

COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

(2006-2007)

SIXTEENTH REPORT

(PRESENTED ON 15.5.2007)

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LOK SABHA SECRETARIAT

NEW DELHI

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2006-2007)

1. Shri N. N. Krishnadas - Chairman

Members

2. Shri Anandrao Vithoba Adsul
3. Shri Giridhar Gamang
4. Shri Loganathan Ganesan
5. Shri N. Y. Hanumanthappa
6. Shri Ram Singh Kaswan
7. Shri Faggan Singh Kulaste
8. Shri Dalpat Singh Paraste
9. Shri Jaysingrao Gaikwad Patil
10. Shri Lalmani Prasad
11. Shri Anantha Venkata Rami Reddy
12. Shri Bhupendrasinh Solanki
13. Shri Ramjilal Suman
14. Shri A.K.S. Vijayan
15. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri J. P.Sharma - Joint Secretary
2. Shri R.S. Misra - Director
3. Shri K. Jena - Deputy Secretary
4. Shri R.D.Silawat - Deputy Secretary

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sittings held on 14.12.2006 and 14.2.2007.

3. The Committee considered and adopted this Report at their sitting held on 8.5.2007.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in Appendix I of the Report.

5. Extracts from the Minutes of the Third (2006-07), Fourth (2006-07) and Fifth (2006-07) sittings relevant to this Report are included in Appendix-II.

**NEW DELHI;
8 May, 2007**

**N.N. KRISHNADAS,
CHAIRMAN,
COMMITTEE ON SUBORDINATE LEGISLATION**

I

INFIRMITIES IN THE AUTHORITY FOR ADVANCE RULINGS (CUSTOMS, CENTRAL EXCISE & SERVICE TAX) PROCEDURE REGULATIONS, 2005.

.....

The Authority for Advance Rulings (Customs, Central Excise & Service Tax) Procedure Regulations, 2005 (GSR 12-E OF 2005) were published in the Gazette of India, Extraordinary, Part-II, Section 3(i), dated 10 January, 2005. The scrutiny of the above Regulations revealed that (i) the Regulations were not laid on the Table of the House within the stipulated time; and (ii) the Regulation 9(2) does not provide for a specific time limit for communicating the deficiency/defect of the application to the applicant after scrutiny but simply provides that it shall be done at the earliest, which is a vague term.

The above infirmities were referred to the Ministry of Finance for their comments in the matter.

1.2 As regards, the first point regarding delay in laying the regulation on the Table of the House, the Ministry of Finance vide their OM dated 20 June, 2005 stated as under: -

“The point, whether the Procedure Regulations published in the Gazette of India dated 10.1.2005 by the Authority for Advance Rulings (Customs and Central Excise) in exercise of the powers granted under Section 96H of the Finance Act, 1994 are to be laid down on the Table of the House, is required to be decided in consultation with the Ministry of Law. It is, therefore, requested that extension of time upto 31st July, 2005 may be granted for laying down the aforesaid Regulations.”

Thereafter, clarifications were issued to the Ministry of Finance by this Secretariat wherein their attention was drawn to the recommendation of the Committee on Subordinate Legislation that *regulations made under a rule should not be considered on a separate footing than the rules insofar as their publication and laying is concerned.*

When the rules are required to be published and laid before Parliament, the regulations should also be subject to the same conditions as are laid down in the Parent Act. (Para 18 of their 14th Report of 5th Lok Sabha).

Subsequently, the aforementioned regulation was laid on 23.8.2005 in Rajya Sabha and 25.8.2005 in Lok Sabha.

1.3 As regards the second point regarding lack of provision of a prescribed time limit for communicating the deficiency/defect of the application after its scrutiny to the applicant, the Ministry vide their O.M. dated 20 June, 2005 stated that: -

“There is already a statutory limit of 90 days for disposing of the application and these 90 days are to be counted w.e.f. the receipt of application free from any defect/deficiency [Regulation 9(4)]. The office order issued by the Authority dated 10.01.2005 lays down specific time frame to deal with various steps of dealing with the application.”

Thereafter, the attention of the Ministry were drawn to the recommendation of the Committee on Subordinate Legislation that *executive instructions/administrative guidelines are no substitute for statutory rules/regulations and minimum dependence should be made on them as they are neither published in the Official Gazette nor laid before the Legislature and thus escape scrutiny by this Committee* (Para 12 and 41 of their 14th Report of 8th Lok Sabha). The Ministry were requested to clarify whether they have any objection to incorporate the provision of the time limit for scrutiny of applications in the regulation itself. The Ministry in their reply dated 3.10.2005 again reiterated their earlier point and stated as under :

“As regards the question of providing specific time limit for scrutiny of applications under Regulations 9(2) of the Regulations, the Authority for Advance Rulings (Customs and Central Excise) have informed that an overall time limit of 90 days to dispose of an application has been stipulated under each of respective statutes, namely, Customs Act, 1962, Central Excise Act, 1944 and the Finance Act, 1994 whereunder advance rulings are pronounced. This overall time limit of 90 days is

observed by the Authority, as far as possible, depending upon the facts and circumstances of each application. It has also been informed that the Authority's Office Order dated 10.1.2005 laying down time limits for each stage of processing and disposal of an application is purely in the form of an internal guideline to be followed by the secretariat of the Authority. This time limit is liable to change depending upon the number of applications received and pending with the Authority and various procedural or technical issues to be got clarified. As such incorporation of the time schedule as laid down by the office order dated 10.1.2005 in the Procedure Regulations may not be appropriate. It has, therefore been requested that the fixation of time schedule for scrutiny of applications within the overall time limit of 90 days may be left to the discretion of the Authority."

1.4 On scrutiny of the Authority for Advance Rulings (Customs, Central Excise & Service Tax) Procedure Regulations, 2005 it was observed that (i) the Regulations were not laid on the Table of the House within the stipulated time; and (ii) the Regulation 9(2) does not provide for a specific time limit for communicating the deficiency/defect to the applicant after scrutiny of the application but simply provides that it shall be done at the earliest, which is a vague term. As per the oft-repeated recommendation of the Committee on Subordinate Legislation, vague expressions which are likely to be interpreted differently by different persons should be avoided. On being referred to the Ministry of Finance, the Ministry sought an extension of time for laying the notification on the grounds of consultation with the Ministry of Law as they were in doubt as to whether regulations need to be laid on the Table of the House. In this regard, on drawing the attention of the Ministry to the recommendation of the Committee on Subordinate Legislation contained in para 18 of their 14th Report (5th Lok Sabha) that regulations made under a rule should not be considered on a separate footing for the purpose of laying, the regulations were subsequently laid in Rajya Sabha on 23.8.2005 and in Lok Sabha on 25.8.2005, after a delay of about seven months. The Committee desire that the Ministry should keep themselves apprised of the procedural

recommendations of the Committee in dealing with notifications under subordinate Legislation.

1.5 As regards lack of provision of a time limit in Regulation 9(2) for communicating to the applicant, for any defect or deficiency in the application for further correction and re-submission, the Ministry's contention is that the fixation of time schedule for scrutiny of the applications within the overall time limit of 90 days, stipulated in the Statutes, may be left to their discretion as this overall time limit is observed by the Authority as far as possible and their Office Order also lays down specific time frame to deal with various steps of processing the applications. The Ministry's reply appears to be unconvincing as the time taken by the Authority to scrutinise the application for any defects/deficiencies and to communicate the same to the applicant falls outside the statutory time limit of 90 days, as Regulation 9(4) clearly provides that the date of receipt of an application free from any defect or deficiency in the Secretariat of the Authority shall be deemed to be the date of receipt of an application. The extant provision in Regulation 9(2) that any deficiency/defect noticed in the application or annexures thereof shall be communicated to the applicant 'at the earliest' is a vague term and provides undue scope for wide discretionary powers to the Authority. The provision of a time limit in the Ministry's internal Office Order cannot be cited as a reason for non-provision for the same in the regulations itself as executive instructions are no substitute for rules/regulations as they are neither published in the Official Gazette nor laid before the Legislatures and thus escape the scrutiny of the Committee on Subordinate Legislation. Moreover, the public would not be aware of the time limit laid down by the Ministry internally vide their executive instructions.

The Committee therefore desire that the Ministry of Finance (Department of Revenue) should amend regulation 9(2) accordingly.

II

LEGISLATION BY REFERENCE IN THE CENTRAL MOTOR VEHICLES (FOURTH AMENDMENT) RULES, 2004 (GSR 686-E OF 2004)

The Central Motor Vehicles (Fourth Amendment) Rules, 2004 (GSR 686-E of 2004) were published in the Gazette of India, Extraordinary, Part-II, Section 3 (i) dated 20 October, 2004. It was observed therefrom that Notes 7 & 8 under Sub-rule (14) of rule 115 of the Central Motor Vehicles Rules, 1989 (as added) prescribe that Evaporative Emission Test and Conformity Production testing procedures shall be as described in Annexure VI and Section 7 of Annexure-I of European Economic Community Directive 70/220/EEC and as amended by 98/69/EC. Similarly in note 7 under Rule 14(D) prescribing norms for Diesel Vehicles with GVW exceeding 3500 kg, a reference had been made to EEC Directive No. 88/77/EEC. The requirements laid down by European Economic Community Directive had not been spelt out in the rules to make them self-contained. The attention of the Ministry of Road Transport & Highways was drawn to the recommendation of the Committee wherein it has been emphasized time and again that rules should, as far as possible, be self-contained and drafted in a manner that no difficulty is caused to the public in locating and referencing the rules and that legislation by reference should be avoided.

2.2 The Ministry of Road Transport & Highways were requested to furnish their comments on the above point for consideration of the Committee. The Ministry vide their communication dated 8th June, 2005 had forwarded the following reason for resorting to legislation by reference: -

- (i) the country is in the process of harmonizing automotive standards with EEC directive/ECE regulations/ISO standards;

- (ii) framing of automotive standards is very time consuming and exhaustive exercise;
- (iii) it involves highly technical mater and the provisions made under rule 115 of CMVR in this regard are primarily meant for automobile components/vehicles manufacturers and the testing agencies, who understand the EEC directive/ECE regulations/ISO standards.
- (iv) No person/organisation has raised any objection or difficulty in this regard when Notification was published at draft stage.

2.3 The Ministry further stated that cross-reference of international standards in the rules was made as an immediate measure for clearer understanding of the regulations and their implementation and that no person/organization has raised any objection or difficulty in this regard when notification had been published at the draft stage and further that such a technical document would have made the notification unwieldy and bulky.

2.4 It was felt that for clear understanding of the Rules and their implementation, the relevant extracts of the EEC directive/ECE regulations/ISO standards should be readily available for reference and should be appended with the Rules. Further, that no person/organisation has raised any objection in this regard, did not appear to be a justified reason for not appending the relevant extracts with the Rules.

2.5 The Ministry of Road Transport & Highways (Department of Road Transport & Highways) were requested to state whether they have any objection in amending the rules by incorporating atleast the key features of the EEC directive/ECE regulations/ISO standards in the rules so as to facilitate the general public to understand them and also making the rules self-contained as per oft-repeated recommendation of the Committee.

2.6 The Ministry of Road Transport & Highways vide their communication dated 16th August, 2005 had stated that though in case of automotive standards like BIS, ISO or AIS, the convention has always been to notify only the tests and procedures to be followed in

conformity with such standards, however, as desired by the Committee Secretariat, extracts of these EEC directives would be incorporated in the Central Motor Vehicles Rules, 1989 as Annexures at the time of next amendment to the Central Motor Vehicles Rules, 1989.

2.7 Notes 7 & 8 under Sub-rule (14) of rule 115 of the Central Motor Vehicles Rules, 1989 (as added) prescribed that Evaporative Emission Test and Conformity Production testing procedures shall be as described in Annexure VI and Section 7 of Annexure-I of European Economic Community Directive 70/220/EEC and as amended by 98/69/EC. Similarly in note 7 under Rule 14(D) prescribing norms for Diesel Vehicles with Gross Vehicle Weight (GVW) exceeding 3500 kg, a reference had been made to EEC Directive No. 88/77/EEC. The Committee observed that the requirements laid down by European Economic Community Directive had not been spelt out in the rules to make them self-contained. The above mentioned legislation by reference in the Central Motor Vehicles Rules is not in conformity with the recommendation of the Committee that rules should be self-contained and legislation by reference should be avoided.

2.8 According to the Ministry, cross-reference of international standards in the rules was made as an immediate measure for better understanding of the regulations and their implementation and that no person/organization has raised any objection or difficulty in this regard when notification was published at the draft stage and further that such a technical document would have made the notification unwieldy and bulky.

2.9 The Committee did not find the justification put-forth by the Ministry for non-appending the relevant directives in the rules to be very convincing and felt that if not the entire EEC directives, atleast key features of the EEC directives alongwith the web-site

address on which the same may be available on the internet could have been indicated in the rules for the sake of easy referencing. The Committee, however, noted that on being pursued, the Ministry of Shipping, Road Transport and Highways have agreed that extracts of these directives would be incorporated in the Central Motor Vehicles Rules, 1989 as annexures, at the time of next amendment to the Rules. The Committee therefore desire that the Ministry should incorporate atleast the key-features of the directives whenever these are required to be referred to in the future, thereby making the rules self-contained.

III

LACUNA IN THE LOWER DIVISION CLERK (FIELD OPERATIONS DIVISION, NATIONAL SAMPLE SURVEY ORGANISATION) RECRUITMENT (AMENDMENT) RULES, 2005 (GSR 363 OF 2005).

The Lower Division Clerk (Field Operations Division, National Sample Survey Organisation) Recruitment (Amendment) Rules, 2005 (GSR 363 of 2005) were published in the Gazette of India, Part-II section 3 (i) dated 15 October, 2005. It was observed therefrom that the 'Note' shown under Column 7 of the Schedule attached to the Rules was not in conformity with the guidelines issued by the Department of Personnel and Training.

3.2. According to guidelines of the Department of Personnel and Training, the 'Note' in Column 7 should be as under:-

“Note-The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India, (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of J&K State, Lahaul & Spiti district and Pangti Sub Division of Chamba district of Himachal Pradesh, Andaman & Nicobar Islands or Lakshadweep)”

3.3 The 'Note' given in Column 7 of the aforesaid rules is, however, as under:-

“Note : The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than in Andaman and Nicobar Islands and Lakshadweep)”.

3.4 The Ministry were requested to offer their comments in this regard and to state whether they have any objection in issuing a corrigendum. The Ministry of Statistics and Programme Implementation in their reply dated 21 April, 2006 have stated that they have no objection in issuing a corrigendum to bring the entry in Column 7 in conformity with the DOPT guidelines.

3.5 The Committee observe that the ‘Note’ regarding crucial date for determining the age limit of applicants to the post of the Lower Division Clerk in the National Sample Survey Organisation (Field Operations Division) was not in conformity with the guidelines issued by the Department of Personnel & Training. The Committee desire the Ministry of Statistics and Programme Implementation to issue a corrigendum in this regard as agreed to by them. The Committee hope that the Ministry will exercise care in making recruitment rules and prevent such errors in future.

IV

SHORTCOMINGS IN THE GAS CYLINDERS RULES, 2004 (GSR 627-E OF 2004).

The Gas Cylinders Rules, 2004 (GSR 627-E of 2004) were published in the Gazette of India, Extraordinary, Part-II. Section 3(i) dated 21.9.2004. On scrutiny, it was observed that there was delay in publication of the final notification and the rules did not contain safeguards to prevent misuse of the power of exemption.

A. Delay in Publication of the final notification.

The draft of the above rules was made available to the public for obtaining comments/suggestions on 20.10.2003 whereas the final rules in this regard were notified on 21.9.2004 i.e. after lapse of 11 months. The Committee on Subordinate Legislation have emphasized in the past that in cases where no objections/suggestions on the draft rules were forthcoming, the final rules should be published within a period of 3 months and in cases where a large number of objections/suggestions were received with reference to the draft rules after circulation to the public, the gap between publication of draft and final publication of the rules should not exceed 6 months.

4.2 The Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have stated in this regard (O.M. dated 11.7.2005) as under:-

“About 75 objections/suggestions, mostly technical in nature were received from various quarters such as Industrial Gases Manufacturers’ Association, Ministry of Consumer Affairs (Bureau of Indian Standards), Oil Industry Safety Directorate and Several Private parties. Since the objections/suggestions received from the various quarters were technical in nature, the Petroleum and Explosives Safety Organization (PESO) was consulted in the matter. The recommendations of PESO were thereafter discussed in a meeting. Some suggestions were received late and were subsequently incorporated after due examination. Discussions were also held regarding revision of fee structure, for inclusion of the same under Schedule V of the Rules. Besides this, the entire draft rules were to be edited for grammatical and spelling mistakes. Since consultations and corrections were many, the Final Notification was referred

thrice to Ministry of Law for vetting and re-vetting and thereafter the Hindi translation by the Official Languages Division was carried out. All this took time for publication of the Final Notification.”

4.3 The Committee regret to note that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have taken as long as eleven months to publish the Gas Cylinders Rules, 2004 after publication of the rules in the draft form inviting objections/suggestions from the public. The Committee have time and again emphasized in the past that the gap between publication of draft rules and final publication of the rules should not exceed 6 months. The period of six months has been prescribed by the Committee after due consideration. The explanation advanced by the Ministry in this regard that there were about 75 objections/suggestions of technical nature requiring consultations is hardly convincing. The Committee urge that the time limit laid down by the Committee should be strictly adhered to in future and corrective measures be taken to streamline the procedure so as to comply with the time limit prescribed by the Committee.

B. Absence of safeguards

4.4 Rule 66 of Gas Cylinders Rules provides for ‘power to exempt’ and read as under:-

“**Power to exempt-** If the Chief Controller is satisfied that in respect of any cylinder or any mode of conveyance, any of the requirements of these rules may be safely suspended or modified, he may, by written order, authorize such suspension or modification for such period and under such condition as he may think fit and such order may be revoked at any time”.

4.5 The above rule, although provides for suspension or modification of any of the requirement as the Gas Cylinder Rules, does not contain any provision to guard

against its misuse. The Committee on Subordinate Legislation have often stressed in the past that there should be a provision in the rules for recording of reasons for making exemption to obviate misuse of the power of exemption. On being pointed out, the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) stated (O.M. dated 11.7.2005) as under:-

“Rule 66 is as per the standard language for such provisions. As per the normal office procedure followed, it is always mandatory to put on record in writing justification not only for exemption, if any granted under Rule 66, but also for all actions pertaining to approval, grant, amendment, suspension, cancellation, etc. However, necessary safeguards may be incorporated in the rules against misuse of power of exemption, if considered necessary by the Committee on Subordinate Legislation.”

4.6 The Committee note that though Rule 66 of the Gas Cylinders Rules, empowers the Chief Controller to suspend or modify any of the requirements of these rules in respect of any cylinder or any mode of conveyance, the rule does not contain any safeguard against misuse of the power. The Committee on Subordinate Legislation have often stressed in the past that there should be a provision in the rules for recording of reasons for making exemption to obviate misuse of the power. On being pointed out, the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have agreed to amend the rule. The Committee desire the Ministry to amend the rule accordingly and apprise the Committee of the action taken in this regard.

NEW DELHI;
8 May, 2007

N.N. KRISHNADAS,
CHAIRMAN,
COMMITTEE ON SUBORDINATE LEGISLATION

APPENDIX –I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE SIXTEENTH REPORT OF
THE COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

Sl. No.	Reference to Para No. in the Report	<u>Summary of Recommendations</u>
1	2	3
1.	1.4	<p><u>Infirmities in the Authority for Advance Rulings (Customs, Central Excise & Service Tax) Procedure Regulations, 2005.</u></p> <p>On scrutiny of the Authority for Advance Rulings (Customs, Central Excise & Service Tax) Procedure Regulations, 2005 it was observed that (i) the Regulations were not laid on the Table of the House within the stipulated time; and (ii) the Regulation 9(2) does not provide for a specific time limit for communicating the deficiency/defect to the applicant after scrutiny of the application but simply provides that it shall be done at the earliest, which is a vague term. As per the oft-repeated recommendation of the Committee on Subordinate Legislation, vague expressions which are likely to be interpreted differently by different persons should be avoided. On being referred to the Ministry of Finance, the Ministry sought an extension of time for laying the notification on the grounds of consultation with the Ministry of Law as they were in doubt as to whether regulations need to be laid on the Table of the House. In this regard, on drawing the attention of the Ministry to the recommendation of the Committee on Subordinate Legislation contained in para 18 of their 14th Report (5th Lok Sabha) that regulations made under a rule should not be considered on a separate footing for the purpose of laying, the regulations were subsequently laid in Rajya Sabha on 23.8.2005 and in Lok Sabha on 25.8.2005, after a delay of about seven months. The Committee desire that the Ministry should keep themselves apprised of the procedural recommendations of the Committee in dealing with notifications under subordinate Legislation.</p>

	<p>1.5</p>	<p>As regards lack of provision of a time limit in Regulation 9(2) for communicating to the applicant, for any defect or deficiency in the application for further correction and re-submission, the Ministry's contention is that the fixation of time schedule for scrutiny of the applications within the overall time limit of 90 days, stipulated in the Statutes, may be left to their discretion as this overall time limit is observed by the Authority as far as possible and their Office Order also lays down specific time frame to deal with various steps of processing the applications. The Ministry's reply appears to be unconvincing as the time taken by the Authority to scrutinise the application for any defects/deficiencies and to communicate the same to the applicant falls outside the statutory time limit of 90 days, as Regulation 9(4) clearly provides that the date of receipt of an application free from any defect or deficiency in the Secretariat of the Authority shall be deemed to be the date of receipt of an application. The extant provision in Regulation 9(2) that any deficiency/defect noticed in the application or annexures thereof shall be communicated to the applicant 'at the earliest' is a vague term and provides undue scope for wide discretionary powers to the Authority. The provision of a time limit in the Ministry's internal Office Order cannot be cited as a reason for non-provision for the same in the regulations itself as executive instructions are no substitute for rules/regulations as they are neither published in the Official Gazette nor laid before the Legislatures and thus escape the scrutiny of the Committee on Subordinate Legislation. Moreover, the public would not be aware of the time limit laid down by the Ministry internally <i>vide</i> their executive instructions. The Committee therefore desire that the Ministry of Finance (Department of Revenue) should amend regulation 9(2) accordingly.</p>
<p>2.</p>	<p>2.7</p>	<p><u>Legislation by reference in the Central Motor Vehicles (Fourth Amendment) Rules, 2004 (GSR 686-E of 2004)</u></p> <p>Notes 7 & 8 under Sub-rule (14) of rule 115 of the Central Motor Vehicles Rules, 1989 (as added) prescribed that Evaporative Emission Test and Conformity Production testing procedures shall be as described in Annexure VI and Section 7 of Annexure-I of European Economic Community Directive 70/220/EEC and as amended by 98/69/EC. Similarly in note 7 under Rule 14(D) prescribing norms for Diesel Vehicles with Gross Vehicle Weight (GVW) exceeding 3500 kg, a reference had been made to EEC</p>

3.		<p>Directive No. 88/77/EEC. The Committee observed that the requirements laid down by European Economic Community Directive had not been spelt out in the rules to make them self-contained. The above mentioned legislation by reference in the Central Motor Vehicles Rules is not in conformity with the recommendation of the Committee that rules should be self-contained and legislation by reference should be avoided.</p> <p>2.8 According to the Ministry, cross-reference of international standards in the rules was made as an immediate measure for better understanding of the regulations and their implementation and that no person/organization has raised any objection or difficulty in this regard when notification was published at the draft stage and further that such a technical document would have made the notification unwieldy and bulky.</p> <p>2.9 The Committee did not find the justification put-forth by the Ministry for non-appending the relevant directives in the rules to be very convincing and felt that if not the entire EEC directives, atleast key features of the EEC directives alongwith the web-site address on which the same may be available on the internet could have been indicated in the rules for the sake of easy referencing. The Committee, however, noted that on being pursued, the Ministry of Shipping, Road Transport and Highways have agreed that extracts of these directives would be incorporated in the Central Motor Vehicles Rules, 1989 as annexures, at the time of next amendment to the Rules. The Committee therefore desire that the Ministry should incorporate atleast the key-features of the directives whenever these are required to be referred to in the future, thereby making the rules self-contained.</p> <p><u>Lacuna in the Lower Division Clerk (Field Operations Division, National Sample Survey Organisation) Recruitment (Amendment) Rules, 2005 (GSR 363 of 2005)</u></p> <p>3.5 The Committee observe that the ‘Note’ regarding crucial date for determining the age limit of applicants to the post of the Lower Division Clerk in the National Sample Survey Organisation (Field Operations Division) was not in conformity with the guidelines issued by the Department of Personnel & Training. The Committee desire the Ministry of Statistics and Programme Implementation to issue a corrigendum in this regard as agreed to by them. The Committee hope that the Ministry will exercise care in making recruitment rules and prevent such errors in future.</p>
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<p>4.</p>	<p>4.3</p> <p>4.6</p>	<p>Shortcomings in the Gas Cylinders Rules, 2004 (GSR 627-E of 2004)</p> <p>The Committee regret to note that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have taken as long as eleven months to publish the Gas Cylinders Rules, 2004 after publication of the rules in the draft form inviting objections/suggestions from the public. The Committee have time and again emphasized in the past that the gap between publication of draft rules and final publication of the rules should not exceed 6 months. The period of six months has been prescribed by the Committee after due consideration. The explanation advanced by the Ministry in this regard that there were about 75 objections/suggestions of technical nature requiring consultations is hardly convincing. The Committee urge that the time limit laid down by the Committee should be strictly adhered to in future and corrective measures be taken to streamline the procedure so as to comply with the time limit prescribed by the Committee.</p> <p>The Committee note that though Rule 66 of the Gas Cylinders Rules, empowers the Chief Controller to suspend or modify any of the requirements of these rules in respect of any cylinder or any mode of conveyance, the rule does not contain any safeguard against misuse of the power. The Committee on Subordinate Legislation have often stressed in the past that there should be a provision in the rules for recording of reasons for making exemption to obviate misuse of the power. On being pointed out, the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have agreed to amend the rule. The Committee desire the Ministry to amend the rule accordingly and apprise the Committee of the action taken in this regard.</p>
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APPENDIX II

(Vide Para 5 of the Introduction of the Report)

EXTRACTS FROM MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2006-2007)

The Committee met on Monday, 14 December, 2006 from 1500 to 1545 hours in Chairman's Room No. 143, Parliament House, New Delhi.

PRESENT

Shri N.N. Krishnadas - Chairman

MEMBERS

2. Shri Anandrao Vithoba Adsul
3. Shri Giridhar Gamang
4. Shri Lognathan Ganesan
5. Shri Faggan Singh Kulaste
6. Shri Ramjilal Suman

SECRETARIAT

Shri A. Louis Martin - Director
Shri R. K. Bajaj - Deputy Secretary
Shri K. Jena - Under Secretary

2. At the outset, the Chairman, Committee on Subordinate Legislation welcomed the Members to the sitting of the Committee.

3. Thereafter, the Committee took up for consideration the following memoranda:-

(i) Memorandum No. 39 regarding the shortcomings in the Gas Cylinders Rules, 2004.

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(iv) Memorandum No. 42 regarding lacuna in the Lower Division Clerk (Field Operations Division, National Sample Survey Organisation) (Amendment) Rules, 2005

4. Having considered the above Memoranda, the Committee decided to suitably include them in their report to the House.

The Committee then adjourned.

xx Omitted portions of the Minutes are not relevant to the Report.

**EXTRACTS FROM MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (2006-2007)**

The Committee met on Wednesday, 14 February 2007 from 1500 to 1600 hours in Committee Room No. '139', Parliament House Annexe, New Delhi to consider the draft fifteenth report and also to consider certain Memoranda.

PRESENT

Shri N.N. Krishnadas - Chairman

MEMBERS

2. Shri Anandrao Vithoba Adsul
3. Shri Ram Singh Kaswan
4. Shri Jaisingrao Gaikwad Patil
5. Shri Bhupendrasinh Solanki
6. Shri Ramjilal Suman
7. Shri A.K.S. Vijayan
8. Shri Madhu Goud Yaskhi

SECRETARIAT

Shri J. P. Sharma - Joint Secretary
Shri A. Louis Martin - Director
Shri R. K. Bajaj - Deputy Secretary
Shri K. Jena - Under Secretary

2. The Committee first took up for consideration the draft fifteenth report and adopted the same with a minor addition. The Committee also authorised the Chairman to present the same to the House.

3. The Committee then considered the following memoranda:-

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(ii) Memorandum No. 44 -- Infirmities in the Authority for Advance Rulings (Customs, Central Excise and Service Tax) Procedure Regulations, 2005 (GSR 12-E of 2005).

(iii) Memorandum No. 45 -- Legislation by Reference in the Central Motor Vehicles (Fourth Amendment) Rules, 2004 (GSR 686-E of 2004).

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As regards memorandum at Sl. No. (i), the Committee decided to discuss the issue with the representatives of both the Ministry of Civil Aviation and the Ministry of Law and Justice (Legislative Department). In regard to memoranda at Sl. No. (ii), (iii) and (iv) above, the Committee decided to suitably comment upon the points raised therein in the Report.

The Committee then adjourned.

xx Omitted portions of the Minutes are not relevant to the Report.

**EXTRACTS FROM MINUTES OF THE FIFTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (2006-2007)**

The Committee met on Tuesday, 8 May, 2007 from 15.00 to 15.45 hours in Committee Room No. '62', Parliament House, New Delhi.

PRESENT

Shri N.N. Krishnadas - Chairman

MEMBERS

2. Shri Anandrao Vithoba Adsul
- . Shri Anantha Venkata Rami Reddy
4. Shri Bhupendrasinh Solanki
5. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri J. P. Sharma - Joint Secretary
2. Shri R.S. Misra - Director
3. Shri K. Jena - Deputy Secretary
4. Shri R.D. Silawat - Deputy Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee.

3. Thereafter, the Committee took up consideration of the draft Sixteenth Report and adopted the same without any modification. The Committee also authorized the Chairman to present the same to Lok Sabha.

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The Committee then adjourned.

xx Omitted portions of the Minutes are not relevant to the Report.