

COMMITTEE ON SUBORDINATE LEGISLATION
(2017-2018)

(SIXTEENTH LOK SABHA)

THIRTY-FIFTH REPORT

**[ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS
/OBSERVATIONS CONTAINED IN FIFTH REPORT (2014-2015) (SIXTEENTH LOK
SABHA)]**



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2018/ Shravana, 1940 (Saka)

COMMITTEE ON SUBORDINATE LEGISLATION
(2017-2018)

(SIXTEENTH LOK SABHA)

THIRTY-FIFTH REPORT

[ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS
/OBSERVATIONS CONTAINED IN FIFTH REPORT (2014-2015) (SIXTEENTH LOK
SABHA)]

(PRESENTED TO LOK SABHA ON 9.8.18)



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

August, 2018/ Shravana, 1940 (Saka)

CONTENTS

	PAGE No.
*COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION.....	(iv)
REPORT	1-3

APPENDICES

I. Statement showing the action taken by the Government on the recommendations/observations contained in the Fifth Report of the Committee on Subordinate Legislation (16 th Lok Sabha).....	4-7
II. G.S.R. 515 (E) dated 24 May, 2017	8-13
III. Extracts of the Minutes of the Nineteenth sitting (2017-18) of the Committee (16 th Lok Sabha) held on 2.8.2018.	14-15
IV. Analysis of the Action Taken by the Government on the recommendations contained in the Fifth Report of the Committee on Subordinate Legislation (16 th Lok Sabha).....	16

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (16th LOK SABHA)
(2016-2017)**

Shri Dilipkumar Mansukhlal Gandhi

Chairperson

Members

2. Shri Idris Ali
3. Shri Birendra Kumar Chaudhary
4. Shri S. P. Muddahanume Gowda
5. Shri Shyama Charan Gupta
6. Shri Jhina Hikaka
7. Shri Janardan Mishra
8. Shri Prem Das Rai
9. Shri Chandu Lal Sahu
10. Shri Alok Sanjar
11. Shri Ram Prasad Sarmah
12. Adv. Narendra Keshav Sawaikar
13. Shri V. Panneer Selvam
14. Shri Ram Kumar Sharma
15. Shri Nandi Yellaiah

SECRETARIAT

1. Smt Sudesh Luthra - Additional Secretary
2. Shri Ajay Kumar Garg - Director
3. Shri Nabin Kumar Jha - Addl. Director
4. Smt Jagriti Tewatia - Deputy Secretary
5. Shri Brajesh Kumar Singh - Committee Officer

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 Report.

2. This Report relates to the action taken on the recommendations of the Committee contained in the Fifth Report (2014-2015) (Sixteenth Lok Sabha) which was presented to Lok Sabha on 7.5.2015.

3. The Committee considered and adopted this Report at their sitting held on 2.8.2018.

4. The summary of recommendations contained in the Fifth Report 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 III.

6. An analysis of the action taken by Government on the recommendations contained in the Fifth Report of the Committee (16th Lok Sabha) is given in Appendix IV.

New Delhi;
2 August, 2018
11 Shrawana, 1940 (Saka)

DILIPKUMAR MANSUKHLAL GANDHI,
CHAIRPERSON,
COMMITTEE ON SUBORDINATE LEGISLATION

REPORT

This Report of the Committee on Subordinate Legislation deals with the action taken by Government on the recommendations contained in their Fifth Report (Sixteenth Lok Sabha) which was presented to Lok Sabha on 7.5.2015. The Fifth Report dealt with the following Chapters: -

- I. The National Savings Certificates (IX Issue) Rules, 2011 (GSR 848-E of 2011).
- II. 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, 2012 (GSR 438 (E) of 2012).
- III. The Adjudicating Authority (Procedure) Regulations, 2013 (GSR 177-E of 2013).

2. The shortcomings observed in the above Rules/Regulations are contained in paras 1.4 and 1.5 of Chapter I, Paras 2.6 of Chapter II and Paras 3.5 and 3.6 of Chapter III of the 5th Report which after presentation was forwarded to the concerned Ministries for implementation of the recommendations contained therein. The Ministries viz. Ministries of Commerce and Industry (Department of Industrial Policy and Promotion) and Finance (Department of Revenue), furnished their action taken replies in respect of all the five observations/recommendations contained in the 5th Report on 24.11.2017 and 28.11.2017 respectively.

3. The main observations/recommendations made by the Committee in its 5th Report (16th Lok Sabha) and the Action Taken thereon by the Ministries concerned are briefly as follows:-

- I. **The National Savings Certificates (IX Issue) Rules, 2011 (GSR 848-E of 2011).**

The Committee noted that important terms like 'Scheduled Bank', 'Cooperative Society', and 'Cooperative Bank' contained in above Rules were neither defined in the Government Savings Act, 1959 nor in the National Savings Certificates (IX issue) Rules, 2011 framed under the Act. Moreover, the Rules contained legislation by reference which was contrary to the oft repeated recommendation of the Committee that Rules should be as far as possible self contained. The Committee, therefore, recommended that important terms should be clearly defined in the parent Act and if,

for any reason they are not defined in the Act, they should be defined in the rules in order to make the rules complete and self explanatory. As regards legislation by reference, the Committee observed that if it is not feasible to avoid general reference to the Acts/Rules, the relevant extracts of the Acts/Rules referred to in the rules should be appended to the Rules. The Ministry of Finance (Department of Economic Affairs) in their Action Taken Reply submitted that the terms 'Cooperative Society' & 'Scheduled Bank' were already defined in the Post Office Savings Certificates Rules, 1960. The Ministry have also notified an amendment to the above Rules defining Cooperative Bank vide GSR 1234 (E) dated 29.9.2017. As regards recommendations of the Committee pertaining to self-contained rules, the Ministry have submitted that they have noted the observations of the Committee for future compliance and the same would be adhered to in all future cases.

II. 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, 2012 (GSR 438 (E) of 2012).

The Committee had expressed their anguish over delay in final publication of the above rules after publication of their draft by over two months. The Committee also observed that the Ministry was expected to exercise due care and caution and be vigilant after the Rules were sent to the Press to avoid delay in publication by the Press. The Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) in their Action Taken Reply have assured the Committee that they will ensure that in future timely action will be taken and no such lapses will reoccur.

III Adjudicating Authority (Procedure) Regulations, 2013 (GSR 177-E of 2013)

In Regulation 13 of the above Regulations, reference was made to Civil Procedure Code, 1908 and Information Technology Act, 2000. Also the use of the word 'ordinarily' in the regulations 15 (2) and 28 (3) of the said Regulations makes the particular provision ambiguous and leave the scope for subjective interpretation. On being pointed out by the Committee in their Report that the Ministry should avoid legislation by reference and as far as possible make the regulations self-contained and suitably amending the Regulations 15 (2) and 28 (3) of the Adjudicating Authority (Procedure) Regulations, 2013, the Ministry of Finance (Department of Revenue) in their Action Taken Reply have informed that the "Adjudicating Authority (Procedure) Regulations, 2013" was amended vide Gazette Notification No. 416 dated 25.5.2017 (Appendix-II) to do away with the reference to the Civil Procedure Code, 1908 and Information Technology Act, 2000. They have further informed that the word 'Ordinarily' in the Regulations 15 (2) and 28 (3) of the Adjudicating Authority (Procedure) Regulations, 2013 has been deleted and a Gazette Notification for the same was published on 25.5.2017.

4. The Committee, therefore, are satisfied to note that the Ministries concerned have accepted the shortcomings pointed out to them and rectified the same. A statement showing the Action Taken by the Government on the recommendations contained in the Fifth Report (2014-15) 16th Lok Sabha is given in Appendix-I.

New Delhi;
2 August, 2018
11 Shrawana, 1940 (Saka)

DILIPKUMAR MANSUKHLAL GANDHI,
CHAIRPERSON,
COMMITTEE ON SUBORDINATE LEGISLATION

APPENDIX – I
(Vide para 4 of the Introduction)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE
RECOMMENDATIONS/OBSERVATIONS CONTAINED IN THE FIFTH REPORT OF
THE COMMITTEE (16th LOK SABHA)

I. The National Savings Certificates (IX Issue) Rules, 2011 (GSR 848-E of 2011).

Recommendation (Para 1.4)

The Committee note that despite clear definitions of the terms like 'Scheduled Bank', 'Cooperative Society', and 'Cooperative Bank' the same have not been defined in the Government Savings Act, 1959 and also in the National Savings Certificates (IX issue) Rules, 2011 framed under the Act. The Committee, therefore, recommend that important terms should be clearly defined in the parent Act and if, for any reason they are not defined in the Act, they should be defined in the rules in order to make the rules complete and self explanatory.

Reply of the Ministry

It is submitted that the terms 'Cooperative Society' & 'Scheduled Bank' have already been defined in the Post Office Savings Certificates Rules, 1960, which are framed in pursuance of, and to give effect to, the Government Savings Certificate Act, 1959, and regulate (a) KVP (b) NSC (VIII-Issue) & (c) the since discontinued NSC (IX-Issue). Rule 2(v) & 2(xv) respectively as under:

2(v) "Cooperative Society" means a Society registered or deemed to have been registered under the Cooperative Societies Act, 1912 (2 of 1912) or under any other law for the time being in force.

2(xv) "Scheduled Bank" means a bank for the time being included in the second schedule to the Reserve Bank of India Act, 1934 (2 of 1934) & includes an executor and a trustee company which is a subsidiary of a scheduled bank.

As regards the term Cooperative bank, the same is under process of defined in the Post Office Savings Certificate Rules, 2017 through an amendment. Now it has been amended and notified vide GSR 1234(E) dated 29.9.2017.

The NSC (IX- Issue) Scheme has been discontinued.

Recommendation (Para 1.5)

The Committee also note that in Rule 20(1) of the National Savings Certificates (IX issue) Rules, 2011, references of Post Office Savings Account Rules, 1981, Indian Succession Act, 1925, the Airforce Act, 1950, the Navy Act, 1950, the Army and Airforce (Disposal of Private Property) Act, 1950 and the Income Tax Act, 1961 have been made. The Committee, have from time to time emphasised that rules should as far as possible be self contained and legislation by reference should be avoided. The Committee may while agreeing with the Ministry's contention that it is not feasible to avoid general reference to the Acts/Rules, desires that wherever possible the relevant extracts of the Acts/rules referred to in the rules should be appended to the rules in a manner which is akin to appending of the relevant extracts of the Acts in the bills introduced in Parliament, so that no difficulty is caused to public in locating and referencing the rules.

Reply of the Ministry

The observation has been noted for future compliance and the same will be adhered to in all future cases including the proposed Small Saving Scheme Act, 2017 to replace the existing three Acts dealing with Small Savings Schemes.

[Ministry of Finance (Department of Revenue)
OM No. H-11015/6/2015-Parl dated 28.11.2017]

- II. **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, 2012 (GSR 438 (E) of 2012).**

Recommendation (Para 2.6)

The Committee note that the draft of 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, 2012 (GSR 438 (E) of 2012) made available to the public on 24 December, 2011, seeking objection/suggestion within fifteen days was published in final form on 11 June, 2012 by the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) after a delay of more than 2 months. The explanation from the Ministry that the delay in

the publication of final notification was caused because they were not aware about the publication of the draft Notification so they could not remind the Press to publish the notification in final form does not appear convincing. The Ministry is expected to exercise due care and caution and be vigilant after the rules were sent to the press to avoid delay in publication by the press. It appears to the Committee that there is no structured monitoring mechanism in the Ministry to follow-up such matters. The Committee, therefore, feel that the Ministry cannot absolve themselves from their responsibility of getting timely publication of draft Rules in final form. The Committee express their deep anguish over such casual, irresponsible and lackadaisical attitude of the Ministry in perpetuating this lapse and strongly urge the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) to keep themselves abreast of the procedures of handling of notifications and streamline the same so that such lapses do not recur in future.

Reply of the Ministry

This Department vide OM No. 7/7/2009-IPR-1/IPAB dated 8 May, 2012 and 6 May, 2013 informed the Lok Sabha Secretariat that the delay in final Notification is inadvertant and delay is deeply regretted. The reasons for delay already furnished may kindly be accepted. This Department also issued warning to the officials who handled the case conveying that such lapses will not be tolerated and no excuse will be accepted in the future with regards to subjects having fixed timelines. This Department will ensure that in future timely action will be taken and no such lapses will reoccur.

[Ministry of Commerce and Industry
(Department of Industrial Policy and Promotion
OM No. 7/72009-IPR-1 dated 24.11.2017)]

III. The Adjudicating Authority (Procedure) Regulations, 2013 (GSR 177-E of 2013).

Recommendations (3.5)

The Committee observe that in Regulation 13 of the Adjudicating Authority (Procedure) Regulations, 2013 (GSR 177-E of 2013) reference has been made to Civil Procedure Code, 1908 and Information Technology Act, 2000. The Committee note that the Ministry should avoid legislation by reference and as far as possible the regulations should be self contained. The Committee strongly express its disagreement with the reply of the Ministry that the reference has been made to make

the regulations comprehensive and similar reference is in vogue in other statutes. The Committee recommend that regulations should be drafted in such a manner that no difficulty is caused to public in locating and referencing the regulations. The Committee desire that wherever possible Ministry should append the extracts of the relevant Act to the regulations.

Reply of the Ministry

In terms of Section 6(15) of PMLA, 2002, the Adjudicating Authority under PMLA is empowered to regulate its own procedure. The Adjudicating Authority, PMLA has accepted the recommendations of the Hon'ble Committee. The "Adjudicating Authority (Procedure) Regulations, 2013" has been amended vide Gazette Notification No. 416 dated 25.5.2017 (Appendix-II) without referring to the Civil Procedure Code, 1908 and Information Technology Act, 2000.

Recommendations (3.6)

The Committee also observe that the use of the word 'ordinarily' in the regulations 15 (2) and 28 (3) of the Adjudicating Authority (Procedure) Regulations, 2013 (GSR 177-E of 2013) makes the particular provision ambiguous and leave the scope of subjective interpretation by different persons. The Committee note with satisfaction that on being pointed out, the Ministry have agreed to amend the regulations to remove the ambiguity by removing the use of the word 'ordinarily' from Regulations 15(2) and 28(3) of the aforesaid Regulations. The Committee recommend that the Ministry may bring out the suitable amendments in the Regulations 15 (2) and 28 (3) of the said Regulations at the earliest to make it unequivocal and specific.

Reply of the Ministry

It is stated that the notification to amend the Adjudicating Authority (Procedure) Regulations, 2013 which may be called the Adjudicating Authority (Procedure) Amendment Regulations, 2017 was published in the Gazette of India, Extraordinary on 25.5.2017 (Appendix-II). The word "Ordinarily" has accordingly been deleted.

**[Ministry of Finance (Department of Revenue)
OM No. H-11015/6/2015-Parl dated 28.11.2017]**

New Delhi;
2 August, 2018
11 Shrawana, 1940

**DILIPKUMAR MANSUKHLAL GANDHI,
CHAIRPERSON,
COMMITTEE ON SUBORDINATE LEGISLATION**



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 416]

नई दिल्ली, बृहस्पतिवार, मई 25, 2017/ ज्येष्ठ 4, 1939

No. 416]

NEW DELHI, THURSDAY, MAY 25, 2017/ JYAISTHA 4, 1939

वित्त मंत्रालय

(राजस्व विभाग)

(न्यायनिर्णयन प्राधिकरण)

अधिसूचना

नई दिल्ली, 24 मई, 2017

सा.का.नि. 515(अ).—न्यायनिर्णयन प्राधिकरण, धन शोधन निवारण अधिनियम, 2002 (2002 का 15) की धारा 6 की उपधारा (15) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, न्यायनिर्णयन प्राधिकरण (पद्धति) विनियम, 2013 का संशोधन करने के लिए निम्नलिखित विनियम बनाता है, अर्थात् :-

1. (1) इन विनियमों का संक्षिप्त नाम न्यायनिर्णयन प्राधिकरण (पद्धति) संशोधन विनियम, 2017 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. न्यायनिर्णयन प्राधिकरण (पद्धति) विनियम, 2013 में,-

(अ) विनियम 11 में उपनियम (2) के खंड (ड) का लोप किया जाएगा;

(आ) विनियम 13 के स्थान पर निम्नलिखित विनियम रखा जाएगा, अर्थात् :-

"13. समन और सूचना जारी करना -

(1) प्रत्येक समन या सूचना, यथास्थिति, प्ररूप-3 या प्ररूप-4 या प्ररूप-5 या प्ररूप-6 में, रजिस्ट्रार या प्रशासनिक अधिकारी द्वारा हस्ताक्षर करके जारी की जाएगी।

(2) प्रतिवादी या प्रत्यर्थी पर परिवादी या आवेदक द्वारा प्रत्येक समन और सूचना की तामील किसी जिल्दबंद अभिलेख पुस्तिका में अवलंब लिए गए सम्पूर्ण दस्तावेजों के साथ की जाएगी और ऐसी तामील करने वाले व्यक्ति द्वारा तामील के सबूत के साथ तामील का शपथपत्र फाइल किया जाएगा।

- (3) (क) प्रतिवादी या प्रत्यर्थी पर समन या सूचना का तामील साधारणतया निम्नलिखित द्वारा की जा सकेगी,-
- (i) दस्ती अर्थात् व्यक्तिगत रूप से परिदान या निविदान; या
 - (ii) रसीदी रजिस्ट्री (एडी) डाक द्वारा, या स्पीड पोस्ट या कूरियर सेवा द्वारा ; या
 - (iii) इलैक्ट्रॉनिक मेल (ई-मेल) या फैक्स संदेश द्वारा .
 - (iv) यदि कोई समन या सूचना, जब उसे दी जाने पर इनकार कर दी जाती है या ऐसा व्यक्ति, जिस पर समन की तामील की जानी है, तामील की अभिस्वीकृति पर हस्ताक्षर करने से इनकार करता है, तब परिवादी या आवेदक इस प्रभाव की रिपोर्ट करेगा और इस दशा में ऐसे समन या सूचना को तामील की गई समझी जाएगी।
- (4) यदि किसी कारण से ऐसे समन या सूचना की तामील व्यक्तिगत रूप से नहीं की जा सकती है तो परिवादी या आवेदक ऐसे घर या कार्यालय में जिसमें प्रतिवादी/प्रत्यर्थी निवास करता है या अभिलाभ के लिए कारबार या व्यक्तिगत अभिलाभ के लिए कार्य करता है, के बाह्य दरवाजा पर या कोई अन्य सहजदृश्य भाग पर समन की एक प्रति चिपकाकर समन की तामील कर सकेगा और उसके पश्चात् उसकी मूलप्रति को रजिस्ट्रार या प्रशासनिक अधिकारी को उस पर पृष्ठांकित या उससे संलग्न रिपोर्ट के साथ यह कथन करते हुए कि उसने इस प्रकार की प्रति संलग्न की है जिन परिस्थितियों के अधीन उसने ऐसा किया था और उस व्यक्ति का नाम या पता, यदि कोई हो जिसकी उपस्थिति में ऐसी प्रति चिपकाई गई थी और समन या सूचना जारी करने वाला प्राधिकारी उस दशा में घोषणा करेगा कि प्रतिवादी या प्रत्यर्थी पर समन की सम्यक तामील की गई है।
- (5) जहां किसी कंपनी, कारपोरेशन या फर्म पर सूचना तामील की जानी है वहां कंपनी या कारपोरेशन के उसके रजिस्ट्रीकृत कार्यालय या संबद्ध कारपोरेट कार्यालय के सचिव, निदेशक या अन्य प्रधान अधिकारी पर या फर्म के पते पर फर्म के स्वत्वधारी या भागीदारी पर इसे तामील की जा सकेगी।
- (6) किसी कारबार या कार्य के संबंध में किसी व्यक्ति के विरुद्ध किसी कार्यवाही में जो समन या सूचना की तामील न्यायनिर्णयन प्राधिकरण के अधिकारिता के भीतर निवास नहीं करता है किसी भी ऐसे प्रबंधक या अभिकर्ता पर तामील ठीक समझी जाएगी जो तामील के समय ऐसी सीमाओं के भीतर ऐसे व्यक्ति के लिए स्वयं ऐसा कारबार या कार्य करता है।
- (7) जहां प्रतिवादी या प्रत्यर्थी कारागार में परिरुद्ध है वहां समन या सूचना कारागार के भारसाधक अधिकारी को प्रतिवादी या प्रत्यर्थी पर तामील के लिए परिदत्त किया जाएगा या डाक अथवा अन्यथा द्वारा भेजा जाएगा।
- (8) जहां प्रतिवादी या प्रत्यर्थी भारत के बाहर निवास करता है और उसका भारत में ऐसा कोई अभिकर्ता नहीं है जो तामील प्रतिगृहीत करने के लिए सशक्त है वहां, यदि ऐसे स्थान पर जहां वह निवास कर रहा है डाक द्वारा या कूरियर द्वारा या ई-मेल द्वारा या फैक्स द्वारा किया जाएगा।
- (9) जहां केन्द्रीय सरकार ने राजपत्र में अधिसूचना द्वारा किसी विदेशी राज्यक्षेत्र के बारे में यह घोषणा की है कि उस विदेशी राज्यक्षेत्र में वास्तव में और स्वेच्छा से निवास करने वाले या कारबार करने वाले या अभिलाभ के लिए स्वयं काम करने वाले प्रतिवादियों या प्रत्यर्थियों पर तामील किए जाने वाले समन या सूचना विदेशी राज्यक्षेत्र की सरकार के ऐसे अधिकारी को जो केन्द्रीय सरकार द्वारा विनिर्दिष्ट किया जाए, भेजे जा सकेंगे वहां समन या सूचना ऐसे अधिकारी को भारत सरकार के विदेशी मामलों से संबंधित मंत्रालय की मार्फत या ऐसी अन्य रीति से जो केन्द्रीय सरकार द्वारा विनिर्दिष्ट की जाए, भेजे जा सकेंगे और यदि ऐसा अधिकारी किसी ऐसे समन या सूचना को उसके द्वारा किए गए तात्पर्यित इस पृष्ठांकन के सहित लौटा देता है कि समन या सूचना तामील प्रतिवादी पर की जा चुका है तो ऐसा पृष्ठांकन तामील का साक्ष्य समझा जाएगा।
- (10) जहां किसी प्रतिवादी या प्रत्यर्थी की ओर से कोई काउंसेल समन या सूचना स्वीकार करता है, और अपनी ओर से वकालतनामा या प्राधिकार फाइल करता है वहां ऐसे प्रतिवादी या प्रत्यर्थी पर समन या सूचना की तामील से अभिमुक्त किया जाएगा।
- (11) उपनियम (3) में किसी बात के होते हुए भी किसी समन या सूचना, सूचना प्रौद्योगिकी अधिनियम, 2000 (2000 का 21) की धारा 13 में यथाउपबंधित इलैक्ट्रॉनिकी विधि से की जा सकती है और ऐसे संचार का प्रेषण विधिमान्य तामील के रूप में माना जाएगा।

टिप्पण :- इन नियमों में सूचना प्रौद्योगिकी अधिनियम की धारा 13 उपाबंध 1 के रूप में संलग्न है।";

(इ) विनियम 14 के स्थान पर निम्नलिखित विनियम रखा जाएगा, अर्थात् :-

"14. अभिलेख पर विधिक प्रतिनिधियों को लाना,- कार्यवाहियां लंबित रहने के दौरान प्रतिवादी या प्रत्यर्थी की मृत्यु की दशा में परिवादी या आवेदक द्वारा ऐसे वारिसों को कार्यवाहियों के प्रतिवादी या प्रत्यर्थी के रूप में जोड़ कर अभिलेख पर लाया जाएगा।";

(ई) विनियम 15 में उपविनियम (2) के स्थान पर निम्नलिखित उपविनियम रखा जाएगा, अर्थात् :-

"(2) प्रतिवादी या प्रत्यर्थी का उत्तर सुनवाई के लिए नियत तारीख के पश्चात् ग्रहण नहीं किया जाएगा।";

(उ) विनियम 28 के उपविनियम (3) में "साधारणतया" शब्द का लोप किया जाएगा।

[फा. सं. 5/7/2009-पीएमएलए]

मुकेश कुमार, अध्यक्ष

उपाबंध 1

13. इलैक्ट्रानिक अभिलेख के प्रेषण और प्राप्ति का समय और स्थान—(1) प्रवर्तक और प्रेषिती के बीच जैसा अन्यथा तय पाया गया है उसके सिवाय, किसी इलैक्ट्रानिक अभिलेख का प्रेषण उस समय होता है जब वह प्रवर्तक के नियंत्रण से बाहर किसी कम्प्यूटर साधन में डाला जाता है।

(2) प्रवर्तक और प्रेषिती के बीच जैसा अन्यथा तय पाया गया है उसके सिवाय, किसी इलैक्ट्रानिक अभिलेख की प्राप्ति का समय निम्नलिखित रूप में अवधारित किया जाएगा, अर्थात्:—

(क) यदि प्रेषिती ने इलैक्ट्रानिक अभिलेखों को प्राप्त करने के प्रयोजन के लिए कोई कम्प्यूटर साधन अभिहित कर लिया है,—

(i) तो प्राप्ति उस समय हो जाती है जब इलैक्ट्रानिक अभिलेख अभिहित कम्प्यूटर साधन में डाला जाता है, या

(ii) यदि इलैक्ट्रानिक अभिलेख, प्रेषिती के ऐसे कम्प्यूटर साधन में भेजा जाता है जो अभिहित कम्प्यूटर साधन नहीं है तब प्राप्ति उस समय हो जाती है जब इलैक्ट्रानिक अभिलेख प्रेषिती द्वारा पुनःप्राप्त कर लिया जाता है;

(ख) यदि प्रेषिती ने विनिर्दिष्ट समयों के साथ-साथ, यदि कोई हो, कोई कम्प्यूटर साधन अभिहित नहीं किया है तो प्राप्ति तब होती है जब इलैक्ट्रानिक अभिलेख, प्रेषिती के कम्प्यूटर साधन में डाला जाता है।

(3) प्रवर्तक और प्रेषिती के बीच जैसा अन्यथा तय पाया गया है उसके सिवाय, कोई इलैक्ट्रानिक अभिलेख उस स्थान पर प्रेषित कर दिया गया समझा जाता है जहां प्रवर्तक का अपना कारबार का स्थान है और उस स्थान पर प्राप्त हो गया समझा जाता है जहां प्रेषिती का अपना कारबार का स्थान है।

(4) उपधारा (2) के उपबंध इस बात के होते हुए भी लागू होंगे कि वह स्थान जहां कम्प्यूटर साधन अवस्थित है, उस स्थान से भिन्न हो सकता है जहां इलैक्ट्रानिक अभिलेख उपधारा (3) के अधीन प्राप्त कर लिया गया समझा जाता है।

(5) इस धारा के प्रयोजनों के लिए—

(क) यदि प्रवर्तक या प्रेषिती के एक से अधिक कारबार के स्थान हैं तो कारबार का प्रधान स्थान, कारबार का स्थान होगा;

(ख) यदि प्रवर्तक या प्रेषिती के पास कारबार का स्थान नहीं है तो उसके निवास का प्रायिक स्थान कारबार का स्थान समझा जाएगा;

(ग) किसी निगमित निकाय के संबंध में "निवास का प्रायिक स्थान" से वह स्थान अभिप्रेत है जहां वह रजिस्ट्रीकृत है।

टिप्पण :- मूल विनियम भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में सं. सा.का.नि. 177 (अ), तारीख 18 मार्च, 2013 में प्रकाशित किया गया था।

MINISTRY OF FINANCE
(Department of Revenue)
(ADJUDICATING AUTHORITY)

NOTIFICATION

New Delhi, the 24th May, 2017

G.S.R.515 (E).—In exercise of the powers conferred by sub-section (15) of section 6 of the Prevention of Money-Laundering Act, 2002 (15 of 2003), the Adjudicating Authority, hereby makes the following regulations to amend the Adjudicating Authority (Procedure) Regulations, 2013, namely:—

1. (1) These regulations may be called the Adjudicating Authority (Procedure) Amendment Regulations, 2017.
- (2) They shall come into force on the date of their publication in the official Gazette.

2. In the Adjudicating Authority (Procedure) Regulations, 2013,-

(A) in regulation 11, in sub-regulation (2), clause (e) shall be omitted;

(B) for regulation 13, the following regulation shall be substituted namely:-

“13 Issue of summon and notice -

- (1) Every summon or notice shall be issued in Form 3 or Form 4 or Form 5 or Form 6, as the case may be, and signed by the Registrar or Administrative Officer.
- (2) Every summon and notice shall be served by the complainant or applicant upon the defendant or respondent along with complete relied upon documents in a bound paper book and an affidavit of service along with proof of service shall be filed by the person affecting such service.
- (3) (a) The service of summon or notice upon the defendant or respondent may ordinarily be made by,-
 - (i) Dasti i.e. delivering or tendering personally; or
 - (ii) registered post acknowledgement due (AD), or by speed post or courier service; or
 - (iii) Electronic mail (e-mail) or by fax message.
 - (iv) If any summon or notice, when tendered, is refused or if the person on whom the summon to be served refuses to sign an acknowledgment of service, then the complainant or applicant shall make a report to this effect and in such event, such summon or notice shall be deemed to have been served.
- (4) If for any reason the such summon or notice can not be served personally, the complainant or applicant may serve the same by affixing a copy of the summon on the outer door or some other conspicuous part of the house or office in which the defendant/ respondent resides or carries on business or personally works for gain, and shall then return the original to the Registrar or Administrative Officer, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, in whose presence the copy was affixed and the Authority issuing the summon or notice shall in that event declare that the summon has been duly served on the defendants or respondents.
- (5) Where the notice is to be served upon a company, corporation or firm, it may be served upon the Secretary, Director or other principal officer of the company or corporation at its registered office or the concerned corporate office or upon the proprietor or partner of the firm at the address of the firm.
- (6) In a proceeding relating to any business or work against a person who does not reside within the jurisdiction of the Adjudicating Authority the service of summon or notice may be made on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, which shall be deemed good service.
- (7) Where the defendant or respondent is confined in a prison, the summon or notice shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the defendant or respondent.
- (8) Where the defendant or respondent resides out of India and has no agent in India empowered to accept service, the summon shall be addressed to the defendant or respondent at the place where he is residing and sent to him by post or by courier or by email or by fax.

- (9) Where the Central Government has, by notification in the Official Gazette, declared in respect of any foreign territory that summon or notice to be served on defendants or respondents actually and voluntarily residing or carrying on business or personally working for gain in that foreign territory may be sent to an officer of the Government of the foreign territory specified by the Central Government the summon or notice may be sent to such officer, through the Ministry of the Government of India dealing with foreign affairs or in such other manner as may be specified by the Central Government; and if such officer returns, any such summon or notice with an endorsement purporting to have been made by him that the summon or notice has been served on the defendant, such endorsement shall be deemed to be evidence of service.
- (10) Where a counsel accepts the summon or notice on behalf of any defendant or respondent and files, the vakalatnama or authority on his behalf, service of summon or notice upon such defendant or respondent shall be dispensed with.
- (11) Notwithstanding anything in sub-regulation (3), a summon or notice may be communicated through electronic mode as provided in section 13 of the Information Technology Act, 2000 (21 of 2000) and transmission of such communication shall be regarded as valid service.

Note: Section 13 of the Information Technology Act is appended to these rules as Annexure 1.”;

(C) for regulation 14, the following regulation shall be substituted namely:-

“14. Bringing legal representatives on record. -

In case defendant or respondent dies during the pendency of proceedings, his legal heirs shall be brought on record by the complainant or applicant by making such heirs as defendant or respondent to the proceedings.”;

(D) in regulation 15, for sub-regulation (2), the following sub-regulation shall be substituted namely:-

“(2) The reply of the defendant or respondent shall not be entertained after the date fixed for hearing.”;

(E) in regulation 28, in sub-regulation 3, the word “ordinary” shall be omitted.

[F. No. 5/7/2009-PMLA]

MUKESH KUMAR, Chairperson

Annexure 1

Section 13. Time and place of dispatch and receipt of electronic record-

(1) Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of electronic record shall be determined as follows, namely:-

- (a) If the addressee has designated a computer resource for the purpose of receiving electronic records-
- Receipt occurs at the time when the electronic record enters the addressee;
 - If the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;
- (b) If the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resources of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-sections (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,-

- (a) If the originator of the addressee has more than one place of business, the principal place of business, shall be the place of business;

- (b) If the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;
- (c) "usual place of residence", in relation to a body corporate, means the place where it is registered.

Note:- The principal regulations were published in the Gazette of India, Extraordinary, part-II, section 3, sub-section (i), vide number G.S.R 177(E) dated the 18th March, 2013.

APPENDIX III
(Vide para 5 of the Introduction)

**MINUTES OF THE NINETEENTH SITTING OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (2017-2018)**

The Nineteenth sitting of the Committee (2017-18) was held on Thursday, the 02nd August, 2018 from 1500 hours to 1600 hours in Room No. 148, Third Floor, Parliament House, New Delhi.

PRESENT

Shri Dilipkumar Mansukhlal Gandhi

Chairperson

MEMBERS

2. Shri Birendra Kumar Choudhary
3. Shri Shyama Charan Gupta
4. Shri Jhina Hikaka
5. Shri Janardan Mishra
6. Shri Prem Das Rai
7. Shri Chandul Lal Sahu
8. Shri Alok Sanjar
9. Adv. Narendra Keshav Sawaikar
10. Shri Ram Kumar Sharma
11. Shri Nandi Yellaiah

SECRETARIAT

1. Smt Sudesh Luthra - Additional Secretary
2. Shri Ajay Kumar Garg - Director
3. Shri Nabin Kumar Jha - Additional Director
4. Smt Jagriti Tewatia - Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

- (i) Draft Thirty-first Report on the Rules/regulations governing the functioning of Delhi Police.
- (ii) Draft Thirty-second Report on the Action taken by the Government on the observations/recommendations contained in the 26th Report of the Committee (16th Lok Sabha) regarding Rules/Regulations framed under AIIMS Act, 1956.
- (iii) Draft Thirty-third Report on the Action taken by the Government on the observations/recommendations contained in the 24th Report of the Committee (16th Lok Sabha) regarding National Highway Fee (Determination of Rates and Collection) 2nd Amendment Rules, 2014.
- (iv) Draft Thirty-fourth Action Taken Report on the observations/recommendations contained in the 11th Report of the Committee (16th Lok Sabha) on Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2014.
- (v) Draft Thirty-fifth Action Taken Report on the recommendations/observations contained in 5th Report (16th Lok Sabha) of the Committee.
- (vi) Draft Thirty-sixth Action Taken Report on the recommendations/observations contained in 9th Report (16th Lok Sabha) of the Committee.

3. After deliberations, the Committee adopted the same with slight modifications in the draft 34th Report on Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2014. The Committee also authorized the Chairperson to present the same to the House.

The Committee then adjourned.

APPENDIX-IV

(vide para 6 of Introduction of the Report)

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE
RECOMMENDATIONS CONTAINED IN THE FIFTH REPORT OF THE COMMITTEE
ON SUBORDINATE LEGISLATION**

(SIXTEENTH LOK SABHA)

I.	Total No. of recommendations/observations made	5
II.	Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos. 1.4, 1.5 2.6, 3.5 & 3.6]	5
III.	No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV.	Percentage of recommendations accepted	100%

