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COMMITTEE ON SUBORDINATE LEGISLATION

23

Committee on Subordinate Legislation

15th Lok Sabha

Report No.- 1 to 10

English

[Action Taken Report of the Committee on the Recommendations/Observations
contained in Twenty-fourth Report (2008-2009) (Fourteenth Lok Sabha)]

(Presented on 11.3.2010)



सत्यमेव जयते

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2009-2010)

Shri P. Karunakaran — *Chairman*

MEMBER

2. Shri Paban Singh Ghatowar
3. Shri Rajen Gohain
4. Shri D.B. Chandre Gowda
5. Shrimati Paramjit Kaur Gulshan
6. Shri Jitender Singh Malik
7. Shri Mangani Lal Mandal
8. Shri Pinaki Misra
9. Dr. Sanjeev Ganesh Naik
10. Shri Rajaram Pal
11. Shri Anantha Venkatarami Reddy
12. Shri Hamdullah Sayeed
13. Shri Adhalrao Patil Shivaji
14. Dr. Rajan Sushant
15. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri P.K. Misra — *Joint Secretary*
2. Shri Raju Srivastava — *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 First Report.

2. This Report relates to the action taken on the recommendations of the Committee contained in the Twenty-fourth Report (2008-2009) (Fourteenth Lok Sabha) which was presented to Lok Sabha on 24 February, 2009.

3. The Committee also wish to place on record their appreciation of the valuable work done by the predecessor Committee.

4. The Committee considered and adopted this Report at their sitting held on 7 January, 2010.

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

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7. An analysis of the action taken by Government on the recommendations contained in the Twenty-fourth Report of the Committee (14th Lok Sabha) is given in Appendix III.

NEW DELHI;
March, 2010

P. KARUNAKARAN
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 Twenty-fourth Report (Fourteenth Lok Sabha) which was presented to Lok Sabha on 24 February, 2009. The Twenty-fourth Report dealt with the following Chapters:—

- I. Infirmities in the Employees' Provident Fund (Amendment) Scheme, 2004 (SO 45-E of 2006)
- II. Infirmities in the Drugs and Cosmetics (4th Amendment) Rules, 2005 (GSR 174-E of 2005)
- III. Infirmities in the Coast Guard Organization Group 'C' and Group 'D' Fire Fighting Staff Recruitment Rules, 2006 (SRO 78 of 2006)
- IV. Infirmities in the Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 (GSR 481-E of 2006)

2. The shortcomings observed during scrutiny of the rules mentioned in Chapters (I) to (IV) above were brought to the notice of the concerned Ministries for their comments/necessary corrective action. The Ministries concerned have accepted those shortcomings and have rectified the same. A statement showing the Action Taken by the Government on the recommendations contained in the Twenty-fourth Report is given in Appendix I

NEW DELHI;
March, 2010

P. KARUNAKARAN
Chairman,
Committee on Subordinate Legislation.

APPENDIX I

(Vide Para 5 of the Introduction of the Report)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS/OBSERVATIONS CONTAINED IN THE TWENTY FOURTH REPORT OF THE COMMITTEE (14TH LOK SABHA)

I. Infirmities in the Employees' Provident Fund (Amendment) Scheme, 2004 (SO 45-E of 2006)

Recommendation (Para 1.7)

The Committee note that the year in the Short Title to the rules did not tally with the year of its publication. On being pointed out, the Ministry of Labour and Employment agreed to rectify the discrepancy and stated that a corrigendum would be issued after its vetting by the Ministry of Law and Justice. The Committee desire the Ministry to rectify the error in the Short Title at the earliest and furnish them a copy of the corrigendum after its publication in the Gazette.

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The Committee note that there was no footnote appended to the Employees' Provident Fund (Amendment) Scheme, 2004 to indicate the particulars of Principal Schemes and the subsequent amendments made thereto for facility of reference. On being pointed out, the Ministry of Labour and Employment agreed to issue a corrigendum to insert the required footnote to indicate the particulars of publication of the principal schemes and the subsequent amendments made to these schemes. The Committee desire that the requisite corrigendum may be issued at the earliest and a copy thereof furnished to them after its publication in the Gazette. The Committee also desire that the Ministry should be more vigilant in future so that such minor errors do not recur.

Recommendation (Para 1.9)

The Committee note that Section 21(3) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 provides for laying of the Employees' Provident Fund (Amendment) Scheme, 2004. The said amendment scheme has however, not been laid on the Table of the House even after a lapse of more than 2 1/2 years after its publication in the Gazette of India. In terms of the Committee's recommendations, the rules/regulations/schemes are required to be laid 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, the rules should be laid on the Table of the House as soon as possible (but within 15 days) after the commencement of the following session. The Committee observe that while the Ministry's reply did not contain any reason for non-laying of the Scheme, it however simply stated that the Scheme would be laid on the Table of the House after publication of the requisite corrigendum in the Gazette of India by rectifying the lacunae

in the Short Title and footnote to the Scheme of 2006. The aforesaid reply of the Ministry appeared to indicate that they were either not aware of the statutory provision for laying as ingrained in Section 21(3) of the Employees' Provident Fund and Miscellaneous Provisions Act and the recommendation of the Committee in this regard or were not taking these stipulations with seriousness it deserved, resulting in such avoidable lapse on their part. Subsequently, the Ministry have laid the scheme on the Table of the House on 15 December, 2008 but no delay statement has been appended. The Committee take serious note of the delayed laying of the amendment Scheme on the Table of the House which has deprived them from timely scrutiny of such notification. Further, the Committee note that even after delayed laying of the scheme, no delay statement had been appended. The Committee desire that the Ministry should strictly adhere to the time limit stipulated by the Committee in this regard so that such lapses do not recur in future.

Reply of the Ministry

A corrigendum rectifying the short title substituting the year of 2006 in place of 2004 and inserting the footnote in the Employees' Provident Fund (Amendment) Scheme, 2004 which was earlier notified in the Gazette of India as number S.O. 45(E) dated the 15 January, 2006 has since been published in the Gazette of India having S.O. 1230 dated 31 May, 2008 and this corrigendum alongwith the statement showing reasons for delay has been laid on the Table of the Lok Sabha on 15.12.2008. Copy of the said Gazette notification is enclosed. In future, sincere efforts will be made to strictly adhere to the statutory provisions contained in Section 21(3) of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 regarding laying papers before the Parliament.

[Ministry of Labour and Employment OM No. 35014/04/02-SS II, dated 20.4.2009]

Clarification sought from the Ministry

The Ministry was requested to furnish the specific reasons for delay in laying of the Scheme and also to state what mechanism has been set up to avoid such delays in laying in future.

Further Reply of the Ministry

An amendment in Employees' Provident Fund Scheme, 1952 was made in 2006 for covering the Konkan Railway Corporation Ltd. under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 but the Gazette notification to this effect contained two unintentional discrepancies, namely—(i) year of amendment was 2004 whereas it should be 2006; and (ii) Footnote was not inserted below the notification of the amendment. The notification dated 17.1.2006 could not be laid on the Table of the House due to oversight. When these discrepancies were brought to the notice of the Ministry by Lok Sabha Secretariat, we took prompt action, first to notify the discrepancies in the Official Gazette and after its print, lay the same on the Table of the House. Accordingly, the new notification dated 22 May, 2008 (it was not extra-ordinary) was received after expiry of the Monsoon Session of the Parliament and ultimately, we laid the main notification alongwith the corrigendum and delay statement on the Table of the Lok Sabha and Rajya Sabha on 15.12.2008 and 17.12.2008, respectively.

Regarding mechanism to avoid such delays, it is hereby informed that all the amendments made in the Employees Provident Fund Scheme, 1952 and Employees' Pension Scheme, 1995 after this case have been laid on the Table of both the Houses in time. A strict observation is being maintained in the Ministry to avoid such delays in future.

[Ministry of Labour and Employment OM No: 35014/04/02-SS II, dated 3.9.2009]

II. Infirmities in the Drugs and Cosmetics (4th Amendment) Rules, 2005 (GSR 174-E of 2005)

Recommendation (Para 2.3)

The Committee note that the Ministry of Health and Family Welfare (Deptt. of Health) took about seven months to finally notify the Drugs and Cosmetics (4th Amendment) Rules, 2005 after their publication in the draft form. The Committee on Subordinate Legislation have stipulated a maximum period of six months for publishing the final rules after taking into consideration all relevant aspects. On being pointed out, the Ministry simply cited the chronology of events that led to the final notification on the aforesaid draft rules. The reply furnished by the Ministry was not satisfactory and it revealed that the whole matter had been treated with an amount of laxity and no serious attention or importance had been paid to expedite the process for timely publication of rules. The Committee reiterate their earlier recommendation that the final rules should be published within a period of 3 months where no objections/suggestions are received on the draft rules and in cases where a large number of objections/suggestions are received the gap between the notification of draft and final rules should not exceed six months. The Committee, therefore, urge the Ministry to take specific steps to streamline their procedure so as to avoid such delays in publication in future.

Reply of the Ministry

There has been much improvement in the working of the Ministry relating to handling of subordinate legislation. Utmost efforts are being made to minimize the causes of delays in finalization of rules. The situation in the Office of Drugs Controller General (India), which mainly handles the functional parts of the finalisation of notifications is also under scrutiny. The Drugs Controller General (India) has been asked by the Ministry *vide* its D.O. letter dated 21 April, 2009 (Copy enclosed) to undertake an urgent review of the working of officials connected with the draft notifications concerning statutory rules so that the points of delay could be minimized.

[Ministry of Health and Family Welfare (Department of Health) O.M. No. X. 11035/7/2009-DFQC, dated 21.4.2009]

Recommendation (Para 2.6)

The Committee note that the Drugs and Cosmetics (4th Amendment) Rules, 2005 were published in the Gazette of India on 16 March, 2005 but were laid on the Table of the House only on 27 July, 2005, after a delay of more than 4 months. On being pointed out, the Ministry of Health and Family Welfare contended that the rules were sent on 19 April, 2005 for laying in both the Houses of Parliament and were laid in Rajya Sabha

in the same session. However, these could not be laid in Lok Sabha as the number of copies of the notification were not enough as informed by Lok Sabha Secretariat and later due to paucity of time they could not be sent to the Secretariat for laying. Subsequently, the rules were laid in Lok Sabha on 27 July, 2005 entailing a delay of more than 4 months after stipulated time of 15 days. The Committee observe that since the Budget Session concluded on 13 May, 2005, the Ministry's contention of paucity of time is hardly convincing as they had almost one month's time at their disposal to send the requisite number of copies. It appears that the Ministry did not put in extra efforts to send the same expeditiously. The Committee also observe that such lapse on the part of the Ministry to provide the requisite number of copies of the Rules to Lok Sabha Secretariat expeditiously before the end of the Budget Session shows that there was no check in the Ministry on these matters to ensure timely laying of the notification in the House thereby depriving them from timely scrutiny of such notifications. The Committee, therefore, urge the Ministry to gear up their system so as to avoid recurrence of such cases in future.

Reply of the Ministry

There has been much improvement in the working of the Ministry relating to handling of subordinate legislations. Utmost vigil is being maintained so as to lay the notifications in the Houses of Parliament within stipulated time.

[Ministry of Health and Family Welfare (Department of Health) O.M.
No. X. 11035/7/2009-DFQC, dated 21.4.2009]

Recommendation (Para 2.8)

The Committee note that the provisions in Rule 2(b) of the Drugs and Cosmetics (4th Amendment) Rules, 2005 providing the conditions of storage for 'Adrenaline for Injection' as "As prescribed in Indian Pharmacopoeia" amounts to legislation by reference. The Committee have time and again emphasized 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. On being pointed out, the Ministry clarified that the standards of drugs are revised from time to time in accordance to the current scientific knowledge and no such provision has been made so that the conditions for storage remains compatible with the Pharmacopoeia standards. The Committee, therefore, accept the clarification tendered by the Ministry in this regard to be *bona fide* and reasonable.

Reply of the Ministry

As mentioned in the recommendation, the Committee has accepted the clarification tendered earlier by the Ministry in this regard to be *bona fide* and reasonable.

[Ministry of Health and Family Welfare (Department of Health) O.M.
No. X. 11035/7/2009-DFQC, dated 21.4.2009]

Recommendation (Para 2.10)

The Committee have noticed a discrepancy in the chronological order of the numbering of amendments to the Drugs and Cosmetics Rules, 2005. On the matter

being pursued with the Department of AYUSH as well as the Department of Health in the Ministry of Health and Family Welfare, it revealed that the discrepancy was actually in the footnote to the 3rd Amendment Rules and that the chronology of the numbering of amendments to the Rules was found to be correct. The Committee, however, observe that the Ministry of Health and Family Welfare (Department of Health) have issued the necessary corrigendum *vide* GSR, 589-E dated 13 September, 2007 to rectify the anomaly in the footnote after persistent pursuance by them. The Committee, therefore, express their displeasure over such small mistakes/omissions despite being vetted by the Ministry of Law and Justice. The Committee urge the Ministry to be more vigilant to avoid such types of mistakes/omissions.

Reply of the Ministry

There has been much improvement in the working of the Ministry relating to handling of subordinate legislations. Utmost care is being taken to maintain the registers of such notifications so as to properly co-relate the various amendments in rules, whether issued by the Department of Health or by the Department of AYUSH in this Ministry. The Drugs Controller General (India) as well as the Department of AYUSH have also been asked to maintain proper records of notifications carefully in close co-ordination with the Ministry so that all amendments are connected/corelated. Copies of letters dated 21 April, 2009 issued to the Drugs Controller General (India) as well as the Department of AYUSH are enclosed herewith for information of the Committee.

[Ministry of Health and Family Welfare (Department of Health) O.M.
No. X. 11035/7/2009-DFQC, dated 21.4.2009]

III. Infirmities in the Coast Guard Organisation Group 'C' and Group 'D' Fire Fighting Staff Recruitment Rules, 2006 (SRO 78 of 2006)

Recommendation (Para 3.7)

The Committee note with satisfaction that the infirmities pointed out were rectified by the Ministry of Defence *vide* their amendment notification SRO 59 dated 6 October, 2007. The Committee desire that in future, the Ministry should be careful in using the expressions in the rules and should avoid expressions which are vague in nature or which are liable to be interpreted differently. The Committee also take the view that the Ministry of Law and Justice (Legislative Department) on whom rests the onus of vetting the recruitment rules, should be vigilant in filtering such vague expressions in order to make the rules error free.

Reply of the Ministry

The recommendations contained in Para 3.7 of the Report of the Committee on Subordinate Legislation (Fourteenth Lok Sabha) have been noted for compliance in future while revising Recruitment Rules of various categories of Coast Guard civilian employees.

[Ministry of Defence O.M. No. H-11013/7/2009/D(Parl.), dated 5.5.2009]

IV. Infirmities in the Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 (GSR 481-E of 2006)

Recommendation (Para 4.4)

The Committee note that the Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 were notified in the Gazette of India, Extraordinary, Part-II, Section 3(i) dated 17 August, 2006 in exercise of the powers delegated by the Electricity Act, 2003. These Rules were required to be laid in Parliament as per the laying provision contained in Section 179 of the Electricity Act, 2003 which provides that every Rule made by Central Government under the Act should be laid before each House of Parliament as soon as may be after it is made. However, the same were not laid on the Table of the House as required. On being pointed out, the Ministry submitted that the lapse was due to oversight on account of pressure of work due to Parliament Questions. Subsequently, the Rules were laid on the Table of the House on 16 March, 2007 after a delay of about 7 months. The requisite explanatory note giving the reasons for such delay was, however, not appended to the Rules at the time of laying the Rules. The Committee in Para 66 of their 4th Report (3rd Lok Sabha) had recommended that all Rules or 'Orders' required to be laid before the House should be so laid 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, the 'Order' should be laid on the Table of the House as soon as possible (but in any case within 15 days) after the commencement of the following session. The Committee observe that the explanation tendered by the Ministry for their lapse is hardly found to be convincing. The Rules were notified on 17 August, 2006 and hence the Ministry appeared to have had ample available time for laying the Rules on the Table of the House which could have been laid during the winter session of 2007. The Committee note that the Ministry initiated steps for laying only after it was pointed out to them. Delay in laying of Rules in the House deprives the Parliament of timely scrutiny of such Rules. The Committee, therefore, desire the Ministry to take their statutory obligation of laying of Rules seriously and adhere to the recommendation of the Committee in this regard. The Committee also desire that the Ministry should at least now gear up their system so as to avoid recurrence of such lapses in future.

Reply of the Ministry

The Government is aware of the recommendation made by the Committee in Para 66 of their 4th Report of (3rd Lok Sabha) that all Rules or 'Orders' required to be laid before the House should be so laid 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, the 'Order' should be laid on the Table of the House as soon as possible (but in any case within 15 days) after the commencement of the following session.

The Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 were framed by the Central Government under the provisions of the Electricity Act, 2003 and published in the Gazette of India on 17 August, 2006. These Rules were required to be laid in Parliament as per the laying provision contained in Section 179 of the Electricity Act, 2003 which provides that every Rule made by Central Government under the Act should be laid before each

House of Parliament as soon as may be after it is made. As per requirement, these Rules could not be laid before both Houses of Parliament during the Winter Session, 2006. Thereafter, these Rules were laid on the Table of both Houses of Parliament during the Budget Session, 2007 *i.e.* on 16 March, 2007 in the Lok Sabha and on 19 March, 2007 in the Rajya Sabha alongwith the delay statement (copy enclosed).

The Government has noted the recommendation of the Committee and will strictly adhere to the recommendation made regarding laying of Rules before both Houses of Parliament so that it is not repeated in future.

[Ministry of Power O.M. No. H-11021/11/2009/Parl., dated 13.4.2009]

APPENDIX II

(Vide Para 6 of Introduction of the Report)

EXTRACTS FROM THE MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2009-2010)

The Committee sat on Thursday, 7th January 2010 from 1400 hours to 1445 hours in Chairman's Room No. 143, Parliament House, New Delhi.

PRESENT

Shri P. Karunakaran — *Chairman*

MEMBERS

Lok Sabha

2. Shri Rajen Gohain
3. Shri D.B. Chandre Gowda
4. Smt. Paramjit Kaur Gulshan
5. Shri Mangani Lal Mandal
6. Shri Pinaki Misra
7. Shri Sanjeev Ganesh Naik
8. Shri Adhalrao Shivaji Patil
9. Shri Rajan Sushant

SECRETARIAT

1. Shri P.K. Misra — *Joint Secretary*
2. Shri Gopal Singh — *Director*
3. Shri Raju Srivastava — *Deputy Secretary*

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 'First Action Taken Report' and adopted the same without any modifications. The Committee also authorized the Chairman to present the same to the House

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|----|----|----|----|
| 4. | ** | ** | ** |
| 5. | ** | ** | ** |

The Committee then adjourned.

**Omitted portion of the Minutes are not relevant to this report.

APPENDIX III

(Vide Para 7 of Introduction of the Report)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE TWENTY FOURTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

I. Total No. of recommendations/observations made	9
II. Recommendations that have been accepted by the Government [<i>vide</i> recommendations at Sl. Nos. 1.7-1.9, 2.3, 2.6, 2.8, 2.10, 3.7 and 4.4]	9
III. No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV. Percentage of recommendations accepted	100%

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The Souvenir Items with logo of Parliament are also available at Sales Counter, Reception, Parliament House, New Delhi. The Souvenir items with Parliament Museum logo are available for sale at Souvenir Shop (Tel. No. 23035323), Parliament Museum, Parliament Library Building, New Delhi. List of these items are available on the website mentioned above.”

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Recommendation (Para 1.9)

The Committee note that Section 21(3) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 provides for laying of the Employees' Provident Fund (Amendment) Scheme, 2004. The said amendment scheme has however, not been laid on the Table of the House even after a lapse of more than 2 1/2 years after its publication in the Gazette of India. In terms of the Committee's recommendations, the rules/regulations/schemes are required to be laid 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, the rules should be laid on the Table of the House as soon as possible (but within 15 days) after the commencement of the following session. The Committee observe that while the Ministry's reply did not contain any reason for non-laying of the Scheme, it however simply stated that the Scheme would be laid on the Table of the House after publication of the requisite corrigendum in the Gazette of India by rectifying the lacunae

in the Short Title and footnote to the Scheme of 2006. The aforesaid reply of the Ministry appeared to indicate that they were either not aware of the statutory provision for laying as ingrained in Section 21(3) of the Employees' Provident Fund and Miscellaneous Provisions Act and the recommendation of the Committee in this regard or were not taking these stipulations with seriousness it deserved, resulting in such avoidable lapse on their part. Subsequently, the Ministry have laid the scheme on the Table of the House on 15 December, 2008 but no delay statement has been appended. The Committee take serious note of the delayed laying of the amendment Scheme on the Table of the House which has deprived them from timely scrutiny of such notification. Further, the Committee note that even after delayed laying of the scheme, no delay statement had been appended. The Committee desire that the Ministry should strictly adhere to the time limit stipulated by the Committee in this regard so that such lapses do not recur in future.

Reply of the Ministry

A corrigendum rectifying the short title substituting the year of 2006 in place of 2004 and inserting the footnote in the Employees' Provident Fund (Amendment) Scheme, 2004 which was earlier notified in the Gazette of India as number S.O. 45(E) dated the 15 January, 2006 has since been published in the Gazette of India having S.O. 1230 dated 31 May, 2008 and this corrigendum alongwith the statement showing reasons for delay has been laid on the Table of the Lok Sabha on 15.12.2008. Copy of the said Gazette notification is enclosed. In future, sincere efforts will be made to strictly adhere to the statutory provisions contained in Section 21(3) of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 regarding laying papers before the Parliament.

[Ministry of Labour and Employment OM No. 35014/04/02-SS II, dated 20.4.2009]

Clarification sought from the Ministry

The Ministry was requested to furnish the specific reasons for delay in laying of the Scheme and also to state what mechanism has been set up to avoid such delays in laying in future.

Further Reply of the Ministry

An amendment in Employees' Provident Fund Scheme, 1952 was made in 2006 for covering the Konkan Railway Corporation Ltd. under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 but the Gazette notification to this effect contained two unintentional discrepancies, namely—(i) year of amendment was 2004 whereas it should be 2006; and (ii) Footnote was not inserted below the notification of the amendment. The notification dated 17.1.2006 could not be laid on the Table of the House due to oversight. When these discrepancies were brought to the notice of the Ministry by Lok Sabha Secretariat, we took prompt action, first to notify the discrepancies in the Official Gazette and after its print, lay the same on the Table of the House. Accordingly, the new notification dated 22 May, 2008 (it was not extra-ordinary) was received after expiry of the Monsoon Session of the Parliament and ultimately, we laid the main notification alongwith the corrigendum and delay statement on the Table of the Lok Sabha and Rajya Sabha on 15.12.2008 and 17.12.2008, respectively.

Regarding mechanism to avoid such delays, it is hereby informed that all the amendments made in the Employees Provident Fund Scheme, 1952 and Employees' Pension Scheme, 1995 after this case have been laid on the Table of both the Houses in time. A strict observation is being maintained in the Ministry to avoid such delays in future.

[Ministry of Labour and Employment OM No: 35014/04/02-SS II, dated 3.9.2009]

II. Infirmities in the Drugs and Cosmetics (4th Amendment) Rules, 2005 (GSR 174-E of 2005)

Recommendation (Para 2.3)

The Committee note that the Ministry of Health and Family Welfare (Deptt. of Health) took about seven months to finally notify the Drugs and Cosmetics (4th Amendment) Rules, 2005 after their publication in the draft form. The Committee on Subordinate Legislation have stipulated a maximum period of six months for publishing the final rules after taking into consideration all relevant aspects. On being pointed out, the Ministry simply cited the chronology of events that led to the final notification on the aforesaid draft rules. The reply furnished by the Ministry was not satisfactory and it revealed that the whole matter had been treated with an amount of laxity and no serious attention or importance had been paid to expedite the process for timely publication of rules. The Committee reiterate their earlier recommendation that the final rules should be published within a period of 3 months where no objections/suggestions are received on the draft rules and in cases where a large number of objections/suggestions are received the gap between the notification of draft and final rules should not exceed six months. The Committee, therefore, urge the Ministry to take specific steps to streamline their procedure so as to avoid such delays in publication in future.

Reply of the Ministry

There has been much improvement in the working of the Ministry relating to handling of subordinate legislation. Utmost efforts are being made to minimize the causes of delays in finalization of rules. The situation in the Office of Drugs Controller General (India), which mainly handles the functional parts of the finalisation of notifications is also under scrutiny. The Drugs Controller General (India) has been asked by the Ministry *vide* its D.O. letter dated 21 April, 2009 (Copy enclosed) to undertake an urgent review of the working of officials connected with the draft notifications concerning statutory rules so that the points of delay could be minimized.

[Ministry of Health and Family Welfare (Department of Health) O.M. No. X. 11035/7/2009-DFQC, dated 21.4.2009]

Recommendation (Para 2.6)

The Committee note that the Drugs and Cosmetics (4th Amendment) Rules, 2005 were published in the Gazette of India on 16 March, 2005 but were laid on the Table of the House only on 27 July, 2005, after a delay of more than 4 months. On being pointed out, the Ministry of Health and Family Welfare contended that the rules were sent on 19 April, 2005 for laying in both the Houses of Parliament and were laid in Rajya Sabha

in the same session. However, these could not be laid in Lok Sabha as the number of copies of the notification were not enough as informed by Lok Sabha Secretariat and later due to paucity of time they could not be sent to the Secretariat for laying. Subsequently, the rules were laid in Lok Sabha on 27 July, 2005 entailing a delay of more than 4 months after stipulated time of 15 days. The Committee observe that since the Budget Session concluded on 13 May, 2005, the Ministry's contention of paucity of time is hardly convincing as they had almost one month's time at their disposal to send the requisite number of copies. It appears that the Ministry did not put in extra efforts to send the same expeditiously. The Committee also observe that such lapse on the part of the Ministry to provide the requisite number of copies of the Rules to Lok Sabha Secretariat expeditiously before the end of the Budget Session shows that there was no check in the Ministry on these matters to ensure timely laying of the notification in the House thereby depriving them from timely scrutiny of such notifications. The Committee, therefore, urge the Ministry to gear up their system so as to avoid recurrence of such cases in future.

Reply of the Ministry

There has been much improvement in the working of the Ministry relating to handling of subordinate legislations. Utmost vigil is being maintained so as to lay the notifications in the Houses of Parliament within stipulated time.

[Ministry of Health and Family Welfare (Department of Health) O.M.
No. X. 11035/7/2009-DFQC, dated 21.4.2009]

Recommendation (Para 2.8)

The Committee note that the provisions in Rule 2(b) of the Drugs and Cosmetics (4th Amendment) Rules, 2005 providing the conditions of storage for 'Adrenaline for Injection' as "As prescribed in Indian Pharmacopoeia" amounts to legislation by reference. The Committee have time and again emphasized 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. On being pointed out, the Ministry clarified that the standards of drugs are revised from time to time in accordance to the current scientific knowledge and no such provision has been made so that the conditions for storage remains compatible with the Pharmacopoeia standards. The Committee, therefore, accept the clarification tendered by the Ministry in this regard to be *bona fide* and reasonable.

Reply of the Ministry

As mentioned in the recommendation, the Committee has accepted the clarification tendered earlier by the Ministry in this regard to be *bona fide* and reasonable.

[Ministry of Health and Family Welfare (Department of Health) O.M.
No. X. 11035/7/2009-DFQC, dated 21.4.2009]

Recommendation (Para 2.10)

The Committee have noticed a discrepancy in the chronological order of the numbering of amendments to the Drugs and Cosmetics Rules, 2005. On the matter

being pursued with the Department of AYUSH as well as the Department of Health in the Ministry of Health and Family Welfare, it revealed that the discrepancy was actually in the footnote to the 3rd Amendment Rules and that the chronology of the numbering of amendments to the Rules was found to be correct. The Committee, however, observe that the Ministry of Health and Family Welfare (Department of Health) have issued the necessary corrigendum *vide* GSR, 589-E dated 13 September, 2007 to rectify the anomaly in the footnote after persistent pursuance by them. The Committee, therefore, express their displeasure over such small mistakes/omissions despite being vetted by the Ministry of Law and Justice. The Committee urge the Ministry to be more vigilant to avoid such types of mistakes/omissions.

Reply of the Ministry

There has been much improvement in the working of the Ministry relating to handling of subordinate legislations. Utmost care is being taken to maintain the registers of such notifications so as to properly co-relate the various amendments in rules, whether issued by the Department of Health or by the Department of AYUSH in this Ministry. The Drugs Controller General (India) as well as the Department of AYUSH have also been asked to maintain proper records of notifications carefully in close co-ordination with the Ministry so that all amendments are connected/corelated. Copies of letters dated 21 April, 2009 issued to the Drugs Controller General (India) as well as the Department of AYUSH are enclosed herewith for information of the Committee.

[Ministry of Health and Family Welfare (Department of Health) O.M.
No. X. 11035/7/2009-DFQC, dated 21.4.2009]

III. Infirmities in the Coast Guard Organisation Group 'C' and Group 'D' Fire Fighting Staff Recruitment Rules, 2006 (SRO 78 of 2006)

Recommendation (Para 3.7)

The Committee note with satisfaction that the infirmities pointed out were rectified by the Ministry of Defence *vide* their amendment notification SRO 59 dated 6 October, 2007. The Committee desire that in future, the Ministry should be careful in using the expressions in the rules and should avoid expressions which are vague in nature or which are liable to be interpreted differently. The Committee also take the view that the Ministry of Law and Justice (Legislative Department) on whom rests the onus of vetting the recruitment rules, should be vigilant in filtering such vague expressions in order to make the rules error free.

Reply of the Ministry

The recommendations contained in Para 3.7 of the Report of the Committee on Subordinate Legislation (Fourteenth Lok Sabha) have been noted for compliance in future while revising Recruitment Rules of various categories of Coast Guard civilian employees.

[Ministry of Defence O.M. No. H-11013/7/2009/D(Parl.), dated 5.5.2009]

IV. Infirmities in the Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 (GSR 481-E of 2006)

Recommendation (Para 4.4)

The Committee note that the Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 were notified in the Gazette of India, Extraordinary, Part-II, Section 3(i) dated 17 August, 2006 in exercise of the powers delegated by the Electricity Act, 2003. These Rules were required to be laid in Parliament as per the laying provision contained in Section 179 of the Electricity Act, 2003 which provides that every Rule made by Central Government under the Act should be laid before each House of Parliament as soon as may be after it is made. However, the same were not laid on the Table of the House as required. On being pointed out, the Ministry submitted that the lapse was due to oversight on account of pressure of work due to Parliament Questions. Subsequently, the Rules were laid on the Table of the House on 16 March, 2007 after a delay of about 7 months. The requisite explanatory note giving the reasons for such delay was, however, not appended to the Rules at the time of laying the Rules. The Committee in Para 66 of their 4th Report (3rd Lok Sabha) had recommended that all Rules or 'Orders' required to be laid before the House should be so laid 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, the 'Order' should be laid on the Table of the House as soon as possible (but in any case within 15 days) after the commencement of the following session. The Committee observe that the explanation tendered by the Ministry for their lapse is hardly found to be convincing. The Rules were notified on 17 August, 2006 and hence the Ministry appeared to have had ample available time for laying the Rules on the Table of the House which could have been laid during the winter session of 2007. The Committee note that the Ministry initiated steps for laying only after it was pointed out to them. Delay in laying of Rules in the House deprives the Parliament of timely scrutiny of such Rules. The Committee, therefore, desire the Ministry to take their statutory obligation of laying of Rules seriously and adhere to the recommendation of the Committee in this regard. The Committee also desire that the Ministry should at least now gear up their system so as to avoid recurrence of such lapses in future.

Reply of the Ministry

The Government is aware of the recommendation made by the Committee in Para 66 of their 4th Report of (3rd Lok Sabha) that all Rules or 'Orders' required to be laid before the House should be so laid 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, the 'Order' should be laid on the Table of the House as soon as possible (but in any case within 15 days) after the commencement of the following session.

The Qualifications, Powers and Functions of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 were framed by the Central Government under the provisions of the Electricity Act, 2003 and published in the Gazette of India on 17 August, 2006. These Rules were required to be laid in Parliament as per the laying provision contained in Section 179 of the Electricity Act, 2003 which provides that every Rule made by Central Government under the Act should be laid before each

House of Parliament as soon as may be after it is made. As per requirement, these Rules could not be laid before both Houses of Parliament during the Winter Session, 2006. Thereafter, these Rules were laid on the Table of both Houses of Parliament during the Budget Session, 2007 *i.e.* on 16 March, 2007 in the Lok Sabha and on 19 March, 2007 in the Rajya Sabha alongwith the delay statement (copy enclosed).

The Government has noted the recommendation of the Committee and will strictly adhere to the recommendation made regarding laying of Rules before both Houses of Parliament so that it is not repeated in future.

[Ministry of Power O.M. No. H-11021/11/2009/Parl., dated 13.4.2009]

APPENDIX II

(Vide Para 6 of Introduction of the Report)

EXTRACTS FROM THE MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2009-2010)

The Committee sat on Thursday, 7th January 2010 from 1400 hours to 1445 hours in Chairman's Room No. 143, Parliament House, New Delhi.

PRESENT

Shri P. Karunakaran — *Chairman*

MEMBERS

Lok Sabha

2. Shri Rajen Gohain
3. Shri D.B. Chandre Gowda
4. Smt. Paramjit Kaur Gulshan
5. Shri Mangani Lal Mandal
6. Shri Pinaki Misra
7. Shri Sanjeev Ganesh Naik
8. Shri Adhalrao Shivaji Patil
9. Shri Rajan Sushant

SECRETARIAT

1. Shri P.K. Misra — *Joint Secretary*
2. Shri Gopal Singh — *Director*
3. Shri Raju Srivastava — *Deputy Secretary*

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 'First Action Taken Report' and adopted the same without any modifications. The Committee also authorized the Chairman to present the same to the House

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| 4. | ** | ** | ** |
| 5. | ** | ** | ** |

The Committee then adjourned.

**Omitted portion of the Minutes are not relevant to this report.

APPENDIX III

(Vide Para 7 of Introduction of the Report)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE TWENTY FOURTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

I. Total No. of recommendations/observations made	9
II. Recommendations that have been accepted by the Government [<i>vide</i> recommendations at Sl. Nos. 1.7-1.9, 2.3, 2.6, 2.8, 2.10, 3.7 and 4.4]	9
III. No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV. Percentage of recommendations accepted	100%

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