

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY**

DRAFT NOTIFICATION

New Delhi, the _____

G.S.R. (E).—In exercise of the powers conferred by sub-section (1) and clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000), the Central Government hereby makes the following rules to amend the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, namely:—

1. Short title and commencement.—(1) These rules may be called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, ____.

(2) Save as otherwise provided, the provisions of these rules shall come into force on the date of their publication in the Official Gazette.

2. In the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter referred to as the said rules), in rule 2, in sub-rule (1), after clause (q), the following clauses shall be inserted, namely:—

‘(qa) “online game” means a game that is offered on the Internet and is accessible by a user through a computer resource if he makes a deposit with the expectation of earning winnings;

Explanation.—For the purposes of these rules,—

- (i) ‘Internet’ means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;
- (ii) ‘deposit’ means the deposit made or committed to, in cash or in kind, by the user for participating in an online game;
- (iii) ‘winnings’ means any prize, in cash or in kind, that is distributed or intended to be distributed to a user of an online game based on the performance of the user and in accordance with the rules of such online game;

(qb) “online gaming intermediary” means an intermediary that offers one or more than one online game;’.

3. In the said rules, in rule 3, in sub-rule (1),—

(i) For the words “social media intermediary and significant social media intermediary”, the words “social media intermediary, significant social media intermediary and online gaming intermediary” shall be substituted;

(ii) In clause (b),—

(I) in sub-clause (v), after the word “nature”, the words “or is identified as fake or false by the fact check unit at the Press Information Bureau of the Ministry of Information and Broadcasting or other agency authorised by the Central Government for fact checking or, in respect of any business of the Central Government, by its department in which such business is transacted under the rules of business made under clause (3) of article 77 of the Constitution” shall be inserted;

(II) for sub-clause (ix), the following sub-clauses shall be substituted, namely:—

“(ix) is in the nature of an online game that is not in conformity with any law for the time being in force in India, including any such law relating to gambling or betting or the age at which an individual is competent to enter into a contract;

(x) violates any law for the time being in force;” and

(iii) after clause (m), the following clause shall be inserted, namely:—

“(ma) the intermediary shall, before hosting or publishing or advertising an online game for a consideration, ascertain from the online gaming intermediary and verify from the concerned self-regulatory body, as referred to in rule 4B, whether such online game has been registered with such body, and shall display on its website, mobile based application or both, the fact of such registration:

Provided that the requirements under this clause shall be applicable upon expiry of a period of three months from the commencement of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, ____;”.

4. After rule 4 of the said rules, the following rules shall be inserted, namely:—

“4A. Additional due diligence to be observed by online gaming intermediary.—(1) In addition to the due diligence observed under rule 3 and, where applicable, rule 4, an online

gaming intermediary shall, while offering online games, observe the following additional due diligence while discharging its duties, namely:—

- (a) the online gaming intermediary shall display a demonstrable and visible mark of registration on all online games registered by the self-regulatory body, as referred to in sub-rule (5) of rule 4B;
- (b) the rules and regulations, privacy policy, terms of service and user agreements of the online gaming intermediary shall inform the user of its computer resource of—
 - (i) all the online games offered by the online gaming intermediary, along with the policy related to withdrawal or refund of the deposit made with the expectation of earning winnings, the manner of determination and distribution of such winnings, and the fees and other charges payable by the user for each such online game;
 - (ii) the risk of financial loss and addiction associated with the online game;
 - (iii) the know-your-customer procedure followed by the online gaming intermediary for registration of the account of a user;
 - (iv) the measures taken for protection of deposit made by a user; and
 - (v) the framework of such self-regulatory body, as referred to in sub-rule (6) of rule 4B, of which the online gaming intermediary may be a member of;
- (c) the online gaming intermediary shall prominently publish on its website, mobile based application or both, a random number generation certificate and a no bot certificate from a reputed certifying body for each online game offered by it, along with relevant details of the same;
- (d) the online gaming intermediary shall, at the time of commencement of a user account based relationship for an online game, identify the user and verify his identity:

Provided that the procedure for such identification and verification shall, *mutatis mutandis*, be the procedure required to be followed by an entity regulated by the Reserve Bank of India under directions issued by it for identification and verification of a customer at the commencement of an account-based relationship;

- (e) the online gaming intermediary shall enable users who register for their services from India, or use their services in India, to voluntarily verify their accounts by using any appropriate mechanism, including the active Indian mobile number of such users, and where any user voluntarily verifies their account, such user shall be provided with a

demonstrable and visible mark of verification, which shall be visible to all users of the service:

Provided that the information received for the purpose of verification under this clause shall not be used for any other purpose, unless the user has expressly consented to such use;

- (f) the Grievance Officer referred to in sub-rule (2) of rule 3 shall be an employee of the online gaming intermediary and shall be resident in India;
- (g) the online gaming intermediary shall appoint a Chief Compliance Officer, who shall be a key managerial personnel or such other senior employee of the online gaming intermediary who is resident in India, and who shall be responsible for—
 - (i) ensuring compliance with the Act and the rules made thereunder and who shall be liable in any proceedings relating to any relevant third-party information or data or communication link made available or hosted by the online gaming intermediary where he fails to ensure that such online gaming intermediary observes due diligence while discharging its duties under the Act and the rules made thereunder;
 - (ii) coordination at all times with law enforcement agencies and their officers to ensure compliance with their orders or requisitions made in accordance with any law for the time being in force:

Provided that no liability under the Act or the rules made thereunder may be imposed on such online gaming intermediary without giving him an opportunity of being heard;

- (h) appoint a nodal contact person for 24x7 coordination with law enforcement agencies and officers to ensure compliance to their orders or requisitions made in accordance with the provisions of law or rules made thereunder;

Explanation.—For the purposes of this clause “nodal contact person” means the employee of the online gaming intermediary, other than the Chief Compliance Officer, who is resident in India;

- (i) the online gaming intermediary shall have a physical contact address in India published on its website or mobile based application, or both, for the purposes of receiving any communication addressed to it;

- (j) the online gaming intermediary shall implement an appropriate mechanism for the receipt of complaints under sub-rule (2) of rule 3 and grievances in relation to the violation of provisions under this rule, which shall enable the complainant to track the status of such complaint or grievance by providing a unique ticket number for every complaint or grievance received by the online gaming intermediary:

Provided that the online gaming intermediary shall, to the extent reasonable, provide such complainant with reasons for any action taken or not taken by it in pursuance of the complaint or grievance received by it;

- (k) notwithstanding anything contained in clause (f) of sub-rule (1) of rule 3, the online gaming intermediary shall inform its users of the change referred to in the said clause immediately after such change is effected, in English or any language specified in the Eighth Schedule to the Constitution, in the language of his choice; and
- (l) notwithstanding anything contained in clause (j) of sub-rule (1) of rule 3, the online gaming intermediary shall provide the information referred to in the said clause within twenty-four hours of receipt of the order referred to therein.

(2) The requirements under this rule shall be applicable upon expiry of a period of three months from the commencement of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, ____.

4B. Safeguards for online gaming intermediaries in relation to issue of directions under section 69A of the Act.—(1) While considering the necessity or expediency of issuing a direction under section 69A of the Act in respect of an online game that is registered with a self-regulatory body referred to in sub-rule (2) as being in conformity with the framework evolved by such body to secure the interests referred to in the said section, the Central Government, may refer to the report communicated by such body under sub-rule (7).

(2) For the purposes of sub-rule (1), the self-regulatory body referred to therein shall be one that has been registered by the Ministry, in accordance with sub-rule (3), for the purpose of evolving a framework to secure conformity with the interests referred to in section 69A of the Act:

Provided that the number of such bodies so registered may be one or more than one.

(3) The Ministry may, upon submission of an application for registration under sub-rule (2) by a company incorporated under section 8 of the Companies Act 2013 (18 of 2013) by online gaming intermediaries, or a society registered under the Societies Registration Act, 1860 (21 of 1860) by online gaming intermediaries, which is desirous of being registered as

a self-regulatory body referred to in sub-rule (2), register the same, having regard to the following criteria, namely:—

- (a) the number of online gaming intermediaries who are its members;
- (b) its track record in promoting responsible online gaming;
- (c) the general repute, the absence of conflict of interest and the relevance and suitability of the individuals comprising its Board of Directors or governing body;
- (d) the presence of the following in the Board of Directors or governing body of such self-regulatory body, namely:—
 - (i) an independent eminent person from the field of online gaming, sports or entertainment, or such other relevant field;
 - (ii) an individual who represents online game players;
 - (iii) an individual from the field of psychology, medicine or consumer education, or such other relevant field; and
 - (iv) an individual with practical experience in the field of public policy, public administration, law enforcement or public finance, to be nominated by the Central Government;
 - (v) an individual from the field of information communication technology:

Provided that no act or proceeding of the Board of Directors or governing body shall be invalid merely on the ground of absence for the time being of any such individual on it;

- (e) the provisions in its Articles of Association or bye-laws to ensure its functioning independently and at arm's length from its member online gaming intermediaries;
- (f) its capacity, in terms of deployment of technology, expertise and other relevant resources, for evolving the desired framework, testing and verifying conformity of online games with the same, and continuously updating and further evolving such framework, testing and verification protocols:

Provided that the Ministry may consult any appropriate Government or any of its agencies before registering such a self-regulatory body.

(4) Every self-regulatory body registered under this rule, may grant membership to an online gaming intermediary, having regard to the following criteria, namely:—

- (a) the adherence by such online gaming intermediary and all online games offered by it with the criteria referred to in sub-rule (5);
- (b) the adherence by such online gaming intermediary to the due diligence and additional due diligence required under these rules;
- (c) track record of such online gaming intermediary in offering online games responsibly while securing the interests referred to in section 69A.

(5) Every self-regulatory body registered under this rule, may register an online game having regard to the criteria that it—

- (a) is offered by an online gaming intermediary which is a member of the self-regulatory body, who has been granted membership in accordance with the provisions of sub-rule (4);
- (b) does not contain anything which is not in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order, or incites the commission of any cognizable offence relating to the aforesaid;
- (c) is in conformity with laws for the time being in force in India, including any such law that relates to gambling or betting or the age at which an individual is competent to enter into a contract,

and shall thereby allow the online gaming intermediary offering such online game to display a demonstrable and visible mark of registration stating that the online game is registered with the self-regulatory body.

(6) Every self-regulatory body registered under this rule shall evolve a framework to secure the said interests, undertake testing and verification to establish conformity of online games with such framework, continuously update and further evolve such framework, testing and verification protocols, and shall prominently publish the same on its website, mobile based application or both, as the case may be:

Provided that such framework may, among other things, also include suitable criteria regarding—

- (a) the content of an online game registered or to be registered with such body, with a view to safeguard users against harm, including self-harm;
- (b) appropriate measures to be undertaken to safeguard children;
- (c) measures to safeguard users against the risk of gaming addiction and financial loss, including repeated warning messages at higher frequency beyond a reasonable duration for a gaming session, provision to enable a user to exclude himself upon user-defined limits for time and money spent; and
- (d) measures to safeguard against the risk of financial frauds.

(7) Every self-regulatory body registered under this rule shall communicate the fact of recognition of every online game registered with it to the Central Government, along with a report regarding the bases on which it has recognised it as such.

(8) Every self-regulatory body registered under this rule shall establish a mechanism for time-bound resolution of such complaints of users that have not been resolved by the grievance redressal mechanism of its member online gaming intermediary under sub-rule (2) of rule 3, and the provisions of rule 3A shall apply in respect of a complaint relating to an online gaming intermediary that is a member of such a self-regulatory body only after such a user has exhausted the opportunity to resolve it under such mechanism.

(9) Where the Ministry is of the view that a self-regulatory body registered under this rule has not complied with the provisions of this rule, it may, in writing, communicate the fact of such non-compliance to such self-regulatory body and direct it to undertake measures to rectify the non-compliance.

(10) The Ministry may, if it is satisfied that it is necessary so to do, after issuing notice to self-regulatory body giving it an opportunity of being heard, by order, for reasons to be recorded in writing, suspend or revoke the registration of a self-regulatory body, having regard to the requirements under and the criteria referred to in sub-rules (2) to (9):

Provided that the Ministry may, in the interest of the users of any online game that was registered with such body,—

- (a) at the same time as the issuance of such a notice, or at any subsequent time, give such interim directions as it may deem necessary; and

(b) at the same time as the issuance of such an order, or at any subsequent time, give such directions as it may deem necessary.”.

5. After rule 6 of the said rules, the following rule shall be inserted, namely:—

“6A. Notification of any other game as online game.—If the Ministry is satisfied in respect of any game made available on the Internet and accessible by a user through a computer resource without making any deposit, that such game may create a risk of harm to the sovereignty and integrity of India or security of the State or friendly relations with foreign States or public order, on account of causing addiction or other harm among children, it may, by a notification published in the Official Gazette, for reasons to be recorded in writing, declare that such game shall be treated as an online game for the purposes of these rules, the provisions of which shall apply in their entirety or to such extent as the notification may specify, and it may further specify the period within which any intermediary offering that game shall observe the additional due diligence referred to in sub-rule (1) of rule 4A.”.