

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

THIRTY FOURTH REPORT

**[ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS/
OBSERVATIONS CONTAINED IN THE NINETEENTH REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (FIFTEENTH LOK SABHA)]**

(PRESENTED ON 24.8.2013)

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LOK SABHA SECRETARIAT

NEW DELHI

August, 2013 / Sravana, 1934 (Saka)

COSL No. 43

PRICE: Rs

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

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(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 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 Thirty Fourth Action Taken Report.

2. This Report relates to the action taken on the recommendations of the Committee contained in the Nineteenth Report (2010-2011) (Fifteenth Lok Sabha) which was presented to Lok Sabha on 6.9.2011.

3. The Committee considered and adopted this Report at their sitting held on 28.6.2013.

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 Nineteenth Report of the Committee (15th Lok Sabha) is given in Appendix III.

New Delhi;
28 June, 2013
7 Ashadha, 1934 (Saka)

P. KARUNAKARAN
Chairman,
Committee on Subordinate Legislation

REPORT

This Report of the Committee on Subordinate Legislation (2012-13) deals with the action taken by the Government on the recommendations contained in their Nineteenth Report (Fifteenth Lok Sabha) which was presented to Lok Sabha on 6.9.2011. The Nineteenth Report contained the following chapters:-

- I. The Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 (GSR 807-E of 2008).
- II. Infirmitities in the Coir Industry (Registration) Rules, 2008 (SO 2061-E of 2008)
- III. Delay in Publishing the Final Rules- The Drugs and Cosmetics (Second Amendment) Rules, 2009 (GSR 116-E of 2009).

2. The shortcomings observed during the scrutiny of the above mentioned Rules were brought to the notice of the Ministries concerned for their comments/necessary corrective action. The Ministries concerned have accepted those shortcomings and took necessary action regarding the same. A statement showing the Action Taken by the Government on the recommendations contained in the Nineteenth Report is given in Appendix-I.

3. The Committee note with satisfaction that all the four recommendations contained in the Nineteenth Report (Fifteenth Lok Sabha) have been accepted by the Government. The concerned Ministries viz. Ministry of Petroleum & Natural Gas; Micro, Small and Medium

Enterprises and Health & Family Welfare have taken necessary action to implement these recommendations of the Committee.

**New Delhi;
28 June, 2013
7 Ashadha, 1935 (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 NINETEENTH REPORT OF THE COMMITTEE (15th LOK SABHA)

I. The Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 (GSR 807-E of 2008).

Recommendation (Para No. 1.4)

The Committee note that in accordance with the second proviso to Regulation 5(2), the difference between the tariff that the entity had so charged and that provisionally fixed by the Board is to be adjusted with retrospective effect, as a result of which the delay in fixing the natural gas pipeline tariff by the board will put additional financial burden on the customers and therefore it is desirable that some reasonable time limit should be fixed for fixation of the said tariff by the Board. The Committee note with satisfaction that on being pointed out, the Ministry have agreed to amend the rules accordingly to provide for the Board to fix the provisional tariff within six months of receipt of the relevant tariff date. The Committee recommend that the Ministry should bring out the necessary amendment, as proposed, at the earliest. Further, the Committee desire that the Ministry should be more careful in framing the regulations so as to avoid any additional financial burden on the customers.

Reply of the Ministry of Petroleum and Natural Gas

The amendment to regulation 5(2) incorporating the recommendations of the Committee on Subordinate Legislation has been notified by PNGRB vide Gazette Notification No. PS/Secy./M(C)/2012 dated 13.9.2012 which inter-alia states that in the Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulation, 2008, for the second proviso, in sub-regulation 5, the following shall be substituted, namely:-

“Provided further that initial unit natural gas pipeline tariff shall be provisionally fixed by the Board within six months of receipt of the relevant tariff date from the entity after which the entity shall carry out adjustments with a retrospective effect with the customers for the

difference between the initial unit natural gas pipeline tariff that the entity had so charged and that provisionally fixed.”

**[Ministry of Petroleum & Natural Gas
OM No. P-23011/10/2009-Mkt. Dated 21.1.2013]**

II. Infirmities in the Coir Industry (Registration) Rules, 2008 (SO 2061-E of 2008).

Recommendation (Para No. 2.5)

The Committee observe that in Rule 4 and Rule 7 of the Coir Industry (Registration) Rules, 2008, the wordings ‘sufficient cause’ appearing therein are likely to give discretionary powers to the Secretary. The Committee therefore, desire that there should be a provision to the effect that reasons for grant of relaxation should be recorded in writing. These safeguards are necessary to meet the requirement of natural justice and to prevent arbitrary exercise of powers. The Committee also observe that the Coir Industry (Registration) Rules, 2008 provide that any aggrieved person can make appeal within 30 days from the date of receipt of a copy of the order. However, no time limit has been prescribed for disposal of such appeal by the authority. The Committee note that on being pointed out, the Ministry have amended the relevant rule to provide for these safeguards. The Committee expect the Ministry to take due care while formulating such rules in future.

Recommendation (Para No. 2.6)

The Committee also feel that the words ‘whose decision thereon shall be final’ occurring in the Coir Industry (Registration) Rules, 2008 give an impression of ousting the jurisdiction of the Courts of Law. The Committee, therefore, reiterate their oft-repeated recommendation that the rules should not be so worded as to give an impression of ousting the jurisdiction of Courts. The Committee express their satisfaction that on being pointed out, the Ministry have rectified the errors by suitably amending the rule vide S.O. 3016(E) dated 26 November, 2009. The Committee, therefore, urge the Ministry to be more vigilant and adhere to their recommendation to prevent recurrence of such errors in future.

Reply of the Ministry of Micro, Small and Medium Enterprises

The Ministry of Micro, Small and Medium Enterprises have stated that they have noted the recommendations of the Committee.

[M/o Micro, Small and Medium Enterprises OM No. 6(25)/2000-Coil/629 dated 7.10.2011]

III. Delay in Publishing the Final Rules- The Drugs and Cosmetics (Second Amendment) Rules, 2009 (GSR 116-E of 2009).

Recommendation (Para No. 3.4)

The Committee note that the delay in publishing of the rules in final form was due to inter and intra-ministerial consultations. The Committee have time and again emphasised that the rules in final form should be published within three months of publishing the draft rules when no objections/suggestions are received. Further, when large number of objections/suggestions are received, the rules in final form should be published within six months of publishing the draft rules. The Committee note with satisfaction that the Ministry have rendered apology for delay in publishing the rules in final form and have given assurance that such delay will not be allowed to recur. The Committee urge upon the Ministry to devise effective mechanism in order to speed up the inter and intra-ministerial consultations. The Committee, therefore, desire that the Ministry should plan the process of inviting the suggestions/objections in such a way that the entire process is completed in a time-bound manner and final rules are published within the prescribed time-frame.

Reply of the Ministry of Health and Family Welfare

- (1) The Government has been committed to removing the delays and finalising the amendments to the Drugs and Cosmetics Rules, 1945 as per the prescribed time schedule.
- (2) The Government has accordingly been assuring the Hon'ble Committee of its intentions in the matter.
- (3) Continuous efforts have been made since 2008 to reduce the time lags at various levels of consideration and approval so as to expedite finalization of draft amendment to rules.

- (4) Being purely technical issues, the necessary action for finalization of the final amendments is taken by the Central Drugs Standard Control Organisation (CDSCO).
- (5) Till 2008, the CDSCO was still in a very nascent stage. It had only 111 sanctioned posts out of which more than 50% posts were vacant. Out of the 32 sanctioned posts of Drug Inspectors, there were only 12 Drug Inspectors in position.
- (6) The Ministry has, however, been continuously making efforts for strengthening the CDSCO by creating more posts and filling vacant posts.
- (7) The situation in CDSCO has changed since 2008. However, the original regulatory jurisdiction of the organisation is so large and comprehensive that it is still struggling to cope up with its mandated work.
- (8) There are still many gaps in the regulatory activities of CDSCO which require to be plugged.
- (9) The delay in finalization of amendment in rules is one of such areas, which needs focus and attention.
- (10) Aware of the limited manpower strength of CDSCO, the Government is further planning to comprehensively augment it with a much larger work force.
- (11) The Government hopes that the situation will improve in the near future.

**[M/o Health and Family Welfare
OM No. X. 11014/1/2007-DFQC dated 11.11.2011]**

APPENDIX-II

(vide Para 5 of Introduction of the Report)

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2012-2013)

The Ninth sitting of the Committee was held on Friday, the 28th June, 2013 from 1200 to 1230 hours in Chairman's Room No. 143, Parliament House, New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

2. Dr. Mahesh Joshi
3. Shri Virender Kashyap
4. Dr Thokchom Meinya
5. Shri Gajendra Singh Rajukhedi
6. Dr. Bhola Singh
7. Shri Dharmendra Yadav

SECRETARIAT

Shri S.C. Chaudhary - Director

2. At the outset, the Chairman welcomed the members to the sitting of the Committee (2012-13).

3. The Committee, thereafter, considered and adopted the draft 34th and 35th Action Taken Reports without any modification. The Committee also authorized the Chairman to present the same to the House.

The Committee then adjourned.

APPENDIX III

(Vide para 7 of the Introduction)

Analysis of the Action Taken by Government on the recommendations/ observations contained in the Nineteenth Report of the Committee on Subordinate Legislation (Fifteenth Lok Sabha).

I.	Total No. of recommendations/observations made	4
II.	Recommendations that have been accepted by the Government [<u>vide</u> recommendations at Sl. Nos. 1.5, 2.5, 2.6 and 3.4]	4
III.	No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV.	Percentage of recommendations accepted	100%