

**COMPENDIUM  
OF  
INSTRUCTIONS  
/ GUIDELINES  
RELATING  
TO  
ISSUE  
OF  
PASSPORTS  
IN  
INDIA/ABROAD**

## **1. EVOLUTION OF PASSPORTS IN INDIA**

- 1. Defence of India Act, 1915**
- 2. The Indian Passport Act, 1920**
- 3. Passport Regulations after Independence**
- 4. Enactment of the Passports Act, 1967**
- 5. Origin of Passport Manual**
- 6. Central Passport Organisation (CPO)**
- 7. Passport Seva Project (PSP)**

### **1. DEFENCE OF INDIA ACT, 1915**

1.1 There was no practice of issuing Indian passports before the First World War. During the war, the Government of India enacted the Defence of India Act in 1915 and promulgated rules thereunder, which mandated possession of a passport compulsory for exit from and entry into India.

1.2 The Act expired six months after the end of the war. It was, however, desired that the Government of India should retain power to continue that system in whole or in part for purpose of bringing the Indian practice in line with that of other dominions of the British Empire and of other countries.

### **2. THE INDIAN PASSPORT ACT, 1920**

2.1 The Government of India, therefore, enacted the Indian Passport Act, 1920 which substantially retained the provisions of the Defence of India Act. The 1920 Act was renamed as "The Passport (Entry into India) Act, 1920", after the enactment of the Passports Act, 1967, and is still in operation requiring mandatory possession of passports by persons entering India. This 1920 Act is administered by the Ministry of Home Affairs.

2.2 Though 'Emigration' continued as a Central subject even after the Government of India Act, 1935 was passed, the Central Government delegated to the State Governments the power to issue passports on its behalf. Accordingly, some of the then State Governments, viz., Bombay, Central Province of Berar, Delhi, United Provinces, etc., opened regular passport offices under their Home Departments.

### **3. PASSPORT REGULATIONS AFTER INDEPENDENCE**

3.1 The issue of passports became a Central subject under the Indian Constitution and was allotted to the Ministry of External Affairs under the Transaction of Business Rules. Until 1954, this work was continued to be carried out by the respective State Governments on behalf of this Ministry. It was in 1954 that the first five Regional Passport Offices at Mumbai, Kolkata, Delhi, Chennai and Nagpur were set up. This necessitated the setting up of a separate organization and the Central Passport and Emigration Organization was created in 1959 as a Subordinate Office of the Ministry of External Affairs. With the enactment of the Emigration Act, 1983, the work relating to 'emigration' was separated and transferred to the Ministry of Labour. The Emigration Act was subsequently being administered by the Ministry of Overseas Indian Affairs which has since been merged with the Ministry of External Affairs in January 2016.

### **4. ENACTMENT OF THE PASSPORTS ACT, 1967**

4.1 The power to issue passports was earlier being exercised by the Government by virtue of Article 73 read with List I, Item 19 of the Seventh Schedule of the Constitution of India.

4.2 In the case of *Satwant Singh Sawhney vs. Government of India* in 1966, the Supreme Court held that there should be an Act to govern the issue of passports to avoid the element of arbitrariness in passport matters. The Government, therefore, promulgated the Passports Ordinance, 1967 and later replaced it with the present Passports Act, 1967(15 of 1967), which came into force on 24<sup>th</sup> June, 1967. This day is now being celebrated by the Ministry as the “Passport Seva Divas” every year when meetings with all Passports Officers are held, performance reviewed and awards given by the External Affairs Minister to top performers.

4.3 The Passports Act was subsequently amended in 1978, 1993 and 2001. Under the Passports Act, 1967, the Central Government has the powers to frame rules. The first such rules called the Passports Rules, 1967 were thus framed the same year. Some of these rules were amended, supplemented and repealed from time to time. The amendments were consolidated and the rules were last issued as the Passports Rules, 1980 that have also been amended since then. The Passport application form and the information booklet attached therewith are also part of these rules.

## **5. ORIGIN OF PASSPORT MANUAL**

Till 1966, the issue of passports was regulated through administrative instructions. These instructions were initially codified in the Passport Manual 1949, which was further consolidated in 1959, 1983 and 2001, incorporating instructions issued from time to time. In the initial years, the philosophy regarding issue of passport was that this was considered to be discretionary matter for the Central Government. This authority was however to be discharged without discrimination. The passports were, therefore, issued after the relevant authorities were assured that the security of the State and its good name would be maintained by the passport holders.

## **6. CENTRAL PASSPORT ORGANISATION (CPO)**

The Central Passport Organisation is a subordinate organisation under the Ministry of External Affairs which renders all passport services in India. The CPO has a sanctioned strength of 2697 officers and staff as on 31<sup>st</sup> December, 2015 and is headed by Joint Secretary (Passport Seva Project) & Chief Passport Officer, who is also the Appellate Authority under the Passports Act and the Head of Department under the Delegation of Financial Powers Rules, 1978. As on 31<sup>st</sup> March, 2016, there are 37 Passport Offices and 89 Passport Seva Kendras in the country.

## **7. PASSPORT SEVA PROJECT (PSP)**

To augment and improve the delivery of passport services to Indian citizens, and to render passport services in a time bound, transparent, modern and comfortable atmosphere, the Ministry of External Affairs (MEA), launched the Passport Seva Project (PSP) in May 2010. It is an ambitious e governance initiative, and is part of National e-Governance Plan, in Public-Private Partnership (PPP) mode with Tata Consultancy Services, that was selected through an open competitive procurement process. PSP has enabled simple, efficient and transparent processes for delivery of passport and related services. Under this program, the sovereign and fiduciary functions like verification, granting and issuing of passports have been retained by MEA. The ownership and strategic control of core assets including data/information are also with MEA. As on 31<sup>st</sup> March, 2016, in addition to 77 Passport Seva Kendras, another 12 PSKs have also been set up throughout the country and 7 more are in pipeline, under PSP. A new set of rules titled “The Passports Application (Facilitation and Processing) Rules, 2010” has been notified to cover the Passport Seva Project structure.

## 2. PASSPORTS AND TRAVEL DOCUMENTS – ESSENTIALITY, DEFINITION AND CLASSES

1. Possession of a Passport or Travel Document: An Essentiality
2. Exemptions to Possession of a Passport or Travel Document
3. Classes of Passports
4. Classes of Travel Documents
5. Passports for a Named Country
6. Issue of Passports to non-Nationals
7. Delegation of Powers u/s 20 of the Passports Act

### 1. POSSESSION OF A PASSPORT OR TRAVEL DOCUMENT: ESSENTIALITY

All persons who depart or intend to depart from India are required to be in possession of a valid passport or travel document. The word 'person' includes Indian citizens. The necessity of a travel document or a passport has arisen from International Convention and usage among nations. The term 'passport' or 'travel document' includes Indian documents issued under Passports Act, 1967 and Rules made thereunder. The word 'departure' with grammatical variations and cognate expressions, means departure from India by water, land or air.

### 2. EXEMPTIONS TO POSSESSION OF A PASSPORT OR TRAVEL DOCUMENT

2.1 The Central Government had been entrusted with the power under Section 21 of the Passports Ordinance, 1967 to grant exemptions from possession of these documents. Such authority now vests with the Central Government u/s 22 of the Passports Act. From time to time, the Central Government has exercised its authority under these clauses. However, this is only an enabling provision and confers no right to anyone. At present, this exemption is made in respect of certain named 'countries' and certain categories of persons, which are as under:-

- a) Indian and Nepalese citizens for their departure from India to Nepal [GSR 715 and 716, dated 15/05/1967]. *Exception: Effective from July 2000, both Indians and Nepalese travelling by air between India and Nepal are required to possess passport;*
- b) Indian and Bhutanese citizens for their departure from India to Bhutan [GSR 719 and 720 dated 15/05/1967];
- c) Indian armed forces personnel departing from India on official duty on Government transport and also members of their families accompanying them in such transport [GSR 1319 dated 30/08/1967]; and,
- d) Members of the Hill Tribes, who are either citizens of India or citizens of Myanmar (formerly Union of Burma) and who are ordinarily resident in any area within 40 kms on either side of the India-Myanmar international frontier, departing from India to Myanmar across the said frontier, subject to certain conditions [GSR 1264 dated 28/06/1968].

2.2 Vide GSR195(E) dated 17<sup>th</sup> March 2015, possession of valid Indian passports has been made mandatory for Indian citizens who are members of the crew and tindals of sailing vessels for travelling abroad, with effect from 1<sup>st</sup> June 2015. Government of India has since withdrawn the earlier exemption granted, vide GSR 1812 dated 25<sup>th</sup> September 1968, to the Indian members of the crew and tindals of sailing vessels to travel abroad on the basis of their identity cards, Continuous Discharge Certificates (CDCs) etc., instead of passports.

### **3. CLASSES OF PASSPORTS**

3.1 The following classes of passports may be issued under the Passports Act, namely:-

- a) Ordinary Passports,
- b) Diplomatic Passports, and
- c) Official Passports.

3.2 The Central Government has prescribed classes of persons to whom the above passports may be issued. These would be discussed in subsequent chapters.

### **4. CLASSES OF TRAVEL DOCUMENTS**

4.1 Under the Passports Act, the Central Government may issue the following classes of travel documents:

- a) Emergency Certificate, authorizing a person to enter India;
- b) Certificate of Identity for the purpose of establishing the identity of a person; and
- c) Certificate or documents, as may be prescribed.

*Note: In 2009, Short validity passport for Haj Pilgrims called 'Haj Passports' valid for Saudi Arabia only was introduced when Saudi Arabia made it mandatory for Haj pilgrims to possess international passport. Issue of these Haj passports have since been stopped. Refer to Chapter 18.*

### **5. PASSPORTS FOR A NAMED COUNTRY**

5.1 The Passports (Amendment) Act, 1978 has incorporated a provision for issue of passports for a 'named country'. Such passports were earlier issued for travel between India and Bangladesh, India and Sri Lanka and vice versa. These special passports are no longer being issued.

### **6. ISSUE OF PASSPORTS TO NON-NATIONALS**

6.1 A passport is largely an identity and travel document issued to the State's own nationals. Many countries issue passport to foreigners in the absence of any travel documents but specify their respective foreign citizenship in the passport. The British Overseas Passport is a well known example. Thus, a passport provides evidence of the holder's nationality, but this is placed in the same category as any other evidence of the citizenship status of an individual. Under Section 20 of the Passports Act, 1967, Indian passports/travel documents may be issued to non-nationals. This power, however, vests with the Central Government only. This authority of the Central Government can be exercised by the Secretary/Additional Secretary/Joint Secretary/Director/Deputy Secretary, in charge of the Passport Division in the Ministry of External Affairs. Such an authority cannot be exercised by any other Passport Authority and all such cases of issue of passports to non-Indian citizens require the prior approval of the Central Government, unless such powers have been delegated by the Central Government. At present, such powers have been delegated to Indian Missions in Yangon and Bangkok and the Passport Officer, Ahmedabad for certain categories of persons, under specific conditions, which are discussed in detail in the succeeding paragraphs.

### **7. DELEGATION OF POWERS U/S 20 OF THE PASSPORTS ACT, 1967**

7.1 The Embassy of India, Bangkok has been empowered to issue passports to persons of Indian origin residing in Thailand, whose national status has not been verified, describing their national status, inter alia, as 'Indian' or 'Indian by birth' or 'person of Indian origin' [GSR 254 dated 22/02/1971].

7.2 The Embassy of India, Yangon has been authorized to exercise power u/s 20 of Passports Act to grant passports to persons of Indian origin residing in Myanmar (formerly Union of Burma) and holding Foreigners Registration Certificate issued by Government of the Union of Myanmar. The passports in such cases are to be granted for a period of one year at a time and endorsed for Myanmar only [GSR 353(E) dated 26/5/1976 for six months and further extended to one year in May 2016] .

7.3 Passport Officer, Ahmedabad, has also been delegated authority to grant Certificate of Identity to persons of Indian origin who came back to India from Kenya and Uganda, and residing within the State of Gujarat and the Union Territory of Dadra and Nagar Haveli [GSR 420(E) dated 29/06/1977].

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### **3. CHANGE OF ENTRIES IN PASSPORTS**

#### **1. General**

#### **2. Powers to rectify errors u/s 21 of the General Clauses Act**

#### **3. Change of name**

##### **3.2 Complete name change**

##### **3.3. Married woman wishing to revert to maiden name when not divorced or widowed**

##### **3.4 Change of name from childhood to adulthood**

##### **3.5 Minor change in name**

##### **3.6 Difference between minor and major change in name**

##### **3.7 Minor correction in name**

##### **3.8 Change/addition of surname -**

##### **3.9 Following Marriage, Divorce or Remarriage**

##### **3.10 Separated/Divorcees/Widow(er)**

##### **3.11 Applicants applying for change of own name or change/deletion of spouse name**

##### **3.13 Adopted Children (change in name and change of parents' name)**

##### **3.16 Change of name of Minors**

##### **3.17 Repeated name change**

#### **4. Change in Parent(s) Name**

##### **4.2 Change in the name of deceased parents**

II

**4.3 Name change in Goa from Portuguese to English and vice versa of step-parent (s) name**

**4.5 Parent name not to be deleted from passport consequent to divorce**

**4.6 Inclusion of step-parent name on the basis of foreign court judgements**

#### **5. Birth Certificate takes precedence over other certificates**

#### **6. Change in Date of Birth**

**6.2 Where an applicant claims clerical/technical mistake in the entry relating to birth/place of birth in the passport and seeks rectification :**

**6.7 To contest DOB change court cases on merit**

#### **7. Change of Place of Birth**

#### **8. Change of Sex**

#### **9. Change in Appearance**

#### **10. Change of Address**

#### **11. Change in Signature**

#### **12. Police Verification**

### **1. GENERAL**

1.1 Passport Authorities are required to render various types of services on a passport already issued, when applied for by the passport holder. In case of any change in the particulars in laminated photo page of the Passport, a fresh booklet is required to be issued. In such cases application form has to be submitted in Form 1.

*Note: ICAO regulations do not permit any change of entries in the data page (the front laminated page containing photograph). For functional reasons, the Ministry has decided that in case of any change in*

*the personal particulars, address, ECR-ECNR status etc., new passport has to be issued, after making necessary entries in the PRIDE.*

## **2. POWERS TO RECTIFY ERRORS U/S 21 OF GENERAL CLAUSES ACT**

2.1 All authorities, including Passport Authority, have the power to rectify clerical errors in accordance with Section 21 of the General Clauses Act, 1897. Therefore, purely clerical errors in passport, including error in DOB, can be corrected by the Passport Authority.

## **3. CHANGE OF NAME**

3.1 Change of name affects the most important factor in identifying a person and hence the need for great caution in rendering this service on a passport. On receipt of the application, the usual checks such as Index, PAC and PRIDE should be done in both the existing name and the new/changed name in the application. ICAO stipulates in latest version of Document 9303 that "Prefixes and suffixes, including titles, professional and academic qualifications, honours, awards, and hereditary status (such as Dr, Sir, Jr, Sr, II and III) shall not be included in the MRZ (Machine Readable Zone) except where the issuing State considers these to be legally part of the name. In such cases, prefixes or suffixes shall be represented as components of the secondary identifier (first/given name)". Surname is usually given in the first identifier. In the case of members of religious order, their assumed names, for example 'Swami' may be endorsed on the observation page of the passport. The aliases of the holder if any, shall not be mentioned together with the other name in the front laminated data page and should be endorsed as an observation in an observation/visa page as follows: "The holder is also known/previously known by the name of ..." Following documents need to be submitted with the application for change of name, depending on the circumstances, as given below:

### **3.2 Complete Name change**

For complete/substantial name change an applicant should furnish:

- i) Prescribed Deed Poll/Sworn Affidavit (Annexure "E" of **Appendix-1**)
- ii) Original newspaper cuttings announcing the change of name published in two leading daily newspapers (one popular daily newspaper in the area of the applicant's present address and another at his permanent address) OR name change by Gazette notification published in the Indian Union/State Official Gazette especially in cases of complete name change abroad.

**3.3. Married woman wishing to revert to maiden name when not divorced or widowed** The same procedure as in paragraph 3.2 above (for complete name change) to be followed.

### **3.4 Change of name from childhood to adulthood**

- (a) Often there are cases when a surname is added or dropped as an individual moves from childhood to adulthood. For instance, the birth certificate may be in the name of Vinod Kumar whereas the school leaving certificate and other subsequent documents may be in the name of Vinod Kumar Sharma etc. In all such cases, procedure in the succeeding paras may be adopted.
- (b) In the issue of the first passport, the most recent name in reissued Birth Certificate, School Certificate, Service Record (in respect of Govt./PSU/Statutory body employees) may be accepted. If no such document is produced, the standard name change procedure (as at para 3.2 above) will apply.
- (c) In all cases (except for substitution of maiden surname with surname of husband) where a passport has once been issued and the applicant wants a change in name in a subsequent passport, then the procedure laid down in paragraph 3.2 above for complete name change has to be followed.

### 3.5 Minor change in name

No-PV should be initiated specifically for verifying minor change/correction in given name, surname or change/addition of surname as detailed in paragraphs below, unless otherwise specified.

### 3.6 Difference between minor and major change in name

Except change of given name, substantially or completely (e.g., Manoj from Suresh etc.) which is an entirely new name, all other cases are to be considered as minor change of name, including addition/change of surname. The instances detailed in succeeding paras are **not** complete/substantial name change that warrant the procedure detailed in para 3.2 above and should be treated as minor name change only without requiring publication in newspaper etc.

### 3.7 Minor correction in name –

- (a) Spelling correction/change of spelling which phonetically does not result in change in name (e.g., D'souza to De Souza) ;
- (b) Variation of a name as mentioned in Birth Certificate (e.g., Sanjiv to Sanjeev)
- (c) Shifting of words/changing arrangements of various parts of existing name without inserting/deleting any words/letters in the existing name (e.g., Parmeshwaran Shiva Kumaran to Shiva Parmeshwaran Kumaran). The most recent name as shown in at least a couple of personal documents, educational certificates etc. issued by Government authorities to be submitted in such cases of minor name change. However, shifting parts of name should not be allowed where the initial name/abbreviation is father's name as is the practice in Tamil Nadu, AP and Telungana, or where the last name is father's name as is the practice in Maharashtra. In such cases, procedure stipulated at para 3.2 should be followed.

### 3.8 Change/addition of surname

- (a) Change/addition of surname due to marriage/divorce, death of spouse, remarriage etc
- (b) Change/addition of surname from childhood or adulthood;
- (c) Splitting of name into given name and surname

In these cases of minor name change, applicants need to submit documentary proof showing surname of his/her spouse/parent name to desired change in the surname to justify the claim for change/addition of surname without requiring to carry out procedure in para 3.2 above.

### 3.9 Following Marriage, Divorce or Remarriage

A woman applying for the first time in her married name or for a change of name/surname in existing passport after marriage, must furnish:

- a) Attested copy of marriage certificate issued by the Registrar of Marriages; OR a notarized joint photo affidavit signed by both husband and wife [Annexure 'D' of **Appendix 1**];
- b) Photocopy of the husband's passport, if any;
- c) Deed Poll or Sworn Affidavit regarding change of name [Annexure 'E' of **Appendix-1**]. The deed poll is not required for substitution of maiden surname with surname of husband.

*Note: Due to increase in matrimonial disputes, the Supreme Court in February 2006 directed Union and State Governments to consider enacting laws to make registration of marriage compulsory. Accordingly, the State Governments of Andhra Pradesh, Arunachal Pradesh, Bihar, Delhi, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Punjab and Tamil Nadu have enacted legislations making registration of marriage compulsory. Therefore, in all these states, production of Marriage Certificate with the passport application is mandatory, if the marriage took place after the enactment of this law in respective states. The Indian Christian Marriage Act, 1872, makes marriage registration compulsory throughout India, as it provides for entry in a marriage register kept in the Church soon after the marriage ceremony along with the signatures of the bride and bridegroom. The Parsi Marriage and Divorce Act, 1936, also makes marriage registration compulsory.*

### **3.10 Separated/Divorcees/Widow(er)**

In case of those applicants who got married but separated (but not divorced) before applying for fresh/reissue of passports, and seek to use maiden name and omit spouse name, shall furnish an affidavit in the form of Annexure 'K' sworn before a Judicial Magistrate/First Class Judicial Magistrate/Executive Magistrate. Divorcees/Widow(er) applying for change of name must furnish:

- a) Certified copy of Divorce Decree /Court order; or Divorce Certificate from Jama-at/Qazi etc, in accordance with Personal Law in respect of Muslims.
- b) Death Certificate (in case of deceased spouse), and
- c) Deed Poll/Sworn Affidavit regarding change of name [Annexure 'E' in **Appendix-1**]

### **3.11 Applicants applying for change of own name or change/deletion of spouse name**

Remarried applicants applying for change of name/spouse name must furnish:

- a) Documents as applicable at para 3.10 above;
- b) Attested copy of marriage certificate issued by the Registrar of Marriages or a joint affidavit signed by both husband and wife with a joint photo affixed; (Annexure "D" modified version) c) Photocopy of passport, if any, of the present spouse.

Divorced/widowed applicants desiring to delete spouse name shall furnish divorce judgement or proper talaqnama or death certificate of deceased spouse.

### **3.12 Foreign divorce judgements not valid in India**

The Supreme Court in its judgement dated 9/7/1991 in Y. Narasimha Rao and Ors vs. Y. Venkata Lakshmi and Anr. held that the decree dissolving the marriage passed by the foreign court is without jurisdiction according to the Hindu Marriage Act as neither the marriage was celebrated nor the parties last resided together nor the respondent resided within the jurisdiction of that Court. Further, irretrievable breakdown of marriage is not one of the grounds recognised by the Act of dissolution of marriage. The Supreme Court's order is broadly based on Section 13 of the Civil Procedure Code of India. Hence, PIAs may refuse to accept any ex-parte foreign divorce judgement even if it's duly apostilled/authenticated by foreign govt or Indian Mission abroad for purpose of grant of any passport service.

In case of mutually agreed or mutually properly contested divorce cases also, an application must be submitted by the parties at the competent Indian civil court and a declaratory order authenticating and confirming that the foreign divorce decree is in accordance with Indian law must be obtained by the concerned parties, before the mutual/contested foreign divorce is accepted by PIAs for grant of any passport service.

### **3.13 ADOPTED CHILDREN (change in name and change of parents' name)**

#### **A. WHEN AN ADOPTED CHILD ALREADY POSSESSES A PASSPORT:**

In the case of an adopted child who already possesses a passport, the request for change of name or change of name of parent(s), may be accepted in case the changed name and the adoptive parent(s) name are already recorded in the adoption order issued by the court. In case of in-country adoption which does not require a court order, the applicant must follow the name change procedure in para 3.2 for complete change of name.

#### **B. WHEN AN ADOPTED CHILD DOES NOT HOLD A PASSPORT:**

In the case of an adopted child (in-country/inter-country) who applies for fresh passport, the application may be processed in the normal course as per the name of the child and the adoptive parents recorded in court adoption order. In case a further name change is sought, complete change of name procedure as prescribed at para 3.2 has to be followed. In case of in-country adoption not requiring a court order where the application is for fresh passport, PIA has to ensure that the adoption

deed is valid and in case of any doubt, may insist on name change procedure in para 3.2 in case the name of the child in the application is different from that in his BC /School Certificate.

3.14 It may be noted that a person can change his/her name irrespective of adoption. The requests for such change in name of the child should be dealt with in accordance with the instructions regarding change in name, irrespective of the fact whether it is asked for due to adoption.

### **C. APPLICABILITY OF ADOPTION ACTS FOR NAME CHANGE**

3.15 The Hindu Adoptions and Maintenance Act, 1956 is applicable to Hindus, Sikhs, Jains and Buddhists only. The Guardians and Wards Act, 1890 is applicable to Christians, Muslims and Parsees. In case of children adopted from these three communities, the request for a passport or for a change of name is to be accompanied by a court order granting guardianship and allowing the child to be taken out of the country.

#### **3.16 Minors' change of name**

In case of minors, the requests for change in name should be entertained only from their biological parents or legally adoptive parents (and not from their guardians unless such guardian has been appointed by court order).

#### **3.17 Repeated name change**

Only one name change as per existing procedure (Deed Poll/Sworn Affidavit and newspapers clippings/gazette notification) should be allowed. For subsequent complete name change (except adding husband's surname by women and adding father's surname), an applicant should submit, in addition to Deed Poll and newspaper clippings, gazette notification, two documentary proofs that he/she had indeed changed the name in his/her other documents as well to conform to the name change already effected previously in passport. Otherwise, the applicant would be holding multiple identities, in violation of the Deed Poll/Sworn Affidavit. Applications for repeated name change without such documentary proof should not be accepted [Ministry's Circular No. VI/401/01/05/2008 dated 14/09/2009].

*Note: In case of Government servants, application for change of name may be accepted in lieu of paper clippings with the original or attested copy of Official Gazette through which the Government servant had notified change of his/her name for the purpose of service record.*

## **4. CHANGE IN THE NAME OF PARENT(S)**

4.1 Request for change in parents name should normally not be entertained. However, the following cases could be considered:

- a) The parents themselves change the name (e.g., parent of a person after following the prescribed procedure, change his/her name and a new passport was issued in the changed name to the parent. Now the child of that parent is seeking change of parents name in his passport.
- b) There was some clerical error in respect of the parents name and an applicant provides documentary proof showing the correct name (spelling) of his parent(s).
- c) In adoption cases (see IX. Adopted Children (change in name and change of parents' name)).

#### **4.2 Change in the name of deceased parents**

There is no law under which a person, not even the legal heirs of a deceased, can change the name of the deceased. Admittedly, a deceased person has throughout his life used the name which is sought to be changed for all official transactions during his life period and now his legal heirs/descendants cannot, for their convenience whatsoever, be allowed to change the name of a deceased [Ref. Ministry of Law Dy. No. 10932/07-Adv.A dated 18.07.07] Extension of initials of

parents' name into full name may be allowed, as only full name shall be used for purpose of issue of passports.

**Based on documentary proof issued in their life time or name in Death Certificate:** Parents' name as shown in his/her own passport is significant proof of the correct name and to be accepted on priority. Besides, parents' name as shown in educational documents/marriage certificate, birth certificate including revised certificates etc. can also be accepted as correct, even if issued after the death of parents.

#### **4.3 Name change in Goa from Portuguese to English and vice versa**

In Goa, the names of a large number of persons were originally recorded in Portuguese; some converted these names to English. Thereafter, some persons wanted these names to be re-converted into Portuguese for the purpose of migration to Portugal. The Ministry had in recent years been receiving a large number of references from PO, Panaji for correction/change in names or change in parent(s) name. The passport may be issued with changed name in the following cases, subject to the applicant completing documentation regarding name change:

- a) Minor name change (e.g., D'souza to De Souza, etc.)
- b) Change of parent(s) name strictly on the basis of documentary proof such as passport, property titles, etc., that the parent(s) were using in Portuguese sounding names. c) For major change in name of either applicant or parent(s), pre-police verification is required.

#### **4.4 Non-inclusion of step-parent(s) name**

The name of step-parent can replace the name of father/mother in the passport of the step child only in the event of death of biological father/mother or the appointment of the step parent as the legal guardian of the minor child by a competent court or such a child has been adopted by the step-parent with the consent of both the biological parents. [Ref. Ministry's circular No. VI/401/1/5/2008 dated 5/10/2009]

**4.5 Parent's name not to be deleted from children's passports consequent to divorce** Request for deletion of parent's name from children's passports due to parents' divorce should not be accepted. By virtue of the divorce decree, only the relation of the parents as wife and husband severs. The divorce decree does not result in severance of the relation between the children and the parents, unless either parent has legally disowned the child. Under Article 7 of UN Convention on the Rights of the Child, the child has the right to know and be cared for by his or her parents. The Madras High Court, in its judgment dated 23/01/2015 on B.S. Deepa vs RPO Chennai, highlighted and reiterated the supremacy of relationship between the biological father and the child, though it directed the Ministry to make provisions for stating names of biological/adoptive/step parents in the application form and also gave a specific relief to the petitioner for inclusion of name of step-parent in the passport of the child.

#### **4.6 Inclusion of step-parent name on the basis of foreign court judgments**

The name of parents should not be substituted with the name of step-parent(s) on the basis of foreign court orders unless such court orders are fully in conformity with Indian laws. An example of a case is given below by way of illustration:

4.7 A Singapore court had issued ex-parte divorce between two Indian nationals (wife resident in Singapore) and granted custody of the child to the mother. Later she remarried another Indian who is also resident in Singapore. A Singapore court allowed the stepfather and the biological mother to adopt the child and thereafter they applied to the Indian Mission for inclusion of stepfather's name in the passport of the child against the column of father and also change the name of the child.

4.8 The Law Ministry has opined that the remarried couple were governed by the Indian laws on adoption and the adoption was invalid as per Indian law. In the present case, the biological father of

the child was alive and as such he alone has right to give the child in adoption. There was no cessation of the relation of the child with the natural father. Therefore, the adoption order of the Singapore court was not in conformity with the Indian laws which would normally govern this couple. Therefore, the application of the child for issue of passport with the stepfather's name was rejected.

## **5. BIRTH CERTIFICATE TAKES PRECEDENCE OVER SCHOOL CERTIFICATE - HIGH COURT JUDGMENT**

5.1 Since Birth Certificate has been made compulsory for issue of passports under the Passport Rules for those born on or after 26/01/1989, the preference of Birth Certificate over school certificate (as per the Punjab and Haryana High Court judgment quoted below) may be made effective from that date only. In case date of birth falls before this deadline either BC or School certificate may be accepted. This is applicable in case of fresh passport cases only.

5.2 The Punjab and Haryana High Court has, in the CWP 13722/2007 – Resham Singh vs UoI, inter alia, held that "As and when an application is filed before a Passport Authority, and there appears to be a conflict between entries in the birth Certificate issued by the Registrar of Births and Deaths and the entry of birth in a school leaving certificate, the entry in the birth certificate issued by Registrar of Births and Deaths would prevail and except where the certificate is unreliable, suspicious or appears to be procured or manipulated, parties should not be relegated to civil Court in a mechanical manner." This direction is applicable in case of fresh passport cases.

## **6. CHANGE IN DATE OF BIRTH**

[Ref. Ministry's circular VI/401/2/5/2001 dated 26.11.2015, 13.01.2016 and 22.09.2016 ]

6.1 Requests are frequently received by PIAs for change in the date of birth. This is due to the fact that many countries insist that date of birth (or place of birth) in all documents of a person be the same for purposes of immigration, long term resident/student visas, employment, retirement etc. The Kerala High Court, on 23<sup>rd</sup> June 2015, in a case WP No. 9073 of 2015 (Jayakumar vs RPO Trivandrum), while dismissing a bunch of similar petitions seeking direction to PIA for change of date of birth, delivered a landmark judgment elaborating upon the fact that the personal particulars entered in the passport can not be modified at will, without any sustainable cause and without any explanation as to why such a change is sought after many years. The Court also set aside the existing procedure for change in date of birth by PIAs if the difference is less than two years and directed that irrespective of period of difference between correct and given dates of birth, any bona fide change in date of birth shall be effected within a reasonable limitation period. The Government accordingly set a five year limitation period from the date of issue of first passport to an adult, based on GOI policy for govt. employees for change of their date of birth. Accordingly, the following revised procedure shall be adopted by all PIAs in India and abroad for change of date of birth/place in passports:

### **6.2 Where an applicant claims clerical/technical mistake in the entry relating to birth/place of birth in the passport and seeks rectification**

In all such cases, the documents produced earlier as proof of date of birth/place of birth at the time of issue of passport may be perused (if not already destroyed) by the issuing PIA. In case, it is a mistake either by the applicant or a clerical mistake by the issuing PIA, date/place of birth correction may be allowed by issue of fresh booklet without any limitation of time. In case of mistake by the applicant, fee for fresh passport to be charged and in case of mistake by the PIA staff, fresh passport to be issued on 'gratis' basis [as mentioned in Ministry's circular No. VI/401/2/5/2001 dated 29/10/2007].

6.3 If an applicant applies for correction of date of birth in the passport on the basis of a fresh or corrected birth certificate (the original BC was submitted earlier for issue of the first passport), the following procedure be followed:

- a) In case of furnishing of a new amended BC with the same date of issue and registration number of the old BC by the same authority, application for change in DOB be processed subject to physical verification of the new BC;
- b) In case of furnishing of a new BC by a different authority in replacement of old BC by another authority, the PIA shall insist on cancellation of the old BC and after physical verification of the cancellation certificate and the fresh BC from issuing authorities, application for change in DOB be processed;
- c) In case of furnishing of a new BC where the first passport was obtained using other documents like educational school certificates etc., application for change in DOB be processed subject to physical verification of the new BC and other supplementary documents (if required);

6.4 The PIA shall however reject cases where the old birth certificate or other DOB documents used to obtain the first passport, were issued even before the new date of birth claimed by the applicant. (Obviously, the old certificates were in existence before the new DOB of the applicant)

6.5 In case of DOB change applications based on fraudulent documents or /and suppression of material information or/and furnishing of wrong information, the Passport Authorities shall take appropriate steps for imposition of monetary penalty **OR** filing of criminal case against the offender applicant, as the case may be, in terms of the statutory provision of Section 12 of the Passports Act, 1967.

6.6 In no way, the PIA shall relegate the applicants to obtain a declaratory court order to carry out change in date of birth, as per earlier procedure.

### **6.7 To contest DOB change court cases on merit**

PO should carefully examine contentions in petitions for change of date of birth and report to the Ministry for effectively challenging the cases such as below, by referring to the Kerala High Court judgement dated 23<sup>rd</sup> June 2015, in the WP No. 9073 of 2015 (Jayakumar vs. RPO Trivandrum) :

- a) Where an applicant claims responsibility on the passport authorities for the error of date of birth in the passport;
- b) Where an applicant claims compensation from Passport Authorities;
- c) Where the applicant tries to mislead the court for personal gains [e.g., an applicant first obtained passport with false ante-dated date of birth to procure job abroad and after working abroad wants to revert to actual DOB; women who want to show ante-dated date of birth to bypass regulations on employment as domestic helps abroad; persons on the verge of retirement trying to get under-aged passport; persons trying to get under-aged/over-aged passport to overcome upper age ceilings for employment abroad etc.]

6.8 It has been decided by the Ministry that all PIAs shall, therefore, contest apparently false cases in lower courts for change of DOB and also appeal at higher courts against lower court decision directing change of date of birth or in cases where the courts issued general directions to the Government for any change in the current DOB guideline. However, PIAs may not contest genuine court cases involving less than two years of age difference

6.9 In case of orders by higher courts to process applications for change in DOB, PIAs may seek from the applicants, DOB corrected old birth/educational certificates or cancellation certificate for old incorrect BC furnished at the time of obtaining the first passport, and then seek physical verification of the same by issuing authorities. PIAs may also discourage false applications by exploring filing of FIRs for furnishing of false information/certificate at the time of obtaining the first passport.

6.10 As per recent circular no. VI/401/2/5/2001, dated 22.09.2016 issued by the Ministry, the following are the additional guidelines for PIA on judicial pronouncements made after the issue of the OM dated 26.11.2015 and 13.01.2016:

- (i) The PIA shall consider the explanation of each applicant seeking change in the DOB to find the genuineness of the claim even though more than five years have elapsed after the issue of the passport.
- (ii) The PIA need not entertain any application in a routine manner for correction of DOB unless such application is filed along with a genuine explanation explaining the delay in approaching the PIA. If such an application is filed, the PIA shall consider the same and take appropriate decision as per the instructions contained in the circulars dated 26.11 .2015 and 13.01 .2016.
- (iii) The PIA shall entertain all applicants for correction of DOB, if such holder of the passport produces a court decree filed in a suit initiated prior to issuance of O.M. dated 26.11.2015 wherein a direction is given to the PIA to correct the DOB notwithstanding the direction in the O.M.
- (iv) If any application for change in DOB is filed for correction prior to issuance of the O.M. dated 26.11.2015, the same shall be considered in accordance with the relevant regulations prevailing prior to the date of the O.M.

6.11 All PIAs are requested to take note of the above instructions and ensure that these guidelines are followed scrupulously to consider the request of change/correction of entries of Date of Birth in the passports.

## **7. CHANGE OF PLACE OF BIRTH**

7.1 PIAs shall not insist on declaratory court orders for change of place of birth by applicants. Such applications shall first be examined by the PIAs on the basis of procedure stipulated above for change in Date of Birth. In case of rejection of such applications by the PIAs, the applicants are free to seek legal remedy.

7.2 Since applicants randomly write village or town or city as place of birth, it is possible that a person born in a suburb may write the name of the main city itself. Accordingly, PIAs shall not reject such applications and also not contest court cases on change of place of birth if the place already recorded in the passport and the one the applicants wants to change fall within the same district or adjoining districts. However, when such change is apparently fraudulent and sought to be made from one state to another (except in neighbouring/bifurcated/reorganized States etc); the case should be examined thoroughly and properly contested in the court (if the litigation in this regard has already been initiated by the applicant) under intimation to the Ministry.

7.3 In case of applications for change of place of birth from India to abroad, or from abroad to India, the matter be referred to the Ministry for a decision, as it involves the question of Indian citizenship and fraudulent obtaining of Indian passport.

## **8. CHANGE OF SEX**

There are rare cases of request for change in sex consequent to medical procedure changing sex of an individual. The applicant should give a sworn affidavit regarding the change in sex and furnish supporting certificate from the hospital where he/she underwent the medical treatment for

the purpose. Since the change in sex will also normally require a change in name, the applicant in that eventuality, will also have to follow the procedure in para 3.2 above regarding change of name. Passport should be issued on such application only after fresh police verification.

#### **9. CHANGE IN APPEARANCE**

Passport can be reissued for change in appearance, subject to post-Police Verification in case of minor change and pre-Police Verification in case of substantial change of appearance [Ref. Chapter-3]. This will also apply to Sikh applicants who want to change from turbaned image to clean shaven image or vice versa.

#### **10. CHANGE OF ADDRESS**

This service can be rendered by any PIA but after verification of passport particulars from PRIDE/original PIA and prescribed formalities for processing of application.

#### **11. CHANGE IN SIGNATURE**

The passport can be reissued in such cases after following application processing formalities.

#### **12. POLICE VERIFICATION**

Police Verification will be required in case of substantial change in name or other particulars. Chapter-3 may be referred to for detailed instructions.

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## 4. ISSUE OF PASSPORTS TO MINORS

1. Separate Passports to Minors
2. Procedure
3. Conditions & Requirements for Minor Passport
4. Special cases of Minors requiring Passports
  - 4.2 Children of divorced parents:
    - 4.4 Divorce pending cases
    - 4.5 Single divorced parent with full custody of child
    - 4.6 Single separated parent
    - 4.7 Child of unwed parent
    - 4.8 Child born outside wedlock
  - 4.10 Annexure 'C', 'G' and 'H' applicability and differentiation:
  - 4.11 Inclusion of step-parent's name in the passport in the column of father or mother
  - 4.12 Death of a spouse, subsequent remarriage and inclusion of stepfather/stepmother's name in the passport of child from previous marriage
  - 4.13 Divorce, subsequent remarriage and inclusion of step-parent's name in passport of child
5. Children born abroad and entitled to Dual Citizenship

### 1. SEPARATE PASSPORTS TO MINORS

Names of children are no longer included in parents' passports. All minor children are required to have separate passports with effect from April 1997. A minor child below 15 years of age is issued a passport with five years validity or till the minor attains the age of 18 years, whichever is less. The five years validity is because the physical appearance of the child changes considerably over five years [Ref. Ministry's circular No. VI/401/1/96 dated 28.4.1997]. Besides, such passports are issued without PV, if either parent holds a valid passport.

### 2. PROCEDURE

The procedure is almost the same as for ordinary passport. However, additional documentation is required (Ref Chapter-4 for details). All procedures stipulated in this chapter are subject to additional measures stipulated in Chapter 3 for J&K and Nagaland people.

### 3. CONDITIONS AND REQUIREMENTS FOR ISSUE OF PASSPORT TO

**MINORS** 3.1 The PVR requirements for minor are as under:-

- a) If both or either parent holds a valid passport, the passport of the minor children can be issued without police verification report. Photocopies of the parents' passport should be attached with the application and at least one passport should contain spouse name. If the present address of the family is different from that of address given in either parent's passport, a valid present address proof shall be furnished by either parent of the applicant. In such cases too, passport shall be issued to the minors on No-PV basis. PIAs shall not insist on change of address in passports of parents. Adverse/blank status of PVR of parents' passport files in PRIDE, shall not prohibit issue of passport to the minor.
- b) If neither parent holds a passport, passport to minor may be issued on pre-PVR basis. Basically parents' nationality and eligibility of a child for Indian citizenship will be verified by police.

Merely by birth in India, a child does not acquire Indian citizenship automatically. Indian parents who later obtained foreign nationality can continue to sign Annexure 'H' or other Annexures in respect of their child who is still an Indian citizen, as they are the biological parents of the child. Obtaining foreign citizenship by Indian parents does not deprive the Indian citizenship of their child.

3.2 Children between the ages of 15 and 18 have the option to apply for minor passport valid until he/she attains 18 years of age without police verification or full validity passport, subject to post-PV. PV is not required for reissue of passport with 10 year validity in case of minor between the ages of 15-18 years normally living abroad.

3.3 In case both parents are abroad or expired and application is filed by local guardian (but not legal guardian), pre-PV is required. In case of grandparents or surviving relative (when both the parents are deceased) who are legal guardians, no PV required.

3.4 The following documents should be submitted along with the application:

- a) Documentary proof of residence of either parent, except if the address is different from that in the parents' passport.
- b) Both the parents should sign Annexure 'H' of **Appendix-1** in fresh or reissue cases. Both parents shall be present at the PSK while applying for passport to their minor children or one parent with passports of both the parents may be present. In case either parent is resident abroad, the consent of that parent in Annexure 'H' duly attested by the Indian Mission/Post should be submitted. The parent who is submitting the application in India will sign the application form and will attach Annexure-H duly attested by the Mission.

If Annexure-H is not attested by both the parents, a single parent must submit affidavit (in the form of Annexure 'G') stating the reasons and sworn before a Judicial Magistrate/First Class Judicial Magistrate/Executive Magistrate, except in cases where the single parent has got full custody of the child without visitation rights for the spouse. In case divorce proceedings are pending, court permission is required for issue of passport to a minor child. In case of seaman/sailors who are on board ships and not able to visit Indian Missions/Posts, the requirement for signing Annexure 'H' shall be waived on furnishing proof of their employment.

- c) In case both parents are living abroad, the parents need to appoint a local guardian who can complete and submit the passport application. The parents need to furnish joint sworn affidavit (both parents need to sign) duly attested by the Mission/Post (Annexure 'I'). Passport will be issued subject to pre-PVR. Prescribed affidavit from two responsible persons, who know both the local guardian and the minor, should be submitted with the application (**Appendix-11**). However, if local guardian is one of the grandparents, affidavits from two responsible persons are not required.

d) Legal guardian can also apply for the passport of a minor child. He needs to submit, besides standard documents, a certified copy of the court order appointing him/her as legal guardian.

3.5 In case both the parents are deceased, and application is filed by the grand parents or other surviving relatives, no PV is required and normal procedure shall apply. In case of non-relative legal guardians, pre-PV is required.

#### **4. SPECIAL CASES OF MINORS REQUIRING PASSPORTS**

##### **4.1 Exclusion of father/mother name from passport of minor in single parent custody**

In case of minor children of unwed single parent, the name of father is not to be mentioned in the passport application and in the passport. In case of unwed parents submitting Annexure 12, name of both the parents to be mentioned in the application and passport.

In case of minor children of married parents, the name of father/mother shall be furnished by the other single parent having the custody of the child, irrespective of the status of their marriage, such as, divorced, divorce pending, separated or deserted, with or without visitation rights to the estranged parent.

#### **4.2 Children of divorced parents:**

Application from divorced parents for issue of passports to their minor children has to be processed taking into account the basic fact that the divorce of parents does not result in severance of the relation between the child and the parent, unless the parent has legally disowned the child. Under Article 7 of the UN Convention on Children's Rights, the child has the right to know and be cared for by his or her parents. Visitation rights/joint custody are decided by the courts. However, children also have fundamental right to travel and the other parent cannot wilfully prevent them from travelling abroad. These realities have been taken into account while formulating the procedure for issue of passports to children in the custody of single parents:

4.3 A court decree granting divorce would normally award custody of the minor child/children to either parent. The PIA must ensure that the application for the minor's passport is entertained only from such parent who has been granted custody by the court. While doing so, the PIA must also satisfy himself that the period of limitation for appeal against such decree has expired before issuing the passport. PIA must also ensure that if the other parent has visitation or other rights on the child as per court order, the consent of the other parent is also furnished. However, in rare cases where one of the parents wilfully refuses to give consent or inordinately delays consent or objects in writing to the PIA against issue of passports to his/her children residing with other parent without any cogent reason, and thus denying the fundamental right of the children to travel, passports may be issued to the child/children, after receipt of an affidavit in the form of Annexure 'G' obtained from the parent having the custody of the children, stating that the other parent is wilfully denying or not granting permission for issue of passports to the children. The other parent should be informed in writing in advance by the PIA of the proposed issue of passport to children at the request of the parent who is having the custody of the children. It will then be the responsibility of the other parent to approach the courts to ensure his/her visitation rights etc.

#### **4.4 Divorce pending cases**

In case divorce is still pending before the Court, the PIA shall insist on consent of both the parents. Alternatively, the applicant's parent should furnish or obtain permission from the court for applying for passport for the child without consent of the other parent of the children. In pending divorce cases, where the single parent with child is already working/staying abroad, the child requires a passport for its continued stay abroad. In such scenarios, the Mission/Post may issue two year short validity passport to the child, at a time, pending court permission of issue of passport or direction for custody of the child.

**4.5 Single divorced parent with exclusive custody of child without visitation rights for other parent** Where the custody of the child has been given exclusively to either parent without any visitation rights to the other parent, the question of obtaining consent of the other parent would normally not arise. A certified copy of the court order has to be submitted with the application and Annexure 'H' signed by the single parent.

#### **4.6 Single separated parent**

In case one married parent has terminated the relationship with other parent without a formal divorce, an affidavit in the format of Annexure 'G' to this effect sworn before a Judicial Magistrate/First Class Judicial Magistrate/Executive Magistrate may be accepted from the parent having the custody of the child.

#### 4.7 Child of unwed mother

In case of unwed mother, and where the child's father is either known or unknown, for example a child born after a rape, etc., the single unwed parent shall furnish a notarized sworn affidavit in the form of Annexure 'C' of **Appendix-1**. The name of the father should be left blank and should not be entered in the passport without his written consent (Annexure 'H'), irrespective of the fact that the father's name is mentioned in the child's birth certificate. As an admission by a woman of the birth of a child out of wedlock invites social stigma, it may be presumed that her notarized affidavit is true. However, to safeguard against cases of abduction/kidnapping, the PIA should insist on the affidavit of the mother being supported by a birth certificate from the Registrar of Births and Deaths or a municipality with or without father's name.

#### 4.8 Child born outside wedlock

In cases where child is born out of wedlock (including parents married to different persons), but with both the biological parents accepting parentage of the child, both the biological parents' names can be entered in the child's passport, after obtaining a notarized affidavit in the format of **Appendix-12** from them (along with the requisite birth certificate) and Annexure H duly signed by both the parents. In the affidavit, they should confirm their relationship and declare that the child was born out of their relationship but without the formal legal sanction of marriage. It has been confirmed by Legal & Treaties Division of the Ministry of External Affairs that the issue of a passport to the minor with the names of both the biological parents, cannot be treated as legalizing the parent's relationship for other purposes such as succession, inheritance, etc. Missions/Posts abroad may accept locally sworn affidavits for this purpose.

#### 4.9 Children of married parents, abandoned by other parent

In cases where: (i) the married parent who is an Indian citizen, claims that the father had no contact with the mother or the child after the child's birth; or where (ii) father has terminated the relationship with the mother and child after conception/birth of the child, a notarized affidavit in the form of Annexure 'G' shall be submitted by the parent with the custody of the child. Cases where a biological married/unmarried father who is an Indian citizen seeks passport for his child claiming that the biological mother has abandoned the child, the procedure as applicable for single mother would apply mutatis mutandis. However, the PIA shall exercise caution, inquire and rule out any attempt to permanently spirit away the child from the mother in India or abroad. In many European countries and USA, it is a punishable offence.

*Note: The Supreme Court, in a judgment dated the 17<sup>th</sup> February, 1999, while interpreting the scope of the Hindu Minority and Guardianship Act, 1956 (32 of 1956), has ruled that when the minor is in the exclusive care and custody of the mother, the mother can act as a natural guardian of the minor and all her actions would be valid even during the life time of the father who would be deemed absent. [Writ Petition(C) No. 489 of 1995 of Ms. Gita Hariharan Versus The Reserve Bank of India].*

#### 4.10 Annexure 'C', 'G' and 'H' applicability and differentiation:

- a) **Annexure C** (notarized affidavit): This is applicable in unwed parent cases where the absentee parent has completely disowned/abandoned the child immediately after conception/delivery. It is also applicable in case of single unwed mothers who do not want to disclose or do not know the name of biological father of the child. In case of unmarried parents both together apply for passport of minor child, Annexure H and **Appendix-12** only to be furnished.
- b) **Annexure G** (affidavit sworn before First class Judicial/Executive Magistrate): This is applicable in cases where for any reason whatsoever the married parent applying for passport for the minor child is not able to obtain the consent of the other parent for obtaining passport for the child. The reasons also include – wilful denial of consent by the estranged parent; desertion; absence of communication between the divorced/not divorced but separated parents, ex-parte divorce proceedings etc., but exclude cases where both the parents are

involved in divorce proceedings in which case, the permission of the court or consent of both the parents in Annex 'H' is required.

- d) **Annexure H:** This is for all normal cases where both the parents have to sign Annexure H. Both parents or either parent with passports of both the parents shall be present at the time of issue of fresh passport or reissue of passport to the minor children or one parent with the passports of both the parents. This Annexure is also applicable to a single parent who got full custody of the child and without any visitation rights to other parent (judgement to be verified); seaman/sailor spouse who are unable to sign Annexure H; unmarried parents submitting an affidavit as per Appendix 12.

**4.11 Inclusion of step-parent's name in the passport in the column of father or mother** The Ministry has been receiving numerous references from Passport Offices relating to minor passport applicants, who want step-parent's name to be written in passport. The following procedure may be followed.

**4.12 Death of a spouse, subsequent remarriage and inclusion of stepfather/stepmother's name in the passport of child from previous marriage**

Name of stepfather/stepmother may be written in the passport of the minor against the column of father/mother. Death certificate from the authority concerned in respect of death of biological father/mother, remarriage certificate/joint affidavit relating to remarriage of father/mother and school certificate showing name/step-parent's name (for school going children) should be submitted along with the passport application. When the child applies for passport for the first time after he becomes major, he has the option to retain the name of biological parent or step-parent, as recorded in his Birth Certificate/educational certificate.

**4.13 Divorce, subsequent remarriage and inclusion of step-parent's name in passport of child** In such cases, the name of stepfather/stepmother cannot be written in the passport of children from the previous marriage, if the biological parent is alive. The relationship of the child with his/her biological parents subsists, even after divorce by parents. In such cases, the column of father or mother in the passport cannot also be left blank. Therefore, such applicants must apply with the names of their biological parents. However, if the stepfather or stepmother is appointed by a court as legal guardian, the name of such step-parent can be written as legal guardian [Ref. Ministry's Circular No. VI/401/01/05/2008 dated 05/10/2009].

## **5. CHILDREN BORN ABROAD AND ENTITLED TO DUAL CITIZENSHIP**

5.1 The Mission shall insist on registration of birth of the children born abroad under Section 4(1) of the Citizenship Act, 1955 on the relevant MHA website [http://indiancitizenshiponline.nic.in/ic\\_form\\_public.aspx](http://indiancitizenshiponline.nic.in/ic_form_public.aspx). The birth of the baby shall also be registered by the Mission/Post abroad within one year. Heads of Indian Missions/Posts are also delegated power by MHA to register birth of children even after one year of its occurrence under Section 4 of the Citizenship Act, 1955 vide MHA order No. 26030/129/2015-IC-II dated 15/06/2015.

5.2 Section 4 of the Indian Citizenship Act stipulates that no birth of children shall be registered unless the Indian parents of such person declare, in such form and in such manner as may be prescribed, that the minor does not hold the passport of another country. However, Section 4(1A) of the Indian Citizenship Act allows a minor child who is a citizen of India by virtue of Section 4 of the Act, to also hold citizenship of any other country where the child was born, subject to the condition that the child renounces the foreign citizenship within six months of attaining full age (18 years). In some countries like Mexico, Mexican citizenship is mandatory for the Indian children born there and they are required to obtain and possess Mexican passport. In such cases, the parents of children born abroad should be advised to first register the birth of their children with the Indian Mission/Post and only afterwards complete the local mandatory procedure for citizenship. The mandatory declaration by the Indian parents that their child does not hold any foreign passport shall be accepted by the Missions/Posts in good faith. In any case, in all such countries where foreign citizenship is granted by birth, the Missions/Posts may insist on renunciation of foreign citizenship and surrender of foreign passport, if any, before extending any passport service to Indian citizens with dual citizenship when they reach the age of 18 years.

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## 5. ISSUE OF PASSPORTS TO ADOPTED CHILDREN

1. Introduction
2. Passports to adopted children
3. Passport to children adopted under the Hindu Adoptions and Maintenance Act, 1956
4. Adoption done as per the Guardians and Wards Act, 1890
5. Passport to children adopted under other Guidelines
6. Compulsory intimation by RPOs to the concerned Indian Mission/Post
7. Role of Indian Diplomatic Missions/Posts in inter-country adoption
8. Clarifications
9. Surrogate children

### 1. INTRODUCTION

1.1 Issue of passport to 'adopted' children entails additional documentation and is different from issue of passport to minors. Before issue of passports to adopted children, it is the primary duty of the Passport Issuing Authorities to ensure that in addition to the normal passport requirements, the applicant is having legally valid adoption papers/orders and other related documents.

1.2 The Central Adoption Resource Agency (CARA) [www.cara.nic.in] is an autonomous body under the administrative control of the Ministry of Women & Child Development, Government of India. CARA has been designated as the central authority in India to deal with in-country adoptions in accordance with Indian laws as well as inter-country adoptions in accordance with the provisions of The Hague Convention on Inter-country Adoption, 1993, ratified by Government of India on 6<sup>th</sup> June, 2003.

### 2. PASSPORTS TO ADOPTED CHILDREN

2.1 Issue of passport to adopted children falls in two categories viz. (i) in-country adoption and (ii) inter-country adoption. In both the cases, the Passport Issuing Authorities should ensure that the adoption process is complete and that the adoption is legally valid, before issue of passport.

2.2 In India, adoption of children, done in accordance with any one of the following provisions only, is legally valid for the purpose of issue of Passport :-

- a) The Hindu Adoptions and Maintenance Act, 1956;
- b) The Guardians and Wards Act, 1890;
- c) Juvenile Justice (Amendment) Act, 2000
- d) As per the **Guidelines governing the Adoption of Children, 2015** issued by the Ministry of Women & Child Development vide Notification No. SO 1945(E) dated 17<sup>th</sup> July 2015.

### 3. PASSPORT TO CHILDREN ADOPTED AS PER THE HINDU ADOPTION AND MAINTENANCE ACT, 1956

3.1 The Hindu Adoptions and Maintenance Act, 1956 covers (which expression includes Buddhists, Jains and Sikhs) adoptions in India and also adoptions by parents, who are foreign nationals of Indian origin, provided they are Hindus, having moorings in India and the child to be adopted is also a Hindu. What is required is a legally valid adoption, evidenced by a duly registered Adoption Deed. **No separate court order is required for such adoptions.** Therefore, in respect of passport applications of children falling in this category, court order need not be insisted by the PIAs.

3.2 Section 16 of the Hindu Adoptions and Maintenance Act, 1956 which reads as under is relevant for consideration of passport applications of adopted children:-

*“16. Presumption as to registered documents relating to adoption*

*Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”*

3.3 The Punjab & Haryana High Court’s judgment dated 25/1/2008 in Gagandeep Singh Vs Union of India and others, [quoted in Chapter 28] is relevant here. The judgment, inter alia, contains the following caution for PIAs:-

“We consider it just and appropriate to record a note of caution for the Passport Authorities. Although we have upheld the order passed by the Passport Authorities in this case on account of the factual position admitted by the petitioners themselves, yet in case of a presumption conceived of by law, as the one under Section 16 of the Adoption Act, the same would be binding on the Passport Authorities, and it will not be open to the said authorities to collect data/material to repudiate the same. But for an open and shut case of admission at the hands of the applicant himself, as in the instant case, the Passport Authorities are bound by all presumptions of law.”

3.4 The Hindu Adoption and Maintenance Act, 1956 stipulates many conditions for adoption of a child such as that of the age of the child must be below 15 years; the age difference between the adopted child and adopting parent must be 21 years; the adopting parent must not have a son or daughter if he/she adopts a son or daughter respectively etc. However, in view of the above judgment and another (SCA 8192 of 2011) by Ahmedabad High Court, the PIA does not have any authority to adjudicate upon the legality of an adoption, as only the courts are the final interpreter of the provisions of law and not the PIAs. L&T Division of the Ministry has also concurred in. Hence, PIAs cannot dispute a duly registered adoption deed submitted for issue of passport on non-fulfilment of the aforesaid conditions but can only verify the authenticity of the registration of the deed by the issuing/registering authorities.

3.5 The Hindu Adoptions and Maintenance Act, 1956 is not applicable to the state of Jammu & Kashmir. Therefore, adoptions done in accordance with the provisions of the **Guidelines governing the Adoption of Children, 2015** will be treated as valid for the purpose of issue of passport.

#### **4. ADOPTION DONE AS PER THE GUARDIANS AND WARDS ACT, 1890**

4.1 In the case of Muslims, Christians and Parsis, the intended guardian of the minor child may be appointed as the legal guardian by the court of competent jurisdiction under the Guardianship and Wards Act, 1890 till the age of majority of such child. According to this Act, court order regarding appointment and declaration of guardian(s) is one of the conditions for the adoption being legally valid. Before issue of passport to adopted children falling under this category, specific court order is therefore mandatory.

4.2 The Guardians and Wards Act, 1890 is not applicable to the state of Jammu & Kashmir. Therefore, adoptions done in accordance with the provisions of the Guidelines governing the Adoption of Children, 2015 will be treated as valid for the purpose of issue of passport.

#### **5. PASSPORT TO CHILDREN ADOPTED UNDER OTHER GUIDELINES**

5.1 Cases of adoption of children not covered under the Hindu Adoption and Maintenance Act, 1956 and The Guardians and Wards Act, 1890 can be treated as valid if done in accordance with the **Guidelines governing Adoption of Children, 2015** issued by the Ministry of Women & Child Development

vide Notification No. SO 1945(E) dated 17<sup>th</sup> July 2015. Paragraph 19 & 39 of the said Guidelines contain the following instructions for the PIAs in India and abroad:-

***“19. Passport and Visa, intimation to immigration authorities, conformity certificate, birth certificate, etc. -***

*(1) The Central Adoption Resource Authority shall issue a conformity certificate under Article 23 of the Hague Adoption Convention in the format provided in **Schedule – 10** within three working days from the date of availability of the adoption order in the Child Adoption Resource Information and Guidance System, in case the receiving country of the adopted child is a signatory to the Hague Adoption Convention.*

.....  
*(3) To obtain Indian passport for the adopted child, the specialised adoption agency shall submit the application to the regional passport officer within three working days from the date of receipt of a certified copy of the adoption order.*

*(4) The regional passport office shall issue passport for the adopted child within ten days from the date of receipt of application, in accordance with the circulars vide number VI/401/2/3/2010 dated 16th May, 2013; VI/401/2/3/2010 dated 8th January 2015; VI.I/401/2/3/2010 dated 19th March 2015 and such other circulars that may be issued by the CPV Division of the Ministry of External Affairs regarding issuance of passport to inter-country adopted children, from time to time.*

.....  
*(7) The adopted child shall be entitled to receive Overseas Citizen of India card, if found eligible.*

*(8) The adoptive parents shall come to India for taking the adopted child to their country.*

**5.2 Documents required for issue of passports in inter-country adoption cases**

The Regional Passport Officer, in compliance with Passports Act, shall issue the passport to inter-country adopted children, on the production of the following documents along with the application for passport, namely: -

- i) No Objection Certificate from CARA (if the original NOC of CARA is not available with the applicant due to the reason that it has been submitted in the court, a copy of the same duly certified/attested by CARA may be accepted by the Passport Authority for the issue of passport);
- ii) court order on adoption; and
- iii) all other documents required for issue of passports to minor children

5.3 If original birth certificate is not available, in lieu of the same, the following documents may be accepted by PIA for issue of passport to the adopted child:-

- a) Date of birth recorded in the Matriculation Certificate issued by duly recognized/affiliated educational institution along with the bona fide certificate duly sworn by the Head of the Orphanage/Child care Home (in case of minor) or by applicant himself/herself (in case of major) before the First Class Judicial Magistrate/Executive Magistrate categorically stating his/her date of birth/place; or
- b) Declaratory court order issued by the court of competent jurisdiction recording the date of birth/place of birth of such an applicant in the order.

5.4 Vide order No.VI/401/2/1/2011 dated 26th May 2015, the Ministry decided that for issuance of passports to all abandoned, orphan children born on or after 26/01/1989, PIAs may accept any of the following document as proof of birth:

- a) Original or copy of Birth Certificate; OR
- b) Date of birth recorded in the Matriculation Certificate issued by duly recognized/affiliated educational institution along with the bona fide certificate duly sworn by the Head of the Orphanage/Child care Home (in case of minor) OR
- c) sworn affidavit by applicant himself/herself (in case of major) before the First Class Judicial Magistrate/Executive Magistrate categorically stating his/her date of birth/place; OR d) Declaratory court order issued by the court of competent jurisdiction recording the date of birth/place of birth of such an applicant in the order.

5.5 If the court order is not submitted in original, duly verified/attested copies should be submitted. The Passport Issuing Authority should satisfy about the veracity of the documents submitted and if need be, such confirmation can be got done through the CARA/State Adoption Resource Agency [SARA].

5.6 Paragraph 23 (1) of the above-mentioned Guidelines further stipulates that the child can be legally placed for adoption with the prospective adoptive parents by the competent court and for this purpose, the court having jurisdiction over the area where the Specialised Adoption Agency is located shall be the competent court. The PIA should, therefore, ensure that the court order submitted is from a competent court of jurisdiction.

5.7 Keeping in view the public interest and welfare of the adopted children, it is emphasized that passport applications of adopted minors are attended on priority basis under walk-in category. Passport Offices may also ensure that passports to inter-country adopted children are issued within ten days. **No police verification is required for issuing passports to adopted children under inter-country adoption.** Passport to such children are issued on the basis of NOC issued by CARA and after completing other formalities.

5.8 In view of the adoption guidelines regarding alternate rehabilitation of the child, if the Court order produced along with the passport application is more than 6 months old, before issuing the passport, the PIA should confirm from the SARA/CARA that there are no adverse report or pending case for alternate rehabilitation of the child.

## **6. COMPULSORY INTIMATION BY RPOS TO THE CONCERNED INDIAN MISSION/POST**

Immediately on issue of passport to the adopted Indian child to the foreign/NRI family, the issuing Passport Office shall intimate personal and passport particulars of the adopted child and its adopting parents to the concerned Indian Mission/Post abroad for monitoring the child as per Guidelines given at para 7 below.

## **7. ROLE OF INDIAN DIPLOMATIC MISSIONS IN INTER-COUNTRY ADOPTION**

7.1. The Indian Missions will help CARA in maintaining liaison with the different authorities and agencies operating in the countries of their jurisdiction. The role of the Mission includes recommendation of Authorised Foreign Adoption Agency [AFAA], attestation of documents including English translation. Whenever a report is received about disruption of adoption of an Indian child by a foreign couple, the Mission should contact the authorities concerned to ensure that the interest of the child is being looked after. A report in this regard should also be sent to CARA at the earliest. In case the child is required to be returned to India, the Mission should help and facilitate repatriation of the child. Para 41 of Guidelines for adopting guidelines 2015 stipulates the role of Indian diplomatic Missions/Posts abroad as follows:

*"41. Role of Indian diplomatic missions in inter-country adoption - Indian diplomatic missions abroad shall have the following role in inter-country adoption of Indian children, namely –*

*(1) liaise with concerned central or public authorities to ensure safeguards of children of Indian origin adopted by non resident Indians, overseas citizen of India or foreign parents against neglect, maltreatment, exploitation or abuse;*

*(2) interact with the authorised foreign adoption agencies and Central Authorities within their jurisdiction and organise or participate in the get-togethers of the adopted children and their parents;*

*(3) recommend proposals for authorisation of foreign adoption agencies for the purpose of sponsoring applications for adoption of Indian children;*

*3(a) issue visa to foreign prospective adoptive parents who wish to see a child in person at the specialized adoption agency in India, before accepting him for adoption, after their adoption application is approved by Central Adoption Resource Authority, and also for attending the court proceedings as well as for receiving the child thereafter.*

*(4) empanel and authorise social workers to complete adoption application formalities including home study report in a foreign country, where there is no authorised foreign adoption agency or a Government department to deal with adoption;*

*(5) register the adoption applications of non-resident Indians prospective adoptive parents in Child Adoption Resource Information and Guidance System along with requisite documents as specified in **Schedule 5** and upload post-adoption follow-up reports as stipulated in paragraph 20 of the guidelines;*

*(6) the Indian diplomatic mission processing the adoption application, either directly or through the authorised organisation or individual shall send progress report of the child on quarterly basis in the first year and on six monthly basis in the second year, from the date of arrival of the child in the receiving country and also take actions, as stipulated in paragraph 20 of these guidelines, in case of disruption of adoption;*

*(7) contact the Central Authority or other authorities in the receiving countries to ensure safeguards of children of Indian origin adopted by non-resident Indians or overseas citizen of India or foreign parents, in case of disruption of adoption and a report in this regard shall also be sent to Central Adoption Resource Authority at the earliest;*

*(8) render necessary help and facilitate the repatriation of the child, if required, in consultation with the local authorities, concerned adoption agency and Central Adoption Resource Authority;*

*(9) facilitate root search by an adoptee of Indian origin, if contacted;*

*(10) communicate and report or observation, which it may consider as important and relevant in the matter of inter-country adoptions to Central Adoption Resource Authority (CARA)."*

7.2 Paragraph 20 of the said Guidelines further stipulates as under:-

***"20. Follow up of progress of adopted child under this chapter. -***

*(1) The authorised foreign adoption agency or the Central Authority or Indian diplomatic mission or concerned Government department, as the case may be, shall report the progress of the adopted child in the format provided in **Schedule - 11** online in the Child Adoption Resource Information and Guidance System along with photographs of the child on a quarterly basis during the first year and on six monthly basis in the second year, from the date of arrival of the adopted child in the receiving country.*

*(2) If an adjustment problem of the child with the adoptive parents comes to the notice of the authorised foreign adoption agency or Central Authority or the concerned Government department in the receiving*

*country on the basis of the progress report or in course of post-adoption home visits, then, necessary counselling shall be arranged for the adoptive parents and for the adoptee, wherever applicable.*

*(3) If it is found that the child is unable to adjust in the adoptive family or that the continuance of the child in the adoptive family is not in the interest of the child, the authorised foreign adoption agency or Central Authority or the concerned Government department in the receiving country or Indian diplomatic mission, as the case may be, shall withdraw the child and provide necessary counselling and shall arrange for suitable alternate adoption or foster placement of the child in that country, in consultation with the Indian diplomatic mission and Central Adoption Resource Authority.*

*(4) In the event of adjustment problem of the child with the adoptive family, the child shall be entitled to receive care, protection and rehabilitation through the child protection services of that country.*

*(5) The authorised foreign adoption agency or Central Authority or concerned Government department, as the case may be, shall organise annual get-together of Indian adoptees and their adoptive parents and forward a report on the event to Central Adoption Resource Authority and the Indian diplomatic missions shall facilitate such get-togethers.*

*(6) The prospective adoptive parents shall furnish an undertaking to the effect that they would allow personal visits of the representative of authorised foreign adoption agency, the foreign Central Authority or concerned Government Department, as the case may be, to ascertain the progress of the child with the adoptive rents/family at least for a period of two years from the date of arrival of the child in the receiving country.”*

## **8. CLARIFICATIONS**

8.1. Doubts have been raised whether the adjective “adoptive” should be prefixed to the name of father/mother in the passport of a legally adopted child. It has been decided in consultation with the Legal & Treaties Division of MEA that the word “adoptive” need not be prefixed to the name of the father/mother in the passport issued to adopted children. [Ref. Ministry’s circular No. VI/401/12/96 dated 20/08/1996]

8.2 The Hindu Adoptions and Maintenance Act, 1956 and the Guardians and Wards Act, 1890 are not applicable to the state of Jammu & Kashmir. Hence, an order of adoption from the court of competent jurisdiction is mandatory before passport is issued to adopted children from the state of Jammu & Kashmir.

8.3 Passport under Tatkaal category cannot be issued to adopted children.

## **9. SURROGATE CHILDREN**

[Ref Ministry’s circular No. VI/402/2/18/2015 dated 11<sup>th</sup> August 2015]

9.1 As on date no law exists in India on surrogacy and the guidelines issued by the Indian Council of Medical Research (ICMR) are the only set of instruments regulating surrogacy in India. The Ministry, in the light of ICMR guidelines on surrogacy, has stipulated that in case of children born to Indian surrogate mothers, the genetic parents are to be treated as the real biological parents of the surrogate child. Moreover, the third-party anonymous egg/sperm donor and the surrogate mother shall relinquish in writing all parental rights concerning the offspring and vice versa.

9.2 In November 2015, Government of India prohibited foreign couples using Indian surrogate mothers to conceive and deliver their children in India. The Bombay High Court then intervened to allow only those cases where the surrogacy medical procedure had already started when the Government announced the ban on foreign biological parents. Subsequently, ICMR vide its circular No. V.25011/119/2015-HR dated 4<sup>th</sup> November 2015, referring to MHA’s circular No.

25022/74/2011.F.1(Vol.III) dated 03/11/2015 allowed only needy infertile Indian couples to opt for surrogacy of the altruistic kind without involving payment of any charges to the surrogate mother except medical expenses. Government's proposed policy also does not allow adoption by LGBTs, single men or women, couples in live-in relationships, as well as married couples who are proven to be fertile but choose to opt for surrogacy for reasons other than medical. MHA, vide above circular, has advised all Indian Missions/Posts not to issue visas to foreign couples visiting India for commissioning surrogacy and FRROs were advised not to allow foreigners including OCI card holders from commissioning surrogacy in India. In September 2015, Government released a draft bill on Assisted Reproductive Techniques (Regulation) Act to regulate surrogacy in India for public consultation.

9.3 As and when an Indian/genetic parent(s) applies for issue of passport for a minor child born through surrogacy, the Passport Authority shall ask the applicant genetic parent(s) to submit/fulfil the following documents/conditions in order to conclusively prove/establish the biological/genetic parentage of the child:

- a) Surrogacy agreement duly registered under the Registration Act, 1908, before the competent authority of the State Government;
- b) Bona fide certificate issued by the head of the Fertility Clinic/Centre where the surrogacy was carried out;
- c) Birth Certificate issued by the competent authority in the name of the genetic parents of the surrogate child;
- d) DNA profiling test establishing the parentage of the surrogate child issued by Government or Govt recognized laboratory;

However, as on date, there exists no Government recognized laboratory in India capable of carrying out DNA parentage profiling test and the Government institutions do the test only on the order of a competent court and in that case too, take rather long to issue the test results. Therefore, pending availability/furnishing of such genetic test certificate from an authorized laboratory, the Passport Authority may seek an affidavit (as per Annexure 'O') sworn by the genetic applicant parent(s) before an Executive Magistrate/First Class Judicial Magistrate affirming that the surrogate child has been born through surrogacy in pursuance of the registered surrogacy agreement executed between the parties related to the surrogacy i.e. the genetic parent(s) and the surrogate mother.

9.4. All the cases of issuance of passport to such minor children born through surrogacy to Indian or foreign genetic parents shall be processed on the basis of pre-Police Verification at the clinic's address.

9.5. All the Passport Issuing Authorities are requested to follow the aforesaid procedure and MHA circular dated 03/11/2015 and any revised ICMR guidelines prohibiting commissioning of surrogacy by foreign biological parents including OCI card holding Indian origin foreigners

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### **SUMMARY**

- Issue of passport to adopted children requires additional documentation and is different from passport to minors;
- Adoption fall in two categories viz, (i) in-country adoption and (ii) inter-country adoption; □ Only legally adopted children can be issued passport;
- Apart from normal passport requirements, proof of legally valid adoption document/order for adoption from the court of competent jurisdiction/adoption deed etc. required; □ Adopted children not eligible to get passport under Tatkaal category;
- If court order produced with passport application older than 6 months, clearance need to be taken from SARA/ACA;
- Indian Missions abroad have specific role to play in respect of inter-country adoptions □ Commissioning of surrogacy in India by foreigners including OCI card holders banned by ICMR on 04/11/2015. Bombay High Court has exempted those cases that have already been commissioned before that date.
- For international adoption, passport is issued on No-PV basis. For surrogacy involving foreign genetic parents, passport is issued to the surrogate child on the basis of pre-PV at the surrogacy clinic.

### **FREQUENTLY ASKED QUESTIONS [FAQs]**

**Q.1 Can the name of the adopted child be changed after adoption?**

Ans: Yes. The erstwhile name before adoption can be changed. If the new name is already in the court order granting adoption, the child does not have to follow name change procedure again. Otherwise, the normal name change procedure [as explained in Chapter -8] needs to be followed. The Affidavit for the change of name in this case can be signed by the foster parent or the guardian.

**Q.2 Can a passport be issued to an adopted child under Tatkaal category?** Ans. No. The passport under Tatkaal scheme cannot be issued to adopted child. However, in inter country adoption cases, passport should be issued expeditiously in the best interests of the child on no-PV basis.

**Q.3 The court order of adoption submitted with the passport application in respect of an adopted child is one year old. Can it be accepted?**

Ans. Yes. Any order for adoption from the court of competent jurisdiction has to be accepted. However, if the order is more than 6 months old, the PIA should confirm from the SARA/ACA that there are no adverse reports or pending case for alternate rehabilitation of the child.

**Q.4 Can the passport application of a Hindu adopted child from Jammu & Kashmir be accepted if documents as per Hindu Adoption and Maintenance Act are submitted?** Ans. No. Since the Hindu Adoption and Maintenance Act is not applicable to the state of J&K, an order of adoption from a court of competent jurisdiction is mandatory.

## **6. PASSPORTS TO STUDENTS WHO ARE STAYING AWAY FROM THEIR PARENTS**

### **1. MINOR PASSPORT**

- (i) Students up to the age of 15 years, and
- (ii) Students between 15-18 years of age when minor passport applied for valid up to the age of 18 years.

### **2. FULL VALIDITY ORDINARY PASSPORT**

- (i) Students between 15-18 years of age who apply for 10 year passport
- (ii) Students above 18 years of age.

### **3. POLICE VERIFICATION**

#### **1. MINOR PASSPORT:**

- i) Minor students up to the age of 15 years, and
- ii) Students between 15-18 years of age when minor passport applied for, valid up to the age of 18 years.

1.1. The procedure for minor students staying away from their parents is the same as prescribed in Chapter-9 relating to issue of passports to minors. Such cases obviously fall under any category of minors defined in that chapter. However, students staying away from their parents have the option of applying for passport either at the PO in whose jurisdiction the educational institution/hostel/place of stay of the minor student falls or the PO in whose jurisdiction his parents reside. In the former case (place away from parents), a letter from the educational institution/hostel authorities/local guardian certifying the student's study/stay should be furnished in addition to the normal documentation.

1.2 In case the parent submits the application, normal rules for minor will apply. On the other hand, if a local guardian submits the application, parents' consent and affidavits from two responsible persons who know both the local guardian and the minor should be submitted with the application (**Appendix-11**). However, if the local guardian is one of the grandparents, the affidavits from two responsible persons are not required.

#### **2. FULL VALIDITY ORDINARY PASSPORT:**

- i) between 15-18 years of age who apply for 10 year passport, and
- ii) students above 18 years of age.

2.1. In case of students who are more than 15 years of age, normal rules will apply. The application can be made either at the Passport Office in whose jurisdiction the educational institution/hostel/place of stay of the minor student falls or the PO in whose jurisdiction his parents reside. In the former case (place away from parents), a letter from the educational institution/hostel authorities/local guardian certifying the student's study stay should be furnished in addition to the normal documentation.

#### **2.2 Documents required**

In view of the genuine difficulty being faced by the student passport applicants who are unable to produce the original documents due to these being deposited with the educational institutions, it has been decided to waive the mandatory requirement of producing originals of such documents. In such cases in the absence of original documents, the passport applicants may submit the following documents:

- a) A certificate from the recognized educational institution where the passport applicant is studying to the effect that he/she is studying in that institution and the original certificates are retained with that recognized educational institution;

- b) Photocopy of such documents duly attested by the educational institution where the original certificates have been retained;
- c) A copy of valid identity card of the applicant issued by the educational institution where the applicant is studying.

In case of any doubt about the genuineness of any certificate submitted by the applicant, the PIA may conduct the verification of genuineness of such certificates from the issuing authorities. The decision of the PIA will be final in such cases.

### **3. POLICE VERIFICATION**

3.1 In case of minor children below 18 years and where application is filed by local guardian (but not legal guardian), pre-PV is required. (See Chapter-3 for more details on PV)

3.2 PP forms should be obtained in duplicate for verification both at the educational institution/stay and parents' present address. A certificate from educational institution with photograph will help police in verification. Field police verification is required from place of stay whereas only police record verification is needed at the parents' address. A police report stating that the applicant was not physically present at the parents' address should not be treated as incomplete/adverse.

3.3 There are a number of cases where the applicant left the place of study and the PVR is adverse on account of that. In such cases, PVR in respect of parents' address shall be depended upon, irrespective of jurisdiction of the PIA. Alternatively, PIAs may close the pending applications/cases enabling the students to reapply from their parents' address.

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## 7. ISSUE OF PASSPORTS UNDER TATKAAL SCHEME

1. Introduction
  2. Additional requirements
  3. Verification Certificate
  4. Additional Tatkaal Fee Exemption
  5. POLICE VERIFICATION IN TATKAAL CASES
  6. Adverse PVR in case of absent Tatkaal applicants
  7. Walk-in applicants
  8. Time frame for issue of Passport under Tatkaal
  9. Excluded Categories
  10. Conversion of Tatkaal application into Normal category
  11. Clarifications
- Summary
- FAQ

### 1. INTRODUCTION

The “Tatkaal” Scheme was introduced with effect from 1<sup>st</sup> January, 2000 for speedy issue of passports, in a time-bound manner. The scheme was further expanded and liberalized with effect from 23<sup>rd</sup> December 2006. Now, no proof of urgency is required for out of turn issue of passport under Tatkaal scheme.

### 2. ADDITIONAL REQUIREMENTS

2.1 In addition to normal documents to be submitted along with a passport application, a fresh Tatkaal passport applicant is required to submit:-

(i) Verification Certificate (VC) in the prescribed proforma [Annexure ‘F’ or ‘J’ of **Appendix-1**]. **OR** three identity documents out of 16 listed at **Appendix-8**. One of the three documents must be a photo identity card/document. All three documents submitted must be verifiable online. If online verification is not feasible, VC only will be acceptable.

(ii) Affidavit as per format given in Annexure ‘I’ of **Appendix-1**.

(iii) Additional Tatkaal fees as may be fixed by the Government.

2.2 For re-issue cases, no Tatkaal documents such as Verification Certificate or three online verifiable identity documents are required, provided the application does not fall in pre-PV or post-PV category. Similarly, no Tatkaal documentation is required for minor passport if the application falls in the no-PV category.

### 3. VERIFICATION CERTIFICATE

3.1 Government, PSU and other officers shall issue Verification Certificate as per specimen given in Annexure F of **Appendix-1**. List of officers authorized to issue VC is at **Appendix-15**. No verifying authority can issue more than 5 VCs in a month or 50 VCs in a calendar year. Each VC should contain the Serial No. e.g. “Sl. No. \_\_\_ of December, 2015”. Complete details of VCs issued should be kept by the issuing authority in a Register verifiable at any time.

3.2 The Apex Business organizations such as FICCI, ASSOCHAM, CII, etc. are authorized to issue Verification Certificate in respect of owners/partners/directors of member companies. The VCs issued by State/UT level apex business organizations can also be considered by the PIAs, subject to their satisfaction of legitimacy. Specimen of VC to be issued by the apex business organizations, is at Annexure 'J' of **Appendix-1**.

3.3 Verification Certificate (VC) should be issued in duplicate on the official letter-head by the designated officials indicating clearly their full name, designation, official address, mobile and landline telephone for both office and residence, fax and e-mail ID. The VC issuing authority should also provide a photocopy of his/her identity card as well as Aadhaar Card Number or Passport Number, (if passport is held), while granting VC to an applicant for submission along with application to Passport Office. In case, no Passport is held by the verifying authority, this should also be clearly stated. If the VC falls short of the above requirements in any respect, VC shall not be accepted. Where there is any doubt about the authenticity of any document submitted along with an application under the Tatkaal scheme, the Passport Officer will have the discretion to verify the genuineness of the VC from the issuing authority or seek prior police verification before the passport is issued. However, in cases where the PVR is received before receipt of confirmation of VC, passport shall be promptly issued without waiting for receipt of VC confirmation.

Note :

- i) *Defence personnel, who are holding sensitive posts are not allowed to provide copy of their permanent service ID, may provide photocopy of other defence ID cards such as mess card or canteen card plus their Aadhaar card number/passport number.*
- ii) *VC on official letter head need not be insisted in the case of District Magistrate/District Judge etc., who usually do not use such official letter heads. However, PIA should be satisfied about the genuineness of the VC based on the official seal and verifiable contact details provided.*

3.4 The Verifying Authority is required to sign not only the certificate but also across a photograph of the applicant which should be attached to the certificate. Passport Issuing Authorities should satisfy themselves about the veracity of the Verification Certificates and ensure that there are no deficiencies. The PIA should verify in writing or through other means, the authenticity of the Verification Certificate/documents produced.

3.5 One copy of the VC should be returned immediately by post to VC issuing authority by the Passport Office for confirmation of the authenticity of VC. RPO/PO could also undertake telephonic/ fax/email verification in case of any doubt about the genuineness of VC. Similarly, doubtful documents may be referred to the head of the concerned department/office of the VC issuing authority for verification. Whenever there is doubt about the authenticity of any document submitted along with an application under the Tatkaal scheme, the Passport Officer will have the discretion to insist on prior police verification before the passport is issued.

3.6 In case the VC issuing authority informs that any forgery/tampering in the VC is noticed, the passport in question should be impounded and suitable action taken against the holder by requesting the Superintendent of Police concerned to file an FIR for prosecution of the applicant under relevant provisions of the Passports Act, 1967 and/or Indian Penal Code.

3.7 Action shall be initiated by the concerned PIA u/s 12 (2) of the Passports Act, 1967 against the VC issuing authority if he/she issues verification certificate to a person who attracts Section 6(2) of the Passports Act, 1967.

*Note: The Rajasthan High Court on a PIL against issue of a false VC, directed CBI to hold inquiry against a senior officer of the State Government of Rajasthan who had issued VC to an applicant with criminal background.*

3.8 Verification Certificate will be valid for a maximum period of six months from the date of issue.

#### 4. ADDITIONAL TATKAAL FEE EXEMPTION

4.1 Additional Tatkaal Fee as may be fixed by the Ministry of External Affairs is payable. The present fees are given at GSR 731(E) dated 28/09/2012 effective from 01/10/2012 (**Appendix-9**).

4.2 Additional Tatkaal fees are exempted in following cases:-

- (i) Applicant going for specialized medical treatment and consultation abroad (proof required for fee exemption) and an attendant;
- (ii) Death abroad of applicant's spouse, father, mother, son/daughter and their spouse, grandchild, brother or his spouse and sister or her spouse;
- (iii) Diplomatic/Official passport holders (except short validity passports issued to cultural troupe/delegation) who apply for ordinary passport in lieu thereof within three years of expiry.

#### 5. POLICE VERIFICATION IN TATKAAL CASES

Under Tatkaal, only pre-PV requirement is changed to post-PV. There will be no change in No PV and Post-PV cases. In other words, non-requirement of Police Verification as well as requirement of post-Police Verification applicable in normal cases are also equally applicable if the application is made on Tatkaal basis. In case of receipt of clear PVR even before receipt of verification of authenticity of VC, the passport must be granted and issued on priority basis, without waiting for receipt of verification of VC.

#### 6. ADVERSE PVR DUE TO ABSENCE OF TATKAAL PASSPORT HOLDERS

In quite a few cases, Tatkaal applicants on receipt of passport on post-PV basis, proceed abroad for employment/studies abroad, leaving the PV process incomplete. Since presence of applicant during PV is essential for confirmation of identity including nationality etc., by the police, it is not possible to exempt such cases from PV and their PVR remains ADVERSE. Missions/Posts may therefore advise such passport holders to return to India and complete PVR procedure. No passport services be given to such persons with Adverse PVRs. The original PIA in India that issued the Tatkaal passport shall facilitate conduct of fresh PV in such cases on application by the Tatkaal passport holder.

#### 7. WALK-IN APPLICANTS

Certain categories of applicants such as senior citizens, minors and differently-abled applicants are required to submit their applications online and obtain an Application Registration Number (ARN), and then visit the nearest PSK during prescribed hours for which no prior appointment is required. Applicants should also refer to advisory, if any, issued by the concerned Passport Offices from time to time. Government may also offer such walk-in facility to applicants who are affected due to natural calamity etc.

#### 8. TIME FRAME FOR ISSUE OF PASSPORT UNDER TATKAAL DURING PV

Normally, Tatkaal passport should be issued within the following time-limits :-

	Category of application	Time limit
1	Police Verification not required (Re-issue cases, fresh/reissue cases of minors that are non-PV in normal course)	1-7 working days, excluding date of appointment as listed in Citizens Charter
2	Post-Police Verification Required (Fresh issue cases with VC or 3 identity documents)	1-7 working days, excluding date of appointment as listed in Citizens Charter

In cases where confirmation of genuineness of VC has been sought and if in the meanwhile, clear PV is received, passports should immediately be issued to Tatkaal applicants on priority, without any further delay.

## 9. EXCLUDED CATEGORIES

Tatkaal passport cannot be issued to persons falling in the following categories:-

- 1) Lost/stolen cases (in exceptional cases where PVR is clear, PIAs may accept lost cases);
- 2) Fresh issue of passports to citizens of India by descent (born to Indian parent/s outside India);
- 3) Fresh issue of passports to citizens of India by Registration/Naturalization (granted citizenship by MHA);
- 4) Applicants repatriated from abroad at Government cost;
- 5) Applicants deported to India on passport or EC;
- 6) Major change in name;
- 7) Change in sex;
- 8) Change in appearance;
- 9) Change/correction of date of birth or place of birth;
- 10) Change of father/mother/spouse name ;
- 11) Change in signature;
- 12) Persons of Naga origin including minors (below 18 years);
- 13) Persons of Naga origin residing outside Nagaland;
- 14) Persons of J&K origin including minors (below 18 years);
- 15) Indian children adopted by Indian parents;
- 16) Indian children adopted by foreign parents;
- 17) Parents are divorced or separated;
- 18) Renewal of Short Validity Passport;
- 19) Passport damaged beyond recognition cases.

## 10. CONVERSION OF TATKAAL APPLICATION INTO NORMAL CATEGORY

10.1 Application submitted under Tatkaal category can be converted to Normal, if the applicant does not furnish required VC or the application is not eligible for Tatkaal. Since Tatkaal fee is collected at PSKs only after verification of eligibility for Tatkaal, there is no question of reimbursement of additional Tatkaal fee collected. However, CPO officers in charge of PSK shall ensure that Tatkaal appointment process is not misused by Normal applicants by intentionally applying for Tatkaal without being eligible for Tatkaal service.

10.2 Normal cases requiring no-PV or post-PV may be converted in Tatkaal by DPO/APO in charge of PSKs on payment of additional fees.

## 11. CLARIFICATIONS

11.1 Tatkaal applications are accepted through online filing system only. An applicant has to first file online application, print out a copy of application so filed, visit Passport Seva Kendra on the date of appointment (automatically generated at the time of online filing) with all original documents & photocopies thereof and complete the application submission formalities.

11.2 Full validity passport is issued against Tatkaal application.

11.3 In Lost/stolen cases, DRILS and Issue of Loss of Passport circular procedure have to be completed. Hence, it is not possible for PSKs to accept Tatkaal applications in respect of Lost/Stolen passports. In exceptional cases where PVR is clear with photo, PIAs may accept Lost cases under Tatkaal.

11.4 Applications for re-issue of passports in lieu of damaged passport can be considered by the PIA under Tatkaal, only in case of first damage or in case of poor quality of passport booklets such as cover/stitching coming off. It is absolutely essential that personal particulars, including photograph, clear PVR are verified in PRIDE or from original records before a passport is re-issued in such cases. However, if the photograph on the damaged passport is beyond clear recognition, such application should not normally be accepted under Tatkaal except when two or more valid photo identity documents are submitted. In such cases, it should be verified that photo in PRIDE matches with that of applicant.

*Note : It may be noted that there have been many cases of identity theft in recent years by furnishing tampered photocopies of passports by applicants who report completely damaged passports.*

11.5 Passports issued by Missions/Posts abroad are normally re-issue cases. Passports are normally re-issued within three working days. Hence, the question of Tatkaal issue of Passport in Missions/Posts abroad would arise only if the passport is required to be issued out of turn. In Missions abroad where passport printing facilities are available, re-issue cases can be considered under Tatkaal scheme, provided the prescribed additional fee is paid in all such out of turn cases.

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### SUMMARY OF TATKAAL SCHEME

- No proof of urgency requires to be produced
- Scheme entails extra documents and additional fee;
- On post-PV basis- if Identity Certificate as in Annexure 'B' or NOC as in Annexure 'M' of Appendix 1 is submitted
- On post-PV basis in case of Verification Certificate as in Annexure "F" or "J" of Appendix 1; • On post-PV basis if 3 online verifiable documents listed at **Appendix-8**
- Verification Certificate is valid for 6 months
- List of officers authorized to issue VC given in **Appendix-15**
- No officer can issue more than 5 VC in a month or more than 50 VC in a year • Officers issuing false VC liable for prosecution u/s 12(2) of the Passports Act, 1967 • Only serving officers/formally re-employed officers in the stipulated category are entitled to issue VC
- PIA to verify and satisfy authenticity of VC
- Present rates of additional fees shown in **Appendix-9**
- Certain categories [see para 9] excluded from Tatkaal category
- Senior citizens, minors and differently-abled applicants can submit their applications as walk-in applicants
- No renewal of passport by Indian Missions/Posts in case of Adverse PVR on account of non presence of Tatkaal passport holder during police verification at given address in India.

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**FREQUENTLY ASKED QUESTIONS [FAQs]**

**Q.1 Can a Group “A” Officer of the Central Government with grade pay of Rs.6600/- posted in Mumbai issue VC to a person in Chennai?**

Ans: Yes. There are no jurisdictional restrictions to such category of officers issuing VC;

**Q.2 Can a recently retired Officer issue VC?**

Ans: Verification Certificate can be issued only by serving officers. However, officers formally re-employed after retirement can also issue VC, provided they enjoy Group “A” status and grade pay of Rs.6600/- and above.

**Q.3 Is the VC issued by a Tehsildar posted in Hissar District valid if the applicant is a resident of Ambala District?**

Ans: No. A VC issued by Tehsildar/SHO to a person residing within his official jurisdictional limits only is valid.

**Q. 4 Is any proof of urgency required for applying passport under Tatkaal Scheme?**

Ans: No. At present, there is no such requirement.

**Q.5 Is a Government servant of Nagaland/J&K, producing the prescribed Identity Certificate eligible to get passport under Tatkaal Scheme?**

Ans: Yes, subject to payment of Tatkaal fee.

**Q.6 Can a Government servant/employee of Statutory Body/PSU apply for Tatkaal passport?** Ans: Yes, provided Identity Certificate as in Annexure ‘B’, NOC as in Annexure ‘M’ or Prior Intimation Letter as in Annexure ‘N’ (all as per Appendix 1) is produced and additional Tatkaal fee is paid.

**Q.7 Is a VC issued by a District Magistrate/District Judge on plain paper valid?** Ans: Yes, provided the PIA is satisfied about the genuineness, based upon the official seal/verifiable details provided.

**Q.8 Can a person falling under ECR category apply for Tatkaal passport?**

Ans : Yes, provided VC or online verifiable 3 documents are submitted, requisite additional fee is paid and all other conditions are fulfilled.

**Q. 9 Can a minor having no parents apply for Tatkaal passport?**

Ans : Yes, provided VC/3 online verifiable documents and declaration as per Annexure “H” of Appendix-1 are submitted by the legal guardian/surviving relative, requisite additional fee is paid and other conditions are fulfilled.

**Q.10 Can Tatkaal passport applications be submitted at missions/posts abroad?** Ans: The passport re-issue applications can be submitted under Tatkaal category at missions where passport printing facilities are available for out of turn issue of passports, provided the prescribed additional Tatkaal fee is paid.

**Q. 11 Can a PS/Addl. PS to a Minister issue VC?**

Ans : Yes, officers posted as Private Secretaries/other Personal Staff of Ministers of the Union Council of Ministers and State Governments/UT Administrations can issue VC, provided they are having Group “A” status with Grade pay of Rs.6,600/- or above

**Q. 12 A Govt. servant has applied for Tatkaal Passport, after producing Identity Certificate from his Office. His wife has also applied for Tatkaal passport without producing any IC or VC etc. Can Tatkaal passport be issued to both on post-police verification basis?**

Ans : Anybody producing a valid IC, VC or 3 online verifiable documents can be issued Tatkaal passport on post- police verification basis, provided other conditions are fulfilled. Spouse of a Govt. servant not producing any of such documents will be eligible to get Tatkaal passport only after police verification.

**Q. 13 A person, working as Clerk on contractual basis, has applied for Tatkaal passport after producing Identity Certificate. Can passport be issued on post- police verification basis?**

Ans : IC produced by regularly appointed employees of the Central/State Govt/PSUs etc. whose character and antecedents have been duly verified, are valid for issue of Tatkaal passport without PVR. This procedure is not applicable to employees on contractual basis, in whose case, VC or 3 ID documents are required for Tatkaal passport on post-police verification basis..

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## 8. MISCELLANEOUS SERVICES ON PASSPORTS

### 1. General

### 2. Police Clearance Certificate (PCC)

- a. PCC to Indian Passport holders.
- b. PCC to foreigners
- c. PCC in PSK

### 3. ECR Deletion (previously ECNR)

### 4. Request for Certificate of Birth

### 5. Certificates in lieu of passports under submission

### 6. Any other miscellaneous certificates required by Indian Citizens abroad

### 7. No obligation to Return to India (NORI) Certificate

### 8. Sponsorship Declaration

### 9. Indian passport Surrender Certificate

## 1. GENERAL

1.1 Passport Authorities are required to perform certain miscellaneous services which flow from the issue of passports. A number of these services are performed to assist our nationals who are required to comply with specific requirements in foreign countries. Most of these services are of notarial nature and are described in detail in the Consular Manual with which Passport Authorities should also familiarize themselves. This chapter is more relevant to Passport Authorities abroad although some services are performed by Passport Authorities in India as well.

1.2 The miscellaneous services on passports are normally rendered on the same day. The procedure regarding grant of miscellaneous services on the passport is similar to the one outlined in previous chapters, except police verification. Each time an application is filed for any passport service, Index, PAC and PRIDE must be checked before granting the service. The service should be granted only if such internal checks do not find anything adverse. It should not be assumed that because a passport has already been granted to the person, there is nothing against the passport holder that may attract the provisions of Section 10 (3) of the Passports Act, 1967.

## 2. POLICE CLEARANCE CERTIFICATE (PCC)

[Ref. Ministry's circular No. V.1/401/45/92 dated 02/01/1998]

### A. PCC TO INDIAN PASSPORT HOLDERS

2.1 Police Clearance Certificate is not strictly a passport service. An application for PCC shall be accepted only from applicants holding a valid Indian passport and not with reissue application. PCC/Character Certificate (CC) is required by many foreign Governments for considering applications for resident status, employment or long term visa or for immigration. PIAs may grant Character Certificate or PCC to Indian passport holders, subject to Index and PAC check, clear PVR in the system and PRIDE check. The specimen of PCC is at **Appendix-16**.

**2.2 If a police report does not exist on file or in PRIDE, or it is blank or it contains only alphabets, a fresh police report should be called for and PCC/CC should be issued only on receipt of a clear police report.**

2.3 After making necessary entries regarding issue of PCC in the PRIDE database, an endorsement should also be made in the passport on the following lines: "Endorsement No. .... Date ..... .. P.C.C. issued for ..... (Name of the country)".

2.4 PCC can be issued to Indian passport holders only for purpose of foreign resident status, foreign employment or long term visa or for immigration purpose. PIAs in India shall not issue PCC to Indian citizens going abroad on tourist visa as this could be misused by unscrupulous agents/human traffickers and may also have serious security implications. PIAs abroad, may however, issue PCCs to Indian citizens abroad who arrive on tourist or other visas and then obtain residency visa or employment visa abroad.

2.5 All PIAs should send clearances for issue of PCCs when sought by other PIAs within a period of 30 days after updating the data in PRIDE also.

2.6 In the case of issue of PCCs to wards of officials who hold/held Diplomatic/Official Passports and who stay/stayed with their parents abroad in Missions/Posts, it has been decided by the Ministry that the following procedure shall be followed by PIAs in India and abroad :

- a) Passport Issuing Authorities (PIAs) are authorised to issue PCC to such applicants if there is no adverse record against them without the need for fresh Police Verification (PV). If application for PCC is submitted at a different Mission/PIA, it may be issued after taking clearance from the concerned Indian Mission/Post where the applicant stayed during the period for which the PCC is required.
- b) If applied in India in respect of stay abroad, PCC may be issued after obtaining clearance from the Mission/Post where the applicant stayed during the period for which PCC is required.

## **B. PCC TO FOREIGNERS**

2.7 Foreigners who have previously resided in India may also on occasion apply for Police Clearance Certificate for obtaining visas for certain other countries which require such documentation. Indian Missions/Posts can issue such certificates in the prescribed form (**Appendix-16**) if such foreigners do not figure in the Black List or warning circulars.

2.8 In case there is any adverse information against the applicant, a reference may be made to MHA (Foreigners Division) and PCC may be issued only on receipt of clearance.

2.9 Foreigners resident in India should apply for such certificates, when necessary, to the Ministry of Home Affairs through the State Government concerned and not to the Passport Authority.

## **C. PCC IN PSK**

2.10 PCC will be issued at PSKs, if PV is clear. Otherwise, PSK will generate PP form and escalate the case to PO which will render the service on receipt of clear PV. PSKs shall not retain the passport, unless required due to impounding/revocation/detection of double passport/adverse PV etc. When clear PV is received, PO will inform the applicant to visit the office with passport for rendering the service.

## **3. ECR DELETION**

ECR Passport holders apply for deletion of ECR when they become eligible for non-ECR passport. Deletion of ECR service may be rendered as a miscellaneous service, subject to eligibility, compulsory entry of details in PRIDE and usual checks and procedures, as well as any notifications by MOIA modifying the list of professions that require Emigration Clearance irrespective of exemption clauses like educational qualification of Class 10 and above; three years continuous foreign employment, payment of income tax on the basis of established income from regular employment/business etc. Recently, MOIA notified inclusion of 'Nurse' profession requiring Emigration irrespective of aforesaid exemption clauses and graduate qualification, so as to prevent employment of Nurses in war-torn countries like Libya, Yemen, Syria etc. Non-ECR eligible categories are at **Appendix-17**.

#### **4. REQUEST FOR CERTIFICATE OF BIRTH (in Missions abroad)**

The service may be rendered on the basis of date of birth in the passport subject to usual checks and formalities. The Certificate should be issued in the following format: "According to the entries in the Indian Passport/Travel Document No. .... .. issued at ..... .. on ..... .. to Mr./Mrs./Miss ..... ..S/o/W/o/D/o, he/she was born on ..... .. (in words) at..... The purpose for issue should be mentioned in the birth certificate such as - "This birth certificate is being issued to ...for obtaining Resident Permit/applying for Visa".

#### **5. CERTIFICATES IN LIEU OF PASSPORTS UNDER SUBMISSION**

When an Indian citizen applies for duplicate passport (in lieu of lost/damaged passport] or when a passport is under submission to the Mission or passport is impounded/revoked and the Mission is in possession of the same, on request, a certificate to that effect that the passport is under submission to the Mission may be issued. The certificate should invariably contain the date up to which it is valid. If the applicant approaches the Mission again for another certificate on expiry of the validity of the certificate, it should be retained in Mission's custody and a new certificate be issued.

#### **6. ANY OTHER MISCELLANEOUS CERTIFICATES REQUIRED BY INDIAN CITIZENS ABROAD**

Any such services may be rendered provided the same is based on personal particulars in the passport.

#### **7. NO OBLIGATION TO RETURN TO INDIA (NORI) CERTIFICATE**

7.1 Some countries require NORI certificate from Indian nationals who wish to settle in that country. NORI is a consular and not a passport subject. NORI application has to be submitted in the Mission/Post concerned. The prescribed affidavit in quadruplicate has to be got attested from the Mission and a copy each of the attested affidavit should be submitted in the Passport Office, Ministry of Human Resource Development (Department of Education)/Ministry of Health & Family Welfare and the Home Department of the State Government. In addition, if any loan was taken, NOC from the bank/institution concerned is required to be submitted. Consular Section of CPV Division is dealing with this subject in the Ministry.

7.2 The PO will send the clearance in respect of passport directly to the Mission/Post. It is the applicant's responsibility to obtain clearance from other Departments/Institutions and submit the originals to the Mission/Post along with the passport for issuance of NORI.

#### **8. SPONSORSHIP DECLARATION**

This is a frequent notarial function performed by our Missions/Posts abroad. Generally, the Missions do not take the responsibility for the contents of the sponsorship declarations. In some cases, such as sponsorship declarations sent to facilitate emigration clearance, etc., the Missions have to perform a recommendatory role and a code word is used. When a favourable recommendation is made, the words used are "Seen in the Consular Section of the Embassy/Consulate General/Consulate/High Commission/Deputy High Commission". Whenever a negative recommendation is to be made, the words 'in the Consular Section of the .....' are scored out.

#### **9. INDIAN PASSPORT SURRENDER CERTIFICATE**

Indian nationals are required to surrender their passports on acquisition of foreign nationality. Such passports when surrendered should be cancelled and returned to the passport holder, along with surrender certificate. It should be ensured that DRILS entry with remarks "Acquired.... (name of the

country) citizenship” be made in PRIDE. For more details on Surrender Certificate and Renunciation Declaration, Chapter 29, **Citizenship related Issues** may be referred to.

## **9. PASSPORTS FOR NAMED FOREIGN COUNTRY**

### **1. Introduction**

### **2. India-Bangladesh Passport**

### **3. India-Sri Lanka Passport**

### **4. India-Sri Lanka Passport for Repatriates**

## **1 . INTRODUCTION**

1.1 Prior to 1978, India had issued passports and travel documents such as India-Pakistan Passport, Certificate of Travel between India and Bangladesh, India-Sri Lanka Passport and India-Sri Lanka Passport (for Repatriates). However, none of these documents had legal basis under the Passports Act of 1967. This lacuna was removed through the Passports (Amendment) Act, 1978 which amended Section 5 of the original Act and introduced the concept of 'Named Foreign Country' for issuing a passport for certain specific countries. Under Rule 7 of the Passports Rules, two countries were named for the purpose of the extension of Sub-section I of Section 5 of the Act, namely (i) Bangladesh and (ii) Sri Lanka.

1.2 Till recently, three types of passports - India-Bangladesh Passport, India-Sri Lanka Passport and India-Sri Lanka Passport (for Repatriates) have been in use. These passport booklets are handwritten. Since, ICAO has issued guidelines phasing out issue of handwritten passports with effect from 1<sup>st</sup> April 2010 and phasing out the existing ones with effect from 24<sup>th</sup> November 2015, 'India Bangladesh' and 'India-Sri Lanka' passports are no longer being issued. The earlier provisions relating to the issue of such passports are described in the succeeding paragraphs.

## **2. INDIA-BANGLADESH PASSPORT**

2.1 India-Bangladesh Passport was introduced vide Gazette notification 397 (E) dated the 30<sup>th</sup> August, 1972. The Central Government delegated authority to issue this passport to various State Governments bordering Bangladesh and District authorities in some of these states [GSR 767(E) dated 9<sup>th</sup> November 1984].

2.2 India-Bangladesh Passports were valid for a period of three years under the Passports Rules. Format of the passport booklet is at Schedule III, Part III of the Passports Rules. Issue of India Bangladesh passport was discontinued with effect from 15/11/2013 and existing passports would remain valid till expiry. However, Ministry of External Affairs permitted issue of short validity Travel Certificates to officials of Indian states and to the Indian citizens in the erstwhile Indian enclaves in Bangladesh, at the time of exchange of enclaves by the two countries in 2015.

## **3. INDIA-SRI LANKA PASSPORTS**

3.1 Unlike India-Bangladesh passports, India-Sri Lanka passports were in vogue much before the promulgation of the Passports Act, 1967. These passports were earlier being issued by our Mission in Colombo and the Post in Kandy and are no longer being issued.

3.2 Most Indian origin stateless persons living in Sri Lanka have been conferred with Sri Lankan citizenship by an Act in 2003. The Indian Mission/Post in Sri Lanka are now issuing ordinary MRP

passports to the remaining Indian origin persons in lieu of India-Sri Lanka passport. The specimen application form is at Schedule III Part I of the Passports Rules.

#### **4. INDIA-SRI LANKA PASSPORTS FOR REPATRIATES**

4.1 In terms of Schedule II, Part I of the Passports Rules, 1980, this passport was being issued only to those persons who were granted Indian Citizenship under India-Sri Lanka Repatriation Agreements of 1964 and 1974. This passport was issued by our Mission/Posts in Sri Lanka on gratis basis. The issuance of this passport in India was terminated in June 1991 [Ref. Ministry's circular No. VI/125/25/90 dated 06/06/1991].

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## **10. PASSPORTS FOR HAJ PILGRIMAGE**

- 1. Introduction of Haj Passport**
- 2. Normal Passport on Priority to Haj Applicants**
- 3. Facilitation for Haj Pilgrims**
- 4. Opening of Special Counters**
- 5. Appointment of Nodal Officers**
- 6. Reservation of appointments for intending Haj pilgrims**

### **1. Introduction**

Consequent upon Saudi Arabian authorities' decision that the foreign pilgrims must possess international passport, GOI introduced a special scheme for issue of separate Haj passports to Indian Haj pilgrims in the year 2009 [Ref. Gazette Notification No. GSR-390(E) dated 04/06/2009]. Issue of separate Haj passports has since been discontinued.

### **2. Issue Of Ordinary Passport On Priority To Haj Applicants**

Since 2012, MEA/Haj Committee of India made it compulsory for aspiring Haj pilgrims to possess international passport with at least one year validity to be eligible for applying for selection of Haj pilgrims. For the Haj season 2016, the Haj Committee of India made available Haj application forms on 14<sup>th</sup> January 2016 and the last date for submission of applications with valid Indian passports, was 8<sup>th</sup> February 2016. All applicants must have MRP passports.

### **3. Facilitation For Haj Pilgrims**

To avoid last minute rush for passports by Haj applicants, all concerned Passport Offices shall run a campaign in December/January every year in coordination with the respective State Haj Committee and the Haj Committee of India advising intending Haj pilgrims to apply for passport well in time. The Ministry also regularly issues directions to all RPOs to accord high priority to processing of passport applications of prospective Haj pilgrims and ensure timely issuance of passports in such cases upon completion of requisite documentation, police verification and other formalities. Aspiring Haj pilgrims can, therefore, apply for ordinary passports under the normal course throughout the year without the earlier practice of furnishing of Haj cover number or letter from Haj Committee.

### **4. Opening of Special Counters**

POs who might face a rush of applications from aspiring Haj pilgrims, should open special counters for acceptance of applications, in liaison with the State Haj Committee, whose authorized volunteers can render assistance in such counters. (A few such POs where such counters were opened in the past are - Bareilly, Bhopal, Ghaziabad, Guwahati, Hyderabad, Kolkata, Lucknow and Patna.

### **5. Appointment of Nodal Officers**

POs may, at their discretion, nominate nodal officers every year during the rush period to ensure that passports to Haj pilgrims are issued well before the deadline.

### **6. Reservation of appointments for intending Haj pilgrims**

For intending Haj pilgrims, POs shall endeavour to arrange walk-in appointments in case of limited numbers. In case of large numbers, adequate number of appointment slots should be reserved for such applicants.

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## **11. RTI GUIDELINES FOR PASSPORT OFFICES**

(www.rti.gov.in and http://cic.gov.in)

- 1. General**
- 2. RTI Authorities and their Responsibilities in CPO**
- 3. Procedure to be followed in the Passport Offices**
- 4. Third Party Information**
- 5. Not to Create or Interpret Information**
- 6. Only Natural Indian Citizens can obtain Information, Not Legal Entities**
- 7. Retention of Records**
- 8. Appearance before Central Information Commission**
- 9. Decision of CIC on Passport Manual**
- 10. DoPT Clarifications on various RTI Issues**
- 11. Lower Courts have no Jurisdiction**
- 12. RTI Returns**

### **1. GENERAL**

1.1 The RTI Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control. The obligations of a public authority are basically the obligations of the head of the authority, who should ensure that these are met in right earnest.

1.2 All the Passport Officers are required to provide information to the public under the Rights to Information Act, 2005, as per the guidelines framed by the Ministry of Personnel, Public Grievances and Pensions. [Ref. DoPT circular No.1/4/2008-IR dated 25/04/2008 and MEA circular No. V.IV/RTI/551/Misc/4/09 dated 31/03/2009].

1.3 Some important clarifications/decisions issued by DOPT on RTI are incorporated at para 10 of this Chapter for guidance of CPIO.

### **2. RTI AUTHORITIES AND THEIR RESPONSIBILITIES IN CPO**

[Ref. V.IV/551/7/07 dated 30.03.2007]

- a) Assistant Public Information Officer (APIO) - Each RPO/PO will nominate an Assistant Public Information Officer in his office;
- b) Central Public Information Officer (CPIO) - Each RPO/PO will also nominate a Central Public Information Officer (CPIO);
- c) First Appellate Authority- Passport Officer will be First Appellate Authority under the RTI Act;

2.1 All Passport Officers should ensure that they devise standard procedure for reply and, procedure for First Appeal locally by POs and for handling second Appeals at CIC at New Delhi through a Standing Counsel.

2.2 RPOs/POs may also ensure that the names of the First Appellate authority, CPIO and APIO are reflected correctly in the websites of the Passport Offices and also displayed on the notice boards.

### **3. PROCEDURE TO BE FOLLOWED IN THE PASSPORT OFFICES**

3.1 The role of RTI Act is limited to providing information and not redressal of grievances. The Ministry has issued detailed instructions on processing and disposal of RTI applications in the POs as per RTI regulations. An RTI application should be diarised immediately on receipt and put up to CPIO

on the same day [Ref. Ministry's circular No. VRTI/Misc/551/1/07 dated 29/11/07 and VRTI/S51/1/06 dated 27/02/08].

### **3.2 First party grievance through RTI queries**

Most of the RTI queries to RPOs are in the nature of grievances by first parties. Hence, in such cases, it would be time and resource saving if the entire file, already scanned and stored, is furnished to the RTI applicant.

### **3.3 RTI queries by Public Activists**

While it should be endeavour of the Passport Officer to regularly disseminate macro data such as number of issue of passports etc to the public, RTI queries seeking mining of large amount of data have to be handled with care, as they require inordinate manpower resources being diverted from the service of the general public. In such cases, the reply has to be drafted carefully declining the information u/s 7(9) stating that the information sought is not available in the format in which it is sought and that collating the information would 'disproportionately' divert the resources of the public authority from issuing passports to the general public. In case of adverse ruling, the applicant should be offered the choice of inspecting the files himself, with appropriate limitations on access, total time and facilities and strict supervision. For more information, Question Answer 3 below may be referred.

## **4. THIRD PARTY INFORMATION**

### **4.1 Definition of Third Party**

Third Party in relation to the RTI Act means a person other than the citizen who has made request for information. The definition of Third Party also includes a public authority other than the public authority to whom the request has been made.

### **4.2 No Disclosure of information to Third Party**

As per Section 8(1)(j) of the RTI Act, there is no obligation on the Public Authorities to give any citizen- "information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information, provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person". Accordingly, the Passport Authorities cannot disclose to an RTI applicant, information relating to another passport applicant/holder.

### **4.3 Non-Disclosure of information received from another public authority:**

The DoPT vide O.M. No. 8/2/2010-IR dated 27/04/2010 has clarified that information received from another public authority cannot be disclosed under the RTI Act unless the procedure u/s 11 of the Act is followed which is as under:

"if a Public Information Officer (PIO) intends to disclose an information supplied by a third party which the third party has treated as confidential, the PIO, before taking a decision to disclose the information shall invite the third party to make submission in the matter. The third party has a right to make an appeal to the Departmental Appellate Authority against the decision of the PIO and if not satisfied with the decision of the Departmental Appellate Authority, a second appeal to the Information Commission concerned. The PIO cannot disclose such information unless the procedure prescribed in Section 11 is completed. If a public authority 'X' receives some information from another public authority 'Y' which that public authority has treated as confidential, then 'X' cannot disclose the information without consulting 'Y', the third party in respect of the information and without following the procedure prescribed in Section 11 of the Act. It is a statutory requirement, non-compliance of which may make the PIO liable to action."

**4.4 RTI on Third Party information- R. Jayachandran vs. UOI High Court Delhi, 19/02/2014** The Delhi High Court overruling CIC directive to furnish third party information, said that “keeping in view the provisions (2(n), 8(j), 11(1) & 19(4) of the RTI Act, 2007, the proper approach to be adopted in cases where personal information with regard to third parties is asked, is first to determine whether information sought falls under Section 8(1)(j) of the RTI Act and if the Court/Tribunal reaches the conclusion that aforesaid exemption is not attracted, then the third party procedure referred to in Section 11(1) of the RTI Act must be followed before releasing the information.

4.5 In view of this ruling, it is settled that **no** information pertaining to a passport application of third party could be disclosed in response to an RTI query. While denying such information in response to RTI applications, this judgement may be cited. **Supply of copy of passport application forms or supporting documents, or any information contained in the passport application and in the supporting documents, is already barred** under section 8(1)(j) of the RTI Act [Ref Ministry’s circular No. PVRTI/551/2/2014 dated 14/03/2014].

## **5. NOT TO CREATE OR INTERPRET INFORMATION**

Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. It is not required under the Act to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

## **6. ONLY NATURAL INDIAN CITIZENS CAN OBTAIN INFORMATION, NOT LEGAL ENTITIES**

The Act gives the right to information only to Indian citizens. It does not make provision for giving information to Corporations, Associations, Companies, etc., which are legal entities but not citizens. However, if an application is made by an employee in his name, the RTI application is admissible.

## **7. RETENTION OF RECORDS**

Section 8(3) of the Act does not require the public authorities to retain records for indefinite period. The records should be retained as per the record retention schedule applicable to the concerned public authority.

## **8. APPEARANCE BEFORE CENTRAL INFORMATION COMMISSION**

[Reference MEA’s letter No. V/551/1/06-Misc dated 16/04/2007]

While all Passport Officers shall make arrangements for standing counsel to represent them before CIC, they must appear before the Commission if they are summoned personally. In the event of any emergency or illness, they are required to seek leave of absence prior to the date of hearing.

## **9. DECISION OF CIC ON PASSPORT MANUAL**

The CIC in one of its decisions exempted the Passport Manual from the purview of the RTI Act. After hearing the arguments of the RTI applicant and the Ministry, the Commission accepted the submission of the Ministry that the Passport Manual is a restricted compilation meant for official use only and not for public consumption, and that there is information in the Passport Manual disclosure of which may harm the relationship of the country with other states. There are Manuals and parts of Manuals which would attract the provisions of Section 8 of the RTI Act and hence could not be disclosed [Ref. CIC order No. CIC/OK/A/2007/01356 dated 24/03/2008]

## 10. DoPT CLARIFICATIONS ON VARIOUS RTI ISSUES

**Q.1: How much information can a citizen request in one application? If he/she asks 20-30 kinds of information in one application, should it be given? Or should the citizen be asked to put in fresh applications for each point of information requested and also be asked to pay application fees every time?**

Ans: The Act does not permit rejection of an application simply because it relates to a large number of documents. Under Section 7(9), information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority. The PIO has to determine and justify what constitutes "disproportionate diversion of the resources'. An applicant can ask for 20 to 30 different kinds of information in the same application and cannot be asked to apply afresh.

**Q.2: If in a single application the applicant requests information that relates to a public authority and also other public authority/authorities, is the PIO responsible for giving all that information himself/herself?**

Ans: In accordance with Section 6(3)] of the RTI Act, the application or parts of the application shall be transferred to the PIO concerned within 5 days - and the applicant has to be informed about the transfer in writing.

**Q.3: If there is a flood of applications for inspection of records, how will the PIO provide access to all applicants and also do justice to his/her other designated duties? What if one such applicant mutilates or destroys a record during inspection?**

Ans: Under the Act, every public authority will need to designate as many PIOs as may be required to deal with requests for information from citizens. The PIOs may fix one or two particular days in a week for inspection of records. It is important that the PIO takes adequate precautions for the safety of records being inspected. If, however, it is found that a person examining a record or document has mutilated or tampered with the document or attempted to do so it will be appropriate for the PIO/public authority to lodge a criminal complaint immediately with the local police.

**Q.4: If the same kind of information is sought by more than one person should it be made available to all such requesters?**

Ans: Yes, it has to be made available. However, it is advisable that such records be digitized as far as possible and uploaded on the Internet to facilitate easy access.

**Q.5: If the information requested by a citizen has already been proactively disclosed, can a PIO refuse to accept the request?**

Ans: There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. If such information is requested, the same can be provided in the available formats upon payment of fees/charges at rates prescribed by the Government.

**Q.6: If the applicant does not respond to the intimation letter of the PIO requesting payment of further fee, will the PIO be duty—bound to provide information to the applicant? Will the PIO be duty-bound to provide information within 30 days even in such cases?**

Ans: No. The PIO is not duty bound to provide information to the applicant in such cases. The RTI Act states very clearly that the PIO will provide access to information only upon payment of further fee as may be determined [Section 7(1)] (for non-BPL cases).

**Q.7: Are officials required to give information about themselves and their families under the law? Can the public request this kind of information? Should it be given?**

Ans: Officials are not required to provide private or personal information which is exempted u/s 8(1)(i) of the Act. Again, this must be decided on a case by case basis (as has indeed been the case with the decisions of the CIC). If public interest is served by disclosing such information then it must be given.

**Q.8: If a case is still under consideration (i.e., 'live' or 'current' file) for final decision, can that file be made available to the information seeker before the decision has been taken?**

Ans: A request cannot be rejected on this ground. The requisite information will have to be given the applicant. It is important to note, however, that such disclosure cannot run contrary to the provisions of the Act that exempt certain categories of information. If so, the PIO cannot provide such information, but has to clearly state the reasons for not doing so. If partial disclosure is possible and is not exempted, then the PIO should disclose that part of the record.

**Q.9: Periodical weeding out of files results in destruction of many documents which are not important enough to maintain for as long as 20 years or more. So it will not be possible to give such information after they have been destroyed. Will the PIO be penalised for this?**

Ans: If a record has been destroyed legally, the question of penalisation does not arise.

**Q.10: What is the process for taking a decision on granting partial access to a record? Who is the authority to make this decision within a public authority?**

Ans: Section 10(2)(b) of the RTI Act makes it clear that PIO is the deciding authority for granting partial access to records that may contain exempted information. However, when partial information is disclosed, the PIO needs to provide valid reasons for the decision. He also needs to mention his name and designation as the decision maker and the applicant's right with respect to the review of the decision, including the particulars of the time limit, process etc. Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided.

**Q.11: Will a PIO be penalised under this Act?**

Ans: It needs to be mentioned here that the PIO must note that it is not necessary on his/her part to seek the permission/approval of a superior officer of the public authority concerned for providing information under his/her control. The Act is clear about the fact that the PIO is an independent authority under the law and no approval is required from any superior official to release the requested information. If a PIO acts upon any order of his/her superior and rejects requests fully/partially with mala fide intentions, he/she is liable to be penalised under the Act. In case the information sought for is not available with a PIO, he/she can take the assistance of any other officer including asking for information under that officer's control and such officer will be treated as a PIO for the purpose of the Act and its penal provisions.

**Q.12: If the information given by the PIO in response to a request turns out to be wrong, false or misleading but the PIO was not responsible for the creation of that record or such information, will he /she be penalised? -**

Ans: The RTI Act provides protection to the PIO for 'action taken in good faith'. If the requested record has not been prepared by the PIO but by some other officer or if the data compiled by the PIO was received from some other officer and the PIO merely passed on that information to the applicant without having prior knowledge that such information was wrong or false or misleading he /she is not guilty of an offence under the RTI Act. The Information Commission will penalise PIO only in such cases where it may find him/her guilty of giving wrong, false or misleading information in a mala fide manner.

**Q.13: What if the applicant claims that he/she did not receive the intimation letter from the PIO and files an appeal with the AO and the Information Commission? Will the PIO be penalised?** Ans: The PIO would do well to maintain a copy of the intimation letter in his/her records for use in such cases.

Furthermore, the PIO may send the intimation letter 'Under Certificate of Posting' (UCP) to the applicant. This should be ample proof that the PIO had taken action in good faith. The PIO will not attract penalty in such cases. The law requires that the PIO be given an opportunity to present his/her case before the relevant Information Commission takes a decision on imposing penalty. But a default may invite penalty for the PIO.

**Q.14: The PIO continues to be under the purview of the Official Secrets Act - (OSA) of 1923. How will he reconcile his duties under the RTI Act with the secrecy required to be maintained under the OSA? What happens to the oath of secrecy every officer is required to take while joining service?**

Ans: It must be noted that the provisions of the RTI Act, 2005 shall be effective notwithstanding anything that may be inconsistent with its provisions in the Official Secrets Act, or any other Act of the Union or the State Governments (see RTI Act, 2005, Chapter VI, Section 21). The 'Oath of Secrecy' taken by Government employees, therefore, only applies to the information that has been exempted from the ambit of the provisions of the said Act. Broadly, this exempted information pertains to matters/issues related to national security, defence, and integrity of the country. The Oath will not be adequate and the test of public interest is the overriding consideration.

**Q15: Can file notings be disclosed under RTI?**

Ans: The file noting can be disclosed except file noting containing information exempted from disclosure u/s 8 of the RTI Act.

## **11. LOWER COURTS HAVE NO JURISDICTION**

Lower Courts are barred from entertaining suits, applications or other proceeding against any order made under the RTI Act [Section 23]. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the Constitution respectively remains unaffected.

## **12. RTI RETURNS**

[Ref. circular F. No. V(Insp)/551//05—\ol. II dated 14/07/2006]

It is mandatory to furnish the quarterly returns in the prescribed pro forma [**Appendix-27**] containing the details of receipt and disposal of applications dealt with by the Passport Offices under the Right to Information Act, 2005 for every quarter ending March, June, September and December of the year.

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## 12. PASSPORT SEVA PROJECT

1. Background
2. NISG study/Service Provider
3. Launching of Project & completion of Roll-out
4. IT driven PPP model
5. Strategic Control by Government
6. Transparent and user-friendly Public Interface
7. Bridging Digital Divide
8. Information features of the PSP system for the Public
9. Expansion of Passport Seva
10. Integration with other e-Governance initiatives of Gol

### 1. BACKGROUND

Despite extensive computerisation, opening of new passport offices and reforms in the Central Passport Organisation (CPO), a need was felt for change in the passport issuance system to meet rapidly growing passport demand and heightened expectations of the public. To address this need, a Mission Mode Project viz. **Passport Seva Project (PSP)** was identified under the National e Governance Plan (NeGP) in 2006 with the aim **“to deliver all Passport-related services to the citizens in a timely, transparent, more accessible, reliable manner and in a comfortable environment through streamlined processes and committed, trained & motivated workforce”**.

### 2. NISG STUDY / SERVICE PROVIDER

The Ministry appointed National Institute for Smart Government (NISG) as Consultant in November 2006 for comprehensive redesigning of Passport Issuance System. Based on the study by the NISG, the Ministry obtained approval of the Union Cabinet on 6<sup>th</sup> September, 2007 to establish inter alia 77 Passport Seva Kendras (PSKs) on Public-Private-Partnership (PPP) basis. Following a two bid process, M/s. Tata Consultancy Services were selected as Service Provider in May, 2008 for implementation of PSP.

### 3. LAUNCHING OF PROJECT & COMPLETION OF ROLL OUT

The pilot project was launched at 7 locations under RPO, Bengaluru and RPO, Chandigarh in May 2010 and August 2010 respectively. After certification of the Project by the Standardisation, Testing & Quality Certification Directorate (STQC), the third party audit agency under the Deptt. of Electronics & IT on 11 January, 2011, all the planned 77 PSKs were set up and operational in the country by 14 June, 2012. By 31<sup>st</sup> March 2016, the total number of PSKs have gone up to 89. The Project having been certified by the STQC, is in Operation and Maintenance Phase till June, 2018.

### 4. IT DRIVEN PPP MODEL

The PSP incorporates the best global practices including establishing 77 PSKs, a comprehensive user-friendly Passport Portal ([www.passportindia.gov.in](http://www.passportindia.gov.in)) for offering Passport services, providing digital links to designated points in Police department, introduction of a multi modal Information and Grievance Handling System, creating a centralized IT system linking all the PSKs, Passport Offices, Police and Postal Department as well as with India Security Press, Nashik. The Project runs on the Build-Own-Operate-Transfer model wherein the initial investments are by the private partner. There is minimal investment from the Government.

### 5. STRATEGIC CONTROL BY GOVT.

Security has been given special attention in the project. Strategic assets like Data Centre, Application software, System software, Disaster Recovery Centre and Central Passport Printing

Facility are owned by the Government to ensure strategic control over the Passport Seva System. The accountability of Govt employees as well as private partner's personnel, in respect of any task performed in the PSP system, is ensured through three-level authentication comprising Biometric log-in, User ID/Password and Digital Signatures.

## **6. TRANSPARENT AND USER FRIENDLY PUBLIC INTERFACE**

In the new system, citizens apply for passport services online through the passport portal, make payment of passport fee online, take appointment and visit the PSK, headed by a Govt officer, at the appointed date and time. Front-end activities, such as token issuance, initial scrutiny of the application forms, acceptance of fee where applicable, scanning of the documents, taking biometrics and photos, are performed by the Service Provider's staff. Verification, granting, issuing, revocation and impounding of passports are performed by Government officials. The entire process including payment of passport fee through debit/credit card and State Bank of India net-banking and allotment of appointments is online. The Electronic Queue Management System at the PSKs ensures 'first-in-first out' principle in application processing. Applicants' presence in person at the PSK prevents the incidence of impersonation. The applicants get full opportunity at the PSK to see and affirm their personal particulars to be entered in the passport. This ensures transparency and error-free issuance of passports. The number of public dealing counters has been increased from 350 in the old system to 1610 in the new system in June 2012 and to 1880 in October, 2015. The public dealing hours have gone up from 4 hours to 7 hours a day. An SMS/e-mail alert is sent to the applicant as soon as passport is dispatched. Additional SMS facility to inform every stage of passport issuance is also available on a small additional fee.

## **7. BRIDGING THE DIGITAL DIVIDE**

To address the challenge of digital divide, especially in the rural hinterland, the Ministry in association with CSC e-Governance Services India Ltd. (which is promoted by the Department of Electronics and IT), has facilitated online filing of passport applications, through the vast network of over one lakh Common Services Centres (CSCs) across rural hinterland.

## **8. INFORMATION FEATURES OF THE PSP SYSTEM FOR THE PUBLIC**

The Passport Portal provides comprehensive and latest information on passport services as well as status of an application, thus enabling anytime-anywhere access. An e-mail based helpdesk facility and a 24x7 National Call Centre has been set up to provide requisite information to citizens in 17 vernacular languages. A mobile based '**mPassport Seva**' app offers a wide variety of services such as Passport Application status tracking, locating the PSKs and general information on various steps involved in obtaining passport services. A value-added optional SMS service, on payment of a nominal fee, is also available to citizens for receiving alerts and updates regarding status of their passport applications.

## **9. EXPANSION OF PASSPORT SEVA**

With the view to secure greater outreach and providing speedier passport service to applicants, 12 more PSKs have also been opened as in January 2016, mostly in the North Eastern states and another 7 are being set up across the country.

## **10. INTEGRATION WITH OTHER E-GOVERNANCE INITIATIVES OF GOI**

The PSP has been integrated with e-governance initiatives such as UIDAI/Aadhaar/e-Aadhaar, eMigrate and eTaal. Work is in progress for integration of PSP with Missions/Posts abroad. In course of time, it would be integrated with other initiatives such as Crime & Criminal Tracking Network System (CCTNS), Immigration, Visa & Foreigners Registration & Tracking (IVFRT) and Digi-Locker.