

Confidential

COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTEENTH LOK SABHA)
(2011-2012)

**“NON-IMPLEMENTATION OF OFT-REPEATED RECOMMENDATIONS OF COMMITTEE ON
SUBORDINATE LEGISLATION, LOK SABHA BY VARIOUS MINISTRIES”**

TWENTY-FIRST REPORT

(PRESENTED ON 16.12.2011)

S

E

A

L

LOK SABHA SECRETARIAT

NEW DELHI

December, 2011 /Agrahayana, 1933 (Saka)

COSL No.

PRICE: Rs.

(C) 2011 BY LOK SABHA SECRETARIAT

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.

C O N T E N T S

	<u>Para No.</u>	<u>Page No.</u>
COMPOSITION OF THE COMMITTEE		(iii)
INTRODUCTION		(v)
REPORT		
I Introductory	1.1 – 1.2	1 – 2
II Significance and relevance of the important recommendations of the Committee	2.1 – 2.6	3 – 7
III Role of Ministry of Parliamentary Affairs as a Nodal Agency	3.1 – 3.4	8 – 10
IV Guidelines issued by Ministry of Parliamentary Affairs	4.1 – 4.3	11 – 12
V Mechanism in the Ministry	5.1 – 5.5	13 – 15
VI Requirement of the Law Officer	6.1 – 6.3	16 – 17
VII Original Reports	7.1 – 7.3	18
VIII Action Taken Reports	8.1 – 8.3	19 – 20
IX Inclusion of Chapter on Subordinate Legislation in Manual	9.1 – 9.2	21

A P P E N D I C E S

I Summary of main recommendations/observations made by the Committee	22 - 27
II Statement showing details of delay in laying, delay in final publication of rules/regulations by various Ministries/Departments during 14 th Lok Sabha	28 – 30
III Guidelines issued by the Ministry of Parliamentary Affairs	31 – 48
IV Extracts from Manual of Parliamentary Procedures in the Government of India	49 – 57
V Minutes of the Eleventh sitting of the Committee (2009-10) held on 20.9.2010 Minutes of the Ninth Sitting of the Committee (2010-11) held on 14.7.2011, Minutes of the Eleventh sitting of the Committee (2010-11) held on 21.9.2011 and Extracts from the Minutes of the First sitting of the Committee (2011-12) held on 13.12.2011.	58 – 66

COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2011-2012)

1. Shri P. Karunakaran Chairman
2. Shri Ghanshyam Anuragi
3. Shri Praveen Singh Aron
4. Shri Kalyan Banerjee
5. Shri E.T. Mohammed Basheer
6. Shri Ramen Deka
7. Shri Mahesh Joshi
8. Shri Virender Kashyap
9. Shri Jitender Singh Malik
10. Dr. Thokchom Meinya
11. Ms. Mausam Noor
12. Shri Gajendra Singh Rajukhedi
13. Dr. Bholu Singh
14. Shri Vijay Bahadur Singh
15. Shri A.K.S. Vijayan

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri S.C. Chaudhary - Director
3. Shri Krishendra Kumar - Under Secretary

INTRODUCTION

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

2. The matter covered by this Report were first considered by the earlier Committee on Subordinate Legislation (2010-11) at their sitting held on 21st September, 2011. The Committee, thereafter, considered and adopted the Report on the same day. The Report could not be presented to the House due to the expiry of the term of the Committee on 22 September, 2011.

3. The Committee was reconstituted *vide* Bulletin Part II dated 24 November, 2011 w.e.f. 23 September, 2011. The reconstituted Committee again considered and adopted this Report at their sitting held on 13 December, 2011.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in Appendix-I of the Report.

5. Statement showing details of delay in laying, delay in final publication of rules/regulations various Ministries/Departments during 14th Lok Sabha are included in Appendix - II.

6. Guidelines issued by the Ministry of Parliamentary Affairs are included in Appendix – III.

7. Extracts from Manual of Parliamentary Procedures in the Government of India are included in Appendix-IV.

8. Minutes of the Eleventh sitting of the Committee (2009-10) held on 20.9.2010, Minutes of the Ninth Sitting of the Committee (2010-11) held on 14.7.2011, Minutes of the Eleventh sitting of the Committee (2010-11) held on 21.9.2011 and Extracts from the Minutes of the First Sitting of the Committee (2011-12) held on 13.12.2011 relevant to this Report are included in Appendix-V.

New Delhi;
December, 2011 /Agrahayana, 1933 (Saka)

P. KARUNAKARAN,
CHAIRMAN,
COMMITTEE ON SUBORDINATE LEGISLATION

REPORT

INTRODUCTORY

Over the years, the Committee on Subordinate Legislation have given numerous recommendations regarding the procedural aspect of the working of the rules/regulations/Orders issued by various Ministries of the Government of India. Most of these recommendations have been general in nature and applicable to all the Ministries. However, it has been observed that despite the reiteration of these recommendations time and again, the Ministries are still found wanting in their endeavour to adhere to these recommendations scrupulously. In many of the cases, the Ministries apologize for their delays and note the Committee's recommendations/observations for future compliance and rectify the lacunae in the Rules on having been pointed out by the Committee. However, the fact remains that the Ministries start initiating action only after a reference is made to them and in some cases after much protracted correspondence. This is simply illustrative of the casual and lackadaisical approach with which the Ministries take their statutory obligations.

1.2 The Committee took cognisance of this fact and recommended in para 21 of their 4th Report of 8th Lok Sabha (presented to the House on 18.12.1985) for drawing suitable guidelines for the Ministries to streamline their procedure with regard to subordinate legislation. In pursuance of this recommendation, the Ministry of Parliamentary Affairs drew up detailed guidelines on the subject which were forwarded to all Ministries/Departments on 18.09.1986. These guidelines have also been enumerated in chapter 11 pertaining to Subordinate Legislation of the Manual of Parliamentary Procedure in the Government of India. However, in spite of existence of such detailed guidelines, the recommendations of the Committee are being followed in breach by various Ministries.

1.3 Even now, there are many instances when the Committee on Subordinate Legislation have pointed out wherein various Ministries have not adhered to the time limits laid down by the Committee with regard to laying of 'Orders', framing of rules under an Act of Parliament, publication of final rules after their notification in the draft form, printing of rules, implementation

of recommendations of the Committee, etc. In this connection, there are cases of delays from the period of four months upto six years (Appendix-II). For example, the Ministry of Health and Family Welfare took 21 months each for finally publishing GSR Nos. 184-E & 185-E (2003) and GSR 32-E & 35-E (2005) and the Ministry of Agriculture took 22 months in respect of GSR 129 (2004) for publishing it finally. Similarly, the Ministry of Finance took 12 months and six years for laying GSR No. 530-E (9.7.2003) and SO 2897 (12.2.1997) respectively. This has rendered the Committee to such a position that they have to reiterate the same recommendations again and again, year after year and decade after decade. Anguished at this state of affairs, the Committee decided to examine the role of the Ministry of Parliamentary Affairs as the nodal agency between the Committee and various other Ministries especially in the backdrop of repeated breach of the Ministry's guidelines contained in their manual, apparently rendering their role to that of a mere silent spectator.

Significance and relevance of the important recommendations of the Committee

(a) 2.1 Subordinate Legislation is in no way less important than the principal law as it always carries with it the full force of the principal law. It, therefore, needs hardly to be pointed out that the statutory rules ought to be framed and notified not only in time but utmost care and caution should also be exercised in their formulation and finalization so as to get rid of any avoidable discrepancies. As far as possible, the aim should be to prevent needless litigation arising subsequently from badly framed rules. In this way, the responsibility of the Ministries does not only cease with the sending of the notification to the press after the Rules/Regulations have been published in the Gazette, they are also supposed to take immediate steps to examine whether the same have been correctly printed in time, and if necessary, to issue corrigendum thereto without any further delay. Many a time, Ministries' lapses on this aspect have culminated in the Committee pointing out even routine or typographical errors such as those pertaining to the year in the short title, etc. The delay in exercise of rule making power under the provisions for framing subordinate legislation under the statutes quite often defeats the very purpose of such legislations as it cannot be implemented as contemplated. Non-framing of rules leaves the area of executive discretion wide open. Moreover, since the rules framed by the Government in exercise of its rule making power conferred by the Constitution and other Parliamentary statutes affect the people one way or the other and the affected public becomes victim of such delays in framing, notification, printing, etc. of these rules. Since the statutory orders become effective only after their notification in the official Gazette, it becomes even more important that such notifications are printed in time as in majority of cases, these come into force from the date of their publication in the official Gazette.

2.2 One of the important safeguards against the assumption of arbitrary powers by the executive is that rules framed by the executive in exercise of delegated powers should not only be required to be laid before the legislature but these should also have the statutory right of

annulling and modifying them. One disquieting feature observed by the Committee in regard to the issue of statutory orders by the Government was the enormous delay in laying them on the table of the House thereby depriving the House of timely scrutiny of such Rules.

2.3 People are often caught unawares by the Rules. It is therefore, very essential to give publicity to statutory rules or orders, in such a way that the public are aware of them and understand them properly. Certain Acts provide that the rules should be published in the first instance in draft form inviting public comments and thereafter finalized in the light of public comments received but experience shows that practically no time is given to the public for sending their comments. The Committee has expressed its concern over the state of affairs and held the view that when the Acts give a right to the public to send their comments on certain draft rules, it is desirable that sufficient time is given to them to study the draft and send their comments before the draft is finalized.

(b) 2.4 The Committee on Subordinate Legislation have given their following recommendations on various aspects of subordinate legislation viz. Framing of Rules, Laying of orders, Publication of Draft Rules, Printing of Rules, Giving Retrospective Effect to Rules etc. over a period of time which require constant attention of various Ministries/Departments:-

Framing of Rules.

“The Committee consider that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. If no rules are framed within a reasonable period after the commencement of the Act and the Committee will take up the matter with the Ministry concerned and report to the House the cases where it is felt that undue delay has occurred in framing the rules.

In case, a Ministry/Department finds that for any unavoidable reasons it is not possible for them to adhere to the prescribed time-limit (of six months to frame the rules) in an exceptional case they should at the expiration of six months from the commencement of the relevant Act, explain the reasons to the Committee and seek a specific extension of time from them.”

[Para 34, 5th Report (2nd LS)]

Laying of Orders

“The Committee would like to reiterate 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 Committee would like the Ministries concerned to furnish them with the reasons explaining the delay caused in laying each such ‘Order’ on the Table of the House. Whenever ‘Order’ 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.”

[Para 38, 6th Report (3rd LS)]

Delay in publication of the Draft Rules in final form

“The Committee desired that in cases where no objection/suggestion on the draft rules were forthcoming the final rules should be published within a period of 3 months and in cases where a large number of objections/ suggestions were received, the gap should not be more than 6 months. The Committee would also like to stress that these recommendations and guidelines should be observed by the Ministry scrupulously in all such cases with a view to minimize the gap between the publication of draft rules and their final notification.”

[Para 68, 24th Report (7th LS)]

Delay in printing of the Rules

“The Committee desire that the Extraordinary Gazette which is the time bound publication and is used to publish urgent material must be printed and made available on the appointed date.”

[Para 2.11, 24th Report (10th LS)]

Retrospective effect

“.....normally all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if in any particular case the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given either by way of an explanation in the rules or in the form of foot-note to the relevant rules to the effect

that no one will be adversely affected as a result of retrospective effect being given to such rules.”

[Para 10 of the 2nd Report (4th Lok Sabha)]

Making Rules after Previous Publication

“The Committee feel that when the Acts give a right to the public to send their comments on certain draft rules, it is only reasonable that sufficient time should be given to them to study the draft rules and send their comments before they are finalized. The Committee are of the opinion that a period of not less than 30 clear days, exclusive of the time taken in publishing the draft rules in the Gazette and the dispatching the Gazette copies to various parts of the country, should be given to the public to send their comments on such draft rules.”

[Para 31, 6th Report (1st LS)]

2.5 The Committee on Subordinate Legislation have given numerous recommendations relating to the procedural aspects of the working and implementation of rules/laws/by-laws/regulations/orders etc. issued by the various Ministries/Departments of the Government of India, over a period of time. Most of these recommendations have been general in nature and applicable to all the Ministries and Departments. However, the Committee since long have observed that despite the frequent reiteration of these recommendations, various Ministries/Departments did not implement them scrupulously particularly with a view to minimise the time-gap between the publication of the draft rules framed under different Acts and their promulgation in the final form. Accordingly, the Committee in their Fourth Report (8th Lok Sabha) desired that to streamline the procedure of the Ministries/Departments in this regard, some guidelines/directions should be drawn. In pursuant to this recommendation, the Ministry of Parliamentary Affairs, in consultation with the Ministry of Law and Justice and other Ministries/Departments framed comprehensive guidelines and issued the same to all Ministries and Departments in September, 1986. These were again reiterated in 1989 and 1996. However, to the utmost disappointment of the Committee, despite the

existence of these guidelines, the recommendations of the Committee are still being followed only in breach by various Ministries/Departments.

2.6 The Committee find that even now, there are many instances wherein various Ministries/Departments have not adhered to the time limits laid down by the Committee with regard to laying of 'Orders', framing of 'Rules' under an Act, publication of final 'Rules' after their notification in the draft form, printing of 'Rules', taking action on the recommendations of the Committee, etc. For example, in some cases the Ministry of Health & Family Welfare took 21 months for finally publishing Rules [GSR 184-E & 185-E (2003)] and the Ministry of Agriculture took 22 months for the same action [GSR 129 (2004)]. Similarly, the Ministry of Finance took six years in laying LD 2897 (12.2.1997). Against this backdrop, the Committee regret to note that despite the availability of 1986 guidelines and the guidelines contained in the Manual of Parliamentary Procedures of Government of India, the coordinator and the nodal agency i.e., the Ministry of Parliamentary Affairs remained a moot spectator to the breach of the recommendations of the Committee on Subordinate Legislation by various Ministries/Departments over a period of time. The Committee hope that the Ministry would rise to the occasion and leave no stone unturned to avoid the non-implementation of oft-repeated recommendations of the Committee by various Ministries/Departments in the coming years.

[Recommendation Nos. 1 & 2]

III

Role of Ministry of Parliamentary Affairs as a Nodal Agency

3.1 The Ministry of Parliamentary Affairs play the role of nodal agency between the Committee and the various Ministries/Departments of the Government of India. Even though, the Ministry is the connection between the Committee and various Ministries, still the coordination between the Ministry and other Ministries is not up to the mark and desired results are not being achieved. The same is reflected in the non-implementation of oft-repeated recommendations of the Committee on Subordinate Legislation despite the guidelines issued to the various Ministries/Departments in this regard.

3.2 On being asked about the role of the Ministry of Parliamentary Affairs vis-à-vis the other Ministries/Departments of the Government of India on the issue of follow up of implementation of the various important and significant observations/recommendations made by the Committee on Subordinate Legislation from time to time, the Ministry of Parliamentary Affairs replied as under :-

“The Ministry of Parliamentary Affairs serves as an important link between the two Houses of Parliament and the Government in respect of Government Business in Parliament. Soon after the receipt of the report of Committee on Subordinate Legislation, the Ministry of Parliamentary Affairs processes the recommendations made by the Committee. The recommendations which are of general nature and concerns more than one Ministry/Department, are communicated to all Ministries/Departments of the Government of India with instructions to strictly comply with the recommendations and observe the same for future guidance. The Committee on Subordinate Legislation had suggested that Ministry of Parliamentary Affairs draw guidelines for streamlining procedure in its 4th report of 8th Lok Sabha (para 21). Accordingly, the detailed guidelines were framed in consultation with Ministry of Law and Justice and various Ministries/Departments. These guidelines were forwarded to all the Ministries/Departments on 18.9.1986 and the implementation of the recommendations of the Committee in letter and spirit lies on the individual Ministry/Department as per procedure laid down in the Manual of Parliamentary Procedures in the Government of India – Chapter 11 ‘Subordinate Legislation’. Detailed guidelines on the procedures for implementation of the

recommendations of the Committee are enumerated therein. The Ministry of Parliamentary Affairs co-ordinates with all Ministries/Departments with regard to recommendations of the Parliamentary Committees. Furthermore, as and when clarifications/advice on the procedural matters is sought by the Ministries/Departments, the same are tendered by the Ministry of Parliamentary Affairs. The task of Ministry of Parliamentary Affairs, as far as Parliamentary Committees are concerned, is confined to this limit. Since the role of this Ministry is limited, no mechanism to ensure follow up of above guidelines exists in this Ministry. As such, Ministry of Parliamentary Affairs does not take follow up action in the matter. The Ministries/Departments are themselves to ensure that Action Taken Statements on the recommendations are sent directly to the Lok Sabha Secretariat.”

3.3 The Ministry of Parliamentary Affairs despite acknowledging the fact that it stands as an important link between the Government and the two Houses of Parliament, limits its role by stating that no mechanism to ensure follow up of guidelines exists in the Ministry. The Ministry’s stand appears to be that the concerned Ministries/Departments are themselves to ensure that the Action Taken Statements on the recommendations are sent directly to Lok Sabha Secretariat. The Committee are not convinced by their stand and deeply concerned over the non-implementation of their oft repeated recommendations. They feel that in order to bring down the number of deviations from the Committee’s recommendations and ensure that they are not flouted repeatedly, the role of the Ministry definitely comes into picture. As a nodal agency the Ministry cannot escape from their obligation to augment their efforts towards ensuring that the recurring default of not implementing Committee’s recommendations by the Ministries is contained.

[Recommendation No. 3]

3.4 The Committee are dismayed further over the stand of the Ministry of Parliamentary Affairs that their role is limited to issuing guidelines and not keeping track whether the Ministries are implementing the recommendations of general nature or not. The Committee strongly feel that the Ministry are not performing the task of coordination as required and expected of them and their apparent one way communication with other

Ministries through mere issue of their guidelines without any follow up mechanism have rendered its role of coordination infructuous. The Committee, therefore, desire that the Ministry of Parliamentary Affairs catalyse their efforts to make its role of nodal agency more purposeful and effective which will result in better coordination between them and the other Ministries. The Committee further recommend that the Ministry can make efforts to enhance their role as a nodal agency by proposing necessary amendments to the Government of India, if required, in the Manual of Parliamentary Procedures in the Government of India.

[Recommendation No. 4]

IV

Guidelines issued by Ministry of Parliamentary Affairs

4.1. The Committee on Subordinate Legislation in their 4th Report of 8th Lok Sabha, which was presented to House on 18 December, 1985 had asked the Ministry of Parliamentary Affairs to draw suitable guidelines for streamlining the procedure generally with regard to subordinate legislation in consultation with all the Ministries/Departments. In response to the recommendation of the Committee, the Ministry of Parliamentary Affairs had drawn detailed guidelines in consultation with the Ministry of Law & Justice and various other Ministries/Departments on 18.9.1986 (Appendix-III). These guidelines were again reiterated to all Ministries/Departments on 3.2.1989. In 24th Report of 10th Lok Sabha the Committee again recommended certain procedural guidelines to be followed by the Ministries relating to issue of delay in publishing and printing and the same was circulated to all Ministries/Departments on 25.3.1996 by the Ministry of Parliamentary Affairs. The scenario even after two and a half decades since 1985 is not much different, and the Ministries have still not realised the gravity of the issue and the Committee is left with no option but to reiterate their oft repeated recommendations for timely implementation.

4.2 On being asked, whether the Ministry of Parliamentary Affairs have issued any instructions/directions to various Ministries/Departments for effective and time bound implementation of the recommendations of the Committee on Subordinate Legislation, the Ministry have furnished the following reply:

“The Committee on Subordinate Legislation had suggested that Ministry of Parliamentary Affairs draw guidelines for streamlining procedure in its 4th report of 8th Lok Sabha (para 21). Accordingly, detailed guidelines were framed in consultation with Ministry of Law & Justice and various Ministries/Departments on 18.9.1986. These guidelines were again reiterated to all Ministries/Departments on 3.2.1989 alongwith recommendations of the Committee contained in its 20th Report of 8th Lok Sabha. Again the Committee in its 24th Report of the 10th Lok Sabha made certain recommendations

regarding delay in framing rules/delay in printing Gazette Notification etc. which were circulated to all Ministries/Departments on 25.3.1996. Regarding the extent to which these instructions are being followed, it is stated that the Ministries/Departments are to send their Action Taken Statement/Implementation Reports direct to the Lok Sabha Secretariat.”

4.3 The Committee categorically emphasise that the Ministry of Parliamentary Affairs cannot distance itself from shouldering their parliamentary responsibility of coordinating with the various Ministries on the aspect of implementation of the Committee’s recommendations. The Committee are deeply pained to note that the Ministry have so far limited their role to just issuing guidelines once in a while without taking any responsibility of enforcing them as a result of which these guidelines are observed more in deviance than otherwise, leaving the Committee with no option but to point out the same lapses again and again and reiterate their recommendations. This is evident from the Ministry’s failure in communicating/coordinating with other Ministries/Departments in respect of implementation of important recommendations of the Committee on Subordinate Legislation over a period of time. The Committee, therefore, desire that the role of the Ministry as a coordinating agency should extend to a more proactive role with two way communication rather than the prevailing one way unresponsive approach which has been found to be hardly binding on the other Ministries. The Committee also note that the present guidelines which were framed in 1986 and then reiterated in 1989 and 1996, need to be reviewed in the current scenario as considerable changes have taken place in the legislative field during the last 25 years after these guidelines were initially framed by the Ministry. The Committee desire that the extant guidelines be revisited and updated and all major procedural recommendations of the Committee be incorporated and the same should be circulated to the various Ministries/Departments at regular intervals with a view to emphasise the scope, significance and importance of adhering to the Committee’s recommendations.

[Recommendation No. 5]

Mechanism in the Ministry

5.1. On being asked whether there are certain guidelines for holding regular interactions/discussions with the Ministries/Departments in order to review the implementation of the recommendations of the Committees, the Ministry gave the following reply:

“As stated before, since the role of the Ministry of Parliamentary Affairs is limited as far as Parliamentary Committees are concerned, no mechanism exists to hold regular interactions/discussions with the Ministries/Departments in order to review the implementation of the recommendations of the Committee in this Ministry.”

5.2 Further, during the oral evidence held on 20th September, 2010, the then Secretary, Ministry of Parliamentary Affairs deposed in this regard, as under:-

“we have to consult various Ministries on this and so we would need about six months’ time to come out with something. If you only want a Circular without consulting the other Ministries, this can come within three months. If you want us to interact with the Ministries and then come back, it will take time.”

5.3 The reply of the Ministry clearly indicates that there does not exist any review mechanism in the Ministry to hold interactions/discussions with the representatives of the other Ministries in relation to the implementation of the recommendations of the Committee. In the absence of any such mechanism to enforce the guidelines, the issue of non-implementation of the recommendations of the Committee has lingered on for long and it is apparent that the Ministries have availed the luxury of disregarding the recommendations of the Committee persistently without any discomfort.

5.4 During the oral evidence held on 20th September, 2010, the then Secretary had sought a time of around six months for consulting other Ministries and to bring forward certain proposals to overcome the predicament of non-implementation of oft repeated recommendations. But during the subsequent oral evidence held on 14th July, 2011, the

Ministry was unable to bring forth any concrete proposals. Later in a supplementary reply, The Ministry of Parliamentary Affairs submitted that there is a need to attend to the following points:-

- (i) Capacity building in various Ministries/Departments for framing of rules, sub-rules, regulations, etc.;
- (ii) Incorporation of training modules on Subordinate Legislation in the induction and in-service training of Officers and Staff of Central Secretariat Service and other Central Services ; and
- (iii) Incorporation of a chapter on Parliamentary Procedure including Subordinate Legislation in the Central Secretariat Manual of Office Procedure so that this important aspect is available for guidance for staff and officers.

5.5 The Committee are deeply hurt to note that inspite of the assurance given to them by the then Secretary during the first oral evidence (on 20.09.2010) that some concrete proposals would be initiated to make the guidelines more stringent and the system more effective, even after the lapse of more than nine months, the Ministry drew blank and did not live up to their assurance while appearing before the Committee during the second oral evidence i.e. on 14.07.2011. The reason purportedly as advanced by the Ministry was the change of the Secretary in the Ministry. The Committee observe that as regards policy matters especially relating to Parliamentary Committees, the matter must have continuity and should not be shelved when one officer takes over from the other in any Ministry/Department. The Committee find that no mechanism exists in the Ministry to oversee the implementation of the recommendations and to hold interaction with the various Ministries/Departments. The Committee, therefore, strongly urge that the Ministry of Parliamentary Affairs should establish a suitable mechanism in this regard without further loss of time. The Committee also recommend that the Ministry should hold review meetings with other Ministries minimum at the level of Joint Secretary twice a year regarding the recurrence of non-implementation of the oft-repeated

recommendations of the Committee. Further, the Committee also desire that the Ministry should call for quarterly report from other Ministries/Departments regarding the implementation of recommendations of the Committee akin to the report required to be submitted by the Ministries to the Ministry of Law and Justice as per the guidelines in the Manual of Parliamentary Procedures in the Government of India.

[Recommendation No. 6]

VI

Requirement of a Law Officer

6.1 The Ministry of Parliamentary Affairs vide their guidelines dated 25 March, 1996 issued to all Ministries/Departments of Government of India brought to their notice that the Committee on Subordinate Legislation in Para 1.8(4) in their 24th Report (10th Lok Sabha) have highlighted the need of a Law Officer in each Ministry and Department for framing/vetting the rules and regulations. The existence of a Law officer in each Ministry/Department would certainly obviate the need for them to approach the Ministry of Law & Justice every time there is a need to formulate/vet rules and regulations and avoid the consequence delay.

6.2 On being asked as to what action has been taken by the Ministry of Parliamentary Affairs regarding the need and establishing the post of a Law Officer in each Ministry/Department, the Ministry in a post evidence reply stated as under :-

“As per the guidelines enumerated, it is for individual Ministry/Department to assess the requirement of Law Officer. The assessment will be based on the workload involved in drafting rules/regulations in consultation with Legislative Department, Ministry of Law & Justice. Thereafter the process for creation of posts as per prescribed procedure in consultation with Department of Personnel & Training and Department of Expenditure, Ministry of Finance will have to be followed. Since the need and justification varies from Ministry to Ministry, Ministry of Parliamentary Affairs has no specific role to play in a Ministry/Department's decision to avail the exclusive services of a Law Officer. However, it is respectfully submitted that Ministry of Parliamentary Affairs had taken note of this recommendation, contained in the 24th Report (10th Lok Sabha) of Committee on Subordinate Legislation, which being of general nature, was promptly conveyed to all Ministries/Departments vide Ministry of Parliamentary Affairs' Office Memorandum No. 31(13)/96-R&C, dated 25th March, 1996, a copy of which was also endorsed to Lok Sabha Secretariat. “

6.3 The Committee note that there have been inordinate delays in the framing of various rules and regulations and also in the publishing of Gazette notifications by various Ministries/Departments over a period of time. The Committee further feel that there is urgent need of a Law Officer in each Ministry/Department for framing/vetting the

rules and regulations. The existence of the Law Officer would also obviate the requirement to approach the Ministry of Law and Justice every time there is a need to formulate or vet rules and avoid the consequent delay. However, the Committee to their utmost dismay find that despite the provision/instruction in the guidelines and their earlier recommendations, the Ministry of Parliamentary Affairs have not been able to ensure the establishment of a post of Law Officer in each Ministry/Department so far. The Committee, therefore, once again strongly recommend that the Ministry of Parliamentary Affairs in consultation with the Ministry of Law and Justice and Department of Personnel & Training must take necessary steps to ensure the creation of the post of a Law Officer in each Ministry/Department without any further loss of time so that the recommendation of the Committee should not be followed in breach and implemented within the stipulated time.

[Recommendation No. 7]

VII

Processing of Reports/Recommendations

7.1 In reply to a question the Ministry have submitted that the procedural aspects common to Ministries/Departments which are general in nature are taken care of through the procedural guidelines in the Manual and other instructions issued by them from time to time.

7.2 However, it is seen that the Ministry of Parliamentary Affairs are not processing the reports of the Committee on Subordinate Legislation in a pertinent manner, as some of the recommendations which have been made in regard to individual Ministry but which are applicable to all the Ministries do not find mention in the Manual. For example, the Committee's recommendations pertaining to unwarranted usage of 'vague expressions' in rules, appropriate wordings in the interpretation clause of the rules, etc are of general nature and do not form part of the Manual.

7.3 The Committee observe that the Ministry of Parliamentary Affairs do not process their recommendations in an objective and applicable manner, as some of the recommendations which have been made in regard to individual Ministry but which are applicable to all the Ministries do not find mention in the Manual. Recommendations like unwarranted use of 'vague expressions' in rules, 'appropriate wordings in the interpretation clause of the rules', etc. which are of general nature do not form part of the Manual. The Committee, therefore, urge the Ministry of Parliamentary Affairs to process their recommendations more objectively in a holistic way, so that such recommendations are accounted for while reviewing/framing guidelines for Ministries in the future.

[Recommendation No. 8]

VIII

Action Taken Reports

8.1 In reply to a question as to whether the Action Taken Reports (ATRs) are also analyzed by the Ministry of Parliamentary Affairs, the Ministry have *inter- alia* stated that the Action Taken Reports on the recommendations of various Parliamentary Committees (Department related Standing Committees, PAC, Committee on Petition, Committee on Subordinate Legislation etc.) are not compiled by them. The status of implementation is available with the respective Secretariats attached to the various Parliamentary Committees who liaise with the individual Ministry/Department in respect of Ministry/Department centric recommendations. The onus of implementation/monitoring is essentially with the individual Ministry/Department. Based on the information available with the respective Secretariat, the Committee concerned may also decide to take oral evidence of the perpetually defaulting Ministry/Department.

8.2 Further in a supplementary reply, the Ministry have stated that they are of the view that Action Taken Reports of the Committee also need to be looked into, to ascertain the extent of adherence with the guidelines issued by this Ministry, particularly for those recommendations which are of general nature and concern more than one Ministry.

8.3 The Committee note that since the Ministry of Parliamentary Affairs do not process the Action Taken Reports of the Committee, therefore, the instructions/guidelines of general nature which are reiterated in the Action Taken Reports escape their analysis. The Committee, therefore, desire that the Ministry of Parliamentary Affairs should also process the Action Taken Reports of the Committee so that instructions/guidelines of general nature could be incorporated in their comprehensive guidelines. Further, para 11.9.1 (ii) of Manual of Parliamentary Procedures in the Government of India (Appendix IV) *inter-alia* states that where the department concerned accepts a recommendation, it will communicate the acceptance

to the Lok/Rajya Sabha Secretariat, under intimation to the Ministry of Parliamentary Affairs. The Committee, therefore, desire that the Ministry should issue fresh instructions to the Ministries stating that the intimation should also be given to them relating to the Action Taken Replies furnished to the Lok Sabha Secretariat in relation to the recommendations of the Committee on Subordinate Legislation.

[Recommendation No. 9]

IX

Inclusion of Chapter on Subordinate Legislation in Manual

9.1 In regard to the inclusion of Chapter on Subordinate Legislation in the Manual of Office Procedure for Central Government Employees, the Ministry of Parliamentary Affairs submitted the following reply:

“The Central Secretariat Manual of Office Procedure does not contain any reference to Subordinate Legislation. It is, however, suggested that the Central Secretariat Manual of Office Procedure brought out by the Department of Administrative Reforms and Public Grievances of the Ministry of Personnel, Public Grievances and Pensions should have a separate chapter on Parliamentary Procedure including Subordinate Legislation. The time limit for notification of rules, etc., should be clearly brought out for the benefit of staff and officers of Ministries/Department”.

9.2 **The Committee are surprised to find that the Central Secretariat Manual on Office Procedure which caters to all the central government employees in regard to office procedures to be followed by all Ministries, does not include a chapter on Parliamentary Procedure. Further, more specifically, the matter relating to Subordinate Legislation also needs to be included in details in the Manual. The Committee, therefore, recommend that the Ministry of Parliamentary Affairs should write and ensure that the Ministry of Personnel, Public Grievances and Pensions (Department of Administrative Reforms and Public Grievances) should include the matter relating to subordinate legislation in the Central Secretariat Manual on Office Procedure brought out by them so that the importance and significance of the Committee’s recommendations are emphasised and made known to all those dealing with statutory rules.**

[Recommendation No. 10]

New Delhi;
_____, 2011/_____, 1933

**P. KARUNAKARAN,
CHAIRMAN,
COMMITTEE ON SUBORDINATE LEGISLATION**

APPENDIX –I

(Vide Para 4 of the Introduction of the Report)

**SUMMARY OF RECOMMENDATIONS MADE IN THE TWENTY FIRST REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION**

(FIFTEENTH LOK SABHA)

Sl. No.	Reference to Para No. in the Report	<u>Summary of Recommendations</u>
1	2	3
1.	2.5	<p><u>Significance and relevance of the important recommendations of the Committee</u></p> <p>The Committee on Subordinate Legislation have given numerous recommendations relating to the procedural aspects of the working and implementation of rules/laws/by-laws/regulations/orders etc. issued by the various Ministries/Departments of the Government of India, over a period of time. Most of these recommendations have been general in nature and applicable to all the Ministries and Departments. However, the Committee since long have observed that despite the frequent reiteration of these recommendations, various Ministries/Departments did not implement them scrupulously particularly with a view to minimise the time-gap between the publication of the draft rules framed under different Acts and their promulgation in the final form. Accordingly, the Committee in their Fourth Report (8th Lok Sabha) desired that to streamline the procedure of the Ministries/Departments in this regard, some guidelines/directions should be drawn. In pursuant to this recommendation, the Ministry of Parliamentary Affairs, in consultation with the Ministry of Law and Justice and other Ministries/Departments framed comprehensive guidelines and issued the same to all Ministries and Departments in September, 1986. These were again reiterated in 1989 and 1996. However, to the utmost disappointment of the Committee, despite the existence of these guidelines, the recommendations of the Committee are still being followed only in breach by various Ministries/Departments.</p>

	2.6	<p>The Committee find that even now, there are many instances wherein various Ministries/Departments have not adhered to the time limits laid down by the Committee with regard to laying of 'Orders', framing of 'Rules' under an Act, publication of final 'Rules' after their notification in the draft form, printing of 'Rules', taking action on the recommendations of the Committee, etc. For example, in some cases the Ministry of Health & Family Welfare took 21 months for finally publishing Rules [GSR 184-E & 185-E (2003)] and the Ministry of Agriculture took 22 months for the same action [GSR 129 (2004)]. Similarly, the Ministry of Finance took six years in laying LD 2897 (12.2.1997). Against this backdrop, the Committee regret to note that despite the availability of 1986 guidelines and the guidelines contained in the Manual of Parliamentary Procedures of Government of India, the coordinator and the nodal agency i.e., the Ministry of Parliamentary Affairs remained a moot spectator to the breach of the recommendations of the Committee on Subordinate Legislation by various Ministries/Departments over a period of time. The Committee hope that the Ministry would rise to the occasion and leave no stone unturned to avoid the non-implementation of oft-repeated recommendations of the Committee by various Ministries/Departments in the coming years.</p>
2.	3.3	<p><u>Role of Ministry of Parliamentary Affairs as a Nodal Agency</u></p> <p>The Ministry of Parliamentary Affairs despite acknowledging the fact that it stands as an important link between the Government and the two Houses of Parliament, limits its role by stating that no mechanism to ensure follow up of guidelines exists in the Ministry. The Ministry's stand appears to be that the concerned Ministries/Departments are themselves to ensure that the Action Taken Statements on the recommendations are sent directly to Lok Sabha Secretariat. The Committee are not convinced by their stand and deeply concerned over the non-implementation of their oft repeated recommendations. They feel that in order to bring down the number of deviations from the Committee's recommendations and ensure that they are not flouted repeatedly, the role of the Ministry definitely comes into picture. As a nodal agency the Ministry cannot escape from their obligation to augment their efforts towards ensuring that the recurring default of not</p>

	3.4	<p>implementing Committee's recommendations by the Ministries is contained.</p> <p>The Committee are dismayed further over the stand of the Ministry of Parliamentary Affairs that their role is limited to issuing guidelines and not keeping track whether the Ministries are implementing the recommendations of general nature or not. The Committee strongly feel that the Ministry are not performing the task of coordination as required and expected of them and their apparent one way communication with other Ministries through mere issue of their guidelines without any follow up mechanism have rendered its role of coordination infructuous. The Committee, therefore, desire that the Ministry of Parliamentary Affairs catalyse their efforts to make its role of nodal agency more purposeful and effective which will result in better coordination between them and the other Ministries. The Committee further recommend that the Ministry can make efforts to enhance their role as a nodal agency by proposing necessary amendments to the Government of India, if required, in the Manual of Parliamentary Procedures in the Government of India.</p>
3.	4.3	<p><u>Guidelines issued by Ministry of Parliamentary Affairs</u></p> <p>The Committee categorically emphasise that the Ministry of Parliamentary Affairs cannot distance itself from shouldering their parliamentary responsibility of coordinating with the various Ministries on the aspect of implementation of the Committee's recommendations. The Committee are deeply pained to note that the Ministry have so far limited their role to just issuing guidelines once in a while without taking any responsibility of enforcing them as a result of which these guidelines are observed more in deviance than otherwise, leaving the Committee with no option but to point out the same lapses again and again and reiterate their recommendations. This is evident from the Ministry's failure in communicating/coordinating with other Ministries/Departments in respect of implementation of important recommendations of the Committee on Subordinate Legislation over a period of time. The Committee, therefore, desire that the role of the Ministry as a coordinating agency should extend to a more proactive role with two way communication rather than the prevailing one way</p>

		<p>unresponsive approach which has been found to be hardly binding on the other Ministries. The Committee also note that the present guidelines which were framed in 1986 and then reiterated in 1989 and 1996, need to be reviewed in the current scenario as considerable changes have taken place in the legislative field during the last 25 years after these guidelines were initially framed by the Ministry. The Committee desire that the extant guidelines be revisited and updated and all major procedural recommendations of the Committee be incorporated and the same should be circulated to the various Ministries/Departments at regular intervals with a view to emphasise the scope, significance and importance of adhering to the Committee's recommendations.</p>
<p>4.</p>	<p>5.5</p>	<p><u>Mechanism in the Ministry</u></p> <p>The Committee are deeply hurt to note that inspite of the assurance given to them by the then Secretary during the first oral evidence (on 20.09.2010) that some concrete proposals would be initiated to make the guidelines more stringent and the system more effective, even after the lapse of more than nine months, the Ministry drew blank and did not live up to their assurance while appearing before the Committee during the second oral evidence i.e. on 14.07.2011. The reason purportedly as advanced by the Ministry was the change of the Secretary in the Ministry. The Committee observe that as regards policy matters especially relating to Parliamentary Committees, the matter must have continuity and should not be shelved when one officer takes over from the other in any Ministry/Department. The Committee find that no mechanism exists in the Ministry to oversee the implementation of the recommendations and to hold interaction with the various Ministries/Departments. The Committee, therefore, strongly urge that the Ministry of Parliamentary Affairs should establish a suitable mechanism in this regard without further loss of time. The Committee also recommend that the Ministry should hold review meetings with other Ministries minimum at the level of Joint Secretary twice a year regarding the recurrence of non-implementation of the oft-repeated recommendations of the Committee. Further, the Committee also desire that the Ministry should call for quarterly report from other Ministries/Departments regarding the implementation of recommendations of the Committee akin to the report required to be submitted by the</p>

		Ministries to the Ministry of Law and Justice as per the guidelines in the Manual of Parliamentary Procedures in the Government of India.
5.	6.3	<p><u>Requirement of a Law Officer</u></p> <p>The Committee note that there have been inordinate delays in the framing of various rules and regulations and also in the publishing of Gazette notifications by various Ministries/Departments over a period of time. The Committee further feel that there is urgent need of a Law Officer in each Ministry/Department for framing/vetting the rules and regulations. The existence of the Law Officer would also obviate the requirement to approach the Ministry of Law and Justice every time there is a need to formulate or vet rules and avoid the consequent delay. However, the Committee to their utmost dismay find that despite the provision/instruction in the guidelines and their earlier recommendations, the Ministry of Parliamentary Affairs have not been able to ensure the establishment of a post of Law Officer in each Ministry/Department so far. The Committee, therefore, once again strongly recommend that the Ministry of Parliamentary Affairs in consultation with the Ministry of Law and Justice and Department of Personnel & Training must take necessary steps to ensure the creation of the post of a Law Officer in each Ministry/Department without any further loss of time so that the recommendation of the Committee should not be followed in breach and implemented within the stipulated time.</p>
6.	7.3	<p><u>Processing of Reports/Recommendations</u></p> <p>The Committee observe that the Ministry of Parliamentary Affairs do not process their recommendations in an objective and applicable manner, as some of the recommendations which have been made in regard to individual Ministry but which are applicable to all the Ministries do not find mention in the Manual. Recommendations like unwarranted use of 'vague expressions' in rules, 'appropriate wordings in the interpretation clause of the rules', etc. which are of general nature do not form part of the Manual. The Committee, therefore, urge the Ministry of Parliamentary Affairs to process their recommendations more</p>

		objectively in a holistic way, so that such recommendations are accounted for while reviewing/framing guidelines for Ministries in the future.
7.	8.3	<p><u>Action Taken Reports</u></p> <p>The Committee note that since the Ministry of Parliamentary Affairs do not process the Action Taken Reports of the Committee, therefore, the instructions/guidelines of general nature which are reiterated in the Action Taken Reports escape their analysis. The Committee, therefore, desire that the Ministry of Parliamentary Affairs should also process the Action Taken Reports of the Committee so that instructions/guidelines of general nature could be incorporated in their comprehensive guidelines. Further, para 11.9.1 (ii) of Manual of Parliamentary Procedures in the Government of India (<i>Appendix IV</i>) <i>inter-alia</i> states that where the department concerned accepts a recommendation, it will communicate the acceptance to the Lok/Rajya Sabha Secretariat, under intimation to the Ministry of Parliamentary Affairs. The Committee, therefore, desire that the Ministry should issue fresh instructions to the Ministries stating that the intimation should also be given to them relating to the Action Taken Replies furnished to the Lok Sabha Secretariat in relation to the recommendations of the Committee on Subordinate Legislation.</p>
8.	9.2	<p><u>Inclusion of Chapter on Subordinate Legislation in Manual</u></p> <p>The Committee are surprised to find that the Central Secretariat Manual on Office Procedure which caters to all the central government employees in regard to office procedures to be followed by all Ministries, does not include a chapter on Parliamentary Procedure. Further, more specifically, the matter relating to Subordinate Legislation also needs to be included in details in the Manual. The Committee, therefore, recommend that the Ministry of Parliamentary Affairs should write and ensure that the Ministry of Personnel, Public Grievances and Pensions (Department of Administrative Reforms and Public Grievances) should include the matter relating to subordinate legislation in the Central Secretariat Manual on Office Procedure brought out by them so that the importance and significance of the Committee's recommendations are emphasised and made known to all those dealing with statutory rules.</p>

APPENDIX –II
(Vide Para 5 of the Introduction of the Report)

Report No.	Date of Presentation	GSR/SO No. & date	Name of the Order	Ministry concerned	Extent of delay in laying of orders	Extent of delay in final publication of orders	Extent of delay in publication of Extraordinary orders	Remarks, if any
III.	10.03.2005	GSR 528-E Draft published on 14.8.2002	Delay in notification of final rules viz., Drugs and Cosmetics (4 th Amendment) Rules, 2003	Health & Family Welfare	—	Finally published on 8.7.2003 (11 Months delay)		
		GSR 687-E published on 8.10.2002	Delay in laying of Coal Mines Provident Fund (Amendment) Scheme, 2002	Coal	Laid on 18.2.2003 (4 Months delay)	—		
		LD 2897 published on 12.2.1997	Delay in laying of Industrial Development Bank of India (Issue of Management of Bonds) (Amendment) Regulations, 1996	Finance	Laid on 25.4.2003 (6 Years delay)	—		Inordinate delay of six years
VIII	6.12.2005	SO 5 Notified on 21.12.2002	Validity of the securitization and reconstruction of financial assets and enforcement of security interest (Removal of Difficulties) Order, 2002	Finance	—	—	Published on 4.1.2003 (2 Weeks delay)	
		GSR 222-E to GSR 224 Notified on 26.8.02, 12.11.02 & 25.11.02	Shortcomings in the notification of Reserve Bank of India	Finance	—	—	Published on 18.3.2003 (4 to 7 Months delay)	
XII	02.08.2006	GSR 530-E Published on 9.7.2003	The Securities Appellate Tribunal (Salaries and Allowances and other conditions of service of the Officers and Employees) (Amendment) Rules, 2003 – Delay in laying of rules on the table of the House	Finance	Laid on 23.7.2004 (12 Months delay)	—	—	

XIII	13.12.2006	GSR 244 Draft published on 19.9.2003	The Makhana Grading and Marking Rules, 2004	Agriculture	—	—	Finally published on 24.7.2004 (10 Months delay)	—	
XV	15.5.2007	GSR 828-E Published on 21.10.2003	Ignorance of the Ministry of Home Affairs about Statutory Provision of laying of Rules	Home	Laid on 3.5.2005 (18 Months delay)	—	—	—	
XVI	15.05.2007	GSR 12-E Published on 10.1.2005	Infirmities in the authority for advance rulings (Customs, Central Excise and Service Tax) Procedure Regulations, 2005	Finance	Laid on 25.8.2005 (7 months delay)	—	—	—	
		GSR 627-E Draft published on 20.10.2003	Shortcomings in the Gas Cylinders Rules, 2004	Commerce	—	—	Finally published on 21.9.2004 (11 Months delay)	—	
XVIII	07.09.2007	GSR 129 Published on 17.4.2004 Draft published on 8.7.2002	Non-laying of Rules and other shortcomings in the Pulses Grading and Marking Rules, 2003	Agriculture	Laid on 20.12.2004 (8 Months delay)	—	Finally published on 17.4.2004 (22 Months delay)	—	
XXI	22.10.2008	GSR 184-E & GSR 185-E Draft published on 16.6.2003 GSR 32-E & GSR 35-E 20.1.2005 Draft published on 20.5.2003	Inordinate delay in publication of the Prevention of Food Adulteration (Amendment) Rules, 2005 Infirmities in (i) the Drugs and Cosmetics (1 st Amendment) Rules, 2005 and (ii) The Drugs and Cosmetics (2 nd Amendment) Rules, 2005	Health	—	—	Finally published on 21.3.2005 (21 Months delay)	—	
		GSR 733-E Draft published on 13.1.2004	Delay in publication and other lacuna in the Drugs & Cosmetics (6 th Amendment), Rules, 2005	Health	—	—	Finally published on 21.12.2005 (11 Months delay)	—	
XXII	16.12.2008	GSR 406 Published on 26.11.2005	Infirmities in the National Institute of Pharmaceutical Education and Research (Degree of Masters' and Doctor of Philosophy) Ordinance, 2005	Chemicals & Fertilizers	Laid on 15.5.2006 (5 Months delay)	—	—	—	

XXIII	16.12.2008	GSR 314-E Published on 25.5.2006	The Aircraft (Demolition of Obstructions caused by Buildings and Trees etc) (Amendment) Rules, 2006	Civil Aviation	Laid on 1.3.2007 (10 Months delay)	—	—	—
		GSR 352-E Draft published on 17.5.2005	The Drugs and Cosmetics (3 rd Amendment) Rules, 2006	Health	Laid on 9.5.2007 (6 Months delay)	Finally published on 8.6.2006 (11 Months delay)	Sent for publication on 1.6.2006 , actually published on 8.6.2006 (7 days delay)	
		GSR 458-E Draft published on 2.6.2006	Delay in the publication of the Prevention of Food Adulteration (2 nd Amendment) Rules, 2007 [Ministry of Health and Family Welfare]	Health	—	Finally published on 2.7.2007 (13 Months delay)	—	
XXIV	24.02.2009	SO 45-E Published on 17.1.2006	Infirmities in the Employees Provident Fund (Amendment) Scheme, 2004	Labour	Laid on 15.12.2008 (2 ½ years delay)	—	—	
		GSR 174-E Draft published on 23.8.2004	Infirmities in the Drugs and Cosmetics (4 th Amendment) Rules, 2005	Health	Laid on 27.7.2005 (4 Months delay)	Finally published on 16.3.2005 (7 Months delay)	—	
		GSR 481-E Published on 17.8.2006	Infirmities in the qualifications, powers and functions of Chief Electrical Inspector and Electrical Inspector Rules, 2006	Power	Laid on 16.3.2007 (7 Months Delay)	—	—	
XXV	24.02.2009	GSR 181-E Draft published on 3.8.2004	Infirmities in the Aircraft (Amendment) Rules, 2006	Civil Aviation	Laid on 1.3.2007 (11 Months delay)	Finally published on 29.3.2006 (14 Months delay)	—	
		GSR 34-E to GSR 37-E 22.1.2007	Shortcomings in the Rules published by the Ministry of Communications and Information Technology	Communications & IT	—	—	Sent for publication on 10.1.2007 , actually published on 22.1.2007 (11 days delay)	

APPENDIX -III
(Vide Para 6 of the Introduction of the Report)

APPENDIX -I

Copy

F.No.32(7)/85-R&C
Government of India
Ministry of Parliamentary Affairs

94-A, Parliament House,
New Delhi - 1

Dated : 18th September, 1986

OFFICE MEMORANDUM

Sub : Implementation of recommendation contained in paragraph 21 of the Fourth Report of the Committee on Subordinate Legislation (8th Lok Sabha) presented to the House on 18.12.85 - Guidelines to be followed by the Ministries/Departments for streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimise the time-gap between publication of the draft rules framed under Acts and their promulgation in final form.

The undersigned is directed to state that the Committee on Subordinate Legislation (8th Lok Sabha) in their Fourth Report presented to the House on 18th December, 1985, have inter-alia taken serious view of the considerable time taken by Ministries/Departments of the Govt. of India in framing Rules under Acts, particularly between publication of draft Rules and their promulgation in the final form.

The Committee had earlier asked the Ministry of Law & Justice to suggest measures for reducing the time taken by the Ministries/Departments in framing Rules. The Secretary, Ministry of Law & Justice (Legislative Department) when asked by the Committee to suggest measures for reducing the time taken by the Ministries/Departments in framing the Rules, had opined that a radical change was necessary in the existing arrangements relating to Subordinate Legislation in the various Ministries/Departments.

In light of the above opinion, the Committee have in para 21 of its above mentioned Report suggested that the Department of Parliamentary Affairs should examine the matter in detail in consultation with the Ministries/Departments of the Govt. of India, including the Ministry of Law & Justice, and draw

....2/-

suitable guidelines for the Ministries/Departments streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimise the time-gap between publication of the draft rules and their promulgation in final form.

Para 21 of the 4th Report of the Committee (8th L.S.) is as under :—

"In light of the opinion expressed by the Secretary (Legislative Department) and recognising the importance of the subject, the Committee would like the Ministry of Parliamentary Affairs to examine the matter in detail in consultation with the Ministries/Departments of the Government of India, including the Ministry of Law & Justice, and draw suitable guidelines for the Ministries streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimise the time-gap between publication of the draft rules and their promulgation in the final form as such delays prove detrimental to the interests of the public at large."

Accordingly, a meeting of senior officers of the various Ministries/Departments of the Govt. of India was convened by the Secretary, Ministry of Parliamentary Affairs, at 3.30 P.M., on Friday, the 21st of March, 1986, in room No. 62, Parliament House, New Delhi. In pursuance of the decision taken at the above meeting this Ministry framed draft guidelines streamlining the procedure with regard to work relating to Subordinate Legislation and circulated the same to all Ministries/Departments vide this Ministry's O.M. of even number dated 2nd April, 1986, for comments/suggestions.

In light of the comments/suggestions received from the various Ministries/Departments, the guidelines have now been finalised and are enclosed herewith.

The Ministry of Home Affairs, etc. are requested to kindly ensure strict compliance of these guidelines while framing of rules under various Acts.

The receipt of this O.M. may kindly be acknowledged.

Hindi version of this O.M will follow.

sd/-

(RANBIR SINGH)

UNDER SECRETARY TO THE GOVT. OF INDIA

To,
All Ministries/Departments of the Govt. of India
Copy forwarded to Lok Sabha Sectt. (Com-II), Parliament House Annex, New Delhi, w.r.t their O.M.No.40/3/(4R)/CII/85 dated 26.12.85 and OM No.42/3(4R)/CII/85 dated 18.7.86

GUIDELINES TO BE FOLLOWED BY THE MINISTRIES/
DEPARTMENTS IN FRAMING THE RULES, REGULATIONS ETC.
UNDER STATUTES/ACTS.

The Committee on Subordinate Legislation have from time to time expressed concern over the inordinate delay in framing and final notification of the Rules under the various Acts/Statutes. The Committee have, therefore, desired that a set of guidelines should be laid down streamlining the existing procedure in order to avoid such delays in future. After consultations with various Ministries/Departments of Govt. of India, the following guidelines are laid down in the matter for strict compliance in future :-

1. Rules and Regulations required to be made under a Statute should be framed and notified in the official Gazette as soon as possible but in no case later than 6 months from the date from which the statute comes into force.
2. The Committee has observed that executive instructions are no substitute to statutory rules and as such the Ministry should not take recourse to transitional provisions in the Statute or issue of administrative instructions to meet such eventualities.
3. Joint Secretary in-charge of Parliament Section in the Ministries Departments should be made responsible in the Ministry/Department to ensure that the time schedule as mentioned below and also as given in the 'Activity time' appended as Annexure-Y are strictly adhered to :-
 - (a) Where an Act passed by Parliament provides for rule making power, the rules should ordinarily be framed as soon as possible after the commencement of the Act and in no case, this period should exceed six months. Where the Act provides for inviting objections/suggestions from public on the draft rules, the rules should be notified in the Gazette as required in the Act and should ensure that at least a period of 30 clear days exclusive of the time taken in making available the Gazette copies to the public is given to the public.
 - (b) If the suggestions/objections received are large, the final rules should be notified within a period of six months from the last date of receiving the comments. If no objections/suggestions are received or the number of objections/suggestions so received are small, the rules should be finally notified within a period of 3 months.

An Officer of the rank of Deputy Secretary/Director should be earmarked to coordinate the work of all the Sections dealing with the work of Subordinate Legislation. The following stages are involved in the process:-

- (i) Framing of draft Rules in consultation with the Ministry of Law and Justice;
- (ii) Publishing of draft rules in the official gazette inviting objections/suggestions within the specified period wherever applicable;
- (iii) Consideration of objections/suggestions ;
- (iv) Modification of the draft rules on the basis of objections/suggestions received;
- (v) Finalisation of the Rules in consultation with the Ministry of Law & Justice;
- (vi) Translation of rules into Hindi by the official language-wing ;
- (vii) Sending the Rules to the Govt. of India Press for printing after assigning the S.No. etc. and indicate the priority or the date by which these should be published ;
- (viii) Laying the Rules so published on the Table of the House as soon as possible but within 15 days of their publication in the Gazette and if it is not in session then, within 15 days after the date of commencement of the next session. If delay exceeds 15 days, a statement showing reasons for delay may also be laid.

4. It has been observed that in the aforesaid process much time is wasted through routine correspondence and also in the absence of any follow-up action in the matter. Every effort should be made to finalise the matter by holding inter-departmental meetings, or inter-ministerial meetings as deemed necessary.

5. The Legislative Department, Ministry of Law & Justice, have identified a few factors which lead to avoidable delays in cases relating to Subordinate Legislation referred to them by the Ministries/Departments for vetting etc. To facilitate speedier disposal of cases and avoid unnecessary correspondance, Ministries/Departments may ensure fulfilment of these points, appended as Annexure-II, before referring the cases relating to Subordinate Legislation to that Ministry.

6. Factors which result in undue delay in printing of the Rules/Regulations/notifications in the Directorate of Printing are enumerated in Annexure-III. Ministries/Departments before sending the material relating to Subordinate Legislation for printing to that Department may ensure that the formalities as listed in the Annexure are complete in all respect.

7. If suggestions have to be obtained from interests concerned who are likely to be affected by the legislation, attempt should be made to get their comments at the earliest by sending registered letters to them and if necessary by publication of the draft rules in the national or regional newspapers.

8. As soon as an act comes into force, it should be examined to ascertain the specific sections conferring power to make rules, regulations, bye-laws, orders, etc.

9. A register should be maintained in each Ministry/ Department specifying the various stages of processing the legislation e.g. name of the enactment, date of its coming into force, sections (with any sub-section etc.) conferring legislative powers on the Government; whether power has been given to an agency other than Central Government for framing the Rules and also identify the various stages of processing the rules, namely, framing of the draft rules, notification thereof in the gazette if necessary, consideration of objection and suggestions, finalisation of rules in consultation with the Ministry of Law, the translation thereof and final notification in the gazette. The above register should be put up by the section concerned to the officers incharge for periodical check with a view to see that the process of legislation is not held up at any stage for any reasons.

10. As soon as the rules have been published in the gazette, the concerned Ministry/Department should scrutinise them carefully and issue corrigenda, wherever necessary.

11. A monthly return (Annexure-IV) should be put up by Sectional Incharge every month regularly to the Joint Secretary deputed for co-ordinating this work vide para 3 of this guidelines who shall monitor the progress and take remedial measures for avoiding any delay in the matter and who shall further submit return alongwith the remedial action taken to the Additional Secretary/Secretary.

12. A quarterly report in respect of cases in which Rules/Regulations under a Statute have not been published within 6 months should be sent regularly to the Legislative Department of the Ministry of Law & Justice.

13. In case the Ministries/Departments are not able to frame the rules within the prescribed time of six months or more as the case may be, they should seek extension of time from the Committee stating reasons for such extension, such extension being not more than for a period of three months at a time. The request should be made after placing the matter before the Minister.

14. The Ministries/Departments should maintain up-to-date copies of the acts and rules and regulations, bye-laws etc. framed thereunder in sufficient numbers. In case the number of amendments are large, efforts should be made to reprint the acts or the rules as the case may be, so as to provide a continuous reading.

ANNEXURE-I

ACTIVITY TIME

TIME PRESCRIBED FOR THE ACTIVITIES/FRAMING OF RULES
AND REGULATIONS UNDER A STATUTE

Activity

- (A) For framing of rules and regulations where the Act does not provide for inviting objections/suggestions from the public on the draft rules :-
- | | |
|--|-----------------|
| (a) Framing of draft rules | - 3 months |
| (b) Finalisation of the rules, vetting by the Ministry of Law, Hindi translation and notification in the Gazette | - 3 months |
| Total | <u>6 months</u> |
- (B) For framing of rules and regulations where the Act provides for inviting objections/suggestions from the public on the draft rules:-
- | | |
|--|---|
| (a) Framing of draft rules | - 3 months |
| (b) Consultation with interests concerned and/or inviting objections/suggestions from the public | - 3 months |
| (c) Finalisation of the rules, vetting by the Ministry of Law, Hindi translation and notification in the Gazette | - 3 months (or 6 months in case the objections/suggestions received are very large) |
| Total : | <u>9 months (or 12 months)</u> |

ANNEXURE-II

POINTS TO BE KEPT IN MIND BY THE MINISTRIES/DEPARTMENTS
WHILE REFERING CASES RELATING TO SUBORDINATE LEGISLATION
TO THE LEGISLATIVE DEPARTMENT, MINISTRY OF LAW & JUSTICE

1. As regards principal rules, regulations, orders, etc. ;
 - (a) consultation with the authorities which are required to be consulted have been made by the administrative Ministry;
 - (b) where rules, etc., are to have effect retrospectively (in cases where parent Act or the Constitution empower giving such retrospective operation), an explanatory memorandum has been added in the form of a note explaining that the interests of no person shall be adversely affected by such retrospective effect ;
 - (c) where existing rules, etc. are sought to be superseded or repealed, up-to-date copies of such rules, etc., are placed on the file for reference;
 - (d) approval of authorities competent to approve such proposal has been obtained;

2. As regards amending rules, regulations, orders, etc.-
 - (a) up-to-date copies of the principal rules or copies of such rules along with subsequent amendments, are placed on the file for reference;
 - (b) foot note indicating the gazette references of the principal rules and all subsequent amending rules is appended to the draft;
 - (c) approval of authorities competent to approve such proposal has been obtained;
 - (d) where rules, etc. are to have effect retrospectively (in cases where parent Act or the Constitution empowers giving of such retrospective operation), an explanatory memorandum has been added in the form of a note explaining that the interests of no person shall be adversely affected ;
 - (e) consultation with the authorities which are to be consulted have been made.

3. As regards rules, etc., to be finally published after it has been previously published for general information, the preamble to the draft should contain:-
 - (i) The notification number with which the draft has been published and the date of the Gazette in which the draft rules were published;

- (ii) the date on which the Gazette copies containing the draft rules were made available to the public;
- (iii) the last date fixed for receipt of public comment.
- (iv) All references made to the Department should be accompanied with a self-contained note explaining the proposal.
- (v) In time bound cases the administrative Ministries should specifically indicate the same by some method in the file itself. Those cases wherever possible may be settled after discussion by an officer of appropriate level with the concerned Legislative Councils."

ANNEXURE-III

POINTS TO BE KEPT IN MIND BY THE MINISTRIES/
DEPARTMENTS WHILE SENDING NOTIFICATIONS RELATING
TO RULES ETC. FOR PRINTING IN THE WEEKLY/EXTRA-
ORDINARY GAZETTES.

- (i) The Department/Ministry should send the notification containing Rules, etc. required to be published by a particular date in the weekly/Extra-ordinary Gazettes with a covering d.o. letter addressed to the Manager of the Press, clearly indicating the date on which the same is to be published either in the Extra-ordinary Gazette or the date of the Weekly Gazette.
- (ii) Reasonable time, as far as possible should be allowed to the press to publish notifications relating to Rules which are of a bulky nature.
- (iii) The number of spare copies required by the Department/Ministry should be clearly indicated in the d.o. letter and in the printing requisition.
- (iv) As per the Directorate of Printing's revised instructions regarding printing and distribution of Gazette issued vide their O.M.No.0-17034/1/83-P(III), dated 2.9.1985, all notifications received by the press upto 1.00 P.M. on Tuesday will be printed in the same week's Gazette of Saturday.

(The Directorate of Printing have also issued to all Ministries/Departments of the Govt. of India O.M. No. 0-17034/1/83-P(iv), dated 16.1.1986 which relates to streamlining the procedure regarding the printing and distribution of the various parts of the Gazette of India. Instructions contained in this O.M. as also their O.M. dated 2.9.1985 may strictly be adhered to by Ministries/Departments to ensure timely printing and Publication of the Rules/Notification in the Gazette.)

ANNEXURE-IV

MONTHLY RETURN SHOWING THE TIME PRESCRIBED AND ACTUALLY TAKEN IN RESPECT OF EACH CASE PERTAINING TO FRAMING OF RULES & REGULATIONS UNDER A STATUTE.

File No.	Title of the Rule/Regulation:	Time prescribed	Time Taken	Remarks
S.No.	Activity			(Reasons in detail should be given where more time is taken to complete the activity)

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

Note : This return should be put up to Additional Secretary/Secretary regularly (either then the Co-ordinating Officer) for every month by 7th of the following month.

NO.P.32(8)/88-R&C
GOVERNMENT OF INDIA
MINISTRY OF PARLIAMENTARY AFFAIRS

92, Parliament House,
New Delhi

February 3, 1989

OFFICE MEMORANDUM

Subject: Implementation of recommendations contained in the 20th Report of the Committee on Subordinate Legislation of the 8th Lok Sabha presented on 7.12.1988.

The undersigned is directed to state that the Committee on Subordinate Legislation (8th Lok Sabha) in their 20th Report presented to the House of 7th December, 1988, while considering the implementation of recommendation contained in para 21 of the 4th Report presented to the House on 18.12.1985 inter-alia observed as under:-

Para 3.4 "The Committee note with satisfaction that the Ministry of Parliamentary Affairs have Issued comprehensive guidelines to be followed by the Ministries/Departments of the Government of India for streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimising the time-gap between the publication of the draft rules and their promulgation in the final form. The Committee desire that all Ministries/Departments of the Govt. of India should follow these guidelines in letter and spirit."

2. Accordingly, attention of the Ministry of Home Affairs etc. is drawn to the 'guidelines' circulated with this Ministry O.M.NO.P.32(7)/85-R&C dated the 18th September, 1986 (copy enclosed) and to request for strict compliance of the same while framing of rules under various acts.

3. The receipt of the Office Memorandum may please be acknowledged. Hindi version will follow.

Sd/-

(I.D. SHARMA)

UNDER SECRETARY TO THE GOVT. OF INDIA

To

All the Ministries, Departments of
the Government of India

F.No.32(13)/96-R&C
 GOVERNMENT OF INDIA
 MINISTRY OF PARLIAMENTARY AFFAIRS

90, Parliament House,
 New Delhi-1

25th March, 1996

OFFICE MEMORANDUM

Subject : Twenty-Fourth Report of the Committee on Subordinate Legislation (Tenth Lok Sabha) presented on 6th March, 1996 - recommendations made regarding delay in framing rules/delay in printing of gazette notifications.

The Committee on Subordinate Legislation (Tenth Lok Sabha) in its Twenty-Fourth Report, presented to the Lok Sabha on 6th March, 1996 has observed that it has come to the notice of the Committee that there have been inordinate delays in the framing of rules under the relevant statutes of the Parliament. The Committee have also observed that there are generally inordinate delays in the printing of gazette notifications by the press.

2. DELAY IN FRAMING RULES.

Vide paragraphs 1.7 to 1.9 of its aforesaid Report the Committee have observed/recommended as follows:-

"1.7 The Committee note with concern that the delay in the framing of rules has become a recurring phenomenon and that cases of delay in framing of rules by the Ministries/Departments of Government of India have continued to occur in utter disregard to the recommendations of the Committee. The Committee cannot help observing that the Ministries have failed to recognise the importance of Legislation passed by the Parliament as the delay in exercise of rule-making power under the provision for framing Subordinate Legislation under the statutes quite often defeats the very purpose of such legislations as it cannot be implemented as contemplated. The Committee note with concern that the matter relating to framing of the rules under the Act is normally dealt with by the Ministries in a very casual manner and no serious attention is paid for expeditious rule making. The Committee observe that in most of the cases the rules could have been notified much earlier had the concerned Ministries moved in the matter with the seriousness it deserved. Due to this lackadaisical approach of the

Ministries, the matters which are sought to be governed by statutory rules, are often in actual practice governed by executive directions or guidelines etc. in the absence of the properly framed statutory rules.

1.8 With a view to ensure timely framing of rules under the Acts passed by the Parliament, the Committee recommend as under :-

1. The framing of draft rules should be initiated simultaneously with the drafting of the proposed Bill so that the draft rules become ready by the time the Bill is introduced in the House.
2. Whenever a Bill is introduced in Parliament and in particular those Bills which propose setting up a Commission or Tribunal, there should be a 'Note' in the Memorandum of Delegated Legislation appended to the Bill to the effect that the draft rules have also been prepared under that Bill.
3. To overcome undue delays on account of protracted inter-ministerial correspondence or where consultation with the Ministry of Law or other Ministries/Departments is involved, the concerned Ministry should convene meetings of all the concerned agencies so that the matters could be sorted out at the earliest without entering into protracted correspondence.
4. In this context the Committee gave some thought to the idea of each Ministry/Department of the Government having the services of a Law Officer exclusively for itself for framing/vetting the rules. The Law Officer can be from the Ministry of Law who could be taken on deputation by the concerned Ministry. The Committee has already consulted few Ministries which have reacted positively to this proposal. The Committee feel that such an arrangement would certainly obviate the need for each Ministry/Department to approach the Ministry of Law everytime there is a need to formulate/vet rules, and avoid the consequent delay.

1.9 The Committee, therefore, desire that all the Ministries/Departments of Government of India should ensure strict compliance of the aforesaid recommendations of the Committee with a view to ensure timely framing of rules under the Acts passed by the Parliament.³

3. All Ministries/Departments are requested to note the above observations/recommendations of the Committee for strict compliance.

4. In this connection, attention of the Ministries/Departments

are also invited to the following recommendation's made by the Committee earlier:-

- i) Recommendation made in paragraph 34 of the Fifth Report (Second Lok Sabha)
"Ordinarily, rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed 6 months."
- ii) Recommendation made in paragraph 108 of the Eighteenth Report (Fifth Lok Sabha)
"In case, a Ministry/Department finds that for any unavoidable reasons, it is not possible for them to adhere to the prescribed time limit (of 6 months to frame the rules) in an exceptional case, they should at the expiration of the 6 months from the commencement of the relevant Act, explain the reasons to the Committee and seek a specific extension of time from them."
- iii) Recommendation made in paragraphs 4.10 and 5.15 of the Seventeenth Report (Tenth Lok Sabha) and paragraph 2.11 of the Eighteenth Report (Tenth Lok Sabha)
"Whenever a Bill is introduced in Parliament, and in particular those Bills which propose setting up of a Commission or Tribunal, there should be a 'Note' in the Memorandum of Delegated Legislation appended to the Bill to the effect that the draft rules under that Bill have been prepared."

5. DELAY IN PRINTING OF GAZETTE NOTIFICATION

The Committee on Subordinate Legislation have observed that there are generally inordinate delays in the printing of gazette notifications by the press resulting in delay in the availability of the Gazette to the public. The date of publication as mentioned on the gazette notification is also different from the date of actual printing of the notification. The Committee have observed that since the statutory orders become effective only after their notification in the official gazette, it becomes even more important that such notifications are printed in time since in the majority of cases, they come into force from the date of their publication in the official gazette.

6. In order to ascertain the difficulties faced by the Directorate of Printing in bringing out the gazette publications in time and steps taken by them to curb such delays in printing, the Committee took oral evidence of the representatives of the Ministry of Urban Affairs and Employment (Department of Urban Development) and Ministry of Law, Justice and Company Affairs (Legislative Department).

7. Vide paragraphs 2.8 to 2.16 of its Report the Committee have observed/recommended as follows:-

"2.8 The Committee note that the delay in printing of gazette notifications is caused due to (i) receipt of bulky material for

.....4/-

printing from the Ministries at the last moment (ii) non-availability of both Hindi and English versions simultaneously (iii) lack of proper attestation; (iv) illegible manuscripts received for printing (v) the continuation of old technology for composing and printing and (vi) large number of cases where material which should not be published in the Extraordinary Gazette are being certified as such for printing.

2.9 The Committee, recommend that the Government of India Press and administrative Ministries should ensure that the printed gazettes are made available to the authorised sales counters like Kiteb Mahal, New Delhi etc. for sale to the people on the date printed in the gazettes because in a number of cases the Rules come into force from the date of publication in the official gazette.

2.10 In order to achieve this end, the Committee desire the Ministry of Urban Affairs and Employment and the Directorate of Printing should work out the modalities in consultation with the concerned Ministries to ensure that the Press makes the gazette available to the public on the appointed date which must be adhered to namely :

(i) The Government of India Press should accept only those notifications for printing which are correct and complete in all respects viz., neatly typed with both Hindi and English versions bearing proper attestation etc.

(ii) Normal gazette is brought out weekly on a fixed date. It is generally a routine, non-priority matter. The press should inform the Ministries that the notifications etc. to be printed in the normal gazette should be furnished for printing upto a particular day of the week so that the press can print it and make it available on the scheduled day. On receipt of the material, if the press, for any example the material is bulky, it must discuss and pursue with the Ministry concerned to review the scheduled day for publication. But once the material/notification has been accepted for printing, the press must print it in time and make it available on the scheduled day.

Reason is not in a position to print it, for

2.11 The Committee further desire that the Extraordinary Gazette which is a time bound publication and is used to publish urgent material must be printed and made available on the appointed date. As in the case of normal gazette the press should interact with the indenting Departments so that the material is furnished in time and in correct and complete form. The Ministry of Urban Affairs and Employment should also make the indenting Departments aware of and reiterate the guidelines under which the subject matter is to be treated as fit for extraordinary notification.

2.12 The Committee further recommend that the Press should liaise with Ministries who have the modern equipment to present the material to the Press in such a format that it can be printed without any alteration. For this purpose the Committee recommend as follows:-

(i) Each of the Ministries/Departments should have their own computers to prepare floppy discs which are compatible and acceptable to the Press;

(ii) The material to be printed in the gazette of India notifications should get recorded in a floppy disc by the concerned Ministry/Department and such floppy disc can be handed over to the press for expeditious printing. For this purpose the press should also acquire and instal computers so that the material handed over to them in the floppies can be retrieved and then printed;

(iii) The Ministry of Urban Affairs and Employment should also organise computer net-working between various Ministries of the Central Government and the Government of India Press at Delhi and Faridabad where the gazettes are printed so that the material/notification composed in the computers of the Ministries are immediately transferred to the Computer in the Press which could then be formatted in the Press and printed, so that in the press only page making is done.

2.13 The Committee further desire that the commitment given by the Secretary, Ministry of Urban Affairs and Employment during the evidence for completion of the modernisation programme of the Government of India Press by December, 1995, will be adhered to and with the introduction of latest technology of printing, delays would be minimised.

2.14 The Secretary, Ministry of Urban Affairs and Employment had also put forth the alternative that the Departments/Ministries can have their own gazettes printed and published provided there was no legal hurdle and in view of the fact that the number of such gazettes printed is not many; that each Ministry is now going in for modernisation and acquiring/proposing to acquire sophisticated computer printers, this will be possible; in such a situation the indenting Department has to bear the cost of printing. The main hurdle is said to be the allotment of notification numbers.

2.15 The Committee feel that with the help of Computer based communication system this difficulty could also be easily surmounted. The Committee desire that this suggestion should be examined from all aspects including the distribution of the printed material and the Committee be informed about the decision.

2.16 The Committee were also informed by the Secretary that monthly meetings are held to review the performance of the press but no annual or monthly report about such performance is made. The Committee recommend that at least an annual report should be made so that glaring delays come to notice and steps are taken to remove the cause of delay."

8. Attention of the Ministries/Departments are also drawn to the recommendation of the Committee made in paragraph 93 of the Sixteenth Report (Fifth Lok Sabha), namely:-

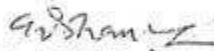
"With a view to ensure speedy implementation of their recommendations, the Committee fixes a time-limit of six months within which the Ministries/Departments of Government of India should implement their recommendations. If in any

particular case it is not possible for a Ministry/ Department to adhere to this time-limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations within the prescribed time-limit."

9. The Ministry of Home Affairs, etc. are requested to note the above recommendations/observations of the Committee for strict compliance to ensure timely framing and printing of rules under the Acts of Parliament administered by them.

10. Attention of all Ministries/Departments is also drawn to the comprehensive guidelines for streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimise the time-gap between publication of the draft rules framed under Acts and their promulgation in final form circulated vide this Ministry's O.M.No.F.32(7)/85-R&C dated 18.9.86 (copy enclosed).

11. The receipt of this O.M. may please be acknowledged.


(I.D. SHARMA)
DEPUTY SECRETARY TO THE GOVT. OF INDIA
PHONE NO:3034746.

To

1. All Ministries/Departments of the Government of India.
2. Work Study Section, Ministry of Parliamentary Affairs, New Delhi.

Copy forwarded for information to:- The Lok Sabha Secretariat (Shri Ram Avtar Ram, Deputy Secretary) u.r.t. their O.M.No.42/24R/CII/95 dated 11th March, 1996.

APPENDIX – IV

(Vide Para 7 of the Introduction of the Report)

EXTRACTS FROM MANUAL OF PARLIAMENTARY PROCEDURES IN THE GOVERNMENT OF INDIA

Chapter 11

Subordinate Legislation

Introduction

11.1.1 The Constitution of India as well as Laws made by Parliament usually vest the powers in the Government to make and notify in the Gazette of India, rules, regulations, bye-laws etc., to subserve the objectives behind the main legislation, but within their broad framework. As these rules etc., are statutory in character, they come within the scope of what is termed as 'Subordinate Legislation'.

11.1.2 The department concerned will frame the rules etc., and refer them to the Ministry of Law and Justice who will vet them from constitutional, legal and drafting point of view.

11.1.3 To facilitate speedier disposal of cases and avoid unnecessary correspondence, departments may ensure fulfilment of the points given in the checklist below, before referring the cases relating to Subordinate Legislation to the Ministry of Law and Justice:

CHECKLIST

- (i) As regards Principal rules, regulations, orders etc.:
 - (a) consultation with the authorities which are required to be consulted have been made by the administrative department;
 - (b) where rules, etc., are to have effect retrospectively (in cases where parent Act or the Constitution empowers retrospective operation), an explanatory memorandum has been added in the form of a note explaining that the interests of no person shall be adversely affected by such retrospective effect;
 - (c) where existing rules etc., are sought to be superseded or repealed, up-to-date copies of such rules, etc. are placed on the file for reference.
 - (d) approval of authorities competent to approve such proposal has been obtained.

- (ii) As regards amending rules, regulations, orders etc.:
 - (a) up-to-date copies of the principal rules or copies of such rules along with subsequent amendments, are placed on the file for reference;
 - (b) footnote indicating the gazette references of the principal rules and all subsequent amending rules is appended to the draft;
 - (c) approval of authorities competent to approve such proposal has been obtained;
 - (d) where rules, etc., are to take effect retrospectively (in cases where parent Act or the Constitution empowers retrospective operation), an explanatory memorandum has been added in the form of a note explaining that the interests of no person shall be adversely affected; and
 - (e) consultation with the authorities which are to be consulted have been made.
- (iii) As regards rules, etc., to be finally published after they have been previously published for general information, the preamble to the draft should contain:
 - (a) the notification number with which the draft has been published and the date of the gazette in which the draft rules were published;
 - (b) the date on which the gazette copies containing the draft rules were made available to the public;
 - (c) the last date fixed for receipt of public comments;
 - (d) all references made to the department should be accompanied with a self-contained note explaining the proposal; and
 - (e) in time-bound cases the administrative department should specifically indicate the same by some method in the file itself. Those cases, wherever possible, may be settled after discussion by an officer of appropriate level with the concerned legislative counsels.

Procedure where pre-publication of rules etc. is required

11.2 Where an Act requires previous publication of rules, etc., made thereunder, the department concerned will:

- (a) frame the draft rules in consultation with the Ministry of Law and Justice;
- (b) get them published in the official gazette inviting objections and suggestions within a specified period of 30 days;
- (c) if suggestions have to be obtained from interests concerned who are likely to be affected by the legislation, attempt should be made to get their comments at the earliest by sending registered letters to them and, if necessary, by publication of the draft rules in the national or regional press/newspapers;
- (d) on expiry of the specified period of 30 clear days, which will be reckoned from the date on which the gazette is made available for sale to the public, consider the objections and suggestions received;
- (e) if the suggestions/objections received are large, the final rules should be notified within a period of six months from the last date of receiving the comments. If no objections/suggestions are received or the number of objections etc., so received is also small, the rules should be finally notified within a period of 3 months; and
- (f) finalise the rules in consultation with the Ministry of Law and Justice, where modifications are involved.

Time limit for framing rules.
Cabinet Secretariat
O.M.No.6/1
/13/71-CF
dt 25-8-71

11.3.1 Statutory rules, regulations and bye-laws will be framed within a period of six months from the date on which the relevant statute came into force. Cases in which, for any reasons, this is not possible, will be brought to the notice of the Secretary and the Minister at the earliest possible stage.

11.3.2 In case the departments are not able to frame the rules within the prescribed period of six months, they should seek extension of time from the Committee on Subordinate Legislation stating reasons for such extension; such extension being not more than for a period of three months at a time. The request should be made after obtaining the approval of the Minister.

Notifying the rules etc. in the gazette

11.4 After the rules, etc., are finalised, steps will be taken by the department concerned to publish them in the gazette and, where the Act provides for it, to lay them on the Table of each House. The procedure to be followed in this regard has been described in para 11.5.

Laying of rules etc. on the Table of each House

11.5.1 After publication, the rules, etc., will be laid on the Table of the House as soon as possible and, in any case, within a period of 15 days (30 days in case of notifications relating to a state under the President's rule), reckoned from:

PRO 6.15

(a) the date of their publication in the official gazette if the House is in session; or

PRO 6.15

(b) the date of commencement of the next session, if the House is not in session.

PRO 6.1(c)

11.5.2 An authenticated copy of the rules, etc., will be sent to the LS/RS Secretariat for being laid on the Table of the House together with a statement containing the following information:

- (a) brief purport;
- (b) name of the Act and number of the Section under which the paper is to be laid;
- (c) 'G.S.R.' or 'S.O.' number of the notification and the number of part and section of the gazette in which published;
- (d) date of publication in the gazette;
- (e) date on which it is proposed to be laid;
- (f) whether under the Act, the rules, etc., are subject to modification by the House;
- (g) period for which they are required to be laid before the Houses; and
- (h) reasons for delay, if undue delay has taken place to lay them on the Table of the House.

11.5.3 In case the delay is anticipated in getting printed copies of the rules, etc., from the press, cyclostyled/photo copies will be laid on the Table of the House within the prescribed time limits.

11.5.4 To avoid delay in the printing of the material relating to subordinate legislation, departments may ensure that the following formalities are complete in all respects:

- (i) The department should send the notification containing rules, etc., required to be published by a particular date in the weekly/Extraordinary Gazette with a covering demi-official letter addressed to the manager of the press, clearly indicating the date on which it is to be published either in the Extraordinary Gazette or date of the weekly gazette.
- (ii) Reasonable time, as far as possible, should be allowed to the press to publish notifications relating to Rules which are of a bulky nature.
- (iii) The number of spare copies required by the department should be clearly indicated in the demi-official letter and in the printing requisition.
- (iv) As per the Directorate of Printing's revised instructions regarding printing and distribution of the gazette issued vide their O.M. No. O. 17034/1/83-P(III), dated 2-9-85, all notifications received by the press up to 13.00 hours on Tuesday will be printed in the same week's gazette of Saturday.

11.5.5 The period for which such rules should remain laid on the Table of each House is prescribed by the Act. For deciding the dates on which the papers sent by them were actually laid on the Table of the House, the Bulletin Part I will be consulted. In case Hindi and English versions of such rules, etc., are laid on the Table of the Houses on different dates, the statutory period for which the rules, etc., are required to be laid will be calculated from the later of the two dates.

Relaying of
the rules
etc. on the
Table of
the House

PRO 6.11,
6.12 LSR
234

11.6.1 After the termination of each session, the department will examine the rules, etc., laid on the Table of each House to see whether the prescribed period for which they were to be laid has been completed. If not, an intimation stating the date (which should be, as far as possible, the first day of the following session allotted to the department concerned) for relaying should be furnished to the LS/RS Secretariat at least 3 clear days before the date on which it is to be relaid. Such rules etc., when re-laid, need not be accompanied by authenticated or spare copies, unless there has been a change in the incumbency of the Minister who had laid it in the House earlier.

PRO 6.13

11.6.2 In the event of the dissolution of the Lok Sabha before the expiry of the full period prescribed, the concerned rule, etc., will be laid afresh in the new Lok Sabha for the full prescribed period.

Amendment to rules etc. laid on the Table of the House
LSR 235

11.7.1 After the notifications regarding rules, etc., are laid on the Table of the House, any member may give notice of an amendment thereto.

11.7.2 On receipt of a notice for amendment of the rules, etc., the Parliament Unit will immediately bring it to the notice of the Joint Secretary incharge of Parliament Section in the department concerned, who will:

- (a) put it up immediately for obtaining the orders of the Minister for arranging a discussion of the matter in Parliament before the expiry of the statutory period provided for modification by Parliament;
- (b) settle with the Ministry of Parliamentary Affairs the date to be fixed for the debate; and
- (c) submit a brief for use of the Minister during the discussion.

11.7.3 Where a motion to amend the rules, etc., is carried in one House, it is transmitted to the other House by the LS/RS Secretariat. When it is carried in the other House also, the department concerned will take steps to amend the rules, etc., notify them in the official gazette and lay them on the Table of each House vide para 11.5.1.

11.7.4 (i) Where the parent Act provides that the rules, etc., framed thereunder will come into force after the approval of the Parliament, the department will address a motion in the prescribed form ([Annex 22](#)) to the Secretary-General, Lok/Rajya Sabha, under intimation to the Ministry of Parliamentary Affairs. The date for discussion of such a motion will be settled by the Ministry of Parliamentary Affairs in consultation with the department concerned. In such a case, a brief will also be prepared for the use of the Minister.

Giving retrospective effect to rules

(ii) In cases where the parent Act provides for giving of retrospective effect, the rules framed thereunder should be accompanied by an explanatory note setting out therein the reasons and circumstances which necessitated the giving of such retrospective effect. The note should also indicate that the interests of no one will be prejudicially affected by giving retrospective effect. In cases where the parent Act does not provide for giving retrospective effect but retrospective effect is proposed to be given due to unavoidable circumstances, prior action should be taken to clothe it with legal sanction for the purpose.

M.P.A.
O.M.
No.32(57)/
73-R&C dt.
22-9-1973

11.7.5 All amendments to rules and regulations will be published in the official gazette. If two or more amendments to the same rules or regulations are to be published in the same issue of the gazette, they will be assigned order numbers in the same sequences as those assigned to the amendments to the said rules etc. and also published in that order.

Committees on Subordinate Legislation
LSR 320
RSR 209

11.8 The committees on Subordinate Legislation constituted by the Speaker/Chairman scrutinize all rules etc. laid on the Table of the concerned House. The report containing the recommendations of the committee is submitted to the House by the Chairman of the committee.

Action on the report of the committee

11.9.1 (i) Soon after the presentation of the report by the committee:

(a) the Ministry of Parliamentary Affairs will process such recommendations made by the committee as are of a general nature and concern more than one department.

(b) The department concerned will take prompt action on the recommendation which primarily concern them and ensure that "action taken statements" are sent direct to the Lok/Rajya Sabha Secretariat, as the case may be, under intimation to the Ministry of Parliamentary Affairs within the period of six months from the date of the presentation of the report.

(ii) Where the department concerned accepts a recommendation, it will communicate the acceptance to the Lok/Rajya Sabha Secretariat, under intimation to the Ministry of Parliamentary Affairs. Where, however, a recommendation is not acceptable to the concerned department, or the department feels any difficulty in giving effect to it, it will:

(a) submit a brief to the Minister giving the reasons for not accepting it; and

(b) after obtaining his approval, communicate the comments of the department to the Lok/Rajya Sabha Secretariat, as the case may be, under intimation to the Ministry of Parliamentary Affairs.

11.9.2 Where it is proposed to amend the rules on the basis of the recommendations of the committee, the department concerned will take steps to amend the rules, notify the amended rules, etc., in the official gazette and to lay them on the Table of each House (vide paras 11.4 and 11.5.1).

11.10 As soon as an Act comes into force, it should be examined to ascertain the specific sections conferring power to make rules, regulations, bye-laws, orders, etc.

11.11 A register should be maintained by the concerned section in each department, specifying the various stages of processing the legislation, e.g., name of the enactment, date of its coming into force, sections (with any sub-sections etc.) conferring legislative powers on the government; whether power has been given to an agency other than Central Government for framing the rules and also identify the various stages of processing the rules, namely, framing of the draft rules, notification thereof in the gazette, if necessary, consideration of objections and suggestions, finalisation of rules in consultation with the Ministry of Law and Justice, the translation thereof, and final notification in the gazette. The above register should be put up by the section concerned to the officer in-charge for periodical check with a view to seeing that the process of legislation is not held up at any stage for any reason.

11.12 A monthly return should be put up by the section in-charge regularly to the Joint Secretary deputed for co-ordinating this work who shall monitor the progress and take remedial measures for avoiding any delay in the matter and who shall further submit a return, along with the remedial action taken, to the Additional Secretary/Secretary.

11.13 A quarterly report in respect of cases in which rules/regulations under a statute have not been published within six months should be sent regularly to the Legislative Department of the Ministry of Law and Justice.

11.14 The department should maintain up-to-date copies of the Acts and rules and regulations, bye-laws, etc., framed thereunder in sufficient numbers. In case the number of amendments is large, efforts should be made to reprint the Acts or the rules, as the case may be, so as to provide a continuous reading.

APPENDIX – V
(Vide Para 6 of the Introduction of the Report)

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

—————

The Committee sat on Monday, the 20th September, 2010 from 1400 to 1530 hours in
Committee Room No. 62, Parliament House, New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

LOK SABHA

2. Shri Rajen Gohain
3. Shri D.B. Chandre Gowda
3. Shri Mangani Lal Mandal
4. Shri Pinaki Misra
5. Shri Anantha Venkata Rami Reddy
7. Shri Hamdulla Sayeed
8. Shri Adhalrao Shivaji Patil
9. Shri Madhu Goud Yaskhi

SECRETARIAT

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

REPRESENTATIVES OF THE MINISTRY OF PARLIAMENTARY AFFAIRS

1. Shri Umesh Narayan Panjiyar - Secretary
2. Smt. R.C. Khwaja - Joint Secretary
3. Shri H.L. Negi - Director

2. At the outset, the Chairman welcomed the Members of the Committee and the representatives of the Ministry of Parliamentary Affairs and drew the attention of the witnesses to Direction 55 (1) of Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the sitting of the Committee.

3. Thereafter, the Committee took oral evidence of the representatives of the Ministry of Parliamentary Affairs on the subject 'Non-Implementation of Oft-repeated Recommendations of the Committee on Subordinate Legislation, Lok Sabha by various Ministries' with regard to time limit for framing of Rules, Delay in laying of Rules, Delay in publication of the Draft Rules in Final form etc.

4. The evidence remained inconclusive and the Committee decided to take further evidence on the subject.

5. The verbatim proceedings of the evidence was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2010-2011)

The Committee sat on Thursday, the 14th July, 2011 from 1130 to 1245 hours in Committee Room No. 53, Parliament House, New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

LOK SABHA

2. Shri D.B. Chandre Gowda
3. Shri Pinaki Misra
4. Shri Sanjeev Ganesh Naik
5. Shri Rajaram Pal
6. Shri Anantha Venkata Rami Reddy

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri J.S. Chauhan - Director
3. Shri S.C. Kaliraman - Additional Director

REPRESENTATIVES OF THE MINISTRY OF PARLIAMENTARY AFFAIRS

1. Shri S. Chandrasekaran - Secretary
2. Smt. R.C. Khwaja - Joint Secretary
3. Shri H.L. Negi - Director

2. At the outset, the Chairman welcomed the Members of the Committee and the representatives of the Ministry of Parliamentary Affairs and drew the attention of the witnesses to Direction 55 (1) of Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the sitting of the Committee.

3. The Committee, thereafter, took oral evidence of the representatives of the Ministry of Parliamentary Affairs on the subject 'Non-Implementation of Oft-repeated Recommendations of the Committee on Subordinate Legislation, Lok Sabha by various Ministries' with regard to time limit for framing of Rules, Laying of Rules in the House, Printing of Rules, publication of the Draft Rules in Final form etc.

4. The main point discussed during the sitting of the Committee was the failure of the Ministry to come out with any concrete proposals to ensure that the procedural guidelines contained in Chapter 11 of the Manual of Parliamentary Procedure in the Government of India pertaining to Committee on Subordinate Legislation are adhered to in letter and spirit inspite of the earlier assurance given by the Ministry during oral evidence on the subject on 20.09.2010.

5. Thereafter, the Chairman directed the representatives of the Ministry to furnish written replies to the Committee on the points raised by the Members for which replies were not readily available.

The witnesses then withdrew.

The Committee then adjourned.

The verbatim proceedings of the Committee have been kept on record.

MINUTES OF THE ELEVENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2010-2011)

The Committee sat on Wednesday, the 21st September, 2011 from 1200 to 1240 hours in Committee Room No. 62, Parliament House, New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

LOK SABHA

2. Shri Mangani Lal Mandal
3. Shri Pinaki Misra
4. Dr. Sanjeev Ganesh Naik
5. Shri Rajaram Pal
6. Shri Adhalrao Patil Shivaji
7. Dr. Rajan Sushant
8. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri J.S. Chauhan - Director
3. Shri S.C. Kaliraman - 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 'Twenty First Report' and adopted the same without any modification. The Committee also authorized the Chairman to present the same to the Hon'ble Speaker.

The Committee then adjourned.
