

The Transgender Persons (Protection of Rights) Rules, 2020

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The Transgender Persons (Protection of Rights) Rules, 2020¹

[25th September, 2020]

Whereas the draft rules in exercise of the powers conferred by Section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019) were published, as required by sub-section (1) of the said section vide notification of the Government of India in the Ministry of Social Justice and Empowerment, number G. S. R. 441(E), dated the 13th July, 2020 in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) inviting objections and suggestions from the persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, the copies of the said Gazetted notification were made available to the public on the 13th July, 2020;

And whereas, the objections and suggestion received from the public in respect of the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by Section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019), the Central Government hereby makes the following rules, namely—

1. Short title and commencement.—(1) These rules may be called the Transgender Persons (Protection of Rights) Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definition.—In these rules, unless the context otherwise requires,—

- (a) “Act” means the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);
- (b) “applicant” means a transgender person who submits an application under Rule 3;
- (c) “application” means the application form as provided in Form 1;
- (d) “any official documents” include all documents listed in Annexure 1, which the appropriate Government may revise, by notification in the Official Gazette;
- (e) “certificate of identity” means a certificate issued by the District Magistrate under Section 6 or Section 7 of the Act as in Form 3 or Form 4 respectively;
- (f) “form” means a form prescribed to these rules;

1. Ministry of Social Justice and Empowerment, Noti. No. G.S.R. 592(E), dated September 25, 2020 and published in the Gazette of India, Extra., Part II, Section 3(i), dated 29th September, 2020, pp. 14-27, No. 483

- (g) “identity card” means a photo identity card issued in Form 5 to a transgender person under Section 6 or issued in Form 6 to a transgender person on change of gender under Section 7 on the basis of “certificate of identity” issued by the District Magistrate or an identity card to a transgender person issued by a State authority prior to the coming into force of these rules;
- (h) “medical institution” means any medical institution whether hospital or clinic, private or public, in rural areas or urban or overseas;
- (i) “medical intervention” includes any gender affirming medical intervention undertaken by an individual to facilitate the transition to their self-identified gender, including but not limited to counseling, hormonal therapy, and surgical intervention, if any;
- (j) “section” means a section of the Act;
- (k) all other words and expressions used herein but not defined and defined in the Act shall have the same meaning assigned to them in the Act.

3. Application for issue of certificate of identity under Section 6 or Section 7.—(1) A transgender person desirous of obtaining a certificate of identity shall make an application as prescribed in Form 1.

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

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

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

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

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

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

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

5. Issue of certificate of identity for a transgender person under

Section 6.—(1) The District Magistrate shall issue to the applicant, a certificate of identity in Form 3 following the procedure provided in Rule 4 indicating the gender of such person.

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

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

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

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

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

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

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

6. Procedure for issue of a certificate of identity for change of gender.—(1)

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

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

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

7. Issue of certificate of identity under Section 7.—(1) The District Magistrate shall issue a revised certificate of identity in Form 4 to the applicant

seeking change in gender indicating the gender of such a person as male or female, as the case may be.

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

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

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

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

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

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

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

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

10. Welfare measures, education, social security and health of transgender persons by appropriate Government.—(1) The appropriate Government shall constitute a welfare board for the transgender persons for the purpose of protecting their rights and interests of, and facilitating access to schemes and welfare measures framed by the Government.

(2) The appropriate Government shall review all existing educational, social security, health schemes, welfare measures, vocational training and self-employment schemes to include transgender persons to protect their rights and interests and facilitate their access to such schemes and welfare measures framed by that Government.

(3) The appropriate Government shall formulate educational, social security, health schemes and welfare schemes and programmes as specified in Annexure II in a manner to be transgender sensitive, non-stigmatising and non-discriminatory to transgender persons.

(4) The appropriate Government shall take adequate steps to prohibit discrimination in any Government or private organisation, or private and public educational institution under their purview, and ensure equitable access to social and public spaces, including burial grounds.

(5) The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, rehabilitation centre referred to in sub-section (3) of Section 12 of the Act, separate human immunodeficiency virus sero-surveillance centres, separate wards in hospitals and washrooms in the establishment, within two years from the date of coming into force of these rules to protect the rights of transgender persons.

(6) The appropriate Government shall carry out an awareness campaign to educate, communicate and train transgender persons to avail themselves of the benefits of welfare schemes, educate and train transgender persons on their rights; eradicate stigma and discrimination against transgender persons and mitigate its effects.

(7) The appropriate Government shall also provide for sensitisation of institutions and establishments under their purview, including—

- (a) sensitisation of teachers and faculty in schools and colleges, changes in the educational curriculum to foster respect for equality and gender diversity;
- (b) sensitisation of healthcare professionals;
- (c) sensitisation programmes in workplaces;
- (d) sensitisation programmes for complaints officers.

(8) All educational institutions shall have a committee which shall be accessible for transgender persons in case of any harassment or discrimination, with powers to ensure that transgender students do not have to be affected by the presence of the persons bullying them, including teachers.

(9) The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, temporary shelters, short-stay homes and accommodation, choice of male, female or separate wards in hospitals and washrooms in the establishment within two years from the date of coming into force of these rules to protect the rights of transgender persons.

11. Provisions for non-discrimination.—(1) The appropriate Government shall take adequate steps to prohibit discrimination in any Government or private organisation or establishment including in the areas of education, employment, healthcare, public transportation, participation in public life, sports, leisure and recreation and opportunity to hold public or private office.

(2) The appropriate Government shall within two years from the date of coming into force of these rules, formulate a comprehensive policy on the measures and procedures necessary to protect transgender persons in accordance with the provisions of the Act.

(3) The policy formulated under sub-section (2) shall include preventative administrative and police measures to protect vulnerable transgender communities.

(4) The appropriate Government shall be responsible for the supervision of timely prosecution of individuals charged under Section 18 of the Act, or under any other Law for similar offences committed against the transgender persons.

(5) Every State Government shall set up a Transgender Protection Cell under the charge of the District Magistrate in each District and under Director General of Police in the State to monitor cases of offences against transgender persons and to ensure timely registration, investigation and prosecution of such offences.

12. Equal opportunities in employment.—(1) Every establishment shall implement all measures for providing a safe working environment and to ensure that no transgender person is discriminated in any matter relating to employment including, but not limited to, infrastructure adjustments, recruitment, employment benefits, promotion and other related issues.

(2) Every establishment shall publish an equal opportunity policy for transgender persons.

(3) The establishment shall display the equal opportunity policy, including the details of the complaints officer, preferably on their website, failing which, at conspicuous places in their premises.

(4) The equal opportunity policy of an establishment shall, inter alia, contain details of—

- (a) infrastructural facilities (such as unisex toilets), measures put in for safety and security (transportation and guards) and amenities (such as hygiene products) to be provided to the transgender persons so as to enable them to effectively discharge their duties in the establishment;
- (b) applicability of all rules and regulations of the company regarding service conditions of employees;
- (c) confidentiality of the gender identity of the employees;
- (d) complaint of the officers.

13. Grievance redressal.—The appropriate Government shall ensure that every establishment designates a complaint officer in accordance with Section 11 within thirty days from the date of coming into force notification of these rules.

(2) The complaint officer shall enquire into the complaints received within fifteen days from the date of receipt of such complaints.

(3) The head of the establishment shall take action on the enquiry report submitted by the complaints officer within fifteen days from the date of submission of the report.

(4) The head of the establishment shall take action forthwith in all cases where action has not been taken in accordance with the above time limits.

(5) The appropriate Government shall also set up within one year a grievance redressal mechanism, operating through a helpline and outreach centres, for ensuring proper implementation of the provisions of Chapter V of the Act with special reference to sub- sections (1) and (2) of Section 12.

(6) The grievance redressal system shall ensure resolution of grievances within thirty days from the date of bringing of such grievance to the helpline, and imposing of penalties as laid down in Section 18.

(7) The appropriate Government shall put in place a monitoring system for tracking the number of complaints filed, enquired and action taken of all the establishments in their jurisdiction.

14. National Council.—(1) The National Council shall perform the functions as per Section 17 of the Act.

(2) National Institute of Social Defence shall give secretarial assistance to the National Council in conduct of its meetings and facilitate in the discharge of the functions of the National Council.

FORM 1

[See Rules 2(d), 3(1) and 6(1)]

*Application form for issue of transgender certificate of identity under
Rule Transgender Persons (Protection of Rights) Rules, 2020
read with Section 6*7* of the Transgender Persons
(Protection of Rights) Act, 2019*

***Strike out whichever is not applicable**

State Emblem State Government of (Name of the State) Office of the District Magistrate		
Application form for issue of a transgender certificate of identity under Rule Transgender Persons (Protection of Rights) Rules, 2020 (read with Section 6*7* of the Transgender Persons (Protection of Rights) Act, 2019 * Strike out whichever is not applicable		
1	Name	
(i)	Given name (in capital letters)	
(ii)	Changed/Chosen name (in capital letters)	
(iii)	Out of (i) and (ii), name to be printed in the certificate of identity and in the identity card	
2	Gender	
(i)	Assigned at birth	
(ii)	Requested in the application	
3	Date of birth	dd/mm/yyyy

4	Educational qualification	
5	Present address	
6	Permanent address	
7	If there is a source of income, the annual income:	
(i)	Under Rs 1,00,000	Yes/No
(ii)	Between Rs 1,00,001 and 3,00,000	Yes/No
(iii)	Above Rs 3,00,000	Please specify the amount:
8	Do you have any of the following documents? If so, please submit self-attested photocopies of the certificates stated below.	
(i)	Date of birth certificate	Yes/No
(ii)	Aadhaar card	Yes/No
(iii)	PAN card	Yes/No
(iv)	Election Voter Identity Card	Yes/No
(v)	Ration card	Yes/No
(vi)	Passport	Yes/No
(vii)	Bank passbook	Yes/No
(ix)	MNREGA Card	Yes/No
(x)	Caste certificate (SC/ST/OBC/Others)	Yes/No
9	Medical history (for those applying under Section 7 of the Transgender Persons (Protection of Rights) Act, 2019	
(i)	Have you undergone any medical intervention in the context of transgender transition?	Yes/No
(ii)	Please give details	
(iii)	Name and complete address of the Hospital or medical institute	
(iv)	Name of the issuing authority along with the date	
(v)	Any other medical status you would like to share	
(vi)	Have you been issued any certificate of identity under Section 6 and Section 7 under the Act, or any other ID Card issued by the State Authority before the commencement of these Rules? If so, enclosed the same.	
10	Any other information you would like to give	
11	Have you attached affidavit prescribed in Form 2 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule—Transgender Persons Protection of Rights) Rules, 2020	
12	Have you attached the passport size photographs?	Yes/No

Enclosed:documents as mentioned in the application

Declaration

1. I declare that the particulars furnished by me are true and correct.
2. Information provided in this application will be treated as confidential and shall not be shared with any person or organisation save the Central and/or State security agencies, any other agency as provided by Law; and for statistical and policy framing purposes.

Place:	Signature or left hand thumb impression of the applicant given name of the applicant
Date:	

FORM 2

[See Rules 2(b) and 4(1)]

Format of affidavit to be submitted by a person applying for certificate of identity for transgender persons under Rule 4 of the Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019

(Affidavit should be on Non-judicial stamp paper of Rs 10/-) Competent Notary Civil, District (Name of the District), (Name of the State)

I, (Name), son/daughter/ward/spouse of (name of the parent/guardian/husband), aged (in completed years), residing at (address), (Tehsil), (District), (State) (Pin code) do hereby solemnly affirm and declare as under:

1. I am currently residing in the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as transgender.
4. I am executing this affidavit to be submitted to the District Magistrate for issue of certificate of identity as transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule Transgender Persons (Protection of Rights) Rules, 2020.

* strike out whichever is not applicable.

Deponent

(Signature of the Applicant)

Verification

I, (Name), hereby state that whatever is stated here in above Serial Nos. 1 to 4 are true to the best of my knowledge.

Deponent

(Signature of the Applicant)

Tehsil

Date

Identified by me

Advocate

Public

Before Me

Notary

FORM 3

[See Rules 2(e) and 5(1)]

Form of certificate of identity to be issued by District Magistrate under Rule 5 Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019

Photograph of the certificate holder District Magistrate to attest the photograph

1. On the basis of the application dated dd/mm/yyyy to the undersigned it is certified that Shri/Smt/Km/Ms (name) son/daughter/ward of Shri/Smt (name of the parent or Guardian) of (complete residential address of the applicant) is a transgender person.
2. His/Her birth name is.....
3. This certificate is issued in terms of the provisions contained under Rule 5 Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri/Smt/Km/Ms.....is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.

Date
Place

Signature of the District Magistrate
Seal

FORM 4

[See Rules 2(e) and 7(1)]

Form of certificate of identity for change of gender to be issued by District Magistrate under Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020 read with Section 7 of the Transgender Persons (Protection of Rights) Act, 2019

Photograph of the certificate holder District Magistrate to attest the photograph

1. On the basis of the application submitted to the undersigned along with a medical certificate from the Medical Superintendent or Chief Medical Officer (name of the Hospital and complete address), it is to certify that Shri/Smt/Km/Ms. (name) son/daughter/ward of Shri/Smt (name of the parent or Guardian) of (complete residential address of the applicant) has undergone medical intervention to change gender.
2. His/Her birth name is.....

- 3. This certificate is issued in terms of the provisions contained under Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020 read with Section 7 of the Transgender Persons (Protection of Rights) Act, 2019.
- 4. It is also certified that Shri/Smt/Km/Ms.....is ordinarily a resident at the address given above.
- 5. This certificate entitles the holder to change name and gender in all official documents of the holder.
- 6. Such change in name and gender and the issue of this certificate shall not adversely affect the rights and entitlements of the holder of this certificate.

Date _____ Signature of the District Magistrate
 Place _____ Seal

FORM 5

[See Rules 2(g) and 5(4)]

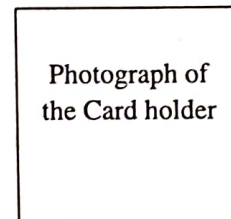
Form of Identity Card Front side of identity card

State Emblem

State Government of (Name of the State) Office of the District Magistrate

Transgender Identity Card

Identity
card
number



Name _____
 Mother's name@ _____
 Father's or Guardian's name @ _____
 Gender _____ Transgender
 Date of birth or _____ dd/mm/yyyy
 Age as on the date of application for issue of
 Identity card _____
 Reference number of certificate of _____ years
 authority on the basis of which this
 card is issued _____

Back side of the identity card

Present address _____
 Card issue date _____
 Signature of the issuing
 authority Designation _____
 Seal of the issuing authority _____

Issued under Section 6*7* of the Transgender Persons (Protection of Rights) Act, 2019 and under Rule.....of Transgender Persons (Protection of Rights) Rules, 2020

* Strike out whichever is not applicable

@ only in case the applicant is a minor child

FORM 6

[See Rules 2(g) and 7(4)]

Form of Identity Card Front side of identity card

State Emblem

State Government of (Name of the State) Office of the District Magistrate

Identity Card

Identity card number

Photograph of
the Card holder

Name

Mother's name@

Father's/Guardian's name@

Gender

Male/Female

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

.....years identity card

Reference number of certificate of
authority on the basis of which this
card is issued

Back side of the identity card

Present address

Permanent address

Card issue date

Signature of the
issuing authority

Designation

seal of the issuing authority

@ only in case of a minor child

ANNEXURE I

Illustrative list of official documents referred to in

Sl. No	Name of the official document
(1)	Birth certificate
(2)	Caste/Tribe certificate

(3)	Any education certificate issued by a school, board, college, university or any such academic institution
(4)	Election Photo Identity Card
(5)	Aadhaar Card
(6)	Permanent Account Number (PAN)
(7)	Driving Licence
(8)	BPL ration card
(9)	Post Office bank/Bank Pass book with photo
(10)	Passport
(11)	Kisan Pass book
(12)	Marriage certificate
(13)	Electricity/water/gas connection paper
(14)	Property papers,
(15)	Vehicle registration
(16)	Service book, employment papers
(17)	Identity card related to bar,
(18)	Policy papers

ANNEXURE II

Suggested list of welfare schemes to be considered:

1. Access to health

- a) At least 1 government hospital in every State shall be equipped to offer safe and free gender affirming surgery, counseling and hormone replacement therapy to the transgender community, including all Male to Female (MTF) and Female to Male (FTM) procedures.
- b) State medical insurance shall cover procedures of SRS, hormonal therapy, laser therapy, counselling and other health issues of transgender persons at private hospitals.
- c) Medical insurance/arogyashri cards.
- d) All healthcare facilities should ensure that there are separate wards for transgender persons.

2. Access to education

- a) Scholarship for transgender students.
- b) Inclusive and equitable quality education in schools that fosters respect for equality and gender diversity.
- c) Protection against ragging in the educational institutions with provisions for grievance redressal.
- d) Facilitation of accommodation and schooling for transgender, gender non-conforming and intersex children in residential government schools and universities.

3. Access to housing:

- a) Affordable housing.
- b) Shelters and community centres for at risk transgender youth that provide nutritious food and counselling.
- c) Access to sanitation facilities and safe drinking water.

4. Welfare measures

- a) Universal access to Food security schemes and provision of ration cards.
- b) Pension for aged, disabled or other vulnerable transgender persons.
- c) Old age and retirement homes for transgender persons facing housing exclusion.
- d) Public transport to have harassment-free zones for transgender persons.

5. Economic support

- (1) Universal coverage of Life Insurance.
 - (2) Access to banking and financial services including loans.
 - (3) Explicit inclusion of transgender persons in employment guarantee schemes such as Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) and all social security schemes.
 - (4) Formation into self help groups for livelihood activities.
 - (5) Provisions of zero-interest and other micro-finance schemes.
-