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**COMMITTEE ON SUBORDINATE
LEGISLATION
(2009-2010)**

(FIFTEENTH LOK SABHA)

TWELFTH REPORT

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

(Presented on 18.2.2010)



**LOK SABHA SECRETARIAT
NEW DELHI**

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(2009-2010)

Shri P. Karunakaran — *Chairman*

MEMBERS

2. **Shri Paban Singh Ghatowar**
3. **Shri Rajen Gohain**
4. **Shri D.B. Chandre Gowda**
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SECRETARIAT

1. **Shri P.K. Misra — *Joint Secretary***
2. **Shri S.C. Kaliraman — *Addl. Director***
3. **Smt. Hema Joshi — *Committee Officer***

INTRODUCTION

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

2. This Report relates to the action taken on the recommendations of the Committee contained in the Twenty-Third Report (2008-2009) (Fourteenth Lok Sabha) which was presented to Lok Sabha on 16 December, 2008.

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 3.8.2010.

5. The summary of recommendations contained in the Twenty-Third Report (14th Lok Sabha) and action taken reply of the Government thereon have been reproduced in Appendix I of the Report.

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

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

NEW DELHI;
August, 2010
Shravana, 1932 (Saka)

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-Third Report (Fourteenth Lok Sabha) which was presented to Lok Sabha on 16.12.2008. The Twenty-Third Report dealt with the following Chapters:—

- I. The Aircraft (Demolition of Obstructions Caused by Buildings and Trees etc.) (Amendment) Rules, 2006 (GSR 314-E of 2006).
- II. The Drugs and Cosmetics (3rd Amendment) Rules, 2006 (GSR 352-E of 2006).
- III. Infirmary in the Central Road Fund (State Roads) Rules, 2007 (GSR 475-E of 2007).
- IV. Delay in the publication of the Prevention of Food Adulteration (Second Amendment) Rules, 2007 (GSR 458-E of 2007).

2. The Committee note with satisfaction that the Ministries concerned have taken action on all the recommendations contained in the Twenty-Third Report except Para 3.2. A statement showing the action taken by the Government on the recommendations contained in the Twenty-Third Report (14th Lok Sabha) is given in Appendix I.

3. As regards para 3.2 relating to amendment Rule 10(3) of Central Road Fund (State Roads) Rules, 2007, the Ministry of Road Transport and Highways had sought extension of time. The Committee on Subordinate Legislation (2008-09) in their Twenty-Third Report had recommended in this connection as follows :—

3.2 The Committee note that Rule 10(3) of the Central Road Fund (State Roads) Rules, 2007 provides that the Central Government shall appoint an officer for periodical inspection during the execution of works and to exercise such checks as may be necessary to ensure observance of time schedule and proper implementation. However, the periodicity of such inspection has not been specified in the Rules. On being pointed out, the Ministry of Shipping, Road Transport and Highways (Deptt. of Road Transport and Highways) contended that since the nature, periodicity, intervals and the procedures for such inspections varies from work to work, it is not advisable to specify them in the rule itself and hence the existing provisions in the rules are considered as adequate. The Committee are not convinced by this explanation. The Committee feel that rules ought to indicate atleast a minimum number of inspections that should be carried out mandatorily and their periodicity viz. yearly, half-yearly etc. The Committee are of the view that unless the periodicity of such inspection is specified, the provision in the rules could be liable to be rendered ineffective and defunct.

Moreover, such ambiguity in the rules leaving scope for varied interpretations by different persons would vitiate the very objective that the inspection process seeks to achieve. The Committee, therefore, desire that the Ministry should amend the rules so that periodicity of inspection is clearly specified in the rules. The Committee would like to be apprised of the action taken in this regard within three months of presentation of this report to the House.

4. Explaining the reasons for delay in bringing forth the amendments, the Ministry of Road Transport and Highways stated as under :—

“Amendment in the Central Road Fund (State Roads) Rules, 2007 are still under consideration of this Ministry. A Committee that was set up to look into the various provisions of the CRF (State Roads) Rules affecting the smooth implementation of the Rules have given its recommendations. The process of incorporating the suggestions of the Committee are still in progress. Amendments in the CRF (State Roads) Rules is a lengthy and time consuming process and time required for the finalization of these rules cannot be predicted and no specific time frame can be earmarked. No unanimous decision could be arrived for incorporating the suggestions of the Committee in view of the divergent views of the executive agencies. The amendments proposed by the Committee on Subordinate Legislation will be taken due care as and when the Central Road Fund (State Roads) Rules, 2007 are finalized and will be accordingly apprised of the changes/amendments”.

5. The Committee regret to note that action taken reply on the recommendation contained in para 3.2 of the Twenty-Third Report presented to Lok Sabha on 16.12.2008 is yet to be furnished by the Government. The Ministry of Road Transport and Highways have repeatedly been seeking extension of time for furnishing the action taken reply on one ground or the other. The latest request of the Ministry of Road Transport and Highways seeks extension of time upto 30.9.2010. The Committee may accede to the request of the Ministry and urge that the action on the recommendations of the Committee should be taken within the extended time and the Committee be apprised of the action taken in this regard.

NEW DELHI;
August, 2010

Sravana, 1932 (Saka)

P. KARUNAKARAN,
Chairman,
Committee on Subordinate Legislation.

APPENDIX I

(Vide Para 5 of Introduction of the Report)

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

I. The Aircraft (Demolition of Obstructions caused by Buildings and Trees etc.) (Amendment) Rules, 2006 (GSR 314-E of 2006)

Recommendation (Paras 1.6 & 1.9)

1.6 The Committee note that the phrase 'within the time-limit specified therein' appearing in Rule 3(1) and 4(1) of the Aircraft (Demolition of Obstructions caused by Building and Trees etc.) (Amendment) Rules, 2006 which sought to substitute the existing provisions in Rules 7 and 8(1) of the Principal Rules appeared to indicate that the time limit available to building/tree owners for compliance of final order would be specified in such orders and not in the rules. The Committee felt that the rule should incorporate specific and definite provisions pertaining to such a time limit so that there is no scope for harassment or inconvenience to any person and also as a safeguard to prevent arbitrary exercise of powers. The Committee observe that agreeing to this suggestion, the Ministry of Civil Aviation, subsequently, amended the Rules vide GSR No. 202 dated 29 September, 2007 to provide that building/tree owners should comply with the final orders 'within a period of 60 days from the date of such order.' While appreciating the prompt action taken by the Ministry, the Committee urge that in future the Ministry should take extra care while framing rules so that important provisions therein are made specific and definite so as to obviate any scope for any unintended harassment or inconvenience to any person.

1.9 The Committee note that the Aircraft (Demolition of Obstructions caused by Building and Trees etc.) (Amendment) Rules, 2006 were laid on the Table of House on 1st March, 2007 after a delay of 10 months in deviation of the Committee's stipulation in this regard. The Committee further note that at the time of laying on the Table of the House in the explanatory note appended to the rules, the Ministry only explained about the need of carrying out the amendment rules but did not explain the reasons for delay in laying the rules. Though the Ministry of Civil Aviation regretted the delay in laying the papers in the House and also stated that a system has been put in place to streamline laying of papers in Parliament with a view to minimize any delay, their reply was silent on the reasons for the delay. The Committee reiterate their earlier recommendation that all the Ministries should ensure that all 'Orders' required to be laid before the House are 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 'Orders' 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 Ministry concerned should also furnish the reasons explaining the delay caused in laying such 'Orders' on the Table of House and if the 'Orders' are laid on the Table after an inordinate delay, an explanatory note giving the reasons for such delay should be appended to the 'Orders' when so laid.

Reply of the Ministry

The recommendations of the Committee have been noted for compliance. It will be ensured by the Ministry that such delays are avoided in future and an appropriate Explanatory Note giving reasons for any unavoidable delay will be appended.

[Ministry of Civil Aviation O.M. No. 11012/05/2002-A dated 23.3.2009]

II. The Drugs and Cosmetics (3rd Amendment) Rules, 2006 (GSR 352-E of 2006)

Recommendation (Para 2.4)

The Committee note that there was a delay of about six months in the final notification of the Drugs and Cosmetics (3rd Amendment) Rules, 2006. The Committee observe that the Ministry's justification that inordinate delay in the final notification occurred due to the fact that the comments which were received as late as 25th July, 2005 were also considered and approved by Hon'ble Minister of Health and Family Welfare is far from convincing. Further the Ministry's reply is silent on the number and nature of the comments received. The Committee are of the opinion that such delays in publication could be avoided by the Ministry by streamlining the procedures for final publication of the rules after consideration of the comments received on the draft rules. They therefore, desire that better inter-departmental coordination and improved methods should be adopted for timely publication of the rules. The Committee further desire that their recommendations in this regard should be adhered to by the Ministry scrupulously in future so as to minimize the gap between publication of draft rules and their final notification so that the public is not deprived of the benefits of such rules due to lapses on the part of the Ministry.

Reply of the Ministry

The observation of the Committee has been noted and inter-departmental co-ordination will be adhered to in future to minimize the gap between publication of draft rules and final notification.

Recommendation (Para 2.7)

The Committee note that the Drugs and Cosmetics (3rd Amendment) Rules, 2006 were published in the Gazette of India after a delay of 7 days. The Committee did not find the justification put forth by the Department of AYUSH that the rules were sent for publication on 1st June, 2006 through R&I section and the delay was caused by the R&I section which transmitted the rules to the Press only on 8th June, 2006 to be hardly tenable as the onus of delay has been passed on to R&I section, which is, but a part of the Ministry of Health and Family Welfare. The Committee observe with serious concern that the responsibility of timely printing of rules lay with the Ministry

as a whole and such inter-departmental blame-game put forth as justification for delay in printing is unacceptable. The Committee note that the Extraordinary Gazette carry important notification and it should be published on the same day on which it is sent for publication. The Committee further emphasize that the Ministry should evolve in-built checks and improve co-ordination within the Ministry to eliminate in-house delays. The Committee, therefore, desire that in future, the Ministry should ensure that printing of rules in the Extraordinary Gazette should be done on the same day, keeping in view their importance and urgency. The Committee would like to be apprised about the steps taken in this regard.

Reply of the Ministry

The observation of the Committee has been noted and Department will take care for timely publication of Extraordinary Gazette Notification in future.

Recommendation (Para 2.10)

The Committee note that there was a delay of about 11 months in laying the Drugs and Cosmetics (3rd Amendment) Rules, 2006 on the Table of the House. The Committee did not find the reasons furnished by the Ministry that the delay occurred due to late receipt of the printed rules from the press to be convincing. The Committee are of the view that the onus lies with the Ministry to ensure that the printed copies of the rules are received in time from the press and the same are forwarded for timely laying on the Table of the House. The Committee desire that the Ministry should take utmost care in laying the rules on the Table of the House within the stipulated time especially rules published in Extraordinary Gazette as they carry notifications of sensitive nature. The Committee took serious note of the fact that even though the rules were laid after a gap of almost 11 months, the delay statement which had been assured by the Ministry was not laid along with the rules. The Committee observe and reiterate their earlier recommendation that whenever there is inordinate delay, the Ministry must make sure that a delay statement explaining the reasons for the delay should be appended to the rules when the same are laid on the Table of the House. The Committee further desire that Ministry to evolve suitable procedural safeguards against recurrence of such lapses.

Reply of the Ministry

The observation of the Committee has been noted and will be adhered to in future for timely laying the Gazette Notification (Extraordinary) on the table of the House within stipulated time after commencement of the session, if any delay occurred for laying notification, the reasons of delay will be appended in future.

[Ministry of Health and Family Welfare (Department of AYUSH)
O.M. No. H.11018/4/2008-DCC (AYUSH) dated 3.2.2009]

III. The Central Road Fund (State Roads) Rules, 2007 (GSR 475-E of 2007)

(Vide Para 3 of the Report)

Recommendation (Para 3.2)

The Committee note that Rule 10(3) of the Central Road Fund (State Roads) Rules, 2007 provides that the Central Government shall appoint an officer for periodical inspection during the execution of works and to exercise such checks as may be necessary to ensure observance of time schedule and proper implementation. However, the periodicity of such inspection has not been specified in the Rules. On being pointed out, the Ministry of Shipping, Road Transport and Highways (Deptt. of Road Transport and Highways) contended that since the nature, periodicity, intervals and the procedures for such inspections varies from work to work, it is not advisable to specify them in the rule itself and hence the existing provisions in the rules are considered as adequate. The Committee are not convinced by this explanation. The Committee feel that rules ought to indicate at least a minimum number of inspections that should be carried out mandatorily and their periodicity *viz.* yearly, half-yearly etc. The Committee are of the view that unless the periodicity of such inspection is specified, the provision in the rules could be liable to be rendered ineffective and defunct. Moreover, such ambiguity in the rules leaving scope for varied interpretations by different persons would vitiate the very objective that the inspection process seeks to achieve. The Committee, therefore, desire that the Ministry should amend the rules so that periodicity of inspection is clearly specified in the rules. The Committee would like to be apprised of the action taken in this regard within three months of presentation of this report to the House.

Reply of the Ministry

Amendment in the Central Road Fund (State Roads) Rules, 2007 are still under consideration of this Ministry. A Committee that was set up to look into the various provisions of the CRF (State Road) Rules affecting the smooth implementation of the Rules have given its recommendations. The process of incorporating the suggestions of the Committee are still in progress. Amendments in the CRF (State Roads) Rules is a lengthy and time consuming process and time required for the finalization of these rules cannot be predicted and no specific time frame can be earmarked. No unanimous decision could be arrived for incorporating the suggestions of the Committee in view of the divergent views of the executive agencies. The amendments proposed by the Committee on Subordinate Legislation will be taken due care as and when the Central Road Fund (State Roads) Rules, 2007 are finalized and will be accordingly apprised of the changes/amendments.

(Please see comments of the Committee in para 5 of this report)

IV. Delay in the Publication of the Prevention of Food Adulteration (Second Amendment) Rules, 2007 (GSR 458-E of 2007)

Recommendation (Para 4.3)

The Committee note that the Ministry of Health and Family Welfare have taken 13 months to notify the Prevention of Food Adulteration (Second Amendment) Rules, 2007 after the publication of the rules in the draft form inviting objections/suggestions from the public. On being pointed out, the Ministry of Health and Family Welfare took

the plea that the time taken in finalization of the rules was inevitable since the comments received on the draft notification were of technical and controversial nature, they were to be considered in a meeting of experts which could not be held due to lack of quorum. Moreover, they have also cited other reasons for delay such as time taken by Ministry of Law and Justice in vetting the draft and their translation into Hindi. The Committee note that the Ministry have, however, assured that efforts will be made in future to adhere to the time frame fixed for finalization of notifications. In this regard, the Committee had stipulated a maximum time-limit of six months keeping in view the various stages involved in the finalization of the rules. The Committee had also recommended that in case the Ministry is not able to adhere to the time frame, they should seek specific extension of time from the Committee in this regard. In the instant case, the Committee observe that the number of comments received on the draft rules were not so large as to justify a delay of seven months over and above the six months stipulated period. The Committee further observe that in any case, even if the delay was inevitable as stated by the Ministry, extension of time should have been sought from the Committee explaining their difficulties. It, therefore, appeared that the Ministry have taken the recommendation of the Committee casually and did not accord the seriousness they deserved. The Committee urge the Ministry of Health and Family Welfare to streamline their procedure so as to avoid recurrence of such delays in finalizing the rules, and also to scrupulously follow the Committee's recommendations as assured by them. The Committee also desire that the Ministry should seek specific extension of time from them in case inevitable delays are foreseen in advance.

Reply of the Ministry

The Ministry of Health and Family Welfare *vide* its OM No. P.15014/16/2005-PH(F) dated 15.7.2008 had intimated to the Committee on Subordinate Legislation about the reasons for the delay in the publication of the Final Notification of the amendments rules *viz.* the Prevention of Food Adulteration (2nd Amendment) Rules, 2007 (GSR 458-E of 2007). The Committee has not, however, agreed with the said reasons. The Ministry agrees with the observation of the Committee that if there was any case of delay, it should have informed the Committee and taken necessary extension of time for the same. The Ministry assures the Committee that steps are being taken so as to identify the possible delay areas and minimize the same. One of the main areas of delay in finalizing a notification has been the time taken in its vetting by the Legislative Department and its subsequent translation by the Official Language Wing of that Department. To minimize the delay, this Division of the Ministry of Health and Family Welfare has been vigorously interacting with those Departments in respect of each notification including by increased personal visits of the concerned officers and telephonic reminders. The administrative workings of this Division in this Ministry in respect of handling of subordinate legislation has also been fine-tuned by keeping a close watch thereon to avoid unnecessary delays. Wherever necessary the Committee is being requested for extension of time.

[Ministry of Health and Family Welfare O.M. No. P.15014/16/2005-PH(F)
dated 22.6.2009]

APPENDIX II

(Vide Para 6 of Introduction of the Report)

MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2009-2010)

The Committee sat on Tuesday, the 3rd August, 2010 from 1500 to 1600 hours in Chairman's Room No. 143, Parliament House, New Delhi.

PRESENT

Shri P. Karunakaran — *Chairman*

MEMBERS

Lok Sabha

2. Shri Paban Singh Ghatowar
3. Shri Mangani Lal Mandal
4. Shri Sanjeev Ganesh Naik
5. Shri Rajaram Pal
6. Shri Anantha Venkata Rami Reddy
7. Shri Hamdulla Sayeed
8. Shri Adhalrao Shivaji Patil
9. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri J.S. Chauhan — *Director*
2. Shri S.C. Kaliraman — *Additional 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, thereafter, took up for consideration the draft Tenth, Eleventh and Twelfth Action Taken Reports and adopted the same without any modifications. The Committee also authorized the Chairman to present the same to the House.

The Committee then adjourned.

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-THIRD REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

I. Total No. of recommendations/observations made	7
II. Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos. 1.6, 1.9, 2.4, 2.7, 2.10, 3.2 & 4.3]	7
III. No. of recommendations which the Committee want to pursue in view of Government reply	Nil
IV. Percentage of recommendations accepted	100%

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