

COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTEENTH LOK SABHA)
(2009-2010)

THIRD REPORT

(PRESENTED ON 16.3.2010)

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LOK SABHA SECRETARIAT

NEW DELHI

March, 2010/Phalguna, 1931

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

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

SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri Raju Srivastava - Deputy Secretary

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 3.2.2010.

3. The Committee considered and adopted this Report at their sitting held on 3.3.2010.

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. Extracts from the Minutes of the fourth sitting of the Committee (2009-10) held on 3.2.2010 and the extracts from Minutes of the fifth sitting of the Committee (2009-10) held on 3.3.2010 relevant to this Report are included in Appendix-II.

New Delhi;
March, 2010/Phalguna, 1931

P. KARUNAKARAN,
CHAIRMAN,
COMMITTEE ON SUBORDINATE LEGISLATION

THE INTELLECTUAL PROPERTY APPELLATE BOARD (SALARIES AND ALLOWANCES PAYABLE TO, AND OTHER TERMS AND CONDITIONS OF SERVICE OF CHAIRMAN, VICE-CHAIRMAN AND MEMBERS) AMENDMENT RULES, 2007 (GSR 623-E OF 2007).

The Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007) were published in the Gazette of India, Extraordinary, Part-II, Section 3 (i) dated 24 September, 2007. The scrutiny of the rules revealed certain infirmities which were referred to the Ministry of Commerce & Industry (Department of Industrial Policy and Promotion) for their comments. The infirmities pointed out and corrective measures taken by the Ministry of Commerce & Industry are brought out in the succeeding paragraphs:-

A. DELAY IN PUBLICATION OF RULES IN FINAL FORM

1.2 The draft of the Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007) were published in the Gazette of India, Extraordinary in the month of January, 2005 and the final Notification of the rules has been published in September, 2007 i.e. after a gap of 2 ½ years. The point was referred to the Ministry of Commerce & Industry by emphasizing the Committee's recommendation made in Para 68 of 24th Report, Seventh Lok Sabha, that the final order should be notified within a period of three months and where a large number of objections/suggestions are received, the gap should not be more than six months.

The Ministry vide their reply dated 17.9.2008 furnished their comments as under:-

"IPAB had forwarded a note for amendment of the Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of the

Chairman, Vice-Chairman and Members) Amendment Rules, 2003 to remove certain anomalies. The amendment sought were as under:-

- (a) Change in Leave Rules
- (b) Inclusion of provision for Pension
- (c) Change in House Rent Allowances
- (d) Conditions of service and perquisites available to the Chairman and Vice-Chairman be governed by High Court Judges (Conditions of Service) Act, 1954 and the High Court Judges (Travelling Allowances) Rules, 1956.

After consulting and incorporating necessary changes suggested by nodal Departments with the approval of CIM, draft notification was published on 11th January, 2005 in the Gazette inviting objections and suggestions from all persons likely to be affected.

In response to the Notification, this Department received suggestions/objections from Dr. Raghbir Singh, Ex-Vice Chairman, IPAB and Shri R.S. Walia, Advocate Delhi High Court. Shri Walia suggested that when sitting or retired Judge is appointed as Chairman, he will be governed by HC Rules and Vice-Chairman, who is not a sitting or former Judge will be governed by IPAB rules. Their suggestions/objections were examined in consultation with nodal departments. In view of Department of Legal Affairs advice, the objections of Shri Walia were not acceded to and no change was made in 12(A) of Draft Amendment Rules.

When the final draft rules were sent to Legislative Department for vetting, the same was returned by the Legislative Department stating that the proposal to extend the HC Act and HC rules to a person who is not a High Court Judge, is a matter of policy and the proposal has to be shown to the DOPT.

Again DOPT, Ministry of Law & Justice and Department of Expenditure were consulted. Department of Expenditure agreed vide their UO dated 21.6.2007 to this Department's stand for extending HC Act and HC Rules to Chairman and Vice-Chairman on the following grounds:-

- (i) These facilities have been extended to Chairman and Vice-Chairman of CAT
- (ii) As per qualification prescribed in Trade Marks Act, Vice-Chairman is eligible for the post of Chairman after two years service as Vice-Chairman.
- (iii) The Board is hearing the cases which were lying pending in different High Courts.
- (iv) It is quasi-judiciary body.

After approval of CIM and vetting by Legislative Department, the final Amendment Rules were notified in September, 2007. It may, therefore, be seen that the gap of 2 ½ years between the draft and final notification has occurred in the process of disposal of suggestions/objections received and consulting/obtaining approval of various Ministries/Departments concerned with the issue. The time gap was unintentional and beyond the control of the Department.

1.3 The Committee note that there was a gap of 2 ½ years in the final notification of the Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007). The Committee do not approve the Ministry's justification that the time gap in the final notification of the above said Rules was unintentional and beyond the control of the Department as the delay had occurred in the process of disposal of suggestions/objections received and in consulting/obtaining approval of various Ministries/Departments. The Committee have time and again recommended that in cases where no objections/suggestions on the draft rules were forthcoming, the final rules should be published within a period of three months and in cases where a large number of objections/suggestions were received, the gap should not be more than six months. The Committee, therefore reiterate that these recommendations and guidelines should be observed by the Ministry scrupulously in all such cases with a view to minimizing the gap between the publication of draft rules and their final notification.

(Recommendation No. 1)

B. EXPLANATORY NOTE FOR GIVING RETROSPECTIVE EFFECT TO THE RULES

1.4 The Rules have been given retrospective effect from September, 2003. However, there is no explanatory memorandum which is required to be appended to state that nobody would be

adversely affected by such retrospection. On being pointed out, the Ministry of Commerce & Industry furnished their clarification as under:-

“These Rules have been made under Trade Marks Act, 1999 which is for benefit for only Chairman, Vice-Chairman and Members of the Board. Hence there is no body who would be adversely affected by retrospective effect of Amendment rules from September, 2003.”

1.5 The Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007) notified on 24.9.2007 were given retrospective effect from September, 2003. No explanatory memorandum as recommended by the Committee in their 2nd Report, 4th Lok Sabha and 9th Report, 5th Lok Sabha had however been appended thereto explaining the reasons for giving retrospective effect. The Ministry’s plea that the Rules have been made under Trade Marks Act, 1999 which is for the benefit of only Chairman, Vice-Chairman and Members of the Board and hence there is nobody who would be adversely affected by retrospective effect of amendment rules from September, 2003, is not at all convincing. The Committee understand that the benefit is meant for some specific posts yet they feel that the rules are given retrospective effect only under unavoidable circumstances and therefore an explanation in the rules itself or by way of a foot-note to the relevant rule is required to be indicated stating that no one would be adversely affected by it. The Committee urge the Ministry to adhere to the recommendation of the Committee on Subordinate Legislation while framing such rules in future.

(Recommendation No. 2)

C. ABSENCE OF FOOT-NOTE TO THE AMENDING RULES

1.6 The instant Rules are Amendment Rules. However, there was no foot-note to indicate the particulars of publication of Principal Rules and the subsequent amendments made thereto due to

which the process of referencing becomes difficult. The Ministry in their reply stated as under:-

“If Lok Sabha Secretariat feels, a corrigendum may be issued in this regard.”

1.7 The Committee note that no foot-note giving particulars regarding publication of Principal Rules and subsequent amendments has been appended to the Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007). The Committee are not convinced with the reply of the Ministry that if the Lok Sabha Secretariat feels, a corrigendum may be issued in this regard. The Committee have emphasized time and again that in order to facilitate easy referencing, all amendment rules should contain a foot-note giving particulars of preceding amendments. The rules ought to indicate the particulars of publication of Principal Rules and the subsequent amendments made thereto, without which it is difficult to trace the particulars of earlier amendments made in this regard. The Committee, therefore, desire the Ministry of Commerce & Industry to append the foot-note and remain cautious in future to ensure that notification issued by them are complete in all respects.

(Recommendation No. 3)

II

THE TRANSPLANTATION OF HUMAN ORGANS (AMENDMENT) RULES, 2008 (GSR 571-E OF 2008)

The Transplantation of Human Organs (Amendment) Rules, 2008 (GSR 571-E of 2008) were published in the Gazette of India, Extraordinary, Part – II, Section 3(i) dated 4.8.2008. The following points were observed therefrom which were referred to the Ministry of Health & Family Welfare (Department of Health & Family Welfare) for their comments:-

- (i) In Rule 2 of the aforesaid Amendment Rules, it should be – “In the Transplantation of Human Organs Rules, 1995” instead of “In the Transplantation of Human Organs (Amendment) Rules, 2008”.
- (ii) In Rule 6F(i), it has been stipulated that the Authorization Committee shall expedite its decision making process and use its discretion judiciously and pragmatically in all such cases where, the patient requires immediate transplantation. In this regard, it is felt that the use of discretion may lead to arbitrary powers even though it has been qualified by the use of terminology ‘judiciously’ and ‘pragmatically’ which are, as a matter of fact, not quantifiable.

2.2 The Ministry of Health & Family Welfare (Department of Health & Family Welfare) vide their OM dated 7th August, 2009 stated as under :-

- (i) *The Ministry is initiating action for issuing a corrigendum to rectify the mistake that it should be – “In the Transplantation of Human Organs Rules, 1995” instead of “In the Transplantation of Human Organs (Amendment) Rules, 2008”.*
- (ii) *The second observation which has been found in Rule 6F (i) related to the word “discretion”. The Ministry’s opinion in this regard is that Authorization Committee consists of several members. They are as follows:-*
 - (a) *the senior most person officiating as Medical Director or Medical Superintendent of the Hospital;*
 - (b) *two senior medical practitioners from the same hospital who are not part of the transplant team;*

(c) two members being persons of high integrity, social standing and credibility, who have served in high ranking Government positions, such as in higher judiciary, senior cadre of police service or who have served as a reader or professor in University Grants Commission approved University or are self-employed professionals of repute such as lawyers, chartered accountants and doctors (of Indian Medical Association) etc; and

(d) Secretary (Health) or nominee and Director Health Services or nominee.

Authorization Committee takes its decision unanimously when a patient requires immediate transplantation. Therefore, it can be said that the use of discretion may not lead to any arbitrary action/decision.

2.3 The Committee note that the entry under Rule 2 was not correct, but it was noticed with satisfaction that the Ministry have initiated action for issuing a corrigendum to rectify the mistake that it should be – “in the Transplantation of Human Organs Rules, 1995” instead of “In the Transplantation of Human Organs (Amendment) Rules, 2008”. The Committee urge the Ministry to be more careful in future while framing the Amendment Rules and also desire that printed copy of the corrigendum may be furnished.

(Recommendation No. 4)

2.4 The Committee also note that the entry under Rule 6F(i) stipulates that ‘the Authorization Committee shall expedite its decision making process and use its discretion judiciously and pragmatically in all such cases where, the patient requires immediate transplantation’. The Committee feel that the use of discretion may lead to arbitrary powers even though it has been qualified by the use of terminology ‘judiciously’ and ‘pragmatically’ which are not quantifiable. On being pointed out, the Ministry of Health & Family Welfare (Department of Health & Family Welfare) had simply stated that the Authorization Committee consists of several members and takes its decision unanimously when a patient requires immediate transplantation. Thus, the use of discretion may not lead to any arbitrary action/decision. The Ministry’s reply is not convincing. The Committee have time and again stressed in the past that in case of the use of discretionary powers, there should be a

provision in the rules for recording of reasons to minimize the misuse of the powers. The Committee desire the Ministry to amend the rule to the effect that the Authorization Committee may exercise its discretion judiciously and pragmatically after recording the reasons in all such cases where the patient requires immediate transplantation. The Committee may also be apprised of the action taken in this regard.

(Recommendation No. 5)

III

SHORTCOMINGS IN THE CREDIT INFORMATION COMPANIES (REGULATION) (REMOVAL OF DIFFICULTIES) ORDER, 2008 (SO 201 OF 2008).

The Credit Information Companies (Regulations) (Removal of Difficulties) Order, 2008 (SO 201 of 2008) was published in the Gazette of India, Part-II, Section 3(ii) dated 2 February, 2008. Scrutiny of this Order revealed certain shortcomings namely, usage of vague expression and delay in laying of Order. This was referred to the Ministry of Finance (Department of Financial Services) for their comments. The points raised and replies of the Ministry thereto are brought out below:-

A. USAGE OF VAGUE EXPRESSION

3.2 The Committee observed that the words 'immediate effect' in Rule 1(2) was vague which was liable of being interpreted differently by different persons. Since the Notifications issued by the Government invariably contain two dates i.e. the date of sending the Order for publication and the date of publishing the Order, any ambiguity in the date of commencement of the Order might cause confusion in the minds of public at large.

3.3 The Ministry *vide* their O.M. dated 9th June, 2009 apprised the Committee as under:-

"As per the Notification, the Order was to come into force 'with immediate effect'. As the Order was issued on 24 January, 2008, it came into effect from this day only. The intention of the Government was to make the Order effective with effect from the date of Order itself. Generally, such Notifications are published in Official Gazette with a time lag. Hence, prescribing 'the date of their publication in the Gazette' would have resulted in coming in force of this Order with a later unspecified date. Further, prescribing 'with immediate effect' or with effect from 24 January, 2008 (a specified date) would not have made any material difference. Hence, the said Order was prescribed to come into force 'with immediate effect'.

3.4 The Committee note that there is indeed no material difference between the two forms of prescription, nevertheless, since the date of enforcement of the Order is of utmost importance, there should be absolute clarity in the prescription of such a date and therefore it is felt that prescription of a 'specified date' would leave no scope for any ambiguity in the

matter. The Committee earnestly desire that the Ministry of Finance (Department of Financial Services) should be careful while framing the Rules and avoid the usage of vague expression in the Rules/Regulations/Orders. The Committee also desire the Ministry to amend the order to make it more precise, self-contained and devoid of ambiguity.

(Recommendation No. 6)

B. DELAY IN LAYING OF THE ORDER ON THE TABLE OF THE HOUSE

3.5 The Committee observed that although the Order was published in the Gazette of India on 24 January, 2008, it was laid on the Table of the House on 31 October, 2008 i.e. after a delay of more than 9 months.

3.6 The Ministry *vide* their O.M. dated 9 June, 2009 stated as under:-

“As regards laying the Credit Information Companies (Regulation) (Removal of Difficulties) Order, 2008 on the Table of the House late, the same could not be laid in the Parliament during the Budget Session because the copies of the published Notification were not available with the office till the conclusion of the Budget Session of 2008 of the Parliament. Therefore, the notified copies of the published Order could be laid on the Table of both the Houses of Parliament during the following (Monsoon) Session of Parliament. The sequence of events, in this regard, is as under:-

- | | | |
|-------|-----------------------------|---------------------------------|
| (i) | Date of Notification | : 24 January, 2008 |
| (ii) | Session I – Budget | : From 25.02.2008 to 05.05.2008 |
| | II – Monsoon | : From 17.10.2008 to 23.12.2008 |
| (iii) | Date of laying in Lok Sabha | : 31 October, 2008 |

A copy of ‘Delay Statement’ indicating the reasons for delay in laying the published Notification in the Parliament, sent to Secretariats of both the Houses alongwith the Removal of Difficulties Order at the time of laying the same, is enclosed. However, the delay in laying the said Notification in the Parliament is sincerely regretted. All concerned have been advised to be more careful in future”.

3.7 The Committee note that the Credit Information Companies (Regulation) (Removal of Difficulties) Order, 2008 was laid on the Table of the House after a delay of more than 9 months. The Committee on Subordinate Legislation in their Fourth Report, Third Lok Sabha made a specific recommendation that all ‘Rules’ or ‘Orders’ should be laid before the House

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 in any case within 15 days) after the commencement of the following session. The Committee observe that the reasons advanced by the Ministry that the copies of the published Notification were not available with them indicate the absence of procedural safeguards to avoid such type of omission. Although, the Order was laid on the Table of the House on 31 October, 2008 alongwith the 'Delay Statement', the Committee would expect the Ministry to exercise extreme care in laying of Notifications within the stipulated time and to evolve procedural safeguards so as to avoid such type of omission on their part in future.

(Recommendation No. 7)

New Delhi;
March, 2010/Phalguna, 1931

P. KARUNAKARAN,
CHAIRMAN,
COMMITTEE ON SUBORDINATE LEGISLATION

APPENDIX –I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE THIRD 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.	<p>1.3</p> <p>1.5</p>	<p><u>The Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007).</u></p> <p>The Committee note that there was a gap of 2 ½ years in the final notification of the Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007). The Committee do not approve the Ministry’s justification that the time gap in the final notification of the above said Rules was unintentional and beyond the control of the Department as the delay had occurred in the process of disposal of suggestions/objections received and in consulting/obtaining approval of various Ministries/Departments. The Committee have time and again recommended that in cases where no objections/suggestions on the draft rules were forthcoming, the final rules should be published within a period of three months and in cases where a large number of objections/suggestions were received, the gap should not be more than six months. The Committee, therefore reiterate that these recommendations and guidelines should be observed by the Ministry scrupulously in all such cases with a view to minimizing the gap between the publication of draft rules and their final notification.</p> <p>The Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007) notified on 24.9.2007 were given retrospective effect from</p>

	1.7	<p>September, 2003. No explanatory memorandum as recommended by the Committee in their 2nd Report, 4th Lok Sabha and 9th Report, 5th Lok Sabha had however been appended thereto explaining the reasons for giving retrospective effect. The Ministry's plea that the Rules have been made under Trade Marks Act, 1999 which is for the benefit of only Chairman, Vice-Chairman and Members of the Board and hence there is nobody who would be adversely affected by retrospective effect of amendment rules from September, 2003, is not at all convincing. The Committee understand that the benefit is meant for some specific posts yet they feel that the rules are given retrospective effect only under unavoidable circumstances and therefore an explanation in the rules itself or by way of a foot-note to the relevant rule is required to be indicated stating that no one would be adversely affected by it. The Committee urge the Ministry to adhere to the recommendation of the Committee on Subordinate Legislation while framing such rules in future.</p> <p>The Committee note that no foot-note giving particulars regarding publication of Principal Rules and subsequent amendments has been appended to the Intellectual Property Appellate Board (Salaries and Allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007). The Committee are not convinced with the reply of the Ministry that if the Lok Sabha Secretariat feels, a corrigendum may be issued in this regard. The Committee have emphasized time and again that in order to facilitate easy referencing, all amendment rules should contain a foot-note giving particulars of preceding amendments. The rules ought to indicate the particulars of publication of Principal Rules and the subsequent amendments made thereto, without which it is difficult to trace the particulars of earlier amendments made in this regard. The Committee, therefore, desire the Ministry of Commerce & Industry to append the foot-note and remain cautious in future to ensure that notification issued by them are complete in all respects.</p>
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2.		<p data-bbox="630 197 1539 268"><u>The Transplantation of Human Organs (Amendment) Rules, 2008 (GSR 571-E of 2008)</u></p> <p data-bbox="467 310 509 344">2.3</p> <p data-bbox="630 310 1539 625">The Committee note that the entry under Rule 2 was not correct, but it was noticed with satisfaction that the Ministry have initiated action for issuing a corrigendum to rectify the mistake that it should be – “in the Transplantation of Human Organs Rules, 1995” instead of “In the Transplantation of Human Organs (Amendment) Rules, 2008”. The Committee urge the Ministry to be more careful in future while framing the Amendment Rules and also desire that printed copy of the corrigendum may be furnished.</p> <p data-bbox="467 709 509 743">2.4</p> <p data-bbox="630 709 1539 1612">The Committee also note that the entry under Rule 6F(i) stipulates that ‘the Authorization Committee shall expedite its decision making process and use its discretion judiciously and pragmatically in all such cases where, the patient requires immediate transplantation’. The Committee feel that the use of discretion may lead to arbitrary powers even though it has been qualified by the use of terminology ‘judiciously’ and ‘pragmatically’ which are not quantifiable. On being pointed out, the Ministry of Health & Family Welfare (Department of Health & Family Welfare) had simply stated that the Authorization Committee consists of several members and takes its decision unanimously when a patient requires immediate transplantation. Thus, the use of discretion may not lead to any arbitrary action/decision. The Ministry’s reply is not convincing. The Committee have time and again stressed in the past that in case of the use of discretionary powers, there should be a provision in the rules for recording of reasons to minimize the misuse of the powers. The Committee desire the Ministry to amend the rule to the effect that the Authorization Committee may exercise its discretion judiciously and pragmatically after recording the reasons in all such cases where the patient requires immediate transplantation. The Committee may also be apprised of the action taken in this regard.</p>
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3.		<p><u>Shortcomings in the Credit Information Companies (Regulation) (Removal of Difficulties) Order, 2008 (SO 201 of 2008).</u></p> <p>3.4 The Committee note that there is indeed no material difference between the two forms of prescription, nevertheless, since the date of enforcement of the Order is of utmost importance, there should be absolute clarity in the prescription of such a date and therefore it is felt that prescription of a 'specified date' would leave no scope for any ambiguity in the matter. The Committee earnestly desire that the Ministry of Finance (Department of Financial Services) should be careful while framing the Rules and avoid the usage of vague expression in the Rules/Regulations/Orders. The Committee also desire the Ministry to amend the order to make it more precise, self-contained and devoid of ambiguity.</p> <p>3.7 The Committee note that the Credit Information Companies (Regulation) (Removal of Difficulties) Order, 2008 was laid on the Table of the House after a delay of more than 9 months. The Committee on Subordinate Legislation in their Fourth Report, Third Lok Sabha made a specific recommendation that all 'Rules' or 'Orders' should be laid before the House 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 in any case within 15 days) after the commencement of the following session. The Committee observe that the reasons advanced by the Ministry that the copies of the published Notification were not available with them indicate the absence of procedural safeguards to avoid such type of omission. Although, the Order was laid on the Table of the House on 31 October, 2008 alongwith the 'Delay Statement', the Committee would expect the Ministry to exercise extreme care in laying of Notifications within the stipulated time and to evolve procedural safeguards so as to avoid such type of omission on their part in future.</p>
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APPENDIX –II

(Vide Para 5 of the Introduction of the Report)

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

The Committee sat on Wednesday, 3rd February from 1400 to 1445 hours in
Chairman's Room No.143, Parliament House , New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

LOK SABHA

2. Shri Mangani Lal Mandal
3. Shri Pinaki Misra
4. Shri Sanjeev Ganesh Naik
5. Shri Anantha Venkata Rami Reddy
6. Shri Madhu Goud Yaskhi

SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri Raju Srivastava - Deputy Secretary

.....contd/-

2. At the outset, the Chairman welcomed the members to the sitting of the Committee.

3. XX XX XX

4. Thereafter, the Committee took up for consideration the following memoranda:-

(1) **Memorandum No. 4** - The Intellectual Property Appellate Board (Salaries and Allowances payable to and other terms and conditions of service of Chairman, Vice-Chairman and Members) Amendment Rules, 2007 (GSR 623-E of 2007)

(2) XX XX XX

(3) XX XX XX

(4) **Memorandum No. 7** - The Transplantation of Human Organs (Amendment) Rules, 2008 (GSR 571-E of 2008)

(5) XX XX XX

(6) **Memorandum No. 9** - Shortcomings in the Credit Information Companies (Regulation) (Removal of Difficulties) Order, 2008 (SO 201 of 2008)

4. After considering the Memorandum No. 7, the Committee desired that modifications suggested by the members be suitably incorporated in the memorandum. As regards delay in laying of order or delay in final publication of Rules, Regulations etc. in spite of earlier recommendations made by the Committee on Subordinate Legislation, the Committee desired that the matter may be taken up with the Nodal Ministries concerned of the Government of India to work out a mechanism to overcome such delays in future.

5. After deliberations, the Committee decided to incorporate the points raised in Memoranda Nos. (4) to (9) in their Reports to be presented to the House.

The Committee then adjourned.

XX Omitted portion of the Minutes are not relevant to this Report.

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

The Committee sat on Wednesday, 3rd March from 1500 to 1545 hours in Chairman's Room No.143, Parliament House , New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

LOK SABHA

2. Smt. Paramjit Kaur Gulshan
3. Shri Sanjeev Ganesh Naik
4. Shri Anantha Venkata Rami Reddy
5. Shri Hamdulla Sayeed

SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri J.S. Chauhan - Director
3. Shri Raju Srivastava - Deputy Secretary

.....contd/-

2. At the outset, the Chairman welcomed the members to the sitting of the Committee.
3. The Committee, then, took up for consideration the draft Third & Fourth Reports and adopted the same without any modifications. The Committee also authorized the Chairman to present the same to the House.
4. XX XX XX
5. XX XX XX

The Committee then adjourned.

XX Omitted portion of the Minutes are not relevant to this Report.