

COMMITTEE ON SUBORDINATE LEGISLATION

(ELEVENTH LOK SABHA)
(1996-97)

NINTH REPORT

[Action Taken Report on the Implementation of Recommendations
Contained in Nineteenth and Twenty-First Reports (Tenth Lok Sabha) of
the Committee]

[Presented on 15.5.1997]



LOK SABHA SECRETARIAT
NEW DELHI

May, 1997/Vaisakha, 1919 (Saka)

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CORRIGENDA

TO

**THE NINTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(ELEVENTH LOK SABHA)**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1996-97)**

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2. **Shri J. P. Ratnesh** — *Joint Secretary*
3. **Shri Ram Autar Ram** — *Director*
4. **Shri B. D. Swan** — *Under Secretary*

INTRODUCTION

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

2. This Report relates to the implementation of the recommendations of the Committee made in their Nineteenth and Twenty-first Reports (Tenth Lok Sabha)

3. The Committee considered and adopted this Report at their sitting held on 8 May, 1997.

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

NEW DELHI;
May, 1997

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

REPORT

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE

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 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 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 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;
May, 1997

Vaisakha, 1919 (S)

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

A P P E N D I C E S

APPENDIX I

Statement Showing the Action Taken by the Government on the Recommendations of the Committee

Sl. No.	Reference to Para Nos. of Report	Summary of Recommendations/Assurances	Gist of Government reply
(1)	(2)	(3)	(4)

**1. NINETEENTH REPORT
(TENTH LOK SABHA)
[Presented on 9.5.1995]**

1.4 and 1.8

(A)

The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have brought out an amendment notification vide GSR 568-E of 1994 carrying out the requisite amendment to the Preamble of the Port of Bombay Pilotage, Tug Assistance Towage, Mooring and Other Services Fees Order, 1992 by deleting the citation of Section 52 of the Major Port Trusts Act, 1963 from the Preamble as it was redundant. The amendment notification has also substituted the wordings 'the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order 1991' for the wordings 'All previous notifications on the subject' to do away with the element of vagueness. The Committee, however, desire that the Ministry of Surface Transport should be more watchful in future while notifying statutory orders to prevent recurrence of such lapses.

Observations of the Committee have been noted for future guidance.
vide Ministry of Surface Transport O.M.No. PR 16014/3/95-PG; dt. 30.6.95]

B

The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have since amended Clause 16 of the Bombay Pilotage, Tug Assistance, Towing, Mooring and other Services Fees Order, 1992 vide GSR 568-E published in the Gazette of India dt. 11.7.1994 by deleting the wordings 'the decision of the Chairman shall be final' so that the impression is not created in the minds of the general public that jurisdiction of law courts are being ousted.

The Narcotic Drugs and Psychotropic Substances (Amendment) Rules, 1993

The Committee note that the instances of omission of foot note continue to occur despite categorical directives of the Committee in this regard. The Committee also note that on being pointed out, the Ministry of Finance have since notified the requisite corrigendum vide SO 342-E dated 29 April, 1994 by incorporating the usual foot note indicating the particulars of the publication of principal Rules and the subsequent amendment made thereto.

The Committee desire that the Ministry should evolve suitable safeguards against recurrence of such lapses in future.

The Central Civil Services (Pension) Third Amendment Rules, 1992 (GSR 570 of 1992)

The Committee are not satisfied with the reply of the Ministry that the references were made under the Ministerial file number due to non-availability of the GSR/SO numbers and desired the Ministry to publish fresh notifications in supersession of the earlier rules.

The Committee also desire that all notifications whether principal orders or amending orders should be published under one head viz. GSR or S.O.

The Ministry of Surface Transport have since amended Clause 16 of the Order, 1992 vide GSR 568-E: dated 11.7.1994.

The Ministry of Finance (Department of Revenue) have noted observations of the Committee for compliance by the Narcotic Control Bureau vide their O.M. No. F. No. 1/22/93-NCB (COORD): dt. 9.6.1995.

The Ministry of Personnel, P.G. and Pensions have since amended the Central Civil Services (Pension) Third Amendment Rules, 1992 Vide GSR 14: dated 13.1.1996.

The Central Administrative Tribunal (Group 'B' and 'C' Miscellaneous Posts) Amendment Rules, 1994 (GSR 773-E of 1994)

The Ministry of Personnel and Pensions (Deptt. of Personnel & Training) have incorporated the particulars of the principal rules vide Gazette of India Notification GSR 116-E; dated 7.3.1995.

4. 4.3 The Committee are not satisfied with the reply of the Ministry with regard to incorporation of the foot-note to the amendment rules and desire that the Ministry should take immediate steps to examine and see if the notifications sent by them to the Press for Publication have been printed correctly. If so considered necessary the Ministry should issue necessary corrigenda and send printed copies of the rules together with the corrigenda to the Lok Sabha Secretariat.

5. *The Mormugao Por: Trust Employees' (Acceptance of Employment after Retirement) First (Amendment) Regulations, 1992 (GSR 889-E of 1992)*

TWENTY FIRST REPORT
(Tenth Lok Sabha)
[Presented on 22.12.1995]

The Ministry of Surface Transport, as well as, Mormugao Port Trust, have noted the observations of the Committee. The Port has also ensured that due care will be taken in future to include GSR Nos. of the Principal Regulations and the subsequent amendments in the Foot note.

1.2-1.4 The Committee are not convinced with the reply of the Ministry of Surface Transport, that it had not been possible for them to have the GSR number of the principal regulations published on 3.7.1991. In this connection the Committee refers to its an earlier recommendation made in para 45 of their Third Report (First Lok Sabha) namely—

“The Committee felt that it was very difficult to trace back the amendments made in rules in past. On finding out an amendment, one could not know when the last amendment was made and when it was published. In order to remove this difficulty the Committee recommend that whenever any amendment in the rules is made, the S.R.O. 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.”

[Vide Ministry of Surface Transport O.M. No. H. 11011/96-PI. I dated 25 April, 1996]

The Committee note with concern that despite their aforesaid recommendation, the Ministry have failed to indicate the particulars of the principal regulations. The Committee, however, note that on being pointed out, the Ministry have notified a corrigendum vide GSR 715-E dated 23 November, 1993 incorporating the foot-note giving reference of the subsequent amendment made thereto.

The Committee reiterate their aforesaid recommendation and desire that the Ministry should be more careful in future and take necessary remedial measures to ensure that reference to the original 'order' and the subsequent amendments thereto are made in terms of GSR numbers with their dates of publication in the official gazette.

The Patents (Amendment) Rules 1993 (S.O. 889-E of 1993)

6. 2.3, 2.5-2.6

The Committee note with concern that the copies of the draft rules in the instant case, were made available to the public after a gap of 55 days from the date of publication mentioned on the gazette notification. The Committee noted that the Ministry have attributed the delay to the Department of Publication, who in turn has attributed the delay in printing to power failure, inadequate water supply and low voltage. The Committee feel that such inordinate delays defeat the very purpose of giving the important information in the extraordinary gazette, which are of priority nature. The Committee, therefore, recommend that the Ministry of Urban Affairs and Employment should review the functioning of the Government Press at the highest level and take all necessary steps to streamline its procedure for the handling of important legislative measures having a direct bearing on the public at large without delay.

The Ministry of Urban Affairs and Employment have taken all necessary steps to streamline the procedure for handling the important notifications including those for extraordinary gazette. This is being maintained at the level of Director of Printing. Besides Ministry has already undertaken the task of modernisation of the Govt. of India Press, Ring Road for its expeditious publication.

[Vide Ministry of Urban Affairs and Employment OM No. O-17034/1/96-Pub./Pg. (vol. I), dt. 22.3.96]

The Committee note with concern that there was a gap of seven months between the last date fixed for receiving objections/suggestions and notification of the final rules in the Gazette even though no objections or suggestions were received from the concerned public. The reason according to the Ministry of Industry is that this had to take legal advice from the Law Ministry which detected a few errors in the draft rules.

The Committee do not find the reasons put forth by the Ministry for the delay in notifying the final rules as justified and recommend that where a large number of objections/suggestions are received the gap should not be more than six months. Where the objections/suggestions received are few, efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. However, where no objections/suggestions are forthcoming on the draft rules, the final rules should be notified within a period of three months. The Committee desire the Ministry of Industry to adhere to above time-limit in notifying the final rules.

The New Mangalore Port Trust Employees (Welfare Fund) Second Amendment Regulations, 1992 (GSR 889-E of 1992)

The Committee note that on being pointed out, the Ministry of Surface Transport have since notified the requisite corrigendum vide GSR 642-E dated 6 October, 1993 incorporating the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendment made thereto. In this connection, the Committee draw the attention of the Ministry to their recommendation contained in para 87 of the Sixth Report (Seventh Lok Sabha), namely—

The Committee are unhappy to note that their recommendation regarding giving of foot-note to the amending Rules indicating the 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 reiterate their aforesaid recommendation and desire the Ministry of Surface Transport and the Ministry of Law to Streamline their procedure in order that such lapses do not recur in future.

Observation/recommendation of the Committee have been noted for future compliance [vide Ministry of Industry (Deptt. of Industrial Development). OM No. 14(1)/96-PP&C dated 15 January, 1996]

Observations/recommendations of the Committee have been noted by New Mangalore Port Trust for compliance in future. All other Ports have also been instructed by the Ministry to indicate the particulars of the publication of the principal regulations and the subsequent amendment made thereto.

[Vide Ministry of Surface Transport OM No. H-11011/96 PE-I dated 25 April, 1996]
Ministry of Law, Justice and Company Affairs have noted the observations of the Committee for future compliance.
[Vide O.M. No. 4(1)/96 LI dated 24 January, 1996]

The Tuticorin Port Trust Employees (Leave Travel Concession) First Amendment Regulations, 1992 (GSR 845-E of 1992)

8. 4.2 and 4.5

The Committee note that only on being pointed out by them the Ministry of Surface Transport have issued necessary corrigendum to rectify the printing errors in the notification vide GSR 89-E dated 10 February, 1994. The Committee also note that the amendment Regulations issued on 3 November, 1992 could be rectified on 10.2.94. The Committee feel that had the Ministry exercised due vigilance and care, the error could have been detected much earlier and the period of 15 months could have been curtailed to a great extent. In this connection, the Committee note that they have time and again stressed that the Ministry/Departments should not rest content with merely sending the notifications to the press. Instead they should ensure that notifications are duly and correctly published in the gazette. The Committee therefore, desire the Ministry to streamline their procedure in order that such lapses do not recur in future.

The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have issued a notification detecting the enabling provisions under Regulation 22 in the Tuticorin Port Employees (Leave Travel Concession) First Amendment Regulation, 1992, vide GSR 446-E dated 10 May, 1994.

The Tuticorin Port Trust has ensured that the Central Govt's guidelines in the process of making formal amendments in compliance with the Central Govt's order will be adhered to without fail. All other Ports have also been advised to be careful in future by the Ministry of Surface Transport [vide OM NO. H-1101/L/96-PE-I dated 25 April, 1996]

The Ministry of Labour Library (Group 'C' Posts) Recruitment Rules, 1992 (GSR 395 of 1993).

9. 5.3 The Committee note that only on being pointed out, the Ministry of Labour have issued a corrigendum to rectify the error regarding year in the short title vide GSR 398 dated 6 August, 1994. The Committee desire that the Ministry should keep necessary checks to ensure each notification that goes to the press must scrupulously be scrutinised at a sufficiently senior level to obviate any inaccuracy whatsoever.
- Recommendations of the Committee on Subordinate Legislation have been circulated to all officers and Sections of the Ministry of labour for strict compliance. Divisional Heads under this Ministry had also been instructed to keep necessary checks to ensure that each notification that goes to Press be scrutinised sufficiently at a senior level. [Vide Ministry of Labour OM No. H-11013/4/96-PU dated 8 May, 1996.]

Amendment to the Ministry of Agriculture, Department of Food, Technical Assistant and Accountant (Junior) Recruitment rules, 1973 (GSR 501 of 1992)

10. 6.3-6.4 The Committee noted that the Amendment to the Ministry of Agriculture, Department of Food, Technical Assistant and Accountant (Junior) Recruitment Rules, 1973 was deficient in respect of certain essential attributes of subordinate legislation like short title and date of commencement.
- Observations of the Committee have been noted for compliance and in future such notifications would be scrutinised scrupulously to eliminate the possibility of inaccuracies creeping in the notifications.
- [vide Ministry of Food (Deptt. of Food Procurement & Distribution) OM. No. A-1218/2/91SRA(pt.) dt. 30.4.1996]

The Committee note that on being pointed out by them the Ministry of Food have made necessary entries/corrections, in consultation with the Ministry of Law in the Recruitment Rules. The Committee desire that the Ministry should keep necessary checks to ensure that each notification must scrupulously be scrutinised at sufficiently senior levels to obviate any inaccuracy in future.

The Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment rules, 1992 (GSR 391 of 1993)

It is a well-accepted practice that short title of the rules, regulations, bye-laws, etc. should carry the year in which they are published and not some other year. In this connection, the Committee note that they have time and again impressed upon the Ministries/Departments of the Government the need for indicating the correct year in the short title. Indication of incorrect year in the short title causes difficulty in location of the 'Order'.

As the Ministry of Health and Family Welfare have agreed to indicate the correct year in the short title to the rules by issuing a corrigendum the Committee desire that the Ministry should issue the necessary corrigendum at the earliest and also take necessary remedial measures so as to avoid recurrence of such a lapse in future.

The Committee note with satisfaction that on being pointed out to them the Ministry of Health and Family Welfare have since amended the term "Large hospital" by substituting the term "at least a hundred bedded hospital" in column 8 of the schedule appended to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules, vide GSR 626 dated 7.12.94.

11. 7.2-7.3
and 7.7

The suggestions of the Committee have been noted for compliance in future. Necessary corrigendum to indicate the correct year in the short title to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules has been issued vide GSR 637 dated 17 December, 1994.

Necessary amendments as recommended by the Committee have been notified vide GSR 636 Dated 17 December 1994. (Ministry of Health & Family Welfare's OM No. 2 28015/L/95/ME(PG) dated 28 May, 1996]

The National Test House (Group 'A' Posts) Recruitment rules, 1993 (GSR 140 of 1993)

12. 8.2-8.3

The Committee note that on being pointed out, the Ministry has agreed to issue necessary corrigendum in consultation with the Union Public Service Commission to rectify the error that has crept in Column 10 of the Schedule appended to the National Test House (Group 'A' Posts) Recruitment Rules, 1993.

The Committee desire the Ministry to expedite the process of notifying the corrigendum at an early date, besides evolving suitable procedural safeguards against recurrence of such lapses in future.

Necessary amendments for Col. 10 of the Schedule appended to the National Test House (group 'A' Posts) Recruitment Rules, 1993 against the post under the heading Scientists SB Scientist SC and Scientist SD has been amended by substituting the words "As per rule 9" for the words "As per rule 10" wherever it occurs vide GSR 23-E dated 8.6.96.

[Ministry of Commerce OM dated 22.8.96]

The Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 (GSR 719-E of 1993).

13. 9.3

The Committee note from the reply of the Ministry of Surface Transport, that reversion or discharge of an officer from service by the Port is normally done only after giving him a chance to present his case regarding any adverse remarks or unsatisfactory performance. However, as the Ministry have no objection in recording the reasons therefor to avoid arbitrary use of discretionary powers given to the appointing authority, the Committee desire that the Ministry should amend the regulations accordingly so as to provide in regulation of Bombay Port Trust (Recruitment of Heads of Department) Regulations 1993 for recording the reasons and communicating the same to the person concerned before his reversion to a substantive post or discharge of an officer from service if he is not found fit for permanent appointment or retention in service as the case may be at the earliest.

The Ministry of Surface Transport have issued an amendment to the Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 by providing recording of reasons and communicating the same before discharge/reversion vide GSR 572(E) dated 17.12.1996.

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M I N U T E S

APPENDIX II

MINUTES OF THE TWELFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (ELEVENTH LOK SABHA)

The Committee met on Thursday, 8 May, 1997 from 14.30 to 15.00 hours in Committee Room No. 139, First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Krishan Lal Sharma -- *Chairman*

MEMBERS

2. Shri N. Dennis
3. Shri Vijay Kumar Khandelwal
4. Shri Guman Mal Lodha
5. Shri D.B. Roy
6. Shri P.C. Thomas

SECRETARIAT

1. Shri Ram Autar Ram --- *Director*
2. Shri B. D. Swan — *Under Secretary*

2. The Committee considered and adopted their Eighth, Ninth and Tenth draft Reports on Action Taken Replies, received from the Government on the recommendations of the Committee contained in Twelfth, Fourteenth, Nineteenth and Twenty First reports of the Committee (Tenth Lok Sabha) and decided to present them to the House on 14 May, 1997.

3. The Committee thereafter, decided to undertake a study tour out-side Delhi during the forthcoming inter-session period.

The Committee then adjourned.