

COMMITTEE ON SUBORDINATE LEGISLATION
(FOURTEENTH LOK SABHA)

(2008-2009)

TWENTY FIFTH REPORT

(PRESENTED ON 24.2.2009)

S

E

A

L

LOK SABHA SECRETARIAT

NEW DELHI

February, 2009/Magha, 1930 (Saka)

COSL No. 9

PRICE :

(C) 2007 BY LOK SABHA SECRETARIAT

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

C O N T E N T S

	<u>Para No.</u>	<u>Page</u>
COMPOSITION OF THE COMMITTEE		(iii)
INTRODUCTION		(v)
REPORT		
I. Use of vague expressions in the Veterinary Council of India (General) (Amendment) Regulations, 2005 (GSR 242 (E) of 2005)	1.1-1.3	
II. Infirmities in the Aircraft (Amendment) Rules 2006 (GSR 181-E of 2006)	2.1-2.6	
III. Shortcomings in the rules published by the Ministry of Communications and Information Technology (Department of Telecommunication) (GSR 34(E), 35(E), 36(E) and 37(E) of 2007)	3.1-3.5	

A P P E N D I C E S

- I. Summary of main recommendations/observations made by the Committee.
- II. Extracts from the minutes of the fifth sitting of the Committee (2008-09) held on 22nd January, 2009 and the Extracts from Minutes of the sixth sitting of the Committee (2008-09) held on 19th February, 2009.

COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2008-2009)

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 A.K. Singh - Joint Secretary
2. Shri R.K. Bajaj - Director
3. Shri Raju Srivastava - Deputy Secretary-II

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 22nd January, 2009.

3. The Committee considered and adopted this Report at their sitting held on 19th February, 2009.

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 Fifth sitting of the Committee (2008-09) held on 22nd January, 2009 and Extracts from Minutes of the Sixth sitting of the Committee (2008-09) held on 19th February, 2009 relevant to this Report are included in Appendix-II.

**NEW DELHI;
FEBRUARY, 2009
MAGHA,1930 (SAKA)**

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

I

Use of vague expressions in the Veterinary Council of India (General) (Amendment) Regulations, 2005 (GSR 242 (E) of 2005)

.....

The Veterinary Council of India (General) (Amendment) Regulations, 2005 were published in the Gazette of India, Extraordinary, Part –II, Section 3 (i) dated 21 April, 2005. It was inter-alia observed therefrom that the words ‘urgency’ and ‘immediately’ occurring in Regulation 2(3) of the amendment were vague and are liable to be interpreted differently by different persons. One of the oft-repeated recommendations of the Committee on Subordinate Legislation is that the usage of the vague expressions in rules should be avoided, and as such it was felt that these words should be spelt out to make the regulations precise and specific.

1.2 The matter was taken up with the Ministry of Agriculture (Department of Animal Husbandry and Dairying) to clarify the terms so that the regulations are made precise and specific. The Ministry of Agriculture vide their reply dated 13 February, 2006 stated as under :-

“In case of urgency, the President may take necessary action on any issue and sanction expenditure not exceeding Rs. 25,000/- on any item which has not been provided in the budget estimates of the Council and intimate the fact to the Executive Committee immediately.

In this context, the word ‘urgency’ has been used in the present context in order to meet the unforeseen expenditure arising out of the exigencies. The word ‘immediately’ in the present context denotes that intimation on the facts about such necessary action & expenditure be given to the Executive Committee of the Council in its next meeting invariably.”

1.3 **The Committee feel that the words ‘urgency’ and ‘immediately’ occurring in Regulation 2 (3) of the Veterinary Council of India (General) (Amendment) Regulations, 2005 were vague and could be interpreted differently by different persons. The Committee note from the reply of the Ministry of Agriculture (Department of Animal Husbandry and Dairying) that the term ‘urgency’ occurring under Regulation 2 (3) is to meet the**

unforeseen expenditure arising out of the exigencies. Similarly, the term ‘immediately’ denotes intimation of the facts about such necessary action and expenditure be given to the Executive Committee of the Council. In this regard, the Committee desire that the Ministry should incorporate the terms as clarified by them in the rules themselves in order to remove any ambiguity. The Committee further desire to have copy of the rules so amended for their perusal.

(Recommendation No. 1)

II

Infirmities in the Aircraft (Amendment) Rules 2006 (GSR 181-E of 2006)

The Aircraft (Amendment) Rules, 2006 (GSR 181-E of 2006) were published in Gazette of India, Extraordinary, Part – II, Section 3(i) dated 29th March, 2006. On scrutiny of the aforesaid rules, it was observed that:-

- (i) the draft rules were made available to the public for inviting objections/suggestions on 3rd August, 2004 while final rules were published on 29th March, 2006, thus, there was a delay more than 12 months in final notification of the rules, and
- (ii) the rules were not been laid on the Table of the House.

These points were referred to the Ministry of Civil Aviation for their comments in the matter.

2.2 The Ministry in their response dated 21st January, 2007 furnished their comments on the aforesaid points as under:-

“.....the aforesaid rules have since been forwarded to Lok Sabha/Rajya Sabha Secretariat on 13th February, 2007 for laying on the Table of the respective House.

As regards delay in publication of the final rules, it may be mentioned that the rules in question seeks enhancement of the fees to be charged for various services such as issue and renewal of certificate of registration of aircraft, issue/renewal of licenses and rating, issue and validation of Type Certificate, approval of organizations and issue of schedule air transport operators permits. After the publication of said notification on 28.6.2004 in Gazette of India, DGCA had placed these draft rules on its website for inviting objections/suggestions from the affected persons on 3rd August, 2004. As the rules had effected substantive rise in the fees, which had not been revised for more than 10 years, a large number of suggestions/objections were received from the affected organizations/individuals. Around 80 suggestions/objections had been received by the DGCA from the organization like Federation of Indian Pilots, all scheduled operators, State Governments, Aircraft Training Institutes, AAI etc. This required lengthy and

threadbare deliberation among various agencies like the DGCA, Integrated Finance Division of Ministry of Civil Aviation and Ministry of Law. After considering every aspect of the matter, the fees prescribed in the draft rules were modified/rationalized keeping in view the suggestions/objections made by the stake holders. It was also proposed to mention a prospective date in the final notification about the effective date of these rules. The rules were finally published in the Official Gazette on 29th March, 2006. This Ministry, however, sincerely regrets the delay in laying of the aforementioned rules on the Table of the House. It is earnestly assured that every effort will be made in future to avoid recurrence of such lapses. It is, therefore, requested that the delay may kindly be condoned.”

DELAY IN FINAL NOTIFICATION OF RULES

2.3 The draft Aircraft (Amendment) Rules, 2006 were made available to the public on 3rd August, 2004 for inviting objections/suggestions thereon within a period of 45 days of publication of the draft Rules. The final Rules were published in Gazette of India on 29th March, 2006 i.e. after a delay of more than 12 months. In this connection, the Committee have time and again emphasized that the final rules should be published within a period of six months when large number of objections/suggestions are received from the public. In the extant case, after excluding the period of 6 months, there is a delay of more than 12 months. The Ministry have stated that 80 objections/suggestions were received from various organizations/individuals and consideration of these objections/suggestions required lengthy and threadbare deliberation among various concerned agencies.

2.4 The Committee take a serious note of the delay in publication of final Aircraft (Amendment) Rules, 2006 after a gap of 12 months. The Committee are not happy with the justification given by the Ministry that the delay was due to the large number of objections/suggestions received and also to the inter-departmental/inter-ministerial deliberations. The Committee observe that such delays could have been avoided by advance planning and better coordination among the related Government

Agencies/Departments. The Committee further, reiterate their earlier recommendation that the Ministry could expedite its decision by having inter-departmental meetings of senior officers for the purpose, instead of resorting to protracted correspondences on files. The Committee impress upon the Ministry to streamline their procedures and processes adhering to the stipulated period of six months and to avoid such delays in the publication of the final rules in future.

(Recommendation No. 2)

NON-LAYING OF THE RULES

2.5 The Committee further noted that the rules had not been laid on the Table of the House within the stipulated period of time and after being pointed out by the Committee, the rules were subsequently laid on the Table of the House on 1st March, 2007. Thus, there was a delay of 11 months in laying of the rules on the Table of the House. The Committee have over and again stated that the rules should be laid before the House 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 then as soon as possible (but in any case within 15 days) after the commencement of the following Session.

2.6 The Committee express their concern that Aircraft (Amendment) Rules, 2006 were not laid on the Table of the House within the specific period. It was only after the matter was brought to their notice that the Ministry initiated action and laid the relevant notifications in Parliament on 1st March, 2007 i.e. after a period of 11 months from the date of publication of the notification. The Committee note that delay in laying of the rules

of 11 months reflects the callous approach of the Ministry in adhering to the time limit prescribed by the Committee for laying the rules on the Table of the House. Even though the Ministry had regretted the delay but no clear reasons had been forwarded for such inordinate delay. The Committee impress upon the Ministry that the assurance given by the Ministry that every effort would be made in future to avoid recurrence of such lapses should be followed in letter and spirit. The Committee further seriously note that despite delay in laying, the rules were laid without any delay statement explaining the reasons for delay. The Committee also emphasise that whenever rules are laid on the Table of the House after an inordinate delay, an explanatory note giving the reasons for such delay should invariably be appended to the rules. The Committee trust that the Ministry would now gear up their system so as to avoid recurrence of such cases in future.

(Recommendation No. 3)

III

Shortcomings in the rules published by the Ministry of Communications and Information Technology (Department of Telecommunication).

The following rules of the Ministry of Communications and Information Technology (Department of Telecommunication) were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) dated 22 January, 2007:-

- (i) The Use of low power wireless equipment in 335 MHz for remote control of cranes (Exemption from Licensing Requirement) Amendment Rules, 2006 (GSR 34-E of 2007)
- (ii) The Use of low power wireless equipment in the citizen band 26.957-27.283 MHz (Exemption from Licensing Requirement) Amendment Rules, 2006 (GSR 35-E of 2007)
- (iii) The Indoor use of low power wireless equipment in the frequency band 5 GHz (Exemption from Licensing Requirement) Amendment Rules, 2006 (GSR 36-E of 2007)
- (iv) The Use of low power wireless equipment in the frequency band 0865-867 MHz for (RFID) Radio Frequency Identification Devices (Exemption from Licensing Requirement) Amendment Rules, 2006 (GSR 37-E of 2007)

3.2 On examination of the above rules, it was noticed that:-

- (i) There was delay in publishing the above notifications; and
- (ii) The year in short title to GSR 34-E to GSR 36-E did not tally with the year of their publication.

3.3 The Ministry of Communications and Information Technology (Department of Telecommunication) was requested to state the reasons for delay in publishing the aforesaid rules and also to state whether they had any objection in issuing a corrigendum rectifying the error in the short title of the rules.

3.4 The Ministry of Communications and Information Technology (Department of Telecommunication) vide their reply dated 13th May, 2008 have forwarded the copy of corrigendum published vide GSR 311 (E), GSR 312 (E), GSR 313 (E), & GSR 314 (E) dated 29th April, 2008 rectifying the error in short title of the rules published vide GSR 34 (E) to GSR 37 (E). Regarding the delay in publication of the rules in extraordinary gazette, the Ministry have stated that they have noted the observation of the Committee for compliance. Despite repeated requests the Ministry have not furnished the reasons for the aforesaid delay.

3.5 The Committee note that the matter published in the extraordinary gazette is of urgent nature and therefore, is required to be published on the same day on which it is sent to the Press by the concerned Ministry for publication. In the instant case, the Ministry of Communications and Information Technology (Department of Telecommunication) had sent the rules for publication to the Government of India Press on 10 January, 2007 and the same were published on 22 January, 2007 resulting in an delay of 11 days. The Committee observe that it reflects poorly on the working of the Ministry, as the notifications to be published in the extraordinary gazette are delayed. The Committee take a strong view of the fact that reasons for such delay was also not furnished despite repeated requests. The Committee desire that the Ministry should fix the responsibility in the matter and apprise the Committee of the action so taken. The Committee note with satisfaction that regarding rectifying the error in the short title, the Ministry have issued

corrigendum vide GSR 311 (E), GSR 312 (E), GSR 313 (E), & GSR 314 (E) dated 29th
April, 2008.

(Recommendation No. 4)

NEW DELHI;
FEBRUARY, 2009
MAGHA, 1930(SAKA)

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 TWENTY FIFTH 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.	1.3	<p><u>Use of vague expressions in the Veterinary Council of India (General) (Amendment) Regulations, 2005 (GSR 242 (E) of 2005)</u></p> <p>The Committee feel that the words ‘urgency’ and ‘immediately’ occurring in Regulation 2 (3) of the Veterinary Council of India (General) (Amendment) Regulations, 2005 were vague and could be interpreted differently by different persons. The Committee note from the reply of the Ministry of Agriculture (Department of Animal Husbandry and Dairying) that the term ‘urgency’ occurring under Regulation 2 (3) is to meet the unforeseen expenditure arising out of the exigencies. Similarly, the term ‘immediately’ denotes intimation of the facts about such necessary action and expenditure be given to the Executive Committee of the Council. In this regard, the Committee desire that the Ministry should incorporate the terms as clarified by them in the rules themselves in order to remove any ambiguity. The Committee further desire to have copy of the rules so amended for their perusal.</p>
2.	2.4	<p><u>Infirmities in the Aircraft (Amendment) Rules 2006 (GSR 181-E of 2006)</u></p> <p>The Committee take a serious note of the delay in publication of final Aircraft (Amendment) Rules, 2006 after a gap of 12 months. The Committee are not happy with the justification given by the Ministry that the delay was due to the large number of objections/suggestions received and also to the inter-departmental/inter-ministerial deliberations. The Committee observe that such delays could have been avoided by advance planning and better coordination among the related Government</p>

3.	2.6	<p>Agencies/Departments. The Committee further, reiterate their earlier recommendation that the Ministry could expedite its decision by having inter-departmental meetings of senior officers for the purpose, instead of resorting to protracted correspondences on files. The Committee impress upon the Ministry to streamline their procedures and processes adhering to the stipulated period of six months and to avoid such delays in the publication of the final rules in future.</p> <p>The Committee express their concern that Aircraft (Amendment) Rules, 2006 were not laid on the Table of the House within the specific period. It was only after the matter was brought to their notice that the Ministry initiated action and laid the relevant notifications in Parliament on 1st March, 2007 i.e. after a period of 11 months from the date of publication of the notification. The Committee note that delay in laying of the rules of 11 months reflects the callous approach of the Ministry in adhering to the time limit prescribed by the Committee for laying the rules on the Table of the House. Even though the Ministry had regretted the delay but no clear reasons had been forwarded for such inordinate delay. The Committee impress upon the Ministry that the assurance given by the Ministry that every effort would be made in future to avoid recurrence of such lapses should be followed in letter and spirit. The Committee further seriously note that despite delay in laying, the rules were laid without any delay statement explaining the reasons for delay. The Committee also emphasise that whenever rules are laid on the Table of the House after an inordinate delay, an explanatory note giving the reasons for such delay should invariably be appended to the rules. The Committee trust that the Ministry would now gear up their system so as to avoid recurrence of such cases in future.</p>
	3.5	<p><u>Shortcomings in the rules published by the Ministry of Communication and Information Technology (Department of Telecommunication)</u></p> <p>The Committee note that the matter published in the extraordinary gazette is of urgent nature and therefore, is required to be published on the same day on which it is sent to the Press by the concerned Ministry for publication. In the instant case, the Ministry of Communications and Information Technology (Department of Telecommunication) had sent the rules for publication to the Government of India Press on 10 January, 2007 and the same were published on 22 January, 2007 resulting in an delay of 11 days. The Committee observe that it reflects poorly on the working of the Ministry, as the notifications</p>

		<p>to be published in the extraordinary gazette are delayed. The Committee take a strong view of the fact that reasons for such delay was also not furnished despite repeated requests. The Committee desire that the Ministry should fix the responsibility in the matter and apprise the Committee of the action so taken. The Committee note with satisfaction that regarding rectifying the error in the short title, the Ministry have issued corrigendum <u>vide</u> GSR 311 (E), GSR 312 (E), GSR 313 (E), & GSR 314 (E) dated 29th April, 2008.</p>
--	--	--

APPENDIX –II

(Vide Para 5 of the Introduction of the Report)

EXTRACTS FROM THE MINUTES OF THE FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2008-2009)

The Committee met on Thursday, 22nd January, 2009 from 1500 to 1545 hours in Committee Room '53', Parliament House, New Delhi.

PRESENT

Shri N.N. Krishnadas - Chairman

MEMBERS

2. Shri Giridhar Gamang
3. Shri Jaisingrao Gaikwad Patil
4. Shri Anantha Venkatarami Reddy
5. Shri Ramji Lal Suman
6. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri R.K. Bajaj - Director
3. Shri R.K.Bhatnagar - Under Secretary

.....contd/-

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

3. XX XX XX

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

- (i) **Memorandum No. 73** – Vague expression in the Veterinary Council of India (General) (Amendment) Regulations, 2005. (GSR 242-E of 2005)
- (ii) **Memorandum No. 74** – The Narcotic Drugs and Psychotropic Substances (Amendment) Rules, 2006 (GSR 639-E of 2006)
- (iii) **Memorandum No. 75** -- Infirmities in the Aircraft (Amendment) Rules, 2006 (GSR 181-E of 2006).
- (iv) **Memorandum No. 76** – Delay in publication of rules in Extraordinary Gazette and the error in the year in short title to the rules published by the Ministry of Communications and Information Technology (Department of Telecommunication). (GSR 35-E to 37-E of 2007)

5. As regards memorandum at Sl. No. (ii), the Committee decided that further clarification may be sought from the Ministry. In regard to memoranda at Sl. No. (i), (iii) and (iv) above, the Committee decided to suitably incorporate the points raised therein in the Report to be presented to the House

The Committee then adjourned.

**EXTRACTS FROM MINUTES OF THE SIXTH SITTING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (2008-2009)**

The Committee met on Thursday, 22nd January, 2009 from 1500 to 1545 hours
in Committee Room 'B', Parliament House Annexe, New Delhi.

MEMBERS

7. Shri Giridhar Gamang
8. Shri Jaisingrao Gaikwad Patil
9. Shri Anantha Venkatarami Reddy
10. Shri Ramji Lal Suman
11. Shri Madhu Goud Yaskhi

SECRETARIAT

- | | | | |
|----|--------------------|---|-----------------|
| 1. | Shri A.K. Singh | - | Joint Secretary |
| 2. | Shri R.K. Bajaj | - | Director |
| 3. | Shri R.K.Bhatnagar | - | Under Secretary |

.....contd/-

:2:

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

3. The Committee then took up for consideration the draft 24th Report and adopted the same with certain modifications. The Committee also decided that the Report may be presented to the House.

4. XX XX XX

5. XX XX XX

The Committee then adjourned.
