

**COMMITTEE ON SUBORDINATE LEGISLATION****(2022-2023)****(SEVENTEENTH LOK SABHA)****TWENTY-EIGHTH REPORT**

**STATUS OF FRAMING OF SUBORDINATE LEGISLATION VIZ. RULES/  
REGULATIONS ETC. UNDER VARIOUS ACTS BEING ADMINISTERED BY  
THE DEPARTMENT OF FISHERIES IN THE MINISTRY OF FISHERIES,  
ANIMAL HUSBANDRY & DAIRYING AND DELAY IN LAYING OF  
RULES/REGULATIONS**



सत्यमेव जयते

**LOK SABHA SECRETARIAT****NEW DELHI****March, 2023/Chaitra, 1945 (Saka)**

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**(2022-2023)**

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**(PRESENTED TO LOK SABHA ON 24.03.2023)**



**LOK SABHA SECRETARIAT**

**NEW DELHI**

**March, 2023/Chaitra, 1945 (Saka)**

**COSL No. 120 Vol.-II**

**PRICE: Rs.**

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fourteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

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**MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2022-2023)**

Shri Balashowry Vallabhaneni      Chairperson

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3. Shri Pinaki Mishra
4. Dr. Pritam Gopinath Rao Munde
5. Shri Chandeshwar Prasad
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2. Shri Muraleedharan.P - Director
3. Smt. Jagriti Tewatia - Additional Director
4. Shri Satish Kumar - Committee Officer

## **I N T R O D U C T I O N**

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Twenty-eighth Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 28.09.2022 during which oral briefing by the representatives of Department of Fisheries in the Ministry of Fisheries, Animal Husbandry & Dairying was taken.

3. The Committee considered and adopted this Report at their sitting held on 23.03.2023.

4. For facility of reference and convenience, observations/recommendations of the Committee have been printed in thick type in the Part-II of the Report.

5. Minutes of the Thirty-fourth sitting of the Committee (2021-22) held on 28.09.2022 and Extracts from Minutes of the Twelfth sitting of the Committee (2022-23) held on 23.03.2023 relevant to this Report are included in Appendix-II and Appendix-III of the Report.

**New Delhi;**  
**23 March, 2023**  
**02 Chaitra, 1945 (Saka)**

**BALASHOWRY VALLABHANENI**  
**Chairperson,**  
**Committee on Subordinate Legislation**

## **REPORT**

### **PART I**

## **STATUS OF FRAMING OF SUBORDINATE LEGISLATION VIZ. RULES/REGULATIONS ETC. UNDER VARIOUS ACTS BEING ADMINISTERED BY THE DEPARTMENT OF FISHERIES IN THE MINISTRY OF FISHERIES, ANIMAL HUSBANDRY & DAIRYING AND DELAY IN LAYING OF RULES/REGULATIONS**

### **A. INTRODUCTORY**

In a modern welfare state, governmental activity has pervaded almost every field of human endeavour, thus, necessitating enactment of multifarious laws to regulate this ever-widening activity. However, the Legislature does not have enough time to deliberate upon, discuss and approve every detail of legislation. Moreover, it is difficult for the legislature to foresee all future contingencies and the flexibility, the executive authorities may require to deal with the situations. In the nature of things, what the Legislature does, and can do, is to lay down the policy and the objective of any legislation in hand, leaving it to the Executive to frame, in conformity with those principles, formal and procedural details of the legislative measure in the form of orders/rules known as subordinate legislation.

#### **(i) Meaning of the term "subordinate legislation"**

1.2 The term "subordinate legislation" refers to notifications, orders, schemes, rules and bye-laws referred to in Sections 20 and 21 of the General Clauses Act, 1897. In the Indian context, the term subordinate legislation refers to rules, regulations, orders, schemes, bye-laws, statutes, ordinances, notifications or any instrument framed under an Act of Parliament or the Constitution. Such subordinate legislations have to be published in the Gazette of India and laid on the Table of both Houses of Parliament, as it affords an opportunity to Members of Parliament, if they so desire, to move amendments or modifications to such "Order", including a Motion for their annulment.

#### **(ii) Committee on Subordinate Legislation and its Role**

1.3 As subordinate legislation has become an important constituent element of legislation, the role of legislature has also become equally important to monitor and examine that the subordinate legislation is in accordance with the spirit of the Act or Constitution and also to keep a proper check on the executive exceeding its powers provided under the Acts of Parliament or the Constitution. Legislation is an inherent and inseparable right of Parliament and it has to ensure that this power is neither usurped nor transgressed under the guise of subordinate legislation. The Committee on Subordinate Legislation, Lok Sabha is one such instrument and it is constituted to scrutinize and report to the House whether the powers to make rules, regulations, bye-laws, schemes or other statutory instruments conferred by the Constitution or delegated by Parliament have been properly exercised within such conferment or delegation as the case may be.

1.4 It is important that legislature must retain in its own hands the essential legislative functions which consist in declaring the legislative policy and laying down the standard which is to be enacted into rule of law, and what can be delegated is the task of subordinate legislation, which by its own nature ancillary to the Statute, which delegates the power to make it.

## **B. Statutory requirement for Laying of Rules/Regulations**

1.5 One of the important safeguards against assumption of arbitrary powers by the Executive is that rules framed by the Executive in exercise of delegated powers should not only be required to be laid before the legislature but that the legislature should also have the statutory right of annulling or modifying them. The Committee have approved the following provision for incorporation in Bills providing for rule-making power:-

*"Every Rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in Session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of session immediately following the session or the successive session aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."*

### **(i) Time limit for laying of Rules/Regulations**

1.6 The Committee in one of its recommendations made in Para 38 of 6<sup>th</sup> Report (3<sup>rd</sup> Lok Sabha) has recommended as under:-

*"The Committee would like to reiterate that all the Ministries should ensure that all 'Orders' required to be laid before the House are so laid within a period of 15 days after their publication in the Gazette if the House is in session, and if the House is not in session, the 'Orders' should be laid on the Table of the House as soon as possible (but within 15 days) after the commencement of the following session.*

*The Committee would like the Ministries concerned to furnish them with the reasons explaining the delay caused in laying each such 'Order' on the Table of the House."*

### **(ii) Laying provision in Manual of Parliamentary Procedures**

1.7 As per the Manual of Parliamentary Procedures, after publication, the rules, etc. will be laid on the Table of the House as soon as possible and, in any case, within a period of 15 days (30 days in case of notifications relating to a State under the President's rule), reckoned from:

- (a) the date of their publication in the official gazette if the House is in Session; or
- (b) the date of commencement of the next Session, if the House is not in Session.

1.8 However, despite existence of such detailed guidelines, the recommendations of the Committee are being followed in breach by various Ministries. In many of the cases, the Ministries apologize for their delays and note the Committee's recommendations/ observations for future compliance and rectify the lacunae in the Rules on having been pointed out by the Committee.



1.9. Accordingly *vide* this Secretariat O.M. dated 25.10.2021, the Department of Fisheries in the Ministry of Fisheries, Animal Husbandry & Dairying were asked to furnish the Status of Rules/Regulations framed under various Act being administered by them. On perusal of the Statement furnished (**Appendix-I**) by the Ministry vide their communication dated 15.11.2021 pertaining to Status of framing of Subordinate Legislation under various Acts, similar breach of oft repeated recommendations of the Committee were observed. The Committee observe that the Department has not given any concrete information regarding date of laying and sections of the Act under which rules and regulations have not been framed. The Department in their status has simply mentioned “Not Available” or “File not traceable”.

1.10 The Committee, having taken cognizance of this fact, held a briefing meeting with the representatives of the Department of Fisheries in the Ministry of Fisheries, Animal Husbandry & Dairying on 28<sup>th</sup> September, 2022 on status of subordinate legislation viz. Rules/ Regulations etc. framed under various Acts being administered by the Ministry.

### **C. Overview of the Department of Fisheries**

#### **(i) Aims and Objectives**

1.11 The Department of Fisheries aims development and management of fisheries resources in a sustainable, responsible, inclusive and equitable manner in the country. The mission of the Department is to enhance fish production and productivity through expansion, intensification, diversification and productive utilization of land and water resources alongwith modernizing and strengthening of value chain post-harvest management and quality improvement. The Department of Fisheries was carved out of Fisheries Division from the erstwhile Department of Animal Husbandry, Dairying and Fisheries vide Cabinet Secretariat’s Notification No. 1/21/21/2018-Cab dated 5<sup>th</sup> February, 2019.

#### **(ii) Functions**

1.12 The Department of Fisheries are responsible for matters relating to the formulation of policies and schemes pertaining to the Development of Inland, Marine and Coastal Fisheries and Fishery Institutes including their four subordinate institutions, one autonomous body and one regulatory authority. The Department advises the State Governments/Union Territories (UTs) in formulation of policies and programmes in the field of fisheries. The main focus of the activities is on the following:

- a) Expansion of Aquaculture in fresh and brackish water
- b) Conservation and sustainability of Marine Fisheries Resources
- c) Promotion of Mariculture, Seaweed Cultivation, Cage Culture, Recirculatory Aquaculture System (RAS), Ornamental Fisheries, Cold Water Fisheries and Fisheries Trade
- d) Social security and welfare of fishermen including fisher women
- e) Exploitation of Deep-Sea fishery resources
- f) Inland Fisheries Development and management
- g) Establishment of the network of Aquatic quarantine

### **(iii) Mandate of the Department**

1.13 As per the Allocation of Business Rules, 1961, the list of subjects allocated to the Department of Fisheries are as follows:

- a) Industries, the control of which by the Union is declared by Parliament by law to be expedient in Public interest as far as these relate to Development of fish feed and fish products with the limitation that in regard to the development of industries, the functions of the Department of Fisheries do not go further than the formulation of the demand and fixation of targets.
- b) Promotion and development of Fishing and Fisheries (inland, marine and beyond territorial waters) and its associated activities, including infrastructure development, marketing, exports and institutional arrangements etc.
- c) Welfare of fishermen and other fisher-folk and strengthening of their livelihoods.
- d) Liaison and co-operation with international organizations in matters relating to Fisheries development.
- e) Fisheries Statistics; Matters relating to loss of fish stock due to natural calamities.
- f) Regulation of fish stock importation, Quarantine and Certification.
- g) Fishery Survey of India, Mumbai.
- h) Legislation with regards to the Prevention of the extension of infectious or contagious diseases or pests affecting fish from one State to another.
- i) Legislation with regards to the Pattern of financial assistance to various State Undertakings, Fisheries Development Scheme through State agencies/Co-operative Unions.
- j) Preservation, protection and improvement of fish stocks and prevention of diseases thereof, Veterinary training and practice.
- k) Insurance of fishers.

### **(iv) Framing/Laying of Rules and Regulations by the Department**

1.14 During the briefing by the representatives of the Department of Fisheries before the Committee held on 28.09.2022, the Committee focussed mainly on the following points:-

- (i) the various Acts/Amendment Acts being administered by the Department;
- (ii) the details of the delegated power of legislation of the Central Government under various Acts/Amendment Act being administered by the Department;
- (iii) the status of framing of Rules/Regulations under various Acts (as amended from time to time) being administered by the Department or Article 309 of the Constitution of India;
- (iv) the status of pending Rules/Regulations required to be framed and the reasons for delay in framing of same;
- (v) the details of extension sought by the Department from Committee on Subordinate Legislation of Lok Sabha for framing of Rules/ Regulations under various Acts/Amendment Act;
- (vi) the status of laying of all Rules/Regulations framed under the various Acts/ Amendment Acts; and
- (vii) instances, if any, of delay in laying of Rules/Regulations framed under the Act by the Department on the Table of the Lok Sabha.

1.15 During the briefing meeting held on 28.09.2022, the representative of the Department apprised the Committee that following Acts are administered by the Department of Fisheries:-

- a) **Coastal Aquaculture Authority Act, 2005**: for regulating the activities connected with coastal aquaculture in the coastal areas; and
- b) **Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981**: to regulate fishing by foreign vessels in Indian waters.

1.16 It was further noted that the following Rules/Regulations, under the above Acts have been framed and laid on the Table of the House as per details given below:-

Sl. No.	Name of the Act	Rules/ Regulations framed	Date of Laying
a)	Coastal Aquaculture Authority Act, 2005	Coastal Aquaculture Authority Rules, 2005 <i>vide</i> G.S.R 740(E) dated 22.12.2005	10.03.2006
		Coastal Aquaculture Authority Regulations, 2008 <i>vide</i> Notification dated 08.03.2008	--
		Coastal Aquaculture Authority (Amendment) Rules, 2022	29.07.2022
b)	Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981	Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules, 1982	04.11.1982

1.17 The Department of Fisheries while furnishing the status of Rules framed under the Acts being administered by the Department *vide* OM No. H-11026 /3/2021-Fy(Parl.) dated 15.11.2021, had remarked against the relevant rule making Section of the under Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981, the Sections under which Rules are to be framed as 'Not Applicable'. Whereas, in contradiction to this, the Department have notified the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules, 1982 (MZI, Rule 1982) *vide* Notification dated 26<sup>th</sup> August, 1982

1.18 When clarification from the Department was sought for writing 'NA' when Rules have been framed under the Act, the Department submitted that 'the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules, 1982 have already been notified on 26.08.1982. Further, any officer of the Coast Guard constituted under the Coast Guard Act, 1978 (30 of 1978), or such other officer of the Government as may be authorized by the Central Government is authorized under the MZI Act, 1981 and the rules notified thereunder to take action under the relevant provisions of the MZI Act, 1981 and MZI Rules, 1982. The offences and penalties have also been defined under section 10, 12, 13, 14, 15, 16 and 17 of the MZI Act, 1981 for various offences and copies of such documentary evidence for the same have been requested from the Coast Guard and State Governments/Union Territory (UT) Administrations concerned'.



## D. Statutory Framework for functioning of Subordinate Offices

1.21 The Department in their background note informed that there are four fishery Institutes functioning under the administrative control of the Department, which are as under:-

- (i) **Fishery Survey of India, Mumbai:** The Fishery Survey of India (FSI) was established in the year 1946 by the Government of India as a pilot project known as Deep Sea Fishing Station (DSFS) with the objective of augmenting food supply through development of deep-sea fishing. As a humble beginning, the institute started its activities with one vessel named as 'S.T. Meena'-a mine sweeper converted into a trawler. The main objectives of DSFS were charting fishing grounds and training of deep-sea fishing personnel.
- (ii) **Central Institute of Fisheries Nautical and Engineering Training, Kerala:** The Government of India, in 1959 constituted a Committee on "Fisheries Education", for assessing the manpower requirement and to suggest measures for providing trained manpower for boosting the fishery developmental activities. Central Institute of Fisheries Operatives (CIFO), was thus established in 1963 at Kochi on the recommendation of above Committee to meet the trained manpower needs of ocean-going fishing vessels and that of fishing industry as laid down in the Merchant Shipping Act (1958). CIFO was later renamed as Central Institute of Fisheries Nautical and Engineering Training (CIFNET) in 1976. Subsequently, a unit of CIFNET was established in Chennai in 1968 and another unit at Visakhapatnam in 1981 to cope up with the additional requirements due to expansion of fishing fleet/industry of the Country. Since then, CIFNET is serving the nation by creating trained manpower required for manning the ocean going/deep sea fishing vessels.
- (iii) **Central Institute of Coastal Engineering for Fishery (CICEF), Bangalore:** Institute was established in January, 1968 as Pre-investment Survey of Fishing Harbours (PISFH) by the then Ministry of Agriculture, Government of India in collaboration with Food and Agriculture Organization of the United Nations (FAO/UN). The primary objective of establishing the Institute was to carry out engineering and economic investigations and prepare techno-economic feasibility reports for the development of fishery harbours at suitable sites along the Indian coast and to provide fishery harbour facilities to Mechanized Fishing Vessels (MFVs).
- (iv) **National Institute of Fisheries Post Harvest Technology, Kochi:** The National Institute of Fisheries Post Harvest, Technology & Training (NIFPHATT) formerly known as the Integrated Fisheries Project (IFP) till 2008, located at Kochi, Kerala is one of the attached offices of the Department of Fisheries, Ministry of Fisheries, Animal Husbandry & Dairying. It is mainly mandated to develop value added products by way of process and product diversification; technology development and transfer to beneficiaries consisting of rural fishermen community; capacity building and popularisation and test marketing of value added products of fish varieties including low value, unconventional species and seasonally abundant fishes. This institute also imparts short term training programme on fish handling, processing, value addition, by-products preparation etc on demand / request basis from the needy organizations / institutions including colleges and Universities.

**(i) Framing of Recruitment Rules**

1.22 The Committee observed that Recruitment Rules of various posts in these 4 Institutes are being framed under the proviso to Article 309 of the Constitution of India and are also being notified in the Part –II Section 3(i) of the Gazette of India. In response to enactments under which these Institutes are functioning, the Department in a written reply submitted as under:-

*“No organization above is functioning under any Act of Parliament. The Recruitment Rules of various posts of the Organizations are framed under proviso to Article 309 of the Constitution and these are notified in the Gazette of India.”*

1.23 The Department of Personnel and Training (DoPT) was asked vide this Secretariat O.M. No. 11/38/COSL/2022 dated 24.01.2023 whether the PSUs, Institutions, Autonomous Bodies, Independent Societies registered under the Societies Registration Act, 1860 or any other Organizations can frame and notify their Recruitment Rules under Article 309 of the Constitution of India. In response to which DoPT vide O.M. H-11013/02/2023-Parl. Dated 07.02.2023 informed as follows:-

*“Rules regulating recruitment and conditions of service in respect of employees of PSUs, Institutions, Autonomous Bodies, Independent Societies registered under the Societies registration Act, 1860 or any other organization have to be framed as per the provisions of the Statute/Act of the Parliament or the provisions through which they came into existence.”*

1.24 It is not out of context to state that Article 309 of the Constitution of India provides that subject to the provisions of the Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State: Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this Article, and any rules so made shall have effect subject to the provisions of any such Act. So, it is evident that the proviso to Article 309 is temporary till the provision is made in any Act and is not for all times to come.

**(ii) Laying of Recruitment Rules framed under proviso to Article 309**

1.25 As per Para No. 11.5.4 of the Manual of Parliamentary Procedures regarding procedure for Laying of rules etc. on the Table of each House reads as under:-

(i) Administrative Ministry/ Department submitting the request for publishing the Gazette Notification shall be solely responsible for submitting and circulating the gazette notification wherever required by law or otherwise.

- (ii) As published Gazette Notifications are instantly uploaded on the official website [www.egazette.nic.in](http://www.egazette.nic.in), the downloaded electronic version as well as the downloaded and printed version of these Gazette Notifications will be treated as electronic versions for all official purposes as per Section 4 and Section 8 of Information Technology Act, 2000.
- (iii) Lok Sabha Secretariat and Rajya Sabha Secretariat will be supplied with three hard copies of all statutory orders and will also be sent a soft copy on email Id [cosl-lss@sansad.nic.in](mailto:cosl-lss@sansad.nic.in) and [rsc1sub@sansad.nic.in](mailto:rsc1sub@sansad.nic.in) respectively, simultaneously with notification in e-Gazette format including those framed under Article 309 of the Constitution of India and those published in Part II Section 3 (i), 3(ii) & 4 of Gazette for scrutiny and upkeep of records.
- (iv) In the case of Notifications amending the earlier statutory orders, the concerned Ministry should also supply, by way of suitable Annexure, the relevant extracts of the provisions which have been amended by the said notification for the sake of reference during their scrutiny.
- (v) Statutory orders, more particularly those notified under **Article 309** of the Constitution of India must be laid before the Parliament by the concerned administrative Ministries and they will be held responsible for non-compliance of the same.

1.26. In the above context, when asked about whether these Recruitment Rules are being laid on the Table of the House, the Department of Fisheries informed as under:-

*“Recruitment Rules of these posts need not required to be laid on the Table of both Houses of Parliament.”*

1.27 Further, the Department of Fisheries also apprised the Committee that the Recruitment Rules of the above Institutes are being framed/amended in consultation with the DoPT, the UPSC and the Ministry of Law and Justice as required under instructions from the DoPT from time to time.

1.28 The Department of Personnel and Training (DoPT) was further asked vide this Secretariat O.M. No. 11/38/COSL/2022 dated 24.01.2023, whether Recruitment Rules framed under Article 309 are being laid on the Table of the House. In response to which DoPT vide O.M. H-11013/02/2023-Parl. Dated 07.02.2023 informed as follows:-

*“....Recruitment Rules are statutory in nature, the copies of the notification of the same need not be placed on the Table of both the Houses of Parliament .....as Article 309 of the Constitution, under which these are framed, does not prescribe for laying them on the table of the House.*

**PART II****OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE****Framing & Laying of Rules/Regulations under the Acts administered by the Department**

2.1 The Department of Fisheries in the Ministry of Fisheries, Animal Husbandry & Dairying were asked to furnish the status of Rules/Regulations, framed under various Acts, being administered by them. In response, the Department vide their communication dated 15.11.2021 have furnished the status of framing of Subordinate Legislation under various Acts. While scrutinizing the status, the Committee observed that the Department has furnished incomplete information with regard to Rules framed under the Acts i.e. (i) The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981; and (ii) The Coastal Aquaculture Authority Act, 2005. The Committee are concerned to note that the Department has also furnished information to the Committee in a haphazard manner by making submissions like “not applicable” or “file not traceable” in column 7 of the prescribed format meant for Date of laying of rules and regulations in Lok Sabha. The Committee are, therefore, of the view that furnishing of incomplete information that too in a haphazard manner to a Parliamentary Committee exhibits extremely callous approach of the Department in framing/laying of rules/regulations and also keeping record of the Subordinate Legislation.

2.2 The Committee, having taken cognizance of this fact, held a briefing meeting with the representatives of the Department of Fisheries on 28.09.2022 on status of framing/laying of subordinate legislation under various Acts being administered by the Ministry. During the briefing, the Department of Fisheries has submitted that three Rules/Regulations have been framed under the Coastal Aquaculture Authority Act, 2005 and one Rule has been framed under Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981, as indicated below:-

S.No.	Rules/ Regulations framed	Date of Laying
(i)	Coastal Aquaculture Authority Rules, 2005 <i>vide</i> G.S.R 740(E) dated 22.12.2005	10.03.2006
(ii)	Coastal Aquaculture Authority Regulations, 2008 <i>vide</i> Notification dated 08.03.2008	--
(iii)	Coastal Aquaculture Authority (Amendment) Rules, 2022	29.07.2022
(iv)	Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules, 1982	04.11.1982



**2.3** The Committee note from the above, that the Department has mentioned the date of laying of only 3 Rules/ Regulations out of a total of 4 Rules/ Regulations notified by the Department. The information regarding the date of laying of “Coastal Aquaculture Authority Regulation, 2008 has been left blank which shows the casual approach of the Department towards fulfilling the statutory obligation of laying of subordinate legislation before both the Houses of Parliament within the stipulated time. The Committee, thus, recommend that the Department should furnish the final updated status of all the Rules/ Regulations framed and laid before the Houses in respect of all Acts, being administered/ implemented by them, within 3 months after presentation of the Report to the House.

*(Recommendation SI.No. 1)*

**Non framing of rule under MZI Act, 1981.**

**2.4** The Committee find that Section 25 (2) (f) of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981, empower the Central Government to make Rules regarding the ‘form’ in which an application may be made for releasing the vessel or other things seized under the first proviso to Clause (a) of sub-Section (4) of Section 9 of the Act. However, on scrutiny of the Maritime Zones of India Regulation of Fishing by Foreign Vessels Rules, 1982, it has been observed that the said ‘form’ has not been notified alongwith MZI Rules, 1982. If Rules for the said provision i.e. Section 9 (4) (a) have been notified separately by the Department, the details of the same should have been furnished to the Committee and if the same have not yet been framed, the Committee wonder how the relevant proviso to Clause (a) of Section 9 (4) of the Act is being implemented. The Committee recommend that the Department of Fisheries should ensure that the Rules are in place and if the same have not yet been framed, the Ministry/Department should ensure immediate framing and laying of the same so as to avoid discretionary and arbitrary exercise of power on the part of concerned Authority. Moreover, when the Act provides for application for release of vessels etc. in the form prescribed by Rules, then the same should be followed so as to fulfill the statutory obligation assigned to the Ministry/ Department. The Committee would like to be apprised of the factual status in this regard within 6 months after presentation of the Report in the House.

*(Recommendation SI.No. 2)*

**Framing/Non-Laying of Recruitment Rules framed under Article 309 of the Constitution of India**

2.5 Department of Fisheries in their background for the briefing meeting of the Committee held on 28.09.2022, submitted that Recruitment Rules of four Institutes viz. (i) Fishery Survey of India, Mumbai; (ii) Central Institute of Fisheries Nautical and Engineering Training, Kerala; (iii) Central Institute of Coastal Engineering for Fishery, Bangalore; and (iv) National Institute of Fisheries Post Harvest Technology, Kochi have been framed/notified under proviso to Article 309 of the Constitution of India, but have not yet been laid before the Houses. The Department also informed that the Recruitment Rules of the above Institutes are being framed/ amended in consultation with the DoPT, UPSC and the Ministry of Law & Justice as required under instructions from the DoPT from time to time.

2.6 DoPT, in response to a clarification regarding framing of Rules under Article 309 of the Constitution, has submitted *vide* O.M. H-11013/02/2023-Parl. dated 07.02.2023 that Rules regulating recruitment and conditions of service in respect of employees of PSUs, Institutions, Autonomous Bodies, Independent Societies registered under the Societies Registration Act, 1860 or any other organization have to be framed as per the provisions of the Statute/Act of the Parliament or the provision through which they came into existence. The Committee find that there is no clarity regarding enabling provision for framing of Recruitment Rules of non-statutory PSUs, Institutions, Autonomous Bodies, Independent Societies registered under Societies Registration Act, 1860 as in the case of four Institutes working under the administrative control of Department of Fisheries. The Committee would, therefore, like the Department to consult DoPT and Ministry of Law & Justice and if the DoPT is of the view that Recruitment Rules are required to be framed/notified as per the Act of Parliament or the statutes through which these Institutes came in existence, the Department should accordingly review and amend the Recruitment Rules of these four Institutes and also of other Subordinate Offices working under the administrative control of the Department and notify the same. The Committee would like to be apprised of conclusive action taken in this regard within 6 months of the presentation of the Report.

*(Recommendation Sl.No. 3)*

**2.7** The Committee note that the Recruitment Rules framed/notified for such entities by invoking proviso to Article 309 of the Constitution are not laid before the Houses of Parliament and thereby escape the legislative scrutiny. The Committee also note that while the Recruitment Rules made by the Ministries/ Departments/ Organizations under various Acts of Parliament are laid before the Houses and there have been some cases where the Rules made under Article 309 have also been laid before the Houses. The Committee thus, find the plea of the Department of Fisheries, that it was not mandatory upon the administrative Ministries/ Departments to lay the rules framed under Article 309 of the Constitution before the Houses of Parliament, is not acceptable.

**2.8** The Committee further note that for laying of Recruitment Rules notified under Article 309 of the Constitution of India, DoPT vide its O.M. dated 07.02.2023 submitted that, although the Recruitment Rules are statutory in nature, the copies of the notification of the same need not be laid before the Houses of Parliament as Article 309 of the Constitution, under which these Rules are framed, does not have any mandatory provision for laying such Rules before the Houses of Parliament. The Committee are, however, of the view that though there is no explicit provision under Article 309 to lay the Rules, but it also does not prohibit for laying the same too.

**2.9** In this context, attention is also drawn to Para No. 11.5.4 (v) of the Manual of Parliamentary Procedures, Ministry of Parliamentary Affairs, Government of India regarding laying of rules etc. before the Houses, which reads as under:-

*“(v) Statutory orders, more particularly those notified under Article 309 of the Constitution of India must be laid before the Parliament by the concerned administrative Ministries and they will be held responsible for non-compliance of the same.”*

**2.10** Thus, in absence of any clear provision in the Constitution regarding laying of the rules framed under Article 309, the Committee are of the view that Rules framed under Article 309 should be subject to legislative scrutiny to ensure that they are not arbitrary, unreasonable and are not biased or against the established principles of natural justice. The Committee, therefore, recommend that all Rules framed under Article 309 in connection with affairs of the Union should invariably be laid before both the Houses of Parliament within the stipulated time for laying of subordinate legislation i.e. within 15 days of its Notification. The Department should, therefore, consult DOPT in the matter and apprise the Committee of the conclusive action taken within 6 months of the presentation of the Report.

*(Recommendation Sl.No. 4)*

2.11 The Committee also urge upon the Ministry of Parliamentary Affairs to take up the matter earnestly and evolve a foolproof mechanism to deal with framing and laying of subordinate legislation, including training of the Officers/Staff, so that there is no laxity in the compliance of the laid down procedures in the garb of ignorance to the established procedures as being recommended in the Committee's oft repeated recommendations from time to time and also laid down by the Ministry of Parliamentary Affairs in its Manual on Parliamentary Procedure pertaining to subordinate legislation. *(Recommendation Sl.No. 5)*

**Procedure to be followed by the Ministries/Departments as per Manual of Parliamentary Procedure**

2.12 The Committee further note that as per Para No. 11.5.4 of the Manual of Parliamentary Procedures, all the published Gazette Notifications have to be instantly uploaded on the official website [www.egazette.nic.in](http://www.egazette.nic.in) as per Section 4 and Section 8 of Information Technology Act, 2000 and three hard copies of all statutory orders and rules framed under Article 309 to be sent to the Committee on Subordinate Legislation (COSL). A soft copy of the same is to be sent to email i.e. [cosl-iss@sansad.nic.in](mailto:cosl-iss@sansad.nic.in) as soon as the notification is published in Part-II Section 3 (i), 3(ii) & 4 of Gazette, for scrutiny and upkeep of records by the COSL.

2.13 The Committee are constrained to note that the Department of Fisheries do not follow the above procedural requirements as mentioned in Manual of Parliamentary Procedures. The Committee strongly deprecate the casual approach of the Department in this regard and expect that important aspect of dissemination of exact information does not remain unheeded to. The Committee, thus, strongly recommend the Department to look into the matter and assign the responsibility of uploading all Rules/Regulations/Bye-laws notified on the e-gazette website instantly and also to furnish hard copies as well as soft copies to the Committee on Subordinate Legislation, Lok Sabha as prescribed in Manual of Parliamentary Procedures. The Committee would like to be apprised of the action taken in this regard.

*(Recommendation Sl.No. 6)*

New Delhi;  
23 March,2023  
02 Chaitra ,1945 (Saka)

BALASHOWRY VALLABHANENI,  
Chairperson  
Committee on Subordinate Legislation

## Appendix-I

As on 15.11.2021

**Status of Framing of Rules/Regulations etc. under Various Acts of Ministry of Fisheries, Animal Husbandry & Dairying/Department of Fisheries**

Title of the Act	Act No./ Date of Enactment	Sections of the Act under which rules and regulations are required to be framed	Sections of the Act under which rules and regulations have been made	Number and Date of Gazette Notification in which the rules, regulations published	Date of laying of rules and regulations in Lok Sabha/ Rajya Sabha	Sections of the Act under which rules and regulations have not been framed till date	In case non framing of rules and regulations (col.8), details of extension of time sought from the Committee on Subordinate Legislation, Lok Sabha	If extension not sought in respect of col. 8, reasons there for in brief
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
The Maritime Zones of India (Regulations of Fishing by Foreign Vessels) Act, 1981	28.09.1981	Not Applicable	Section 25	Rules notified vide No. G.S.R. 619 (E) dated 26 <sup>th</sup> August, 1982	Not available	Not Applicable	Not Applicable	Not Applicable
The Coastal Aquaculture Authority Act, 2005	23.06.2005	Section 24 for framing rules and Section 25 for framing regulations	Section 24 (Rules) and Section 25 (Regulations)	Rules notified vide No. G.S.R. 740 (E) dated 22 <sup>nd</sup> December, 2005  Regulations notified vide Gazette Notification dated 8 <sup>th</sup> March, 2008	File not traceable	Not Applicable	Not Applicable	Not Applicable

**MINUTES OF THE THIRTY-FOURTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (2021-2022) HELD ON WEDNESDAY,  
THE 28<sup>th</sup> SEPTEMBER, 2022**

The Thirty-fourth Sitting of the Committee (2021-22) was held on Wednesday, the 28<sup>th</sup> September, 2022 from 1200 hrs. to 1345 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

1. Shri Balashowry Vallabhaneni Chairperson

**MEMBERS**

2. Shri Pinaki Misra  
3. Shri Chandeshwar Prasad  
4. Shri N.K. Premchandran  
5. Shri Suresh Kumar Pujari  
6. Shri Nama Nageswara Rao  
7. Shri Sanjay Seth  
8. Shri Manickam Tagore B.  
9. Shri Ram Kripal Yadav  
10. Dr. Amar Singh

**SECRETARIAT**

1. Shri Vinay Kumar Mohan - Joint Secretary  
2. Shri Muraleedharan. P - Director  
3. Smt. Jagriti Tewatia - Additional Director

**LIST OF WITNESSES**

**MINISTRY OF FISHERIES, ANIMAL HUSBANDRY AND DAIRYING**

**(DEPARTMENT OF FISHERIES)**

<b>S. No.</b>	<b>Name of Official</b>	<b>Designation</b>
1.	Shri Jatindra Nath Swain	Secretary
2.	Dr. Juijavarapu Balaji	Joint Secretary
3.	Shri Sagar Mehra	Joint Secretary
4.	Dr. C. Suvarna	Chief Executive (NFDB)
5.	Dr. V. Kripa	Member Secretary, CAA
6.	Shri Shankar L.	Joint Commissioner

2. At the outset, the Chairperson welcomed the Members to the Sitting of the Committee. Thereafter, the representatives of Ministry of Fisheries, Animal Husbandry & Dairying (Department of Fisheries) were called in to brief the Committee on the subject 'Status of Rules/Regulations etc. framed under various Acts being administered by the Department & Coastal Aquaculture Authority (CAA) and implemented by National Fisheries Development Board (NFDB), Fishery Institutes namely Fishery Survey of India, Mumbai, Central Institute of Fisheries Nautical & Engineering Training (CIFNET), Kerala, Central Institute of Coastal Engineering for Fishery (CICEF), Bangalore, National Institute of Fisheries Post Harvest Technology and Training (NIFPHATT), Kochi functioning under the administrative control of the Department. After welcoming the representatives of the Department to the sitting of the Committee, the Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceeding of the sitting.

3. After customary introduction, the Secretary of the Department made a power point presentation elaborating therein about the Department & the Subordinate and Autonomous Organizations working under the Department of Fisheries. The representative also gave an overview of the flagship scheme of the Government for development of fisheries sector in the country i.e. Pradhan Mantri Matsya Sampada Yojana (PMMSY) etc. The representative further explained in detail about the applicability of the various Acts being administered by the Department viz. (i) Coastal Aquaculture Authority Act, 2005 for regulating the activities connected with coastal aquaculture in the coastal areas; and (ii) Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 to regulate fishing by foreign vessels in Indian waters etc.

4. Thereafter, the Committee sought clarifications with regard to improving the quality of research output & relevance of Research & Development activities in the country for development of fisheries sector, plans and various initiatives taken by the Department for technology development, enhancing research development infrastructure for fishermen's in coastal areas, increasing number of research institutes in the country, providing skill development facilities to the fishermen, promoting public private partnership for research development, provision of the rules and regulations to compete with the private players, equitable distribution of resources of the Department to all State Governments for research & development activities, issue regarding struggling of fishermen's to get loans from banks, issue pertaining for the development of communication network in SEZ, etc.

5. The Committee also sought clarifications regarding non-laying of Recruitment Rules on the table of both Houses of Parliament pertaining to four Fisheries Institutes namely, the Fisheries Survey of India, Mumbai, Central Institute of Fisheries, Nautical & Engineering Training (CIFNET), Kochi, Central Institute of Coastal Engineering for Fishery, Bengaluru and the National Institute of Fisheries Post Harvest Technology & Training, Kochi.

6. The representatives of the Department furnished clarifications to the queries raised by the Committee. On some of the points, on which the information was not readily available with the representatives of the Ministry, the Chairperson asked them to furnish written replies on the same within 15 days to the Lok Sabha Secretariat.

7. The Chairperson thanked the representatives of the Ministry of Fisheries, Animal Husbandry & Dairying (Department of Fisheries) for giving valuable information on the subject before the Committee.

8. The witnesses then withdrew.

A verbatim record of the proceedings of the sitting has been kept separately.

The Committee then adjourned.

**EXTRACTS FOR MINUTES OF THE TWELFTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (2022-2023)**

The Twelfth sitting of the Committee (2022-23) was held on Thursday, the 23<sup>rd</sup> March, 2023 from 1500 to 1530 hours in Chairperson Room No. 209, Extension to Parliament House Annexe, New Delhi.

**PRESENT**

Shri Balashowry Vallabhaneni Chairperson

**MEMBERS**

2. Shri Chandeshwar Prasad
3. Shri N.K. Premachandran
4. Shri Suresh Kumar Pujari
5. Dr. Amar Singh
6. Shri Brijendra Singh
7. Shri Su Thirunavukkarasar
8. Shri Ram Kripal Yadav
9. Shri Arvind Ganpat Sawant

**SECRETARIAT**

1. Shri V.K. Mohan - Joint Secretary
2. Shri Muraleedharan.P - Director
3. Smt. Jagriti Tewatia - Additional Director

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

- |       |   |   |   |   |
|-------|---|---|---|---|
| (i)   | x   | x | x | x |
| (ii)  | x   | x | x | x |
| (iii) | The Twenty-eighth Report on the status of framing of Subordinate Legislation viz. Rules/Regulations under various Acts being administered by the Department of Fisheries in the Ministry of Fisheries, Animal Husbandry & Dairying and delay in laying of Rules/ Regulations; and |   |   |   |
| (iv)  | x   | x | x | x |

3. After deliberations, the Committee adopted the above draft Reports without any modification. The Committee also authorized the Chairperson to present the same to the House.

The Committee then adjourned.

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x Omitted portion of the Minutes are not relevant to this Report