

**COMMITTEE ON SUBORDINATE LEGISLATION**  
**(FIFTEENTH LOK SABHA)**  
**(2010-2011)**

**FIFTEENTH REPORT**

**[ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS/  
OBSERVATIONS CONTAINED IN EIGHTEENTH REPORT (2007-2008) (FOURTEENTH  
LOK SABHA)]**

**(PRESENTED ON 2.12.2010)**

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**LOK SABHA SECRETARIAT**

**NEW DELHI**

**December, 2010/Agrahayana, 1932 (Saka)**

**COSL No.24**

**PRICE: Rs.**

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

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2010-2011)**

1. **Shri P. Karunakaran** **Chairman**
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 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 Fifteenth Action Taken Report.

2. This Report relates to the action taken on the recommendations of the Committee contained in the Eighteenth Report (2007-2008) (Fourteenth Lok Sabha) which was presented to Lok Sabha on 6.9.2007.

3. The Committee considered and adopted this Report at their sitting held on 25.11.2010.

4. The summary of recommendations contained in the Eighteenth Report (14<sup>th</sup> Lok Sabha) and action taken reply of the Government thereon have been reproduced in Appendix I of the Report.

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

6. An analysis of the action taken by Government on the recommendations contained in the Eighteenth Report of the Committee (14<sup>th</sup> Lok Sabha) is given in Appendix III.

**New Delhi;**  
**December, 2010**  
**Agrahayana, 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 Eighteenth Report (Fourteenth Lok Sabha) which was presented to Lok Sabha on 6.9.2007. The Eighteenth Report dealt with the following Chapters: -

- I. Shortcomings in the Airports Authority of India (Lost Property) Regulations, 2003 (SO 28-E of 2003)
- II. Contradiction between Rule 7 (1) and Rule 7 (2) (b) of the All India Services (Leave) Amendment Rules 2004 (GSR 373 of 2004).
- III Non-laying of the Rules and other shortcomings in the Pulses Grading and Marking Rules, 2003 (GSR 129 of 2004).

2. The shortcomings observed during scrutiny of the rules mentioned in Chapters (I) to (III) above were brought to the notice of the Ministries concerned 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 Eighteenth Report is given in Appendix-I

New Delhi;  
December, 2010  
Agrahayana, 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 EIGHTEENTH REPORT OF THE COMMITTEE (14<sup>th</sup> LOK SABHA)**

#### **I. Shortcomings in the Airports Authority of India (Lost Property) Regulations, 2003 (SO 28-E of 2003).**

##### **Recommendation (Para 1.3)**

The Committee are surprised to note that the issue concerning lost property is governed simultaneously by three sets of Regulations viz. (i) International Airport Authority of India (Lost Property) Regulations, 1974; (ii) National Airports Authority (Lost Property) Regulations, 1998 and (iii) the Airports Authority of India (Lost Property) Regulations, 2003. The Ministry of Civil Aviation have since clarified that the regulations mentioned at (iii) have superseded the regulations mentioned at (i) and (ii) above. The preamble to the Airports Authority of India (Lost Property) Regulations, 2003, however, does not reflect this position and will cause confusion in the minds of the general public. It is not clear as to why the Ministry of Civil Aviation failed to make the preamble to the said regulations complete and self contained. The Committee desire the Ministry of Civil Aviation to amend the preamble to the regulations so as to reflect the factual position regarding supersession of the earlier regulations on the subject.

##### **Reply of the Ministry**

Though the preamble of Airports Authority of India (Lost Property) Regulations, 2003 does not reflect the information that regulations have superseded regulations notified on earlier date, however this has been provided/mentioned in Regulation 9 of the Airports Authority of India (Lost Property) Regulations, 2003.

[Ministry of Civil Aviation OM No. AV.24013/03/2003-AAI dated 26<sup>th</sup> April, 2010]

##### **Recommendation (1.7)**

The Committee observe that proviso to Regulation 5 of the Airports Authority of India (Lost Property) Regulations, 2003 prohibited official documents such as license, passport, etc. being handed over to the owner of the lost property. It was, therefore, felt that proviso to regulation 5 when read with regulation 7 (3) (iii) had the effect of putting the owner of the lost property viz. license, passport, identity books etc. to avoidable inconvenience. On being pointed out, the Ministry of Civil Aviation conveyed that Airports Authority of India shall have no objection in notifying the owners that the official documents

like licenses, passports etc. are in the lost property office and handing over the same to the bonafide owner on establishment of his/her identity. The Committee note with satisfaction that the Ministry have since notified the requisite amendments in the proviso to regulation 5 and Regulation 7 (3) (iii) to the above effect vide Gazette of India Notification No. S.O 1731 (E) dated 9 December, 2005.

### **Reply of the Ministry**

No action required.

[Ministry of Civil Aviation OM No. AV.24013/03/2003-AAI dated 26<sup>th</sup> April, 2010]

## **II. Contradiction between Rule 7 (1) and Rule 7 (2) (b) of the All India Services (Leave) Amendment Rules 2004 (GSR 373 of 2004)**

### **Recommendation (Para 2.5)**

The Committee note that as per the amended provision of the All India Service (Leave) Amendment Rules, 2004 notified vide GSR 373 in the Gazette published on 30 October, 2004, a member of the All India Service shall be deemed to have resigned from the service if he remains absent from duty for a continuous period of five years, with or without leave. The Rule did not make any distinction between absence with leave and absence without leave and as such it could mean that in both the cases, a member of the service shall be deemed to have resigned from the service if he remained absent from duty for a continuous period of five years. This provision was also found to be in contradiction with the preceding rule 7(1) which enables grant of leave of any kind to a member of the service for a continuous period not exceeding five years. On the matter being taken up, the Department of Personnel and Training clarified that the initial proposal to provide for deemed resignation for absence from duty for a continuous period exceeding five years with or without leave has not been properly reflected in the amended rules as the word 'exceeding' got deleted inadvertently in the process of vetting of the draft by the Legislative Department. According to Department of Personnel and Training, this omission also resulted in contradiction between Rule 7(1) and 7(2) *ibid*. The Department intimated that they proposed to bring in consequential amendments to the rules to remove the anomalies pointed out by the Committee. Subsequently, the Department of Personnel and Training notified revised amendments to Rule 7(2) vide GSR 207-E dated 19.03.2007 incorporating the requisite changes in the rules. While taking due note of the consequential corrective steps taken by the Department of Personnel and Training, the Committee express their displeasure over the manner in which the matter relating to amendments to these rules was taken up both by the Department of Personnel and Training and Legislative Department with an amount of laxity and the omission regrettably remained undetected till it was pointed out to them. The Committee trust that with a view to obviating recurrence of such lapses, the Ministry of Personnel, Public Grievances & Pension (Department of



Personnel & Training) as well as the Ministry of Law & Justice (Legislative Department) would exercise due care and ensure proper checks at sufficiently higher level of officers so as to leave no room for laxity in the matter of drafting the amendments and rules in future.

### **Reply of the Ministry**

The directions of the Committee have been taken on record and their directions would be strictly followed in future.

[Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) O.M. No. 11019/15/2003-AIS-III dated 28<sup>th</sup> September, 2007]

The observations of the Hon'ble Committee in its Report have been circulated to all ILS officers of this Department dealing with the vetting of subordinate legislation for updation and future compliance.

[Ministry of Law & Justice (Legislative Department) O.M. No. 4(3)/07 L-I dated 28 July, 2008]

### **III. Non-laying of the Rules and other shortcomings in the Pulses Grading and Marking Rules, 2003 (GSR 129 of 2004)**

#### **Recommendation (Para 3.5)**

Section 3(3) of the Agricultural Produce (Grading and Marking) Act, 1937 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. The Pulses Grading and Marking Rules, 2003 notified by the Ministry of Agriculture in the Gazette dated 17 April, 2004 were, however, not laid in Parliament within the specified period. It was only after the matter was brought to their notice that the Ministry initiated action and laid the relevant notifications in Parliament on 20<sup>th</sup> December, 2004 i.e. after a period of over eight months from the date of publication of the notification. The reason adduced for delay by the Ministry that the copies of the final notification were received from the Government of India Printing Press after two months from the date of publication and that the proposal for laying the papers was thereafter processed in the Directorate of Marketing and Inspection before being forwarded to the Ministry clearly indicates that there has been complete lack of monitoring in the Ministry in ensuring timely laying of the notification in the House. While expressing their concern over the casual approach displayed by the Ministry in the instant case, the Committee are of the firm view that the responsibility of the Ministry/Department does not cease with the sending of the notification to the Printing Press and that they should take appropriate and timely steps to obtain the printed copies from the Press followed by prompt action for laying the notification in the Parliament within the stipulated period. The

Committee trust that the Ministry would now gear up their system so as to avoid recurrence of such cases in future.

### **Reply of the Ministry**

The Pulses Grading and Marking Rules, 2004 was a voluminous document. The Ministry of Agriculture is dependent on different Ministries like Ministry of Law and Justice, Official Language Bureau and Government of India Printing Press for legal vetting, Hindi translation and printing of preliminary draft notification and final notification, respectively.

With a view to ensure speedy implementation of the recommendation of the Committee on Subordinate Legislation, the Ministry has initiated all efforts and made liaison with these Ministries/Departments for getting work done at the earliest possible. The time limit of six months will be adhered strictly. In case, it is not possible in the time limit fixed by the Committee, the Ministry/Department shall ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations within the prescribed time limit. The Ministry is taking all possible steps to gear up the system so as to avoid recurrence of such cases in future.

[Ministry of Agriculture (Department of Agriculture & Cooperation) O.M. No. 18011/2/2001-M.II dated 31<sup>st</sup> December, 2007]

### **Recommendation (3.8)**

With a view to minimize the gap between the publication of draft rules and their final notification, the Committee on Subordinate Legislation have prescribed guidelines stipulating that the final rules should be notified within a period of three months after publication of draft rules in all such cases where no objections/suggestions are received on the draft rules and the gap should not be more than six months in cases where a large number of objections/suggestions are received. The Committee's scrutiny however, revealed that these guidelines were not observed by the Ministry in the instant case where the gap between publication of draft rules and notification of the final rules was over 22 months despite the fact that only one suggestion was received for incorporating expiry date in the draft rules. Clearly, no sense of urgency prevailed in the Ministry and the matter was allowed to linger on in a routine manner as is evident from the facts that it took the Directorate concerned a period of over seven months to prepare the draft of final notification; over six months were taken by Ministry of Law for vetting the draft; and four and a half months were spent on getting Hindi translation and obtaining fair typed copies of the final notification. Undoubtedly, the matter relating to finalisation of draft rules and notification of the same by the Ministry in this case was dealt with in a casual manner in utter disregard to the recommendations of the Committee made in their earlier reports. While expressing their displeasure over the extraordinary delay in notifying the final rules, the Committee recommend that the Ministry should devise appropriate mechanism to

ensure timely framing of rules in future in strict compliance with the stipulations made in this regard.

### **Reply of the Ministry**

The Ministry of Agriculture is continuously making efforts to get final notification published in the Gazette of India within a period of six months of the publication of preliminary draft notification as per the prescribed time frame in the Third Report of the Committee on Subordinate Legislation. The Ministry has approved the following time frame for issue of the final notification :

- (i) A period of 45 days is to be ear-marked in the draft notification for inviting comments/suggestions from general public, which is according to the statutory requirement.
- (ii) The Directorate of Marketing and Inspection, Faridabad will examine the comments/suggestions from the general public and furnish the final notification after incorporating the comments/suggestions received to the Ministry within a period of 30 days along with copy of the final draft notification (English and Hindi). The DMI will also furnish a statement indicating the suggestions/comments which have been accepted with reference to the Draft Rules in the Notification along with the reasons for their acceptance.
- (iii) The Ministry will examine the final draft notification and obtain the approval of Hon'ble Agriculture Minister within a period of twenty days.
- (iv) The Ministry will get the final draft notification vetted from the Ministry of Law within a period of 20 days and send it to DMI for fair typing.
- (v) The DMI will return the fair typed draft in English vetted by Ministry of Law to the Ministry of Agriculture within a period of 10 days.
- (vi) The final Notification will be got translated in Hindi from Official Language Wing of the Ministry of Law within a period of 20 days.
- (vii) The DMI will return the fair typed draft in Hindi translated by Official Language Wing within a period of 10 days.
- (viii) The final Notification (English & Hindi version) will be forwarded to the Government of India Press for publication in the Gazette of India within the remaining 25 days.

[Ministry of Agriculture (Department of Agriculture & Cooperation)  
O.M.No. 18011/2/2001-M.II dated 31<sup>st</sup> December, 2007]

### **Recommendation (3.10)**

The Committee noted that the year in the short-title of the Pulses, Grading and Marking Rules 2003 was not in conformity with the year of publication i.e., 2004. On being pointed out, the Ministry of Agriculture (Department of Agriculture & Cooperation) issued a corrigendum vide GSR 422 published in the Gazette of India dated 08.12.2005 substituting the year 2003 with 2004 in the short-title so as to make it in conformity with the year in which the Rules were notified. However, the word 'Rules' which was found originally missing in the short title has still not been appropriately inserted. The Committee, therefore, desire the Ministry to incorporate the word 'Rules', at the appropriate place in the short-title and issue necessary corrigendum at the earliest. The Committee would also like to express their displeasure that such small mistakes/omissions continue to occur despite vetting by the Ministry of Law and Justice.

### **Reply of the Ministry**

The final notification of Pulses Grading and Marking Rules, 2004 was published on 17.4.04 appearing at pages 680-714 vide GSR 129 dated 7th April, 2004 has been examined and it may kindly be seen that the word 'Rules' appear after the word 'Marking' in the short-title, application and commencement (copy enclosed). In the corrigendum issued on 8.12.2005, the year 2003 was substituted with the year 2004 (copy enclosed). It is, therefore, requested that the Committee may kindly re-consider the matter related to incorporating the word 'Rules' by issuing corrigendum. However, the Ministry/Department will take utmost care to avoid such mistakes/omissions in future.

A copy of amendment notification incorporating the word 'Rules' as pointed out in Para 3.10 of the Eighteenth Report of the Committee on Subordinate Legislation (14<sup>th</sup> Lok Sabha) is enclosed.

[Ministry of Agriculture (Department of Agriculture & Cooperation) O.M. No. 18011/2/2001-M.II dated 31<sup>st</sup> December, 2007 & O.M. No. 18011/7/2008-M-II dated 12<sup>th</sup> August, 2010]

The observations of the Hon'ble Committee in its Report have been circulated to all ILS officers of this Department dealing with the vetting of subordinate legislation for updation and future compliance.

[Ministry of Law & Justice (Legislative Department) O.M. No.4(4)/07 L-I dated 4<sup>th</sup> August, 2008]

## **APPENDIX-V**

(vide Para 6 of Introduction of the Report )

### **MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2010-2011)**

The Committee sat on Thursday, 25<sup>th</sup> November, 2010 from 1500 to 1600 hours in  
Committee Room No. 62, Parliament House, New Delhi.

#### **PRESENT**

1. Shri P. Karunakaran Chairman

#### **MEMBERS**

##### **LOK SABHA**

2. Shri Paban Singh Ghatowar
3. Shri D.B. Chandre Gowda
4. Smt. Paramjit Kaur Gulshan
5. Dr. Sanjeev Ganesh Naik
6. Shri Rajaram Pal
7. Shri Anantha Venkata Rami Reddy
8. Shri Hamdulla Sayeed
9. Shri Adhalrao Shivaji Patil

#### **SECRETARIAT**

1. Shri P.K. Misra - Joint Secretary
2. Shri J.S. Chauhan - Director
3. Shri S.C. Kaliraman - Additional Director

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 Fourteenth Report and Fifteenth Action Taken Report 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 EIGHTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

|      |   |      |
|------|---|------|
| I.   | Total No. of recommendations/observations made  | 6    |
| II.  | Recommendations that have been accepted by the Government [ <u>vide</u> recommendations at Sl. Nos. 1.3, 1.7, 2.5, 3.5, 3.8 & 3.10] | 6    |
| III. | No. of recommendations which the Committee do not want to pursue in view of Government reply  | Nil  |
| IV.  | Percentage of recommendations accepted  | 100% |