject that undergoes changes from time to time and as different governments could be at different levels of technological preparedness, the issue of security has been envisaged to be specified by rules to be made by Central/State Governments. Moreover, to ensure timely notification of electronic governance standards, instead of repeated amendments to Clause 5, it has been envisaged that notification of rules by the Central/State Governments under Clauses 42(2)(e) and 44(2)(e) would be more appropriate.”

60. Further, when asked whether some model rules would be drafted by the Centre so as to be a guideline for States in framing such rules, the Department answered in affirmation.

61. On the issue of cyber-security, the Department, in their comments on the suggestions for States/UTs, has stated that the provisions of IT Act shall apply to an offence or contravention committed outside India by any person irrespective of nationality. In this regard, the Committee desired to know as to how far it has been possible to prosecute the offender who is residing outside India in such cases. To this, the Department submitted as under:-

“India has signed Mutual Legal Assistance Treaties (MLATs) and Extraditions Treaties with many countries. In other words, it is possible to prosecute any offender who is residing outside India on the strength of existing legal framework.”

VIII. Verification of genuineness of the applicant

62. On the issue of verification of the intended recipient, State of Meghalaya, Uttar Pradesh and Delhi in their Memoranda, submitted as under:-

“Delhi - There are e-government systems in place within various departments but there is no robust way of authenticating the recipient of the service. Systems are not working under common umbrella and the concept of connected government is yet to arrive. Sometimes there is dependency on other states for certain intermediary services like

verification. For example – if a citizen applies for a SC certificate in Delhi but he belongs from Bihar, in that case Delhi will have to depend on Bihar for verification of this citizen.

Meghalaya - ...xxxx.....This being a complex and very important aspect, is being addressed separately both at national and State levels.

Uttar Pradesh - currently there is no mechanism for identification of the recipient of the service. The only way out in the current scenario shall be after the full implementation of the UID project. The unique identification number shall be linked with the citizens database thereby making the identity fool proof.”

63. Further, the Department in this regard stated as under:-

“Currently, different government applications use different modes of authentication of the user. As per the proposed e-authentication framework of the Government, the mechanism of verifying the genuineness of the intended recipient of services would be established for e-Governance applications. Government of India has embarked upon a project for the unique identification of the citizens called Aadhaar. All e-governance applications are expected to progressively leverage Aadhaar authentication services. Further, under clause 5 of the EDS Bill, Central Departments/State Governments would also prescribe e-governance standards which would, inter alia, include appropriate use of authentication mechanisms.”

IX. Duplication of Grievance Redressal Mechanism

64. One of the Stakeholders drew the attention of the Committee to the duplication of grievance Redressal mechanism as suggested in the proposed Bill with the Citizens Charter Bill which is pending in the Parliament. When specific comments from the Department on the aforesaid observation were sought, the Committee were informed as under:-

“Grievance Redressal Mechanism under the EDS Bill pertains to redressal related to “complaint” by any aggrieved person in respect of non-availability of service in electronic mode and also regarding ‘deficiency’ in delivery of electronic service [clause 7], whereas under the Citizens Charter Bill, “grievance redressal pertains to delivery of goods and services” (no reference as to redressal of ‘electronic service’).”

X. Term ‘Representation’ under Clause 26(1)

65. In the context of the provision related to Grievance Redressal Mechanism, one of the stakeholders in his Memorandum submitted to the Committee had stated that the term ‘Representation’ used under Clause 26(1) of the EDS Bill, 2011 is neither defined by this Bill nor by the IT Act, 2000.

When asked to clarify on the term 'Representation', the Department submitted as under:-

"The Commissions are appellate authorities vested with the powers of a Civil Court under the sub-clause(2) of clause 28 of the Bill. Therefore, the word 'appeal' seems more appropriate than 'representation' at clause 26. The suggestion can be considered and the word 'representation' could be substituted with the word 'appeal' at Clauses 26, 42 and 44."

66. Further, in the post evidence communication, the Department has suggested following amendment in Clause 2 (a):-

"Substitution of the word 'APPEAL' in place of the word 'REPRESENTATION' in the Chapter VI heading under the arrangement of clauses in page (ii) and in page 11.

In clause 26(1), the word 'representation' to be replaced with the word 'an appeal'.

In clause 26(2), the word 'representation' to be replaced with the word 'appeal'.

In clause 26(3), the word 'representation' to be replaced with the word 'appeal' .

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In clause 42(q), the word 'representation' to be replaced with the word 'appeals'.

In clause 42(r), the word 'representation' to be replaced with the word 'appeal'.

In clause 44(q), the word 'representation' to be replaced with the word 'appeals'.

In clause 44(r), the word 'representation' to be replaced with the word 'appeal'."

XI. Appointment of Central/State Chief Commissioner and Central/State Commissioners

67. With regard to qualification for appointment of Central Chief commissioner and Central Commissioners as well as State chief Commissioner and State Commissioners, Clause 9(1) and 17 (1) of the Bill provides as under:-

"Clause 9(1)–(for Central Chief Commissioner and Central Commissioners)

The Central chief Commissioner and Central Commissioners of the Central mission 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.

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

Clause 17(1)–(for State Chief Commissioner and State Commissioner)

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

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

68. The age prescribed in the Bill for the aforesaid posts is that at the time of appointment the applicant should not be more than Sixty-two years. Besides as per Clause 11(3) and 18(3) an officer of the Central Government or the State Government, on his selection as the Central/State Chief Commissioner or Central/State Commissioner, as the case may be, shall have to retire from service before joining as Central Chief Commissioner or Central Commissioner.

69. The aforesaid Commissioners 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 re-appointment 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.

XII. Awareness/Training

70. When the Committee desired to know as to whether the Department has envisaged any plan for educating people/citizens for receiving /using public services electronically/ for creating awareness about the legal enablement of the EDS Bill once it becomes an Act, the Department responded as under:-

"Under the NeGP, Departments have been creating awareness regarding public services available electronically. Information, Education and Communication activities will also be undertaken to educate the public about the provisions of the Bill and the services that would be available progressively on account of implementation of the Act.

Preparatory activities will also be undertaken to spread awareness, improve the capacity and preparedness of central/state authorities, and legal enablement through prescription of rules and the setting up of commissions and notification of Grievance Redressal Mechanisms once the Bill becomes an Act."

XIII. Need for bringing separate EDS Legislation

71. The Committee during the course of examination were apprised that the views of Department of Legal Affairs, Ministry of Law and Justice were sought

on the legislative competence of the Parliament to enact this law. The Department of Legal Affairs, Ministry of Law and Justice stated that the subject matter of the draft Bill is not appearing or specified in any of the list of the Seventh Schedule to the Constitution, therefore, the subject matter of the proposed legislation falls within the residuary entry of the Seventh Schedule to the Constitution. The Parliament is competent to enact the law in terms of Entry 97, List 1 of the Seventh Schedule of the Constitution of India, which reads as under:-

“Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.”

72. When specifically asked as to how many State Government have enacted Electronic Delivery of Services legislation, the Committee were informed that only Jharkhand has enacted EDS legislation so far. However, the States of Chhattisgarh, Madhya Pradesh, Karnataka, Kerala, Gujarat and Andhra Pradesh have prescribed Rules under sections 6/6A of the IT Act regarding electronic delivery of public services. Recently, DeitY has formulated and circulated Model State Electronic Service Delivery (ESD) Rules for adoption by various States under the IT Act. On the basis of these Model Rules, the State of Manipur has recently notified Manipur State IT Electronic Service Delivery (ESD) Rules.

PART-II

RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE

Delivery of Public Services through Electronic Mode (Clause 3 of the Bill)

1. The Committee note that Clause 3 of the Bill specifically provides that the Central Government, the State Government and public authority shall deliver all public services by electronic mode within five years of the commencement of the Act extendable by three years. The Statement of Objects and Reasons of the Bill clearly states that it is proposed to enact a legislation which would mandate provisioning of all public services compulsorily through electronic means from a specified date. In this connection, the Committee deliberated the aforesaid provisions at length during the course of examination and have noted that with the existing constraints in e-delivery mechanism which include poor broadband connectivity, inadequate power supply to run the computers/internet services, lack of qualified manpower handling the services, mindset of the officials etc., providing services through electronic mode seems to be a distant reality for the Central Government, the State Government and public authority. Considering the optimism of the Department that even if these constraints are addressed within the specified period, the irregular power supply and broadband availability would still remain as the constraints.

The other major challenge is to address the issue connected on the part of the recipient of the services. The Committee understand that electronic delivery of services means delivery of services would be made electronically to the applicant who would require accessibility through computer. With the low

level of literacy not to talk of computer literacy and the poverty of the masses, implementation of the provision made in the Bill remains the biggest challenge. In the connection, the Committee took note of the fact that the broadband penetration in the country is only 1.44 per cent and as per the Department's own data the e-transactions in a particular month in the country are only 641.77 lakh. Biggest State like Uttar Pradesh has not even delivered one lakh services in a month as per which the data made available by the Department. The diversity of languages used by the masses in the country is another constraint for the masses to avail electronic delivery of services. Apart from official languages there are hundreds of dialects used by people living in different parts of the nation which makes the implementation of electronic delivery of services a biggest challenge. The Committee feel that in the aforesaid circumstances to make the electronic delivery of services mandatory would result into a big role of middleman/self styled unofficial service providers and harassment to the poor masses particularly in availing of day-to-day services like birth/death certificates, BPL card, MGNREGA card, payment of electricity/ power bills, copies of land records etc.

In this connection the Committee desired to know about the international position with regard to mandatory electronic delivery of services. From the objectives of the IT legislation with regard to five developed countries like USA, Australia, UK, Republic of Korea and Austria, the Committee noted that even in these countries the e-Governance legislation aims to enhance/promote/facilitate electronic governance/transactions.

What is more disturbing is the fact that the Department during the course of deliberations could not clarify clearly the intention of the Government in this regard. On the one hand, the Department stated that the Bill does not preclude delivery of services in manual mode, on the other hand it is stated that the Bill is silent on the simultaneous delivery of services through electronic mode as well as manual mode. In spite of the different interpretations given by the Department, the Committee note that Clause 3 of the Bill and the Statement of Objects and Reasons clearly stipulate that the delivery of services would be mandatory in electronic form after the enactment of the legislation.

Although the Secretary during the course of evidence acknowledged to consider the aforesaid concerns of the Committee, the suggested amendment as received through a post evidence communication suggests amendment only in the Statement of Objects and Reasons and that too to preclude only the services which the Central Government or the State Government or public authority notifies not to deliver electronically, do not address the concerns of the Committee at all.

While the Committee appreciate intended e-delivery of services which would make delivery mechanism transparent and consistently been emphasizing to push up e-governance agenda in their various reports, the Committee are of the firm view that Government should provide the option to its citizens to apply and receive the services through electronic mode or manual mode in the circumstances brought out above. In this connection, the

Committee endorse the suggestion made by the Ministry of Social Justice and Empowerment during the course of consultations held by the Department wherein it was suggested that a choice to the citizen to receive public service either in the electronic or the non-electronic mode should be provided. The Committee, accordingly, strongly recommend that a suitable modification clarifying that the option to avail of services by the applicant through electronic and manual mode would always be available should be made in Clause 3 of the Bill.

Timelines for implementation of the provisions made under the current legislation

2. The Committee further observe that so far as the timelines for implementation of the provisions made under the proposed legislation are concerned, Clause 3 of the Bill provides that the Central Government, the State Government and public authority shall deliver all public services by electronic mode within five years of the commencement of the Act. The proviso to Clause 3 provides 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. Further, Clause 4(1) of the Bill provides that every competent authority shall publish within one hundred and eighty days from the commencement of the Act, the list of all public services to be delivered by it through electronic mode.

While most of the States have agreed with the aforesaid timelines as could be seen from the memoranda submitted by various States to the

Committee as well as through consultations process held by the Department, few States like Tripura and Arunachal Pradesh have expressed their reservations on the targeted period of eight years. While Tripura has stated that it would be more appropriate to first address the provision of reliable and foolproof infrastructure facility especially ICT facility in a time bound manner and thereafter pursue the Bill, Arunachal Pradesh has pointed out the issue of power supply requirement in this regard. In this connection, the Committee note that the onus of providing infrastructure for e-Governance lies solely with the Union Government as the objective of National Telecom Policy, 2011 include providing affordable and reliable broadband on demand by the year 2015 and to provide high speed and high quality broadband access to all village Panchayats by the year 2014.

While the Department is optimistic that within the given time adequate infrastructure would be created, the Committee may like to highlight here the continuous shifting of deadlines of implementation of various components of e-Governance programme that have been noted by the Committee during the course of examination of the Demands for Grants of the Department for the year 2012-13. The Committee strongly recommend that all the initiatives need to be taken in a time bound programme to ensure that the deadlines with regard to broadband connectivity particularly in the difficult areas are achieved as per the National Telecom Policy 2012 so as to enable the State Governments to implement the provisions made in the proposed legislation.

The representatives of the Department apprised the Committee during evidence that the Government proposed to use renewable sources of energy like solar energy. On being pointed by the Committee that this type of energy would not be available in winter/cloudy days, the Secretary stated that the back-up electricity through conventional sources would also be provided. In view of this the Committee desire that the Department should prepare necessary plans in coordination with the Ministry of Power and Ministry of New and Renewable Energy so that e-Governance programmes can be synchronized/inter-linked with national programmes like 'power for all' and 'Rajeev Gandhi Grameen Vidhyutikaran Yojna'. More initiative needs to be taken on the R&D front to make the alternate energy system viable as well as cost effective.

Exclusion of services from the purview of EDS Bill

3. Clause 3 (a) and 3(b) of the Bill provides for the services which can be excluded from the purview of the current legislation. Clause 3(a) provides for exclusion of services which cannot be delivered electronically. In this connection, the Committee have been apprised that the Central Government, the State Government and public authority will decide the services which cannot be delivered electronically after examining the non-feasibility of delivery in electronic mode. Clause 3(b) of the Bill further provides for exclusion of services 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. For the services with regard to provision of exclusion of services as provided in Clause 3(b) of the Bill the first proviso states that the Central Government, the State Government and the public authority shall consult the Central Commission or the State Commission, as the case may be, before notifying any electronic service. With regard to consultations, the Department has clarified that it refers to a dialogue between the Central Government, the State Government and public authority with the Central Commission or the State Commission. The Department in the post evidence communication has suggested further amendment to Clause 24 (2) of the Bill whereby a sub-clause (cc) would be inserted providing that holding consultations with public and other stakeholders while reviewing the publication of services to be delivered through electronic mode by the Central Government or the State Government, as the case may be, will be one of the functions of Central Commission or the State Commission.

The Committee observe that absolute authority to the Central Government, the State Government and public authority has been provided to exclude any of the services which they find not feasible to deliver electronically under Clause 3(a) of the Bill. With regard to excluding the services at the discretion of the Central Government, the State Government and public authority with the reasons to be specified, consultations with Central Commission or State Commission is required. The Committee endorse the proposed amendments of the Department in Clause 24(2) of the Bill as furnished by the Department through a post evidence communication

'whereby holding consultations with public and other stakeholders while reviewing the publication of services to be delivered through electronic mode by the Central Government or the State Government would be required.' The Committee also recommend that the word **'public authority'** should also be added after the word **'State Government'** in the suggested Clause 24(2) (cc).

4. The Committee would also like to emphasize that consultations with Central Commission or the State Commission should also be provided in respect of Clause 3 (a) also in line with the provisions made in Clause 3 (b) so as to provide some check on the absolute power provided to the Central Government, the State Government and public authority to exclude any of the services from the list. The necessary modifications in this regard should be made in Clause 3 of the Bill.

Delivery of Public services on payment basis

5. The Committee note that for the implementation of the provisions made under the Bill, it is imperative that the applicant has access to internet and is well aware of the nuances of usage of computer. When particularly asked as to how the poor persons would access the computer, the Department informed that the access to the applicant would be available through internet, Common Service Centres (CSCs) , cyber cafe, internet kiosks, mobile phones as well as through Departmental outlets. The Committee find that the poor person who can file his application for various day-to-day services like Ration Card, BPL Card, MGNREGA Card, Birth and Death Certificates, water/electricity Bill, copy of land record, etc. free of cost in the present circumstances would

be made to pay service charges for availing such services from Common Service Centres, cyber café and internet kiosks as acknowledged by the Department in the written note.

The Department in this regard has tried to substantiate that the service charge would be nominal. The Committee find that the cost of using internet could possibly increase due to high demand and even minimum charge would constitute a substantial part of day's income of a poor man. Moreover, the existing status of Common Service Centres being set up with the Government funding is also not satisfactory. Out of 97871 CSCs established so far 88000 CSCs could be made operational and 68,754 CSCs could be connected by the internet as per the information made available to the Committee during the course of examination of Demands for Grants (2012-13). The Committee find that if the electronic delivery of services is made compulsory, there would be a lot of pressure on the internet service providers. With the present status of functioning of the Government infrastructure like CSCs, more pressure would be on the private cyber cafes who would then charge exorbitant service charges from the poor persons. Above all the poor persons not able to file their applications would be required to consult the middleman for availing various services. Although, the Department has explained that assisted access to illiterate persons would be provided, the Committee fail to understand what sort of assisted access would be provided to the poor persons who would be compelled to use the private cyber café in the explained circumstances. The

ultimate result would be financial burden and harassment of the citizens particularly the poor masses.

The Committee are further disappointed to note that even when Planning Commission during the course of consultations made the observations that if the services are to be charged for in the form of fee, then the Bill should specifically contain a provision, considering that a legislative basis for a fiscal charge is the norm, the Department didn't feel it necessary to make such provisions on the pretext that the services charges have been provided under the rule under Section 6A of IT Act amended as on 2008 and necessary approvals for quantum and nature of service charges will be decided by the concerned Department/State Government by following the laid down process. The aforesaid response of the Department clearly indicates that the issue of service charges has been kept hidden while bringing the legislation even when Planning Commission had specifically made the serious observation. The Committee, therefore, would like the Government to incorporate a specific provision in the Bill that no fee or other charges would be payable by the citizens particularly the poor persons.

6. While enacting the proposed legislation, it should particularly be ensured by the Government that no additional financial burden is imposed on the citizens while facilitating electronic delivery of services. Above all, as recommended in the earlier part of the report, the Committee emphasize that to file application and to access service, the manual option should be left open and electronic of services should not be made compulsory. The electronic

delivery of services in the Committee's opinion should be to facilitate electronic governance thereby bringing transparency in the delivery mechanism of the Government. With more emphasis on connectivity, education and computer literacy, more and more people would automatically access the services through electronic mode. Thus, the Government initiatives need to be more proactive.

Requirement of additional financial resources for implementation of Electronic Delivery of Services Bill, 2011

7. The Financial Memorandum to the Bill stipulates expenditure only for the establishment of Central Electronic Service Delivery Commission, salary allowances of officials of the Commission. Annual expenditure on this account has been estimated of the order of ₹4 crore, which can initially be met from the budget of the Department. Similarly, State Government would meet the expenditure on State Commissions out of the State Governments budget/grants.

The Committee, however, note that to implement the provisions made in the proposed legislation, the robust e-infrastructure is the pre-requisite. Almost all the 15 State Governments, who have furnished written views to the Committee have requested for additional Central assistance for different NeGP projects. The Department on the specific request of the State Governments has stated that the financial assistance would be provided on case to case basis. This shows that Financial Memorandum to the Bill is highly tentative without any serious thought. The Committee further note that under the Central e-Governance programme, financial allocation for setting up of

various components of NeGP, e-infrastructure like SDC, SWAN, MMP and CSC is being provided. The Committee feel that before bringing the EDS Bill, the additional requirement of resources should have been worked out in consultation with various State Governments/UT Administrations. Now when the legislation has been brought by the Government, the Committee recommend that the Union Government should ensure that additional requirement of State Governments/UT Administrations are met from the Central funding particularly when the onus of providing broadband connectivity lies with the Union Government as per Telecom Policy, 2011.

Penalties provided under the legislation (Clause 29 of the Bill)

8. The Committee during the course of examination have noted that the persons appointed on contract and outsourced services are not covered by the penalty provisions made in the amending legislation. The Department through a post-evidence communication has proposed further amendments as stated below in Clause 29 of the Bill:-

“The Standing Committee may consider changing of word ‘officer’ as appeared in Clause 29 to ‘employee’.”

“In Clause 29 insertion of the words “or any person on contract” after the words “Where a Competent Authority or any officer under it”.

In Clause 29 (2) insertion of the words “or any person on contract”, after the words “or any officer under it.”

The Committee understand that the proposed amendments suggested by the Department would cover the employees on contract. However, the aforesaid changes would not address the issue of having penalty provisions for

the outsourced agency/employees. The Secretary, during the course of evidence before the Committee assured that the Department would consult legal experts as to how to handle the outsourced agency/employees. The Committee strongly recommend that adequate penalty provisions should be made in the proposed legislation for the outsourced agency/employees bringing necessary modifications in Clause 29 of the Bill in consultation with the Ministry of Law and Justice.

9. The Committee, further, find that the maximum limit of penalty as Rs. 20,000 has been provided for contravention of the provisions made under the Act as per Clause 29 of the Bill. The Committee feel that some minimum amount of penalty should also be indicated in the legislation. Besides, the Committee would also like to recommend the Department to suggest some inbuilt mechanism in the proposed legislation itself for periodic enhancement of the penalty amount so as to cover the inflationary aspects in future.

Issues related to the 'Differently abled persons' (Clause 2(a) of the Bill)

10. One of the associations of 'differently abled persons' during the course of consultations has brought before the Committee the concern with regard to accessibility requirement of persons with disability in the context of the proposed legislation. When the issue was taken up, the Department, in the initial response, informed that term 'access' under the EDS Bill is a generic provision and would include assistance to persons with disabilities. When the issue was specifically raised by the Committee during the course of oral evidence, the representatives assured that the provisions needed for various

kinds of disabilities would be elaborated under rules. Further, in the post evidence communication, the Ministry has suggested insertion of words 'by the users including the users with special needs after the words electronic services' in clause 2 (a) of the Bill so as to address the concerns of the differently abled persons. The Committee agree with the proposed amendment suggested by the Department. The Committee would also like to emphasize that the specific needs of the differently abled persons like providing hard copy documents/forms in Braille and large print or for using thumb impressions instead of signatures while submitting the form or receiving the services/provision for providing intermediaries/professional sign language, interpreters, locations for offices for availing services for the purpose of EDS at the ground floor etc. should specifically be taken care of while formulating rules.

In this connection the association of differently abled persons drew the attention of the Committee to the provisions made under Clauses 12 and 19 of the Bill whereby it has been provided that the Central Government may by order remove the Central/State Chief Commissioner from his office if a Central Chief Commissioner or Central Commissioner has become physical or mentally incapable of acting as Central Commissioner or State Chief Commissioner, as the case may be. The organisation has suggested that the aforesaid section should be reworded to state that respective Chief Commissioner/Commissioner may be removed from office on the grounds of disability only if they are incapable of acting as Commissioners inspite of the

provisions of reasonable accommodation. The Committee's attention was also drawn to the fact that the concept of reasonable accommodation is clearly articulated in the UNCRPD and India is mandated to provide reasonable accommodation. To this issue, the Department in the written reply stated that the drafting of the relevant clauses of the Bill are as per similar provisions of other legislations. The Department, however, assured that the suggestion could be considered under the rules to be framed under Clauses 12 and 19. The Committee, therefore recommend that specific suggestions of associations of differently abled persons may carefully be considered and suitable amendments/relevant provisions may accordingly be made in the legislation/rules.

Security and privacy in the context of the EDS Bill (Clause 5 of the Bill)

11. The Committee endorse the apprehension and concerns expressed by various States/UTs in the memoranda submitted to the Committee on the issue of security and privacy in the context of the EDS Bill . The Committee further note that Clause 5 of the Bill in a very general way addresses the issue of security whereby it has been provided that any Department of 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. Proviso to the aforesaid Clause further provides 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.

The Committee further note that with the implementation of EDS Bill, the number of users would increase and as such the security issues may further pose a great challenge. Besides, the implementation of the provisions under the EDS legislation more and more persons would share their personal data on the websites while seeking various services and as such the issue of privacy also need to be addressed comprehensively. The Committee strongly recommend that the Department should take all the initiatives to ensure a robust security mechanism and strict provision in this regard should be made in the proposed legislation or through suitable amendment in 'The Information Technology Act, 2000'. Besides, issue of privacy need to be analyzed and suitable provisions made in 'The Information Technology Act, 2000'/current legislation.

Verification of the genuineness of the applicant (Clause 5 of the Bill)

12. On the issue of verification of genuineness of the applicant in the context of the current legislation, the Committee have been apprised that all e-governance applications are expected to progressively leverage AADHAAR authentication services. Further, Clause 5 of the Bill also provides that the Central Departments/State Governments would also prescribe e-governance standards which would inter alia, include appropriate use of authentication mechanism.

Considering the submission of the Government of Uttar Pradesh that currently there is no mechanism for identification of the recipient of the service and the only way out in the current scenario shall be after the full implementation of the UID project and the Government of Meghalaya's suggestion that this being a complex and very important aspect, is being addressed separately both at National and State levels, the Committee feel that the Department needs to constitute a dedicated Group or Task Force so as to have a robust mechanism for authentication of the recipient of electronic services. Noting the Department's submission that e-Governance applications are expected to progressively leverage Aadhar authentication process, the Committee strongly recommend to evaluate and address the loopholes of Aadhar and then only use it fully for verification of the genuine recipient.

Duplication of Grievance Redressal Mechanism (Clause 7 of the Bill)

13. The Committee's attention during the course of deliberations was drawn to the duplication of grievance redressal mechanism as suggested under Clause 6 of the Bill with the grievance redressal system proposed in the Citizen Charter Bill which is pending in Parliament. The Department in this connection has clarified that grievance redressal mechanism under the EDS Bill pertains to redressal related to "complaint" by any aggrieved person in respect of non-availability of service in electronic mode and also regarding 'deficiency' in delivery of electronic service [clause 7], whereas under the Citizens Charter Bill, "grievance redressal pertains to delivery of goods and services".

The Committee observe that electronic delivery of services is the facilitating mechanism for delivery of services to the masses. The Government as such while setting up the redressal mechanisms under the aforesaid two proposed legislations should ensure that there is no overlapping of jurisdiction of such mechanisms.

Appointment of Central/State Chief Commissioner and Central/State Commissioners (Clause 9(1), 11(2), 17(1) and 18(1))

14. The Committee find that the proposed Bill provides the minimum age for appointment of Central Chief Commissioner or Chief Commissioner as well as State Chief Commissioner and State Commissioner upto sixty-two years of age. The Central Government/State Government employees on their selection have to retire from service before joining such offices. The Committee in this connection would like to recommend to prescribe the competitive selection process whereby such important offices are occupied by the competent persons selected from the market through a transparent selection mechanism so that such important bodies do not turn into a refuge for retired/retiring Government officers.

Replacing word 'representation' by 'appeal in various Clauses of the Bill (Clauses 26(1), 26(2), 26(3), 42(q), 42(r), 44(q) and 44(r) of the Bill)

15. The Department in the post evidence correspondence suggested to substitute the word 'representation' by 'appeal' as appearing in Clauses 26(1),

26(2), 26(3), 42(q), 42(r), 44(q) and 44(r) of the Bill as elaborated in Part-I of the Report. The Committee endorse the suggestion of the Department in this regard and would like that the desired modifications be made in the amending legislation.

Awareness/Training

16. The Committee observe that once the Electronic Delivery of Services comes into the effect there would be need for awareness generation and providing training on a large scale regarding various services which would be available online to the officials and public at large. As the Department has rightly pointed out that though the country has progressed with the information technology revolution in the recent years, yet there is systemic inertia and resistance to change which is also one of the reasons for bringing in the proposed legislation as highlighted in the Statement and Objects of the Bill. Several State Governments who furnished their memoranda to the Committee in connection with examination with the Bill also corroborated the same. The Committee observe that once people all over the country simultaneously start availing the services online, a large pool of trainers would be required to educate and train the officials undertaking various tasks as well as in assisting the masses on the usage and facilities available online. However, the trainees available at present are grossly inadequate to meet the requirement. Needless to highlight here that besides infrastructural hurdles which continue to be the biggest challenge, training, awareness generation pose next bigger challenge for implementation of the National e-Governance

Programme (NeGP). Keeping in view the fact that masses are illiterate and ignorant and unless people are made aware of the various basic services/facilities available online and people are empowered to utilise these services, the purpose of providing services electronically will be defeated and the Act would remain just on paper. The Committee, therefore, recommend that the Department, in consultation with the Ministry of Human Resource Development should work out a strategy for skill development and training in information and technology to address the above challenge. The Committee in this regard recommend the Department to make best use of all available means for awareness generation viz. the electronic and print media, through regular seminars and workshops, distribution of pamphlets, awareness camps etc. and educate the people on the benefits envisaged in electronic delivery of services as well as about the provisions of the Bill and the services which would be available on account of implementation of the Act. Efforts should also be made for capacity building through involvement of institutions of local self Government i.e. Gram Panchayats in rural areas and equivalent bodies in scheduled areas and urban areas by ensuring co-ordination among these *vis-a-vis* the people.

Need for bringing separate EDS Legislation

17. The Committee have been apprised that as per the consultations held with the Ministry of Law and justice, the Parliament is competent to enact the law in terms of Entry 97, List 1 of the Seventh Schedule of the Constitution of India. The Committee further find that the implementation of the provisions

made under the proposed legislation rests with the State Governments/UT Administrations. Moreover, Jharkhand has recently enacted EDS legislation. Further, some of the States like Chhattisgarh, Madhya Pradesh, Karnataka, Kerala, Gujarat and Andhra Pradesh have prescribed Rules under sections 6/6A of the IT Act regarding electronic delivery of public services. Recently, DeitY has formulated and circulated Model State Electronic Service Delivery (ESD) Rules for adoption by various States under the IT Act. Further, on the Model Rules, the State of Manipur has recently notified Manipur State IT Electronic Service Delivery (ESD) Rules.

The Committee are unable to comprehend the intention of the Government while bringing a separate legislation for electronic delivery of services, particularly when the Model State Electronic Services Delivery (ESD) Rules are being formulated under the IT Act. Moreover, the international experience also indicates that the IT laws have been just facilitating/enhancing/promoting electronic governance/transactions through their IT legislations. The Committee, therefore, feel that the purpose of facilitating Electronic Delivery of Services would have been achieved through some amendments to the comprehensive IT legislation i.e. 'The Information Technology Act, 2000'. Even if the new law was to be brought, it should have been a model enabling legislation which could have replaced the model rules and remain a guiding law for the States/UTs while enacting their own legislation.

The Committee, therefore, strongly recommend to reconsider the whole issue of bringing separate EDS legislation in consultation with the legal and IT experts before the Bill is taken up for consideration by Parliament. In case the Department still feels the necessity of bringing the law, the concerns of the Committee with regard to various provisions made in the proposed legislation should be given due consideration and necessary modifications as suggested be made in the Bill.

**New Delhi
29 August, 2012
07 Bhadrapada, 1934 (Saka)**

**RAO INDERJIT SINGH
Chairman,
Standing Committee on
Information Technology**

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.

Short title,
extent and
commencement.

(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, —

Definitions.

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

(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

Constitution 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 of 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. 5

(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. 10 15

(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,— 20

(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 25

(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 30

(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. 35 40

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— 45

(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.

5

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.

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(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.

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(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.

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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.

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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.

30

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

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(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.

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(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;

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(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 Commissioner.

(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

(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;
5 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 to the High Court of the State where such State Commission is located. 10

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 principles of natural justice and, subject to the other provisions of this Act and of any rules 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. 5 of 1908. 15

(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 of the following matters, namely: — 20 5 of 1908.

(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 section 29; 30

(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 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. 40

(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 extend up to twenty thousand rupees. 45

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 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—

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 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

Supersession of
State
Commission.

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 of 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;

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 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.

LOK SABHA

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.

(Shri Kapil Sibal, Minister of Human Resource Development)

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY
(2011-2012)**

MINUTES OF THE TWENTY-FIRST SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 14th August, 2012 from 1500 hours to 1600 hours in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

M.P. Achuthan – *In the Chair*

MEMBERS

Lok Sabha

2. Shri Rajendra Agrawal
3. Smt. Sarika D.S Baghel
4. Shri Nikhil Kumar Choudhary
5. Dr. Charles Dias
6. Shri P.R. Natarajan
7. Smt. Supriya Sule

Rajya Sabha

8. Shri Joy Abraham
9. Shri Salim Ansari
10. Dr. Bhushan Lal Jangde
11. Prof. Alka Balram Kshatriya
12. Shri Jesudasu Seelam

Secretariat

1. Smt. Sudesh Luthra - Director
2. Shri Y.M. Kandpal - Additional Director
3. Dr. Sagarika Dash - Deputy Secretary

List of Witnesses
Department of Electronics and Information Technology

Sl. No.	Names	Designation
1.	Shri J. Satyanarayana	Secretary
2.	Mrs. Rita Teotia	Additional Secretary
3.	Dr. B.K. Gairola	Director General, NIC
4.	Dr. Gulshan Rai	Director General (CERT-In)
5.	Dr. Rajendra Kumar	Joint Secretary
6.	Shri Ajay Sawhney	President & CEO, NeGD, DeitY
7.	Shri V.L. Kantha Rao	COO, NeGD, DeitY

Ministry of Law and Justice

(i) Legislative Department

Sl. No.	Names	Designation
1.	Dr. S. D. Singh	Joint Secretary and Legislative Counsel
2.	Ms. Reeta Vasistha	Addl. L.C

(i) Department of Legal Affairs

Sl. No.	Names	Designation
1.	M. K. Sharma	Additional Secretary
2.	Mrs. Veena Kothavale	D.L.C

2. As the Chairman was not present, the Committee under Rule 258(3) chose Shri M.P. Achuthan, M.P., and a member of the Committee to preside over the meeting.

3. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to take oral evidence of the representatives of the Department of Electronics and Information Technology in connection with examination of 'The Electronic Delivery of Services Bill, 2011'.

[The representatives of the Department were then called in]

4. The Chairman welcomed the aforesaid witnesses and drew their attention to the provisions of Direction 55(I) of the Directions by the speaker, Lok Sabha regarding confidentiality of the deliberations till the Report on the Bill is presented to the House.

5. The Secretary of the Department at the outset explained genesis and need for bringing the Bill with the help of power point presentation. The Presentation *inter-alia* focused on various provisions in the Bill and the comments of the Department thereon. Thereafter, he clarified issues raised by Members regarding infrastructural hurdles, need for specifying channels of delivery of services, financial support, access for physically challenged people, etc.

6. The sitting of the Committee, however, adjourned in the midst due to the sad demise of Shri Vilasrao Deshmukh, Union Minister of Science and Technology and Minister of Earth Sciences. As a mark of respect to the departed soul, the Committee observed silence for a while and expressed their profound sorrow and grief.

[The witnesses then withdrew]

A copy of verbatim proceedings of the sitting has been kept.

The Committee, then, adjourned

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY
(2011-2012)**

MINUTES OF THE TWENTY SECOND SITTING OF THE COMMITTEE

The Committee sat on Wednesday, the 22nd August, 2012 from 1500 hours to 1650 hours in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri M.P. Achuthan – in the Chair

MEMBERS

Lok Sabha

13. Shri Rajendra Agrawal
14. Smt. Sarika D.S. Baghel
15. Dr. Charles Dias
16. Smt. Darshana Vikram Jardosh
17. Dr. Tarun Mandal
18. Shri P.R. Natarajan
19. Shri Tapas Paul
20. Shri Tathagata Satpathy
21. Smt. Supriya Sule

Rajya Sabha

22. Shri Joy Abraham
23. Shri Salim Ansari
24. Dr. Bhushan Lal Jangde
25. Shri Jesudasu Seelam

SECRETARIAT

- | | | | |
|----|-----------------------|---|---------------------|
| 4. | Shri Brahm Dutt | - | Joint Secretary |
| 5. | Smt. Sudesh Luthra | - | Director |
| 6. | Shri Y.M. Kandpal | - | Additional Director |
| 7. | Smt. Dr.Sagarika Dash | - | Deputy Secretary |

Witnesses

**Representatives of the Ministry of Communications and
Information Technology**

(Department of Electronics and Information Technology)

- | | | |
|----|-----------------------|-----------------------|
| 1. | Shri J. Satyanarayana | Secretary |
| 2. | Shri B.K. Gairola | Director General, NIC |
| 3. | Dr. Rajendra Kumar | Joint Secretary |

**Ministry of Law and Justice
(Department of Legal Affairs)**

Shri M.K. Sharma Additional Secretary

(Legislative Department)

Shri S.D. Singh Joint Secretary

3. In the absence of the Chairman, the Committee chose Shri M.P. Achuthan, MP, a Member of the Committee to act as Chairman for the sitting in accordance with rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

4. At the outset, the Chairman welcomed the Members to the sitting of the Committee.xxxxxx.....xxxxxx.....xxxxxx.....

The witnesses were then called in

5. The Chairman welcomed the representatives of the Department of Electronics and Information Technology and the Ministry of Law and Justice and informed that the oral evidence of the representatives of the Department of Electronics and Information Technology on 'The Electronic Delivery of Services Bill, 2011' at the previous sitting of the Committee held on 14 August, 2012 remained inconclusive as the sitting had to be adjourned due to the sad demise of Shri Vilasrao Deshmukh, Union Minister of Science and Technology and Earth Sciences and today the Committee would resume deliberations on the aforesaid Bill from the stage it was left on that day. The Chairman then drew the attention of the witnesses to the provisions made under Direction 55 (1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the deliberations till the Report on the Bill is presented to the House.

6. The representatives of the Department of Electronics and Information Technology then elaborated on the various provisions made under the Bill. The

representatives of the Department also responded to the various queries raised by members during the course of deliberations. The important issues came for discussion *inter-alia* included availability of electricity, broadband, computers, multiple languages, access of internet to poor families, position about mandatory EDS in other developed countries *vis-a-vis* provisions made in the Bill, etc. The representatives of the Ministry of Law and Justice clarified on the legal issues raised during the course of deliberations.

7. The Chairman then thanked the representatives of the Department of Electronics and Information Technology and the Ministry of Law and Justice for appearing before the Committee and furnishing the information which the Committee desired in connection with the examination of the aforesaid Bill.

The witnesses then withdrew

A copy of the verbatim proceedings of the sitting has been kept.

The Committee then adjourned.

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY
(2011-2012)**

MINUTES OF THE TWENTY-THIRD SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 28th August, 2012 from 1500 hours to 1530 hours in Committee Room 'C', Basement, Parliament House Annexe, New Delhi.

PRESENT

Dr. Charles Dias – in the Chair

MEMBERS

Lok Sabha

26. Shri Rajendra Agrawal
27. Shri Nikhil Kumar Choudhary
28. Shri P.R. Natarajan
29. Smt. Supriya Sule
30. Shri Tathagata Satpathy

Rajya Sabha

31. Shri Joy Abraham
32. Shri Salim Ansari
33. Shri Mohammad Adeeb
34. Dr. Bhushan Lal Jangde
35. Prof. Alka Balram Kshatriya
36. Shri Jesudasu Seelam

SECRETARIAT

- | | | | |
|-----|--------------------|---|---------------------|
| 8. | Shri Brahm Dutt | - | Joint Secretary |
| 9. | Smt. Sudesh Luthra | - | Director |
| 10. | Shri Y.M. Kandpal | - | Additional Director |
| 11. | Dr. Sagarika Dash | - | Deputy Secretary |

2. In the absence of the Chairman, the committee chose Dr. Charles Dias, MP, and a Member of the Committee to act as Chairman for the sitting in accordance with rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to consider and adopt the draft Report on 'The Electronic Delivery of Services Bill, 2011'. The Committee, then, took up for consideration the Draft Report on 'The Electronic Delivery of Services Bill, 2011' and adopted the same with minor modification at Para No. 17 in Part-II of the Report.

4. The Committee, then, authorized the Chairman to finalize and present the report to the House in the current session of Parliament.

5. The Chairman also apprised the Committee that the term of the present Committee is coming to an end on 30th August, 2012 and highlighted the achievements/work done by the Committee during their tenure. He then thanked the Members for making valuable contributions in the working of the Committee.

6. The Committee also placed on record their appreciation for the invaluable assistance provided by the officials of the Secretariat attached to the Committee.

The Committee, then, adjourned