

**COMMITTEE ON SUBORDINATE LEGISLATION**  
**(FIFTEENTH LOK SABHA)**  
**(2012-2013)**

**TWENTY EIGHTH REPORT**

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

**(PRESENTED ON 4 December, 2012)**

**S**

**E**

**A**

**L**

**LOK SABHA SECRETARIAT**

**NEW DELHI**

**November, 2012/Kartika, 1934 (Saka)**

**COSL No. 37**

**PRICE: Rs. 25.00**

**(C) 2012 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.**

## CONTENTS

	PAGE No.
COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION.....	(v)
REPORT	1

## APPENDICES

I. Statement showing the action taken by the Government on the recommendations / observations contained in the Fourteenth Report of the Committee on Subordinate Legislation (15th Lok Sabha).	2
II. Extracts from the Minutes of the First sitting of the Committee (15 <sup>th</sup> Lok Sabha) held on 29.10.2012.	7
III. Analysis of the Action Taken by the Government on the recommendations contained in the Fourteenth Report of the Committee on Subordinate Legislation (15th Lok Sabha)	8

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2012-2013)**

1. Shri P. Karunakaran Chairman
2. Shri Praveen Singh Aron
3. Shri Ramen Deka
4. Shri K. Jayaprakash Hegde
5. Dr. Mahesh Joshi
6. Shri Virender Kashyap
7. Dr. Ajay Kumar
8. Shri Narahari Mahto
9. Dr. Thokchom Meinya
10. Shri Gajendra Singh Rajukhedi
11. Dr. Bholu Singh
12. Shri R. Thamaraiselvan
13. Shri Manohar Tirkey
14. Shri Dharmendra Yadav
15. Vacant

**SECRETARIAT**

1. Shri A. Louis Martin - Joint Secretary
2. Shri S.C. Chaudhary - Director
3. Shri Srinivasulu Gunda - Addl. Director
3. Shri Krishendra Kumar - Under Secretary

## INTRODUCTION

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

2. This Report relates to the action taken on the recommendations of the Committee contained in the Fourteenth Report (2010-2011) (Fifteenth Lok Sabha) which was presented to Lok Sabha on 02.12.2010.

3. The Committee considered and adopted this Report at their sitting held on 29.10.2012

4. The summary of recommendations contained in the Fourteenth Report (15th Lok Sabha) and action taken reply of the Government thereon have been reproduced in Appendix I of the Report.

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

6. An analysis of the action taken by Government on the recommendations contained in the Fourteenth Report of the Committee (15th Lok Sabha) is given in Appendix III.

**New Delhi;**  
**29 October , 2012**  
**7 Kartik, 1934 (Saka)**

**P. KARUNAKARAN**  
***Chairman,***  
***Committee on Subordinate Legislation***

## REPORT

This Report of the Committee on Subordinate Legislation (2011-12) deals with the action taken by the Government on the recommendations contained in the Fourteenth Report (Fifteenth Lok Sabha) which was presented to Lok Sabha on 2.12.2010. The Fourteenth Report contained the following Chapters: -

- I. Infirmities in the Standards of Weights and Measures (Packaged Commodities) Amendment Rules, 2006 (GSR 425-E of 2006)
- II. Non-Specification of the 'Period of Experience' in the Ministry of Tribal Affairs (Junior Investigator) Recruitment Rules, 2009 (GSR 88 of 2009).

2. As per practice, the shortcomings observed during the scrutiny of the above mentioned Rules were brought to the notice of the Ministries of Consumer Affairs, Food and Public Distribution and Tribal Affairs respectively for their comments/necessary corrective action. The Ministries accepted those shortcomings and took necessary action for their rectification. These shortcomings in the Rules alongwith the action taken by the above Ministries were included in the Fourteenth Report (Fifteenth Lok Sabha) alongwith the recommendations made thereon by the Committee on Subordinate Legislation. These recommendations were forwarded to the above Ministries for necessary action. A statement indicating the Action Taken by the Ministries concerned on the recommendations contained in the Fourteenth Report is given in Appendix-I.

3. **The Committee note with satisfaction that all the seven recommendations contained in the Fourteenth Report (Fifteenth Lok Sabha) have been accepted by the Government. The Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) (Legal Metrology Unit) have carried out the necessary amendments as recommended in Para Nos. 1.6, 1.13, 1.19, 1.25 and 1.26 of the 14<sup>th</sup> Report (15<sup>th</sup> Lok Sabha) of the Committee on the infirmities observed in Rule 5, Rule 12(6)(ii), Rule 6(1)(d)(ii), Rule 24(7) and Rule 24(8) of Standards of Weights and Measures (Packaged Commodities) Amendment Rules, 2006 (GSR 425-E of 2006). As per the Ministry's communication the amendments have also been notified vide GSR 784-E dated 24 October, 2011. As regards the other two recommendations (Para Nos. 2.3 and 2.4) of the aforesaid Report, the Ministry of Tribal Affairs have submitted that necessary amendments have been notified vide GSR No. 205 dated 9 July, 2011 in compliance of the recommendations.**

New Delhi;  
29 October, 2012  
7 Kartik, 1934 (Saka)

**P. KARUNAKARAN**  
*Chairman,*  
*Committee on Subordinate Legislation*

## APPENDIX – I

### STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS/OBSERVATIONS CONTAINED IN THE FOURTEENTH REPORT OF THE COMMITTEE (15th Lok Sabha)

#### I. **Infirmities in the Standards of Weights and Measures(Packaged Commodities) Amendment Rules, 2006 (GSR 425 –E of 2006).**

##### **Recommendation (Para 1.6)**

The Committee note that the proviso in the amended Rule 5 of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 negates the main para of Rule 5. The proviso gives a blanket permission to packed commodities in non-standardised size, for which only condition is that a declaration that 'Not a standard pack size' or 'Non standard size' is required to be prominently displayed on the package. The Committee while taking a strong view in this regard, observe that rather than simplifying the procedure for the manufacturers to get clearance to pack in non-standardized packages, the Ministry seems to have taken the easy way in the form of amendment. The Secretary, Ministry of Consumer Affairs even admitted during the oral evidence that after operationalisation of the New Act by September or October, 2010, the process of amending the schedule would be initiated in consultation with the States, on the aspect of replacement of old rules with the new rules. The Committee, therefore, emphasise that expeditious efforts should be made to amend the schedule suitably and also would like to be apprised of the action taken in this regard.

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

The Legal Metrology Act, 2009 along with the Legal Metrology (Packaged Commodities) Rules, 2011 has come into the force from 1<sup>st</sup> April, 2011 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 was repealed after the implementation of the new rules. The recommendation of the Committee is accepted and Rule 5 of the Legal Metrology (Packaged Commodities) Rules, 2011 was amended vide GSR 784-E dated 24<sup>th</sup> October, 2011. The proviso for non-standard size of packages was deleted.

[Ministry of Consumer Affairs, Food & Public Distribution  
OM No. WM-11(13)/2010 dated 7 March, 2012]

##### **Recommendation (1.13)**

The Committee note that Rule 12 (6) (ii) has been omitted tacitly allowing the manufacturers to use vague expressions like jumbo, giant, king etc. on the package. This can make the comparison of commodity prices and quantity difficult for the consumers. The Committee

feel that Ministry's argument that the amendment is in line with the time as consumer has come of age, is hardly convincing. The amendment gives an opportunity to the manufacturers to confuse the consumers and to make the easy comparison of prices, quantity, etc. a tedious and almost impossible job for the latter. The Committee are of the view that such vague expressions should not form part of the packages as it harms the interest of the consumers. The Committee desire that the Ministry should bring about necessary amendments in the rule to prevent the use of such vague expressions on packages which are likely to be variedly interpreted creating confusion among the consumers.

### **Reply of the Ministry**

The recommendation of the Committee is accepted and the sub-rule (6) of rule 12 of Legal Metrology (Packaged Commodities) Rules, 2011 was amended vide GSR 784-E dated 24<sup>th</sup> October, 2011.

[Ministry of Consumer Affairs, Food & Public Distribution  
OM No. WM-11(13)/2010 dated 7 March, 2012]

### **Recommendation (Para 1.19)**

The Committee note that in Rule 6(1)(d)(ii), a proviso has been inserted which provides for manufacturers to indicate the month and year using rubber stamp. The indication of month and year which is a reflection of period and quantity of the commodity when indicated through a rubber stamp is likely to get smudged or totally obliterated during transit or any where before reaching the final consumers. It tantamounts to denying the consumer right to information or knowledge about the commodity. The Committee observe that the amendment is likely to make the work of enforcement authorities more difficult as there is more likelihood of smudging and illegibility of rubber stamp impressions resulting in burgeoning of cases of smudged or illegible impressions. The Committee find that the Ministry's argument that the provision merely reiterates one of the means of providing information already permitted under the Act/Rules and is not a new provision, is not at all convincing. Therefore, the Committee desire that the Ministry should reconsider the amendment in the interest of the consumers in order to avoid misuse of this facility.

### **Reply of the Ministry**

The recommendation of the Committee is accepted and the sub-rule 6(1)(d) of the Legal Metrology (Packaged Commodities) Rules, 2011 was amended vide GSR 784-E dated 24<sup>th</sup> October, 2011 and GSR 832-E dated 23<sup>rd</sup> November, 2011.

[Ministry of Consumer Affairs, Food & Public Distribution  
OM No. WM-11(13)/2010 dated 7 March, 2012]



### **Recommendation (Para 1.25)**

The Committee note that the insertion of sub-sections (7) & (8) in Rule 24 is likely to reduce the effectiveness of the Inspecting Officials. The sub-section 7 of Rule 24 leaves open the possibility that the Inspecting Officials are made to run from the factory to the depot to evade inspection by the manufacturer/packers. Further, it also leaves open the scope for the packaged commodity to be directly sent to market from factory without sending it to the depot. The Ministry's contention in this regard is that when the production is on, the checking can be done at factory premises and when the production is not on, checking can be done either at factory or depot, where the packages are stored. The Committee desire that such arrangements must be provided for in the rules to make it clear, otherwise it carries the risk of blunting the effectiveness of Inspecting Officials.

### **Reply of the Ministry**

The recommendation of the Committee is accepted and the sub-rule (7) & (8) of Rule 19 of the Legal Metrology (Packaged Commodities) Rules, 2011 were amended vide GSR no. 784-E dated 24<sup>th</sup> October, 2011.

[Ministry of Consumer Affairs, Food & Public Distribution  
OM No. WM-11(13)/2010 dated 7 March, 2012]

### **Recommendation (Para 1.26)**

The Committee further observe that the sub-section (8) which provides for action to be taken after seizure of 5 representative samples for evidence and releasing the rest of the packages once compliance is ensured, seems to be contradictory. In a situation where the representative package does not carry mandatory declaration, after which the manufacturers/packers are made to comply with the provisions of making mandatory declaration to which the manufacturers/packers comply with, then the packages are to be released. It was not clear whether in such case any other action would be taken against the defaulting manufacturers/packers. The Ministry's plea in this regard that huge inventories would pile up if all the packages are seized in context of the amendment that only 5 packages will be seized as evidence and rest of the packages be released after ensuring their compliance, is hardly convincing as the packages could be sealed at the premises only. Further, the Ministry have also submitted that the seizure of entire godown is not desirable particularly when the violation is of technical nature. This too does not augur well as it fails to explain the situation in which non conforming packages can make way to the market. The Committee, therefore, desire that after seizure of 5 representative samples of packages for evidence, in case of non compliance of the provisions of the rule, the Ministry must provide for adequate safeguards in the rules itself to prevent the release of rest of the packages to the market before compliance is ensured.

### **Reply of the Ministry**

The recommendation of the Committee is accepted and necessary amendment has been made in sub-rule (7) & (8) of Rule 19 of the Legal Metrology (Packaged Commodities) Rules, 2011 vide GSR 784-E dated 24<sup>th</sup> October, 2011.

[Ministry of Consumer Affairs, Food & Public Distribution  
OM No. WM-11(13)/2010 dated 7 March, 2012]

## **II. Non-Specification of the 'Period Of Experience' in the Ministry of Tribal Affairs (Junior Investigator) Recruitment Rules, 2009 (GSR 88 of 2009).**

### **Recommendations of the Committee**

2.3 On scrutiny of the Ministry of Tribal Affairs (Junior Investigator) Recruitment Rules, 2009, it was observed that for the post of Junior Investigator, the entry under the "Essential Qualifications" did not specify the period of experience. In the absence of explicit mention of the period of experience, the candidates having lesser experience may also apply for consideration for appointment to the post of Junior Investigator on deputation basis. In such an eventuality, it would be difficult to logically shortlist the candidates who would be meeting the requirements of the job. On the other hand, the rules also carried the risk of arbitrary use of discretionary powers to the advantage of some candidates having lesser experience vis-à-vis candidates possessing sufficiently more experience which might result in giving undue advantage to some candidates while putting other at a disadvantage.

2.4 The Committee further observe that the mention of specific period of experience in the Rules would have eliminated the element of ambiguity in the rules, thereby, minimizing the scope of arbitrary use of discretionary powers. The Committee, however, note that on being pointed out, the Ministry of Tribal Affairs have stated that the vacancy for the post of Junior Investigator has already been published in the Employment News and any amendment at this stage, would halt the recruitment process. The Committee, while not endorsing the excuse of the Ministry in this regard, strongly recommend that it is of utmost significance that the provisions of Subordinate Legislation are spelt out with due care and precision in order to eliminate the element of ambiguity in the Rules. The Committee accordingly impress upon the Ministry to be vigilant while framing the Rules and to ensure that errors of such nature do not recur in future.

### **Reply of the Ministry**

As desired by the Hon'ble Committee on Subordinate Legislation this Ministry has already amended the Schedule, in Column 12 under headings 'Essential and Desired Qualification'

indicating the specific period of experience in the Recruitment Rules for the post of Junior Investigator in this Ministry vide this Ministry's Notification of even number dated 12.5.2011 and a copy of the same was also endorsed to Lok Sabha Secretariat.

[Ministry of Tribal Affairs  
OM No. 12023/4/96-Estt dated 24.10.2011]

## APPENDIX-II

(vide Para 5 of Introduction of the Report )

### EXTRACTS FROM MINUTES OF THE FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2012-2013)

---

The First sitting of the Committee was held on Monday, the 29<sup>th</sup> October, 2012 from 1400 to 1445 hours in Committee Room No. G-074, Parliament Library Building, New Delhi.

#### PRESENT

1. Shri P. Karunakaran Chairman

#### MEMBERS

2. Shri Ramen Deka
3. Shri K. Jayaprakash Hegde
4. Dr. Mahesh Joshi
5. Shri Narahari Mahto
6. Dr. Thokchom Meinya
7. Shri Gajendra Singh Rajukhedi
8. Dr. Bhol Singh
9. Shri R. Thamaraiselvan
10. Shri Manohar Tirkey

#### SECRETARIAT

1. Shri A Louis Martin - Joint Secretary
2. Shri S.C. Chaudhary - Director
3. Shri Srinivasulu Gunda - Additional Director
4. Shri Krishendra Kumar - Under Secretary

2. At the outset, the Chairman welcomed the Members to the first sitting of the re-constituted Committee (2012-13) and apprised them of the scope, functions and working of the Committee.

3. xx xx xx.

4. The Committee, thereafter, considered the draft 'Twenty Eighth Action Taken Report' and adopted the same without any modification. The Committee also authorized the Chairman to present the report to the House.

The Committee then adjourned.

### APPENDIX-III

(vide para 6 of Introduction of the Report)

#### ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FOURTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(FIFTEENTH LOK SABHA)

I.	Total No. of recommendations/observations made	7
II.	Recommendations that have been accepted by the Government [ <u>vide</u> recommendations at Sl. Nos. 1.6, 1.13, 1.19, 1.25 and 1.26, 2.3 & 2.4]	7
III.	No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV.	Percentage of recommendations accepted	100%

