

Note to all Stakeholders and Citizens

Request for comments / suggestions on draft “The Geospatial Information Regulation Bill, 2016”

To regulate the acquisition, dissemination, publication and distribution of geospatial information of India which is likely to affect the security, sovereignty and integrity of India, a draft “The Geospatial Information Regulation Bill, 2016” has been prepared. Copy of the draft “The Geospatial Information Regulation Bill, 2016” is attached herewith for comments/suggestions. The comments/suggestions on the draft Bill may be forwarded to the Joint Secretary (Internal Security-I), Ministry of Home Affairs, North Block, New Delhi at email id: jsis@nic.in within 30 days.

Date: 04th May, 2016

DRAFT
The Geospatial Information Regulation Bill, 2016

A Bill to regulate the acquisition, dissemination, publication and distribution of geospatial information of India which is likely to affect the security, sovereignty and integrity of India and for matters connected therewith or incidental thereto;

Be it enacted by the Parliament in the Sixty-Seventh Year of the Republic of India as follows:-

Chapter I
PRELIMINARY

1. Short title, extent, commencement and application.-(1) This Act may be called the Geospatial Information Regulation Act, 2016.

(2) It shall extend to the whole of India and it applies also to-

- (a) citizens of India outside India;
- (b) persons in the service of the Government, wherever they may be; and
- (c) persons on ships and aircrafts, registered in India, wherever they may be.

(3) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(4) Any person, who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

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

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

- (a) “*Apex Committee*” means a Committee constituted by the Central Government under sub-section (1) of section 7;
- (b) “*Appellate Authority*” means an Authority constituted by the Central Government under sub-section (1) of section 23;
- (c) “*Computer resource*” the term ‘computer resource’ shall have the meaning assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000;
- (d) “*Enforcement Authority*” means an Authority constituted by the Central Government under sub-section (1) of section 17;
- (e) “*Geospatial Information*” means geospatial imagery or data acquired through space or aerial platforms such as satellite, aircrafts, airships, balloons, unmanned aerial vehicles including value addition; or graphical or digital data depicting natural or man-made physical features, phenomenon or boundaries of the earth or any information related thereto including surveys, charts, maps, terrestrial photos referenced to a co-ordinate system and having attributes;

- (f) “Guidelines” means the guidelines framed under this Act and the rules or regulations thereunder for licensing of geospatial information of India;
- (g) “Licence” means a licence granted to a person under the provisions of this Act;
- (h) “Licensee” means a person who obtains a licence under the provisions of this Act;
- (i) “National Policies” means the prevailing policies of the Government such as Remote Sensing Data policy, Map Policy and such other policies related to the objective of this Act;
- (j) “Person” includes;-
 - i. an individual,
 - ii. a company,
 - iii. a firm,
 - iv. a trust,
 - v. an association of persons or a body of individuals, whether incorporated or not,
 - vi. every artificial juridical person, not falling within any of the preceding sub-clauses, and
 - vii. any agency, office or branch owned or controlled by any of the above persons mentioned in the preceding sub-clauses
- (k) “Prescribed” means prescribed under the rules or regulations framed under this Act.
- (l) “Rules” means the rules framed under this Act;
- (m) “Regulations” means the regulations framed under this Act and the rules thereunder;
- (n) “*Security Vetting Authority*” means an Authority constituted by the Central Government under sub-section (1) of section 8;
- (o) “*Security Vetting of Geospatial Information*” means a process followed by the Vetting Authority, which inter-alia includes i) conducting sensitivity checks with respect to the technical & information contents and the target area in consonance with the provisions of the prevailing National Policies and ii) screening of the credentials of the end-users and end-use applications, with the sole objective of protecting national security, sovereignty, safety and integrity;

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

Chapter II

REGULATION OF GEOSPATIAL INFORMATION OF INDIA

3. Acquisition of Geospatial Information of India.-(1) Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Security Vetting Authority, no person shall acquire geospatial imagery or data including value addition of any part of India either through any space or aerial platforms such as satellite, aircrafts, airships, balloons, unmanned aerial vehicles or terrestrial vehicles, or any other means whatsoever.

(2) Every person who has already acquired any geospatial imagery or data of any part of India either through space or aerial platforms such as satellite, aircrafts, airships, balloons, unmanned aerial vehicles or terrestrial vehicles or any other manner including value addition prior to coming of this Act into effect, shall within one year from the commencement of this Act, make an application along with requisite fees to the Security Vetting Authority for retaining such geospatial information and grant of licence thereof.

(3) The Security Vetting Authority shall, within three months from the date of receipt of an application made under sub-section (2), either grant a licence with such conditions as may be specified thereon or reject the application as the case may be after examining the application in terms of the guidelines:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

(4) No person shall continue possession of geospatial information of India, after rejection of the application by the Security Vetting Authority under sub-section (3) above or after dismissal of appeal, if any, by the Appellate Authority or the High Court or the Supreme Court, as the case may be, whichever is later.

4. Dissemination, Publication or Distribution of the Geospatial Information of India.- Save as otherwise provided in this Act, rules or regulations made thereunder, and with the general or special permission of the Security Vetting Authority, no person shall disseminate or allow visualization of any geospatial information of India either through internet platforms or online services, or publish or distribute any geospatial information of India in any electronic or physical form.

5. Use of Geospatial Information of India outside India.- Save as otherwise provided in any international convention, treaty or agreement of which India is signatory or as provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Security Vetting Authority, no person shall, in any manner, make use of, disseminate, publish or distribute any geospatial information of India, outside India, without prior permission from the Security Vetting Authority.

6. Wrong depiction of map of India etc.- No person shall depict, disseminate, publish or distribute any wrong or false topographic information of India including international boundaries through internet platforms or online services or in any electronic or physical form.

Chapter III APEX COMMITTEE

7. Apex Committee.-(1) The Central Government shall, by notification in Official Gazette, constitute an Apex Committee under the Ministry of Home Affairs to oversee and administer the implementation of this Act in accordance with the prevailing National Policies.

(2) The Apex Committee shall do all such acts and deeds that may be necessary or otherwise desirable to achieve the objectives of the Act, including the following functions:

- (a) To oversee and administer the implementation of this Act in accordance with the prevailing National Policies.
- (b) To make Regulations for implementation, surveillance and monitoring and enforcement of the provisions of this Act and Rules framed thereunder, as required from time to time.
- (c) To prescribe such fees, levies or charges and guidelines for licensing of geospatial information of India.

(3) The Apex Committee may, by general or special order in writing, delegate to any constituent member of the Apex Committee or any other subordinate committee or officer subject to such conditions, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary, except the power to make regulations.

(4) In the discharge of its functions, the Apex Committee shall be guided by such directions in matters of policy involving national security as well as public interest as the Central Government may give to it in writing.

CHAPTER IV LICENSING AND SECURITY VETTING

8. Security Vetting Authority.-(1) The Central Government shall, by notification in the Official Gazette, constitute a Security Vetting Authority to carry out security vetting of the Geospatial Information of India in a time bound manner and as per the regulations framed by the Apex Committee.

(2) The Security Vetting Authority shall consist of an officer of the rank of Joint Secretary to the Government of India or above as Chairman and two members, one, a technical expert and the other, a national security expert.

(3) The Security Vetting Authority may, by general or special order in writing, delegate to any constituent member of the Security Vetting Authority or any other subordinate committee or officer subject to such conditions, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary, except the power to determine whether a licence under the provisions of this Act, is to be granted or not.

(4) In the discharge of its functions, the Security Vetting Authority shall be guided by such directions in matters of policy involving national security as well as public interest as the Central Government or the Apex Committee may give to it in writing.

9. Licence to acquire, disseminate, publish or distribute any Geospatial Information of India.-(1) Any person who wants to acquire, disseminate, publish or distribute any geospatial information of India, may make an application alongwith requisite fees to the Security Vetting Authority for security vetting of such geospatial information and licence thereof to acquire, disseminate, publish or distribute such Geospatial Information in any electronic or physical form.

(2) The Security Vetting Authority, on receipt of an application made under sub-section (1) above and after examining the application in terms of the guidelines, shall either grant the licence or reject the application as the case may be:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

(3) A licence granted under sub-section (2) shall be subject to such terms and conditions as may be specified in the licence.

10. Suspension or revocation of licence.- (1) In case a licensee fails to comply with the terms and conditions subject to which the licence was granted or contravenes any provisions of this Act, rule, regulation or guidelines or order made thereunder, the Enforcement Authority may, after making such inquiry as may be thought fit, revoke the licence granted to such licensee:

Provided that no licence shall be revoked unless the licensee has been given a reasonable opportunity of showing cause against the proposed revocation.

(2) The Enforcement Authority, having reasonable cause to believe that there are grounds for revoking a licence under sub-section (1), may by order suspend such licence, pending the completion of any inquiry ordered by him:

Provided that no licence shall be suspended for a period exceeding ten days unless the licensee has been given a reasonable opportunity of showing cause against the proposed suspension.

11. Obligations of Licensee.-(1) Licensee shall be supplied with the security-vetted Geospatial Information, by the Security Vetting Authority, within a period mutually agreed upon, based on the quantum and nature of the subject matter to be vetted, on best effort basis.

(2) Licensee shall not acquire, publish, disseminate or distribute any geospatial information of India through any media or by any means, unless such geospatial information are security-vetted by the Security Vetting Authority.

(3) Licensee shall display the insignia of the clearance of the Security Vetting Authority on the security-vetted geospatial information by appropriate means such as water-marking or licence as relevant, while disseminating or distributing of such geospatial information.

(4) Licensee shall indemnify the Security Vetting Authority for any consequential loss or damages whatsoever that might be caused to any person or agency in India or abroad, due to the use or supply of security vetted geospatial information.

CHAPTER V

OFFENCES AND PENALTIES

12. Penalty for illegal acquisition of geospatial information of India.- Whoever acquires any geospatial information of India in contravention of section 3, shall be punished with a fine ranging from Rupees one crore to Rupees one hundred crore and/or imprisonment for a period upto seven years.

13. Penalty for illegal dissemination, publication or distribution of geospatial information of India.- Whoever disseminates, publishes or distributes any geospatial information of India in contravention of section 4, shall be punished with a fine ranging from Rupees ten lac to Rupees one hundred crore and/or imprisonment for a period upto seven years.

14. Penalty for use of geospatial information of India outside India.- Whoever uses any geospatial information of India in contravention of section 5, shall be punished with a fine ranging from Rupees one crore to Rupees one hundred crore and/or imprisonment for a period upto seven years.

15. Penalty for wrong depiction of map of India etc.- Whoever depicts, disseminates, publishes or distributes any wrong or false topographic information of India including international boundaries in contravention of section 6, shall be punished with a fine ranging from Rupees ten lac to Rupees one hundred crore and/or imprisonment for a period upto seven years.

16. Penalty for violation of terms and conditions of a licence.- If a licensee violates the terms and conditions mentioned thereof, he shall be punished with a fine ranging from Rupees ten lac to Rupees one hundred crore and/or suspension or revocation of the licence and/or imprisonment for a period upto seven years.

CHAPTER VI ENFORCEMENT MECHANISM

17. Enforcement Authority.-(1) The Central Government shall, by notification in Official Gazette, constitute an Enforcement Authority for enforcement of the provisions of this Act.

(2) The Enforcement Authority shall consist of an officer of the rank of Joint Secretary to the Government of India or above as Chairman and two members, one as technical expert and other as national security expert.

(3) The Enforcement Authority shall do surveillance and monitoring, as may be required to enforce the provisions of this Act and the rules and regulations framed thereunder.

(4) The Enforcement Authority shall monitor compliance of the terms and conditions of the licences granted under this Act.

(5) The Enforcement Authority may, by general or special order in writing, delegate to any constituent member of the Enforcement Authority or any other subordinate Committee or officer subject to such conditions, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary, except the power to determine whether a case is to be tried before a Court of Sessions or to determine the amount of financial penalty to be imposed by it on the violators of the provisions of this Act.

(6) In the discharge of its functions, the Enforcement Authority shall be guided by such directions in matters of policy involving national security as well as public interest as the Central Government or the Apex Committee may give to it in writing.

18. Power to inquire contraventions.-(1) The Enforcement Authority shall make inquiry about any contravention of the provisions of this Act, rules or regulations made thereunder or terms and conditions of a licence granted under this Act.

(2) The Enforcement Authority shall, if he has reasonable cause to suspect that any contravention of the provisions of this Act, rules or regulations made thereunder has been committed, shall have access to any computer resource, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

(3) For the purposes of sub-section (2), the Enforcement Authority, by order, direct any person in charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary.

19. Power to adjudicate.-(1) The Enforcement Authority shall prima-facie assess the information gathered during surveillance and monitoring by it or received as a complaint from anyone and determine whether, having regard to the gravity of the offence and other relevant factors, it is a fit case which may attract the imposition of penalty of imprisonment also as prescribed in the Act or rules or regulations made thereunder. If so, the Enforcement Authority shall make a complaint to Police to investigate and prosecute the person before a Court of Sessions. If not, the Enforcement Authority shall adjudicate the case itself.

(2) In respect of cases to be adjudicated by the Enforcement Authority, the Enforcement Authority after giving the defaulter a reasonable opportunity for making representation in the matter and if, on such inquiry, is satisfied that the person has committed the contravention, it may,

- (a) confiscate all the computers resources and publications used for violation of the provisions of this Act; and/or
- (b) impose such financial penalty as it thinks fit in accordance with the provisions of this Act and rules and regulations framed thereunder; and/or
- (c) suspend or revoke licence as the case may be.

(3) The Enforcement Authority shall have the powers of a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 and all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code;

20. Power of Enforcement Authority to give directions.- (1) The Enforcement Authority may, by order, direct a person to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made thereunder.

(2) Any person who fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding rupees one crore or to both.

21. Compounding of contraventions.- (1) Any contravention under this Act may, either before or after the institution of Inquiry proceedings, be compounded by

the Enforcement Authority subject to such conditions as the Enforcement Authority may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed under this Act for the contravention so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar contravention within a period of one year from the date on which the first contravention, committed by him, was compounded.

Explanation.—For the purposes of this sub-section, any second or subsequent contravention committed after the expiry of a period of one year from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Where any contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the person guilty of such contravention in respect of the contravention so compounded.

22.Recovery of penalty. -A penalty imposed under this Act, if fail in lieu of penalty, shall be recovered as an arrear of land revenue and the licence shall be suspended till the penalty is paid.

CHAPTER VII APPELLATE MECHANISM

23.Appellate Authority.-(1) The Central Government shall, by notification in Official Gazette, constitute an Appellate Authority to adjudicating the appeals against the decisions of the Security Vetting Authority or the Enforcement Authority as the case may be.

(2) The authority shall consist of a retired Supreme Court/High Court Judge as Chairmen and two members, one as technical expert and other as national security expert.

Or

Nominate any existing judicial authority, such as National Company Law Appellate Tribunal (NCLAT), to be the appellate authority.

24.Appeal to Appellate Authority.-(1) Save as provided in sub-section (2), any person aggrieved by an order made by the Security Vetting Authority or by the Enforcement Authority under this Act may prefer an appeal before the Appellate Authority.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Security Vetting Authority or by the Enforcement Authority is received by the aggrieved person and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Authority may, after giving the parties to the appeal, an opportunity of being heard, pass such order thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The appeal filed before the Appellate Authority under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavor shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

25. Procedure and powers of the Appellate Authority.- (1) The Appellate Authority 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 Appellate Authority shall have the powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The Appellate Authority shall have, for the purposes of discharging its functions under this Act, 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:—

- (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;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Authority shall be deemed to be a judicial proceeding within the meaning of sections 193, 196 and 228 of the Indian Penal Code and the Appellate Authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

26. Court not to have jurisdiction.- No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Appellate Authority constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

27. Appeal to High Court.- Any person aggrieved by any decision or order of the Appellate Authority may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Authority to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

28. Prompt disposal of Appeals.-Appeal filed, if any, before any of the Appellate bodies namely the Appellate Authority, the High Court or the Supreme Court shall be dealt with as expeditiously as possible and the endeavor shall be to dispose of the appeal within six months from the date of receipt of the appeal at each stage, viewing the security concerns of India.

CHAPTER VIII MISCELLANEOUS

29. Cognizance of offences by Court.-No court shall take cognizance of an offence under this Act unless upon a complaint made by the order of the Enforcement Authority as defined in the clause (d) of sub-section (1) of section 2.

30. Offences by companies.- (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (i) "Company" means anybody corporate and includes a firm or other association of individuals; and
- (ii) "Director", in relation to a firm, means a partner in the firm.

31. Power to make rules.-(1) The Central Government may, by notification, make rules to carry out the provisions of the Act.

(2) In particular, but without prejudice to the generality of the provision of sub-section (1) above, such rules may provide for all or any of the following matters, namely:-

- (a) the criteria and procedure for constitution of the Apex Committee, Security Vetting Authority, Enforcement Authority and Appellate Authority;
- (b) the manner and procedure in which the function is to be discharged by the members, officers and other employees of the Apex Committee, Security Vetting Authority, Enforcement Authority and Appellate Authority;

- (d) the term of office, salary, allowances and other terms and conditions of service of the Chairman and the Members of the Appellate Authority.

32. Rules and regulations to be laid before Parliament.- (1) Every rule made by the Central Government and every regulation made by the Apex Committee under this Act shall be laid, as soon as may be after it is made, 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 regulation or both houses agree that the rule should not be made, the rule 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/regulation.

(2) Nothing in this Act shall affect the activities of the Central Government in the discharge of its functions relating to the security or the defence of India.

(3) No suit, prosecution or other legal proceeding shall lie against the Central Government or Apex Committee or Security Vetting Authority or Enforcement Authority, on whom powers have been conferred pursuant to this Act, for anything which is done or purported to be done in good faith in pursuance of this Act or for any rule or regulation made under this Act.

33. Act to have overriding effect. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

34. Chairman, Members and Employees of the Apex Committee, Security Vetting Authority, Enforcement Authority and Appellate Authority to be public servants.- Chairman, Members, and Employees of the Apex Committee, Security Vetting Authority, Enforcement Authority and Appellate Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

35. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the Central Government, the Apex Committee, the Security Vetting Authority, the Enforcement Authority or the Appellate Authority or any person acting on behalf of them, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

36. Removal of difficulties.- (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 appear to it to be necessary or expedient for removing the difficulty:

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

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

37. Act not to apply to Indian Governmental Bodies.- The Central Government may, by notification in Official Gazette, exempt the Ministries, Departments, Public Sector Enterprises or any other attached or subordinate offices of the Central Government or State Governments from the provisions of this Act to the extent it deems fit.
