

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

THIRTY FIFTH REPORT

**[ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS/
OBSERVATIONS CONTAINED IN THE TWENTY THIRD 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, 1935 (Saka)

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

1. Shri P. Karunakaran Chairman

Members

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

(iii)

INTRODUCTION

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

2. This Report relates to the action taken on the recommendations of the Committee contained in the Twenty-Third Report (2011-2012) (Fifteenth Lok Sabha) which was presented to Lok Sabha on 21 March, 2012.

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

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

5. 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/ observations contained in the Twenty Third Report of the Committee on Subordinate Legislation (Fifteenth Lok Sabha) is given in Appendix III.

New Delhi;
28 June, 2013
7 Ashadha, 1935 (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 Twenty-Third Report (Fifteenth Lok Sabha) which was presented to Lok Sabha on 21.03.2012. The Twenty Third Report contained the following chapters :-

- I. Delay in final publication of orders published by the Ministry of Agriculture (Department of Agriculture & Co-operation).
- II. The Border Security Force, Combatised Paramedics Group 'C' Posts Recruitment Rules, 2009 (GSR 123 of 2009).
- III. The Handling of Cargo in Customs Areas Regulations, 2009 (GSR 174-E).

2. The shortcomings observed during scrutiny of the rules mentioned in Chapters I to III above were brought to the notice of the Ministries concerned for their comments/necessary corrective action. The Ministries concerned have accepted those shortcomings and have rectified the same. A statement showing Action Taken by the Government on the recommendations contained in the Twenty Third report is given in Appendix I.

3. The Committee note with satisfaction that all the five recommendations contained in the Twenty Third Report (Fifteenth Lok Sabha) have been accepted by the Government. The concerned Ministries viz. Ministry of Agriculture, Home Affairs and Finance 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 TWENTY THIRD REPORT OF THE COMMITTEE (15th LOK SABHA)

I. Delay in final publication of orders published by the Ministry of Agriculture (Department of Agriculture & Co-operation)

Recommendation (Para No. 1.3)

The Committee note that the Restriction on use of Dazomet Order, 2008 [SO 3006 (E) of 2008] and the Banning of Chlorofenvinphos Order, 2008 [SO 3007 (E) of 2008] were published in the Gazette of India, Extraordinary, Part-II, Section 3(ii) dated 31.12.2008. The draft Orders were made available to the public for inviting objections/suggestions on 26.10.2007 while final rules were published on 31.12.2008 i.e. after a delay of about 14 months. The Committee are not convinced of the reply of the Ministry of Agriculture (Department of Agriculture & Cooperation) that consideration of one representation received from M/s Margo Bio-controls Pvt. Ltd. required detailed consultations resulting in the delay of publication of the orders under reference. 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 notified within a period of three months and in cases where a large number of objections/suggestions are received, the gap period should not be more than six months. The Committee have also recommended that in case the Ministry/Department is not able to adhere to the time frame, they should seek specific extension of time from the Committee citing their difficulties. The Committee take a serious view that neither has the Department adhered to the time limit laid down by the Committee nor has the Department bothered to seek extension from the Committee when anticipated delay. The Committee, do not approve of such delays. The Committee would like the Secretary, Department of Agriculture and Cooperation to look into the matter personally and issue suitable instructions to ensure that there is no delay in future in publication of final rules by the Department.

Reply of the Ministry of Agriculture (Department of Agriculture and Cooperation)

The entire matter has been revisited in detail to note that some delay could have been avoided. As desired by the Committee, strict instructions have been issued in the Department of Agriculture and Cooperation, drawing attention to the need to adhere to time limits laid down for issue of orders in accordance with provisions of various Acts and Rules there under.

[M/o Agriculture and Cooperation (Department of Agriculture & Cooperation OM No. 17-18/2007-PP-I dated 23.5.2012)]

II. The Border Security Force, Combatised Paramedics Group 'C' Posts Recruitment Rules, 2009 (GSR 123 of 2009).

Recommendation (Para No. 2.4)

The Committee note with utmost displeasure that the aforesaid rules contained the words 'Should be well developed' against the sub-heading 'Chest' for female candidates which is not only unwarranted but also derogatory in nature. The Committee observe that it is only when it was pointed out that the Ministry of Home Affairs has taken notice of the infirmity. The Committee, however, note with satisfaction that the Ministry has agreed to amend the rules suitably to remove the offensive words and to conduct a general review of the Recruitment Rules of all Central Para Military Forces. The Committee, therefore, recommend that requisite amendments to the rules be carried out at the earliest as assured by the Ministry and the Committee be apprised of the action taken in this regard. The Committee also desire that the general review of the Recruitment Rules of all Central Para Military Forces should be undertaken without delay to remove infirmities including the usage of words which are derogatory in nature especially in relation to female candidates.

Reply of the Ministry of Home Affairs

Necessary amendment to the aforesaid Rules has been made vide GSR No. 455-E dated 15 June, 2012 and against Physical Standards for the female candidates, the words, "Chest should be well developed" have been substituted by the words "Not Applicable". As desired by the Committee on Subordinate Legislation, a general review of the RRs of all the CPMFs has also been carried out and amendments made to remove infirmities in relation to female candidates.

[M/o Home Affairs OM No. 12011/8/2012/Pers.III dated 12.7.2012]

III. The Handling of Cargo in Customs Areas Regulations, 2009 (GSR 174-E).

Recommendation (Para No. 3.3)

The Committee feel that the terminology "proper officer" appearing in Regulation 6(1)(f) of the aforesaid Regulations needs to be substituted by explicitly mentioning the level of officer who might be authorised by the Board or Commissioner of Customs to give permission for clearance and loading of goods for exportation. The plea of the Ministry of Finance (Department of Revenue) in this regard that trade/stake holders are generally aware as to who is the "proper officer" for a specific situation is unsatisfactory. The Committee have time and again recommended that rules should be specific and unambiguous. Lack of clarity in the rules leaves scope for varied interpretation. Rules should, therefore, be precise and without any

vague expression. The Committee, therefore, desire that the Ministry of Finance should take necessary action to amend the regulations by defining appropriately the term “proper officer” in the regulation itself to make it precise and self contained so as to obviate scope for any ambiguity.

Reply of the Ministry of Finance (Department of Revenue)

The recommendation of the Committee has been accepted by Central Board of Excise & Customs and according suitable amendments are made in the 'Handling of Cargo in Customs Areas Regulations, 2009 vide GSR No. 370-E dated 16 May, 2012.

**[M/o Finance (Department of Revenue) OM No. 450/55/2008/Cus.IV(Pt.II) dated
31 May, 2012]**

Recommendation (Para No. 3.5)

The Committee note with satisfaction that on their suggestion, the Ministry of Finance have agreed to elaborate the scope of publication regarding schedule of charges for various services provided by customs cargo services provider so as to cover publication through website/webpage. The Committee desire that necessary action may be taken in this regard and the Committee be apprised of the action taken.

Reply of the Ministry of Finance(Department of Revenue)

Central Board of Excise & Customs vide Circular No. 4/2011-Customs dated 10 January, 2011 has complied with the suggestion of the Committee on Subordinate Legislation.

**[M/o Finance (Department of Revenue) OM No. 450/55/2008/Cus.IV(Pt.II)
dated 31 May, 2012]**

Recommendation (Para No. 3.7)

The Committee further note that Regulation 7 of the Handling of Cargo in Customs Areas Regulations, 2009 gives blanket powers to the Commissioner of Customs to exempt any of the condition of Regulation 5. Regulation 5 relates to conditions to be fulfilled by an applicant for the overall safety and security of the premises where the imported/exported goods are stored prior to customs clearance. Such conditions must not be subjected to exemption by any authority. The Committee, note that on being pointed out, the Ministry of Finance have proposed to issue a circular to clarify the matter. The Committee feel that the Regulation 7

should be suitably amended to ensure that matters concerning safety and security of the premises are not compromised.

Reply of the Ministry of Finance(Department of Revenue)

The recommendation of the Committee has been accepted by Central Board of Excise & Customs and according suitable amendments are made in the 'Handling of Cargo in Customs Areas Regulations, 2009' vide GSR No. 370-E dated 16 May, 2012.

**[M/o Finance (Department of Revenue) OM No. 450/55/2008/Cus.IV(Pt.II dated
31 May, 2012]**

Appendix – II
(Vide Para 5 of the Introduction)

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 6 of the Introduction of the Report)

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE
RECOMMENDATIONS/ OBSERVATIONS CONTAINED IN THE TWENTY THIRD REPORT
OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTEENTH LOK SABHA).**

I	Total number of recommendations/observations made	5
II	Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos. 1.3, 2.4, 3.3, 3.5 & 3.7]	5
III	No. of recommendations which the Committee do not want to pursue in view of the Government reply	Nil
IV.	Percentage of recommendations accepted	100%