

No DP-13011(7)/2/2021-DP-I

Government of India

Ministry of Social Justice & Empowerment
Department of Social Justice & Empowerment
(Drug Prevention Division)

Shastri Bhawan,
New Delhi-110001

Dated the 26th July, 2023

Office Memorandum

Sub: Inclusion of “transgender” option along with male and female in gender identity information collection forms- Reg.

As you are aware, The Ministry of Social Justice and Empowerment enacted the “The Transgender Persons (Protection of Rights) Act, 2019. The Provisions of the Act came into effect from 10.01.2020. In order to have effective implementation of the provisions of the said Act, the Ministry has also notified “The Transgender Persons (Protection of Rights), Rules 2020. Please refer to DO letter No. 17-2/2019-DP-II dated 09.10.2020 of this Department enclosing therewith a copy of Transgender Persons (Protection of Right) Act, 2019 and Transgender Persons (Protection of Rights) Rule 2020 and a suggestive list of areas of intervention **(Annexure-1).**

2. The rules brought in for implementation procedure of the Act provides steps and forms for application and

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issuance of identification certificates of transgender persons and extract of the rules are attached in **annexure-II**. The issuance of Transgender Certificate of Identity is processed through a portal, 'National Portal for Transgender Persons'. The Portal setup by this Ministry provides the platform for application and issuance of transgender identity certificate issued through District Magistrate/Deputy Commissioner. The transgender identity certificate thus issued is a valid and accepted document for change in gender and name in all government identity documents and academic certificates issued by education boards/ universities.

3. While monitoring the said Portal it has been observed that either the large number of applications of identity certificates remain pending from more than the prescribed period of disposal or are rejected without giving any valid reasons. This adds to the grievance of transgender persons and also leads to avoidable litigation against the Government. A list of districts with pendency in issuance of identity certificates is enclosed below in **Annexure - III** for your reference.

4. It is reiterated that the clauses and rules of the act may be implemented mandatorily. It is further reiterated that an option of "transgender" may be added along with options of male and female, in forms, wherein any gender related information is collected by your Ministry/Department or the institutions/ autonomous bodies/establishments etc under jurisdiction of your Ministry/ Department.

3. This issues with the approval of the Competent Authority.

Yours faithfully,
(Narendra

Signed by Narendra Singh

Date: 26-07-2023 18:09:59

Reason: Approved

Singh)

Director (DP Division)

Email:

narendra.singh64@gov.in

To

1. All Secretaries of Ministries/Departments

**2. All Principal Secretaries Social Welfare
Department of States/UTs**

240449/2020/DP-I

बी. राधिका चक्रवर्ती
संयुक्त सचिव
B. Radhika Chakravarthy
Joint Secretary



भारत सरकार
सामाजिक न्याय और अधिकारिता मंत्रालय
सामाजिक न्याय और अधिकारिता विभाग
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GOVERNMENT OF INDIA
MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT
DEPARTMENT OF SOCIAL JUSTICE & EMPOWERMENT
SHASTRI BHAWAN, NEW DELHI-110 115

D.O. No. 17-2/2019-DP-II

Dated the 9th October, 2020

Dear Colleague,

As you are aware, this Ministry has enacted "The Transgender Persons (Protection of Rights) Act, 2019". The Provisions of the Act came into effect from 10.01.2020. In order to have effective implementation of the provisions of the said Act, the Ministry has also notified the Transgender Persons (Protection of Rights), Rules, 2020. The copy of the Act and Rules are enclosed herewith for your information and for taking necessary action (Annexure-I & II).

2. In order to achieve the objective of inclusion of Transgender persons into the society and taking measures for their wellbeing, Ministry would like to have your suggestions on the implementation of Welfare Schemes in respect of Transgender Persons in your respective States. A suggestive list of areas of intervention have been specified in Annexure-II of the Rules for your ready reference.

3. I shall be grateful if you could look into the matter and initiate necessary action on priority.

Regards

Yours sincerely,

Encls : as above.

Radhika

(B. Radhika Chakravarthy)

Principal Secretaries (Social Welfare)

**Procedure of issuance of identity certificate as per
Transgender Persons (Protection of Rights) Rule 2020**

**A. Under Rule-3 of Transgender Persons (Protection of Rights)
Rule 2020**

Application for issue of certificate of identity under section 6 or section 7 of Transgender Persons (Protection of Rights) Act 2019

(1) A transgender person desirous of obtaining a certificate of identity shall make an application as prescribed in Form –1*.

(2) The application shall be submitted to the District Magistrate in person or by post till online facilities are developed by the State Government concerned and thereafter the application shall be made by online only:

Provided that the appropriate Government may undertake measures, as it deems appropriate, to facilitate the submission of applications for certificate of identity by transgender persons living in remote areas or disadvantaged conditions:

Provided further that in case of a minor child, such application shall be made by a parent or guardian of such minor child and in the case of a child in need of care and protection, by the competent authority under the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016).

(3) Transgender persons who have officially recorded their change in gender, whether as male, female or transgender, prior to the coming into force of the Act shall not be required to submit an application for certificate of identity under these rules:

Provided that such persons shall enjoy all rights and entitlements conferred on transgender persons under the Act.

**B. Under Rule -4 of Transgender Persons (Protection of Rights)
Rule 2020**

Procedure for issue of certificate of identity

(1) The District Magistrate shall, subject to the correctness of the applicant's particulars, get the application processed based on the affidavit submitted declaring the gender identity of any person in Form- 2*, without any medical or physical examination, and thereafter issue an identification number to the applicant, which may be quoted as proof of application.

(2) For the purpose of determination of the place of residence, the applicant shall have to reside in the area under the jurisdiction of District Magistrate as on the date of application and an affidavit to this effect shall be submitted in Form-2.

C. Under Rule-5 of Transgender Persons (Protection of Rights) Rule 2020

Issue of certificate of identity for a transgender person under section 6 of Transgender Persons (Protection of Rights) Act 2019

(1) The District Magistrate shall issue to the applicant, a certificate of identity in Form-3* following the procedure provided in rules 4 indicating the gender of such person.

(2) The said certificate of identity shall be issued within thirty days of receipt of duly filled in application along with the affidavit.

(3) The certificate of identity issued under sub-rule(1) shall be the basis to change the gender as well as the name and the photograph, if so necessitated, of the transgender person in all such official documents as provided in Annexure-1, in accordance with the gender specified in the said certificate of identity.

(4) The District Magistrate shall, at the time of issuance of the certificate of identity under sub-rule(1), issue a transgender identity card in Form – 5* to the applicant.

(5) The appropriate Governments shall maintain a register for the issuance of certificate of identity card and the transgender identity card.

(6) The authority that issued the official document, on an application made by an applicant under rule 3, shall change the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application.

(7) Any official document wherein gender, name and the photograph of transgender are revised based on the said certificate of identity, shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents:

Provided that all benefits that a transgender person was entitled to based on an identity card, if any, issued by a State authority shall continue to be enjoyed by that transgender person based on the certificate of identity issued under these rules.

D. Under Rule-6 of Transgender Persons (Protection of Rights) Rule 2020

*Procedure for issue of a certificate of identity for **change of gender***

(1) If a transgender person undergoes medical intervention towards a gender affirming procedure, either as a male or female, such person may apply in the Form – 1*, along with a certificate issued to that effect by the Medical Superintendent or Chief Medical Officer of the medical institution in which that person has undergone the said medical intervention, to the District Magistrate for the issue of a revised certificate of identity.

(2) The District Magistrate shall, on receipt of an application referred to in sub-rule (1) shall verify the genuineness of the said medical certificate, which shall not include any physical examination.

(3) The applicant shall be a currently residing in the area under the jurisdiction of the District Magistrate as on the date of application and an affidavit to this effect shall be submitted along with the application in Form-1 and no additional evidence shall be called for.

E. Under Rule- 7 of Transgender Persons (Protection of Rights) Rule 2020

Issue of certificate of identity under section 7 of *Transgender Persons (Protection of Rights) Act 2019*

(1) The District Magistrate shall issue a revised certificate of identity in Form – 4* to the applicant seeking change in gender indicating the gender of such a person as male or female, as the case may be.

(2) The District Magistrate shall issue the revised certificate under sub-rule (1) within fifteen days of its receipt of the application.

(3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to record or change the gender, as well as photograph and name, if so necessitated of transgender person in all such official documents, in accordance with the gender specified in the said certificate of identity as male or female, as the case may be.

(4) The District Magistrate while issuing the certificate of identity for change of gender shall simultaneously issue an identity card in Form – 6* to the applicant.

(5) The authority that issued the official document, on an application made by an applicant under sub-rule (3), shall change the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application.

(6) Any official document wherein gender, name or photograph of transgender person is revised based on the said certificate of identity shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents.

F. Under Rule- 8 of Transgender Persons (Protection of Rights) Rule 2020

Communication of rejection of application

(1) In case of rejection of application made under rule 3, the District Magistrate shall inform the applicant the reason or reasons for such rejection within thirty days from the date of receipt of such application.

(2) The District Magistrate may review the decision of rejection of the application based on the reply submitted by the applicant regarding the reason for rejection communicated in sub-rule (1) of rule 8 within sixty days from the date of such rejection.

G. Under Rule-9 of Transgender Persons (Protection of Rights) Rule 2020

Right to appeal

The applicant shall have a right to appeal, within ninety days from the date of intimation of the rejection of the application, to the appellate authority as designated by the appropriate Government by notification for a final order.

*Form-1, Form-2, Form-3, Form-4, Form-5, Form-6 are available in Transgender Persons (Protection of Rights) Rule 2020 (Copy attached)
