

**COMMITTEE ON SUBORDINATE LEGISLATION  
(FOURTEENTH LOK SABHA)  
(2005-2006)**

**NINTH REPORT**

**[ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS/  
OBSERVATIONS CONTAINED IN SEVENTH REPORT (2002- 03) (THIRTEENTH LOK  
SABHA)]**

**(PRESENTED ON 20.12.2005)**

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**LOK SABHA SECRETARIAT**

**NEW DELHI**

**PRICE:**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION  
(2005-2006)**

1. Shri N.N. Krishnadas - Chairman
2. Shri Omar Abdullah
3. Shri Ajoy Chakraborty
4. Shri Bikram Keshari Deo
5. Shri N.Y. Hanumanthappa
6. Shri Ram Singh Kaswan
7. Shri Vijaykumar Khandelwal
8. Shri Sudam Marandi
9. Shri Anantha Venkata Rami Reddy
10. Shri Chandra Shekhar Sahu
11. Shri Sita Ram Singh
12. Shri Bhupendrasinh Solanki
13. Shri Ramjilal Suman
14. Shri P.C. Thomas
15. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri R.C. Ahuja - Joint Secretary
2. Shri R.K. Bajaj - Deputy Secretary
3. Shri J.V.G. Reddy - Under Secretary
4. Shri Ajay Kumar - Assistant Director
5. Smt. K. Rangamani - Senior Executive Assistant  
Narsimhan

(iii)

## **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 (Fourteenth Lok Sabha).

2. This Report relates to the action taken by the Government on the recommendations/observations of the Committee contained in the Seventh Report (2002 – 2003) (Thirteenth Lok Sabha) which was presented to Lok Sabha on 21 November, 2002.

3. The Committee took oral evidence of the representatives of the Ministry of Social Justice & Empowerment on 15 June, 2005 regarding action taken on the recommendations contained in paras 2.3 & 2.4 of the Seventh Report (13<sup>th</sup> Lok Sabha). The Committee wish to express their thanks to the representatives of the Ministry of Social Justice & Empowerment for appearing before the Committee and giving the information required by the Committee.

4. The Committee considered and adopted this Report at their sitting held on 14 December, 2005.

5. The summary of recommendations contained in the Seventh Report and action taken reply of the Government thereon have been reproduced in Appendix I of the Report.

6. The extracts of the Minutes of the sittings of the Committee relevant to this report are brought out in Appendix II.

7. An analysis on the action taken by Government on the recommendations contained in the Seventh Report of the Committee (13<sup>th</sup> Lok Sabha) is given in Appendix III.

**NEW DELHI;  
14 DECEMBER, 2005**

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

## **REPORT**

This Report of the Committee on Subordinate Legislation deals with the action taken by Government on the recommendations contained in their Seventh Report (Thirteenth Lok Sabha) which was presented to Lok Sabha on 21 November, 2002. The Seventh Report dealt with the following rules :-

- (i) The Central Supervisory Board (Transaction of Business) Regulations, 1999 (GSR 73-E of 1999)
- (ii) The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 (GSR 639-E of 2000)
- (iii) The Notaries (Second Amendment) Rules, 2000 (GSR 262-E of 2000)
- (iv) The Telecom Disputes Settlement and Appellate Tribunal (Salaries, Allowances and other Conditions of Service of Chairperson and Members) Rules, 2000 (GSR 778-E of 2000)
- (v) The Bureau of Police Research and Development Documentation Assistant (Group 'C' Posts) Recruitment Rules, 1999 (GSR 16 of 2000)

2. The shortcomings observed during scrutiny of the rules at (i) (iii) (iv) and (v) above were brought to the notice of the Ministries concerned for their comments/necessary corrective action. The Ministries accepted those shortcomings and amended the relevant rules to rectify the same. Therefore, the recommendations of the Committee in para nos. 1.4, 3.5, 4.3 and 5.6 of their Seventh Report have taken note of the satisfactory action taken by the Government in this regard. As such, no action was pending on the part of the Government with regard to recommendations of the Committee on these rules after presentation of the Seventh Report.

3. A statement showing the action taken by the Government on the recommendations contained in the Seventh Report (13<sup>th</sup> Lok Sabha) is given in Appendix-I.

4. With regard to recommendations contained in para nos. 2.3 and 2.4 on rules at (ii) above, the Ministry of Social Justice and Empowerment in their action taken reply, however, did not agree to implement the recommendations of the Committee. On perusal, the recommendations were accepted by the Government and necessary amendments in the rules have since been notified.

5. The action taken by the Government on the recommendations contained in paras nos. 2.3 and 2.4 in the Seventh Report is dealt with in the following paragraphs.

6. The Committee had recommended in para nos. 2.3 and 2.4 relating to National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 (GSR 639- E of 2000) as under :-

“The Committee observe that sub-rule (3) of Rule 10 of the above rules prescribed that a meeting could be adjourned for want of quorum to the following day or to some other future date. Further where a meeting was adjourned for want of quorum to the following day, notice would be served only to the Members available at the place of meeting and not to all

the Members as the Ministry of Social Justice and Empowerment felt that it was not possible to give notice to all the Members. According to them this provision might curtail the likely delay in taking the decisions (para 2.3).

The Committee do not find the provisions justified as it seems illogical to hold a meeting even without the quorum which was earlier adjourned for want of quorum as it was likely to defeat the very purpose of the requirement of quorum. The Committee, therefore, desire that the Ministry should amend the aforesaid rules so as to meet the requirement of the quorum as far as possible for all the sittings and should also serve notice of meetings adjourned to the following day to all the Members of the Trust whether available at the place of meeting or not with the exception of adjourned meetings for the same day (para 2.4).”

7. The Ministry in their action taken reply dated 14 July, 2003 submitted the following explanation in this regard :-

“Having examined the pros and cons of the amendments to the Rules as per the recommendations of the Committee, it was decided that the status quo of the existing rules should be maintained in the public interest as well as safeguarding the interest of the disabled persons”.

8. Since the reply of the Ministry was not satisfactory, the Committee pursued the matter with the Ministry further.

9. When asked as to how can the existence of a lacunae in the Rules of the Trust be justified on the ground of similar lacunae in the rules of sister organisation and whether the Ministry obtained any legal opinion from the Ministry of Law on the recommendation of the Committee in support of its stand, the Ministry stated that the Ministry of Law had advised the substitution of Sub-rule (3) as under :-

“As far as possible the quorum shall be maintained in every meeting of the Board. Provided that in an adjourned meeting endeavour shall be made to maintain the quorum”.

10. Considering the unsatisfactory replies given by the Ministry time and again, the Committee decided to take evidence of the representatives of the Ministry of Social Justice and Empowerment on the subject. Accordingly, the Committee took oral evidence of the Ministry of Social Justice and Empowerment on 15 June, 2005.

11. During the oral evidence tendered before the Committee on 15 June, 2005, the Secretary, Ministry of Social Justice & Empowerment was asked to clarify the points raised by the Committee in brief such as (i) Instance where the process of decision making was delayed due to insistence of quorum for an adjourned meeting and the justification for taking a view on hypothetical situation ? (ii) Quorum in any Board meeting ought to be mandatory for any decision taken in that meeting is to be valid in the eyes of law whereas

the Ministry have made a rule negating this essential requirement ? (iii) The justification for overruling the view of the Ministry of Law in this regard ?

12. In reply, the Secretary, Ministry of Social Justice & Empowerment apprised the Committee as under :-

“Although the Ministry had earlier decided that no change was necessary, the matter has now been reconsidered and we are in agreement with the view of the Committee that Rule 10 requires to be amended. For guidance on the amendment, we looked to the Companies Act, 2002, and an amendment is proposed on the lines of Section 288 of the Companies Act which deals with the question of quorum. With the permission of the Chair, I would like to read out what is proposed to be amended. It will consist of only three sections.

“The first section will be :-

‘One-third of the total members shall form the quorum for any meeting’.

The second section, it is taken directly from the Companies Act, will be :

‘If a meeting of the Board cannot be held for want of quorum, then the meeting automatically stands adjourned till the same day in the next week, at the same time and place, and if that day is a public holiday, till the next succeeding day which is not a public holiday, at the same time and place’.

The third section is :-

‘Notice of the adjourned meeting shall be given to all the members’.”

The main difference that this amendment will make to the existing rule is that a meeting which is adjourned for lack of quorum will be adjourned for the same day and time after one week. It will not be adjourned to later in the day or to the next day. It is because when a meeting is adjourned to the next day, even though notice of the meeting can be given these days with the rapid means of communication, yet, it may not be possible for a person to reach by the next day. So, there is no real second opportunity which is given to him to attend the meeting.

Secondly, the provision now is that all the members, whether present or absent, will get notice of the meeting.

Thirdly, the requirement of quorum will now become necessary in all meetings. Although no meeting of the Board has ever been adjourned for lack of quorum. It will result in improving the systems of the National Trust”.

13. When asked whether there is no need of a quorum when the Committee meets for the second time and whether the same rule would apply as regards the quorum in the next meeting, the Secretary replied “quorum is required when the Committee meets for the

second time”. He further stated that every time a meeting takes place, quorum is required. Unless one-third of the Members are present, the meeting cannot be held.”

14. When asked about the sister concerns of the organisation as to whether they also come under this rule, the Secretary stated “it is the same for every organisation. We have other statutory bodies like the National Trust and the Rehabilitation Council of India. We will introduce similar amendments there also.”

15. The Ministry *vide* a subsequent communication dated 16 August, 2005 have forwarded a copy of the Gazette Notification carrying the necessary amendments to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 as assured during evidence. The amended regulation states as under :-

“10 Quorum (1) One third of the total members shall form the quorum for any meeting.

(2) If a meeting of the Board cannot be held for want of quorum, then, the meeting shall automatically stand adjourned till the same day in the next week, at the same time and place, or if that day is a public holiday, till the next succeeding date which is not public holiday, at the same time and place.

(3) Notice of the adjourned meeting shall be given to all the members.”

**16. The Committee observe that sub-rule (3) of Rule 10 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 prescribed that a meeting could be adjourned for want of quorum to the following day or to some other future date. Further where a meeting was adjourned for want of quorum to the following day, notice would be served only to the Members available at the place of meeting and not to all the Members as the Ministry of Social Justice and Empowerment felt that it was not possible to give notice to all the Members. According to them this provision might curtail the likely delay in taking the decisions.**

**17. The Committee did not find the provisions justified as it was illogical to hold a meeting even without the quorum which was earlier adjourned for want of quorum and was likely to defeat the very purpose of the requirement of quorum. The Committee, therefore, desired in their earlier report i.e. Seventh Report (Thirteenth Lok Sabha) that the Ministry should amend the aforesaid rules so as to meet the requirement of the quorum as far as possible for all the sittings and should also serve notice of meetings adjourned to the following day to all the Members of the Trust whether available at the place of meeting or not with the exception of adjourned meetings for the same day.**

**18. The Committee regret to point out that instead of amending the rules as suggested by the Committee, the Ministry first took the view that the status quo of the existing rules should be maintained in the public interest as well as safeguarding the interest of the disabled persons. The Ministry, however, could not explain how the**



**amendment of the rules as suggested by the Committee would be detrimental to the public interest or interest of the disables persons.**

**19. The Committee are happy to note that the Ministry have finally accepted their earlier recommendation and now amended the regulations as per provision of Section 288 of the Companies Act, 2002 to provide for a quorum in the meeting that if a meeting of the Board cannot be held for want of quorum, then, the meeting shall automatically stand adjourned till the same day in the next week, at the same time and place, or if that day is a public holiday, till the next succeeding date which is not public holiday, at the same time and place. It also provides for serving notice of the adjourned meeting to all the members. The Ministry have issued a Gazette Notification vide GSR No. 478-E dated July, 18, 2005 to this effect.**

**NEW DELHI;  
14 DECEMBER, 2005**

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

**APPENDIX-I**  
(*Vide* para 3 of the Report)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE  
RECOMMENDATIONS/OBSERVATIONS CONTAINED IN THE SEVENTH REPORT OF THE  
COMMITTEE  
(13<sup>TH</sup> LOK SABHA)

**I. The Central Supervisory Board (Transaction of Business) Regulations, 1999 (GSR 73-E of 1999)**

**Recommendation (Para No. 1.4)**

The Committee note from the above regulations that it prescribed the procedure for transaction of business in meetings of the Central Supervisory Board but there was no provision for circulation of minutes of the meeting so as to enable the absentee members to know about the proceedings of the meetings. The Committee note with satisfaction that on being pointed out, the Ministry of Health and Family Welfare have amended the regulations to the desired effect by incorporating a provision for circulation of Minutes *vide* GSR No. 704-E dated 31.8.2000.

**II. The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000**

**Recommendation (Para Nos. 2.3 and 2.4)**

The Committee observe that sub-rule (3) of Rule 10 of the above rules prescribed that a meeting could be adjourned for want of quorum to the following day or to some other future date. Further where a meeting was adjourned for want of quorum to the following day, notice would be served only to the Members available at the place of meeting and not to all the Members as the Ministry of Social Justice and Empowerment felt that it was not possible to give notice to all the Members. According to them this provision might curtail the likely delay in taking the decisions.

The Committee do not find the provisions justified as it seems illogical to hold a meeting even without the quorum which was earlier adjourned for want of quorum as it was likely to defeat the very purpose of the requirement of quorum. The Committee, therefore, desire that the Ministry should amend the aforesaid rules so as to meet the requirement of the quorum as far as possible for all the sittings and should also serve notice of meetings adjourned to the following day to all the Members of the Trust whether available at the place of meeting or not with the exception of adjourned meetings for the same day.”

## Reply of the Government

“The recommendations/observations of the Committee on Subordinate Legislation contained in para 2.3 & 2.4 of their report have been examined in detail. Having examined the pros and cons of the amendments to the National Trust for the Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 as per the recommendations of the Committee on Subordinate Legislation, it was decided with the approval of Competent Authority, that the status quo of the existing Rules of the National Trust of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 should be maintained in the public interest as well as safeguarding the interest of the disabled persons under the provisions of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation & Multiple Disabilities Act, 1999 (44 of 1999). The existing rules have been framed keeping in view the provisions of Rules published for other sister organisations under this Ministry.

This has the approval of Minister (SJ&E)”.

**[Ministry of Social Justice & Empowerment O.M.  
No.1-3/99-NI-II dated 14.7.2003]**

Subsequent Reply of the Ministry dated 29 August, 2003 to the points raised by the Committee :-

<b>Points raised by the Committee</b>	<b>Reply of the Government</b>
<b><u>Point No. 1</u></b>  Who was the Competent authority reported to in the reply? What is his designation?	The Minister of Social Justice & Empowerment is the Competent Authority referred to in the reply.
<b><u>Point No. 2</u></b>  In what respect, decision taken without quorum can promote the interest of disabled persons? On the contrary, the decision taken in a forum without minimum attendance may go counter to the objectives of the Trust	No quorum shall be necessary only for a meeting adjourned under sub-rule (2) and no matter which had not been on the agenda of the meeting shall be discussed at the adjourned meeting. If a quorum is insisted for an adjourned meeting, the process of decision making may get delayed and this may adversely affect the interest of the target group. The board of the National Trust was constituted in August, 2000 and, thereafter, 12 Board meetings were held as on date. None of the Board meetings had to be adjourned for want of

<p><b><u>Point No. 3</u></b></p> <p>Has the Ministry obtained any legal opinion from the Ministry of Law on the recommendation of the Committee in support of its stand ?</p> <p><b><u>Point No. 4</u></b></p> <p>If there is persistent absence of quorum, should not the Trust consider replacing the members who are absent in more then the prescribed minimum no. of sittings consecutively.</p> <p><b><u>Point No. 5</u></b></p> <p>How can the existence of a lacunae in the Rules of the Trust be justified on the ground of similar lacunae in the rules of sister organisation</p>	<p>a quorum. Considering this record of participation by members, the amendment proposed to the Rule 10(3) is not necessary.</p> <p>Yes, legal opinion was sought from the Ministry of Law who have advised the substitution of sub-rule (3) as “As far as possible the quorum shall be maintained in every meeting of the Board. Provided that in an adjourned meeting endeavour shall be made to maintain the quorum”. Since this amendment may not server any real purpose, it has been decided to retain the existing Rules.</p> <p>In view of the position stated against Sl. No. 2 above no action is considered necessary.</p> <p>In view of the position stated against Sl.No. 2 and 3 above, no action is considered necessary”.</p>
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**[Ministry of Social Justice & Empowerment O.M.  
No.1-3/99-NI-II dated 29.8.2003]**

(Please see Para Nos. 4 – 19 of the Report)

**III. The Notaries (Second Amendment) Rules, 2000 (GSR 262-E of 2000)**

**Recommendation (Para No. 3.5)**

The Committee observe that the above rules do not contain the usual commencement clause which is normally incorporated in all statutory 'orders' to denote the date of their commencement. The Committee are happy to note that though initially reluctant, once their attention was drawn to the recommendation of the Committee on Subordinate Legislation contained in para 12 of their Second Report (Seventh Lok Sabha) that all rules should invariably contain a commencement clause to indicate the date of their coming into force so as to obviate any scope of confusion in the minds of persons for whose benefits the rules are framed, the Ministry have issued the desired corrigendum *vide* GSR 255-E dated 11.4.2001 so as to indicate the date of commencement of the rules by way of a sub-clause in the extant amendment rules.

**IV. The Telecom Disputes Settlement and Appellate Tribunal (Salaries, Allowances and other Conditions of Service of Chairperson and Members) Rules, 2000 (GSR 778-E of 2000)**

**Recommendation (Para No. 4.3)**

The Committee observe that Rule 12 of the above rules prescribe that the Government can relax any of the provision of the rules and feel that in order to avoid any misuse of the provision, wherever any relaxation is made in the rules, the reasons therefor should be recorded in writing. The Committee note with satisfaction that on being pointed out, the Ministry of Communications have amended rule 12 of the above rules accordingly by incorporating the provision for recording in writing the reasons before giving any relaxation *vide* Gazette of India notification GSR 291-E dated 25 April, 2001. The Committee also appreciate the Ministry for having carried out similar amendments in some other rules also which contained similar provisions as contained in rule 12 of the extant rules.

**V. The Bureau of Police Research and Development Documentation Assistant (Group 'C' Posts) Recruitment Rules, 1999 (GSR 16 of 2000)**

**Recommendation (Para No. 5.6)**

The Committee observe that in the aforesaid rules under col. 7 read with col.8 of the schedule appended thereto, the lower age limit of 18 years prescribed for direct recruits to the post of Documentation Assistant appears to be redundant as the educational qualifications namely degree and experience of 2 years in indexing and documentation course in a Library of Standing so prescribed are difficult to be achieved at that age. The Committee note with satisfaction that on being pointed out, the Ministry of Home Affairs

have now under column 7 of the schedule, prescribed 21-27 years of age for the direct recruits to the said post so as to do away with the redundancy in the age limit as pointed out *vide* Gazette of India Notification No. GSR 428 dated 4.11.2000.

**APPENDIX-II**  
(*vide* para 6 of the Introduction)

**EXTRACTS OF THE MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (FOURTEENTH LOK SABHA) (2004-2005)**

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The Committee met on Wednesday, 15 June, 2005 from 1500 to 1600 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

Shri N.N. Krishnadas - Chairman

**MEMBERS**

2. Shri Ajay Chakraborty
3. Shri Bikram Keshari Deo
4. Shri Ram Singh Kaswan
5. Shri Chandra Shekhar Sahu
6. Shri Bhupendrasinh Solanki
7. Shri Ramji Lal Suman
8. Shri P. C. Thomas
9. Shri Madhu Goud Yaskhi

**SECRETARIAT**

1. Shri John Joseph - Additional Secretary
2. Shri A. Louis Martin - Director
3. Shri J. V. G Reddy - Under Secretary

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6. The representatives of the Ministry of Social Justice and Empowerment were then called in.

The following were present:-

- (i) Smt. Sarita Prasad - Secretary (SJ&E)
- (ii) Smt. Jayati Chandra - Joint Secretary (SJ&E)
- (iii) Dr. Vinod Aggarwal - Joint Secretary & CEO, National Trust

7. The Committee took oral evidence of the representatives of the Ministry of Social Justice and Empowerment regarding action taken on the recommendation contained in the report of the Committee relating to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 which relate to the requirement of quorum for an adjourned meeting of the Board and issue of notice to all members for an adjourned meeting.

8. Verbatim proceedings of the evidence was kept.

The witnesses then withdrew.

The Committee then adjourned.



**EXTRACTS OF THE MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (FOURTEENTH LOK SABHA)(2005-2006)**

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The Committee met on Wednesday, 14 December, 2005 from 15.00 to 15.45 hours in  
Chairman's Room No. '143', Parliament House, New Delhi.

**PRESENT**

Shri N.N. Krishnadas - Chairman

**MEMBERS**

2. Shri Ajoy Chakraborty
3. Shri Bikram Keshari Deo
4. Shri Vijaykumar Khandelwal
5. Shri Anantha Venkata Rami Reddy
6. Shri Chandra Sekhar Sahu
7. Shri P.C. Thomas

**SECRETARIAT**

1. Shri R.K. Bajaj, Deputy Secretary
2. Shri J. V. G. Reddy, Under Secretary
3. Shri Ajay Kumar Assistant Director

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 draft Ninth & Tenth Reports and adopted the same without any modification.

The Committee then adjourned.

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**APPENDIX-III**  
(*vide* para 7 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE  
RECOMMENDATIONS CONTAINED IN THE SEVENTH REPORT OF THE  
COMMITTEE ON SUBORDINATE LEGISLATION (THIRTEENTH LOK SABHA)

I. Total number of recommendations made	5
II. Recommendations that have been accepted by the Government ( <i>vide</i> recommendations at Sl. Nos.1.4, 2.3, 2.4, 3.5, 4.3 and 5.6)	5
Percentage of total :	100%