

# COMMITTEE ON SUBORDINATE LEGISLATION

(TENTH LOK SABHA)

## TWENTIETH REPORT

[Action taken by Government on the Recommendations/  
Observations of the Committee]

*(Presented on 24 August, 1995)*



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LOK SABHA SECRETARIAT  
NEW DELHI

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To

THE TWENTIETH REPORT OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (TENTH LOK SABHA).

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**COMPOSITION OF THE COMMITTEE  
SUBORDINATE LEGISLATION (1995-96)**

1. Shri Amal Datta — *Chairman*
2. Shri Prithviraj D. Chavan
3. Shrimati Bhavna Chikhaliya
4. Shri V. Dhananjaya Kumar
5. Shri Dharampal Singh Malik
- \*6. Shri Simon Marandi
7. Shri M.V.V.S. Murthy
8. Shri D. Pandian
9. Shri Rajendra Kumar Sharma
10. Shri K.G. Shivappa
11. Shri Pratap Singh
12. Prof. K.V. Thomas
13. Shri Umrao Singh
14. Shri Swarup Upadhyay
15. Shri Ram Sharan Yadav

**SECRETARIAT**

- |                         |                               |
|-------------------------|-------------------------------|
| 1. Shri S.N. Mishra     | — <i>Additional Secretary</i> |
| 2. Smt. Roli Srivastava | — <i>Joint Secretary</i>      |
| 3. Shri P.D.T. Achary   | — <i>Director</i>             |
| 4. Shri Ram Autar Ram   | — <i>Secretary</i>            |

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\*Nominated w.e.f. 9.8.1995.

## INTRODUCTION

I, the Chairman, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Twentieth Report.

2. This Report relates to the implementation of the recommendations of the Committee made in their Sixth Report and Seventh Report (Tenth Lok Sabha).

3. The Committee considered and adopted this Report at their sitting held on 22 August, 1995.

4. The Minutes of the Sixty-first sitting of the Committee are appended to the Report.

NEW DELHI;  
August, 1995

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AMAL DATTA,  
*Chairman,*  
*Committee on Subordinate Legislation.*

Bhadra, 1917 (Saka)

## REPORT

### ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE

Under Direction 103(1) by the Speaker, the Ministries are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports. With a view to ensuring speedy implementation of their recommendations, the Committee, in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. If in any particular case it had not been possible to adhere to this time limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations. Still the cases of delay continue to occur. The Committee cannot but stress again that the Ministries concerned should evolve suitable measures to streamline their procedure in order that the recommendations made by the Committee are implemented within the maximum time-limit of six months laid down by them.

NEW DELHI;  
August, 1995

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Bhadra, 1917 (Saka)

AMAL DATTA,  
*Chairman,*  
*Committee on Subordinate Legislation.*

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## APPENDICES

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## APPENDIX

*Statement showing the Action Taken by Government on the Recommendations of the Committee*

S. No.	Reference to para Nos. of Report	Summary of Recommendations/ Assurances	Gist of Government's reply
1	2	3	4
1.	<b>SIXTH REPORT (TENTH LOK SABHA)</b> (Presented on 24.11.1992) 7 & 8	<p><i>Representation regarding non-framing of Rules in the Central Administrative Tribunal</i></p> <p>The Committee note from the reply of the Ministry of Personnel, Public Grievances and Pensions that sub-section (3) of Section 22 of the Administrative Tribunal Act, 1985 specifically empowers the Tribunal to exercise same powers as that of a Civil Court under the Code of Civil Procedure, 1908 in the matter of summoning and enforcing the attendance of any person and examining him on oath, and as such no separate rules have been made by the Tribunal in exercise of its rule-making power under the Act.</p> <p>The Committee, however, find that sub-section (1) of Section 22 of the Act clearly stipulates that the Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the Principles of natural justice and subject to the other provisions of this Act and or any rules made by the Central Government. Since the Tribunal has to perform a variety of significant functions including taking evidence on affidavits and examining persons on oath, the Committee consider it very essential to have well-knit rules in exercise of the powers conferred upon them under sections 35 and 36 of the Administrative Tribunal Act, 1985 in order that no injustice is caused to any body for want of such rules. The Committee, therefore, desire the Ministry to do the needful at the earliest.</p>	<p>The Central Administrative Tribunal Rules of Practice, 1993 have since been notified by the Tribunal incorporating the Tribunal Procedure for examination of witnesses, issue of commissions etc. <i>vide</i> GSR 591-E published in the Gazette of India: Extraordinary, dated 6 September, 1993.</p> <p>(<i>Vide</i> Ministry of Personnel, Public Grievances and Pensions D.O. No. A-11019/50/89—AT dated 7.2.1995)</p>



1	2	3	4
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*The Directorate of Marine Engineering Training (Foreman Instructor and Seamanship Instructor) Recruitment Rules, 1987 (GSR 10 of 1991)*

2. 10 & 11

The Committee note that the Directorate of Marine Engineering Training (Foreman Instructor and Seamanship Instructor) Recruitment Rules, 1987 were published in the official gazette dated 9 April, 1988. However, the corrigendum to rectify the errors in the original rules was published in the official gazette dated 5 January, 1991 after a lapse of about 33 months. The Ministry of Surface Transport have attributed the delay to certain administrative problems in the Directorate General of Shipping. In this connection, the Committee would like to refer to their following observations which were circulated to all Ministries/ Departments of Government of India *vide* the Department of Parliamentary Affairs O.M. No. F. 32(4)/7/77/R&C dated 6 November, 1978, namely—

“The corrigenda to statutory rules etc. should be published within 30 days of the publication of the rules.”

The Committee note that the nature of the administrative problems has not been disclosed. The Committee cannot but reiterate their earlier recommendations as aforesaid and desire the Ministry to be more careful in future so that the errors which crept into the statutory rules, are rectified at the earliest and in any event within a period of 30 days from the publication of the rules.

Necessary instructions have been issued to all the Ministries/ Departments of the Government of India for strict compliance of the observation of the Committee.

[Ministry of Parliamentary Affairs O.M. No. 32(18)/92—R&C dated 1 January, 1993]

1	2	3	4
<i>The Aircraft (Third Amendment) Rules, 1991 (GSR 218 of 1991)</i>			
3.	13	<p>The Committee are not convinced with the reply of the Ministry of Civil Aviation that the first and second amendments did not relate to the subject-matter of the third amendment made to the Aircraft Rules. The Committee find that when the Ministry have already indicated in the short title to the notification that it is the third amendment to the principal rules during the year, it flowed therefrom that there were two more amendments made prior to the extant amendment. The Committee desire the Ministry to mention the particulars of the first and second amendments also in the footnote below the amendment rules in the gazette notification for information of all concerned.</p>	<p>Requisite corrigendum has been published in the Gazette of India: Extraordinary, Part II, Section 3(i) dated 23.2.93 vide GSR No. 81(E). (Vide Ministry of Civil Aviation and Tourism O.M. No. AV.11012/4/88-A dated 12 March, 1993)</p>
<i>The Delhi, Andaman and Nicobar Islands Police Service (Amendment) Rules, 1991 (GSR 162 of 1991)</i>			
4.	16	<p>The Committee note that the Ministry of Home Affairs have expressed their regrets for the inadvertent omission on their part in not indicating the GSR numbers of the principal/subsequent amendments in the foot-note appended to the notification. The Committee desire the Ministry to be more careful in future and take necessary remedial measures to ensure that reference to the original 'Order' and the subsequent amendments thereto should always be in terms of the GSR numbers and the dates of publication in the official gazette rather than the ministerial file numbers and their dates which have little relevance for the purpose of keeping track of the amendments made to the principal rules from time to time.</p>	<p>The recommendations/ observations of the Committee have been noted for future compliance and relevant extracts of the recommendations have also been circulated to all concerned in the Ministry. (Ministry of Home Affairs O.M. No. 14012/1/90-UTS dated 21 December, 1992)</p>

1	2	3	4
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*The Income-tax (First Amendment) Rules, 1992 (S.O. 4-E of 1992)*

5. 19-20 and  
23-24

The Committee note from the reply of the Ministry of Finance that the requirement of filing details for three years has been kept with the intention that only organisations with a proven record of service of socio-economic infrastructure development are allowed the concession. New Organisations less than one year old are generally advised to apply after the lapse of one year indicating the work done by them since their inception. In exceptional cases, where an organisation may be new but the office bearers and the executive have a proven track record, the National Committee for promotion of Social and Economic Welfare may take note of the stature of the persons managing the affairs of the organisations.

Sub-rules 3 (iii) and 3 (v) of rule 11 L have accordingly been amended so as to provide that organisations which are not three years old may furnish particulars relating to their period of existence vide S.O. 149-E published in the Gazette of India: Extraordinary, Part II, Section 3(ii) dated 5.3.1993.

(Vide Ministry of Finance O.M. No. 149/29/92-TPL dated 8 April, 1993)

The Committee, however, feel that the statutory provisions as they stand, are likely to give an impression that the new organisation with less than three years standing are obviously handicapped as such organisations will not be in a position to furnish requisite particulars of the three years preceding the date of application. In the absence of the clear-cut provisions in the statutory rules, the new organisations howsoever deserving ones, may not get the benefit of the Government sponsored concessions despite the best intentions of the authorities. The Committee, therefore, desire the Ministry to fortify the statutory rules with all relevant provisions so as to make them reflect the true and actual practice for the information and guidance of the concerned public.

The Committee note from the reply of the Ministry of Finance that one of the members of the National Committee is to be appointed as Chairman by the Central Government. In the event of vacancy of the office of the Chairman for any reason, a new Chairman is again to be appointed by the Central Government. However, until the new Chairman is so appointed, any other member might be elected by the National Committee to fill the vacancy. In this connection, the Committee observe that once a member is so elected to act as Chairman by the National Committee, he assumed all the powers and functions of the office of the Chairman for all purposes and for all time to come without the concurrence of the Central Government. Thus, the National Committee could function with its elected Chairman so long as the Central Government refrain from exercise of their power. This way, the Central Government have passed on their power to the National Committee in the matter of appointment of its Chairman which cannot be formed as a sound and healthy practice.

The Committee feel that the position of the elected Chairman of the National Committee cannot be equated with that of the member elected to preside over a particular sitting in the absence of the Chairman. The Committee are of the view that in any case, the power to appoint/elect a Chairman ought not be simultaneously vested in two agencies. *viz.*, the Central Government and the National Committee, in the event of vacancy of the office of the Chairman for any reasons. The Committee, therefore, desire the Ministry to amend the Income-tax Rules to the necessary effect at an early date.

Sub-rule (3) of rule 11 G has accordingly been amended to the necessary effect *vide* S.O. 149-E published in the Gazette of India: Extraordinary, Part II, Section 3(ii) dated 5.3.1993. (*Vide* Ministry of Finance O.M. No. 149/29/92—TPL dated 8 April, 1993)

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*Action taken by Government on the  
recommendations of the Committee*

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| 6. | 25 | <p>Under Direction 108(1) by the Speaker, the Ministries are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports. With a view to ensure speedy implementation of their recommendations, the Committee, in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha) had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. If in any particular case it had not been possible to adhere to this time-limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendation. Still the cases of delay continue to occur. As would be seen from the statement appended to this Report (Appendix III)*, in several cases, Government have taken about 20 months in implementation of their recommendations. The Committee cannot but again stress that the Ministries concerned should evolve suitable measures to streamline their procedure in order that the recommendations emanating from the Committee are implemented within the maximum time-limit of Six months laid down by them.</p> | <p>Necessary instructions have been issued to all the Ministries/Departments of the Government of India for strict compliance of the observation of the Committee.</p> <p>[Ministry of Parliamentary Affairs<br/>O.M. No. 32(18)/92-R<br/>&amp; C dated 1.1.1993]</p> |
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**SEVENTH  
REPORT  
(TENTH LOK  
SABHA)  
(Presented on  
2.3.1993)**

*The Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992 (GSR 104 of 1992)*

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| 7. | 10 and 12 | <p>The Committee observe that as the Indo-Tibetan Border Police personnel is governed by the Central Reserve Police Force Act of 1949, such personnel is bound to follow the provisions of that Act and the rules made thereunder automatically.</p> | <p>Rule 5 of the Indo-Tibetan Border Police Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules 1992 has been deleted by the</p> |
|----|-----------|--|---|

Hence, any mention as to the applicability of the parent statute and the rules made thereunder in the recruitment rules providing for appointment to any specific category of posts in that organisation would merely tend to be superfluous. The Committee do not also see any force in the argument that similar provisions have already crept into several other recruitment rules for the posts in the Indo-Tibetan Border Police. The Committee, therefore, desire the Ministry of Home Affairs to omit rule 5 (regarding other conditions of service) of the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules and the identical provision occurring in the other recruitment rules, at the earliest.

The Committee note that the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992 came into force on 7 March, 1992 *i.e.* the date of their publication in the official Gazette, and provided for cent per cent direct recruitment to the posts of Sub-Inspectors. The Committee, however, find that contrary to the laid down position, as many as 44 appointments had already been made on *ad hoc* basis and since also regularised with retrospective effect right from December, 1978 onwards without due legal authority. Though the Committee are not averse to the regularisation of staff which was appointed on *ad hoc* basis, they would like to uphold that the recruitment rules brought out for the purpose should as well reflect the true and correct position. The Committee, therefore, desire the Ministry of Home Affairs to take necessary corrective action, in consultation with the Ministry of Law, for incorporation of the suitable saving clause in the recruitment rules of 1992 with a view to impart validity to the action already taken with retrospective effect.

substitution of the saving clause.

[Ministry of Home Affairs O.M. No. I-12013/1/93-ORG (ITBP) Pers. I-dated 11.8.94]

*The Cantonment Fund Servants  
(Amendment) Rules, 1991*

8. 14 and 15

The Committee find that the prescribed period of 60 days for inviting public comments on the draft amendment rules was reduced to mere 16 days in actual practice as the gazette copies could be made available to the public much later. Though no formal extension of the prescribed period was notified, Government did consider objections/suggestions as received upto 14 August, 1990 *i.e.* a little beyond 60 days before issue a final notification. The Cantonment Boards as they were affected by the proposed amendment, were also informed through a circular letter by the DGDE. The gist\* of objections goes to indicate that the Cantonment Boards of Jhansi, Dehradun, Agra, Kirkee, Jabalpur and Saugor have opposed the proposed amendment *i.e.* omission of rule 9 which vested power on the Cantonment Board to, made recruitment on temporary basis for a period not exceeding six months.

Observations of the Committee have since been circulated to all concerned in the Ministry for strict compliance in future *vide* Ministry of Defence (DG, DE) No. 25/133/C/L&C/69 (PC-II) dated 26 April, 1993.

The Committee note that with a view to avoid recurrence of such cases in future, the Ministry have issued instructions that the public notices inviting comments on the draft amendments to the rules should prescribe for reckoning the period of 60 days from the date on which the copies of the gazette are made available to the public rather than from the date of publication of the gazette. The Committee expect the Ministry of Defence to be ever watchful and take all necessary steps to ensuring that adequate opportunity is given to the public for study and sending their comments on the draft amendment rules and the period prescribed for the purpose is not rendered just illusory.

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*The Ministry of Surface Transport  
(Transport Wing) Senior Analyst (Work  
Study) Recruitment (Amendment)  
Rules, 1992*

9. 18

The Committee note that, on being pointed out by them, the Ministry of Surface Transport have agreed to amend the Senior Analyst (Work Study) Recruitment Rules to provide for reservations for Scheduled Castes, Scheduled Tribes and other special categories of persons on the usual lines. The Committee desire the Ministry to do the needful expeditiously.

The Ministry of Surface Transport (Transport Wing) Senior Analyst (Work Study) Recruitment Rules have accordingly been amended vide GSR 337-E dated 26.3.93, inserting the requisite saving rule, namely—

“6. Saving:— Nothing in these rules shall effect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.”

*Ministry of Home Affairs (Group  
'D' Posts) Recruitment  
(Amendment) Rules, 1992 (GSR 37  
of 1992)*

10. 20 and 21

The Committee note that it has since been proposed to carry out a review of the existing recruitment rules governing Group 'D' posts in the Ministry of Home Affairs with a view to bringing forward fresh recruitment rules after incorporating the necessary changes, in supersession of the existing ones. The Committee do not, therefore, press for an amendment of the notification under reference for incorporating the requisite foot-note. In this connection, the Committee would, however, like to refer to their earlier observations made in para 87 of their Sixth Report (Seventh Lok Sabha) which reads as under:

“the Committee are unhappy to note that their recommendation regarding giving of foot-note to the amending

The Ministry of Home Affairs (Group 'D' Posts) Recruitment Rules, 1968 have since been superseded vide GSR 484 dated 9 October, 1993.

[O.M. No. A 42012/1/91-Ad. II dated 26.12.1994]



rules indicating particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the rules, they should also see that the practice is followed by all Ministries/ Departments in letter and spirit."

The Committee note with concern that despite their categorical findings in this regard, the Ministry have failed to indicate particulars of the previous amendments by way of a foot-note to the amending notification. The Committee cannot but reiterate their earlier recommendation in this regard and desire the Ministry to evolve suitable safeguards against recurrence of such lapses.

*The Central Industrial Security Force  
(Fourth Amendment) Rules, 1990*

11. 27 and 29

The Committee note with regret that the reply of the Ministry of Home Affairs was far from being satisfactory. The Committee feel that as a general principle, once the original rules are published in a particular section of the official gazette, i.e. under S.O. numbers or G.S.R. number etc., as the case may be, any further amendments to the original rules should as well be published in the same section of the gazette, as the amendment rules on being notified become part of the original rules and they have no separate entity as such. However, if any subsequent amendments are published in a scattered manner i.e. amendments related to some aspects in one section and amendments related to some other aspects in other section of the gazette, it would lead to inconvenience to the concerned public in keeping a track of such amendments. The Committee, therefore, direct the Ministry to do away with the existing practice of publishing the

In future all amendments to CISF Rules will be notified in the same section in which the original rules were published on a uniform pattern. Necessary action is being taken to finalise and notify and CISF (Amendment) Rules in a consolidated manner and for publishing it in the same section of the gazette in which the original rules were published.

[Ministry of Home Affairs  
O.M. No. E. 32012/390-  
L&R/Pers. 1 dated  
6 April, 1993.]

amendments to the Central Industrial Security Force Rules under different sections of the gazette forthwith and that any further amendments in this behalf must be notified in the same section in which the original rules were published, on a uniform pattern.

The Committee note that consequent upon the conversion of the Central Industrial Security Force into an Armed Force of the Union by Act 14 of 1983, an exercise for issuance of a comprehensive order was already underway. The Committee desire the Ministry to accelerate the process of finalisation and notify the proposed consolidated order at the earliest curtailing any further delay in the matter.

*The Visakhapatnam Port Trust Employees' (Allotment of Residences) Amendment Regulations, 1992*

12. 32 and 33

The Committee note the Visakhapatnam Port Trust Employees' (Allotment of Residences) Regulations, 1968 and subsequent amendments thereto till 1981 were published in the Andhra Pradesh Gazette, as per practice then in vogue. Therefore, no GSR numbers were given to these notifications. Only the last amendment was so published in the Gazette of India under GSR No. 1176(E) of 1988 and the Ministry have no objection to indicating its GSR number etc. in the foot-note.

The Committee, in para 45 of their Third Report (First Lok Sabha), have emphasized that "whenever any amendment in the rules is made, the SRO numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment." Since the ministerial file numbers and dates are of little relevance for the purpose of keeping track of the amendments made from time to

Observations of the Committee have been noted for compliance in future by all the Major Port Trusts. The Ministry would also be taking care that whenever approval of the Government would be notified in the Gazette to the Regulations, the foot-note containing full particulars of the principal regulations and the amendments thereto would be duly incorporated.

[Ministry of Surface Transport O.M. No. H-1101/293-PE-I dated 24/25 March, 1994]

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time, the Ministry would do well to incorporate in the foot-note the particulars of amending notifications in terms of official gazette numbers together with dates of publication only for the sake of uniformity and convenience of the concerned public. The Committee trust the Ministry of Surface Transport would evolve suitable safeguards against possible recurrence of such lapses in future.

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## MINUTES

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**MINUTES OF THE SIXTY FIRST SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1995-96)**

The Committee met on Tuesday, 22 August, 1995 from 15.30 hours to 16.30 hours.

**PRESENT**

**Shri Amal Datta — *Chairman***

**MEMBERS**

2. **Smt. Bhavna Chikhalia**
3. **Shri V. Dhananjaya Kumar**
4. **Shri D. Pandian**
5. **Shri K.G. Shivappa**
6. **Shri Umrao Singh**
7. **Shri Swarup Upadhyay**

**SECRETARIAT**

1. **Shri Ram Autar Ram — *Deputy Secretary***
2. **Shri B.D. Swan — *Assistant Director***  
.. .. .. ..

25. The Committee then considered and adopted the draft Twentieth Report.

26. The Committee then adjourned to meet again on 5 September, 1995.

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\* Omitted Portions of the minutes are not covered in this Report.