

COMMITTEE ON SUBORDINATE LEGISLATION
(2019-2020)

(SEVENTEENTH LOK SABHA)

SECOND REPORT



LOK SABHA SECRETARIAT
NEW DELHI
March, 2020/Phalguna, 1941(Saka)

COMMITTEE ON SUBORDINATE LEGISLATION

(2019-2020)

(SEVENTEENTH LOK SABHA)

SECOND REPORT

(PRESENTED TO LOK SABHA ON 13.03.2020)



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

March, 2020/Phalguna, 1941(Saka)

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MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2019-2020)

Shri Raghurama Krishnaraju Kanumuru

Chairperson

Members

2. Prof. S. P. Singh Baghel
3. Shri Ajay Bhatt
4. Shri Jyotirmay Singh Mahato
5. Shri Pinaki Misra
6. Shri Chandeshwar Prasad
7. Shri Suresh Pujari
8. Shri A. Raja
9. Shri Nama Nageshwar Rao
10. Shri N. Uttam Kumar Reddy
11. Shri Sanjay Seth
12. Shri Mahendra Singh Solanky
13. Shri Su Thirunavukkarasar
14. Shri B. Manickam Tagore
15. Shri Ram Kripal Yadav

SECRETARIAT

1. Shri P.C.Tripathy - Joint Secretary
2. Shri Ajay Kumar Garg - Director
3. Shri Nabin Kumar Jha - Additional Director

INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Second Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 6.2.2020.

3. The Committee considered and adopted this Report at their sitting held on 5.3.2020.

4. For facility of reference and convenience, observations/recommendations 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 Minutes of the Eighth sitting of the Committee (2019-20) held on 6.2.2020 and Extracts from Minutes of the Eleventh Sitting of the Committee (2019-20) held on 5.3.2020 relevant to this Report are included in Appendix-II of the Report.

New Delhi;
5 March, 2020
15 Phalguna , 1941 (Saka)

RAGHURAMA KRISHNARAJU KANUMURU
Chairperson,
Committee on Subordinate Legislation

REPORT

PART-I

- (i) The Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Second Amendment Regulations, 2016 (Notification No. IRDA/Reg/24/136/2016).
- (ii) The Insurance Regulatory and Development Authority of India (Issuance of e-insurance policies) First Amendment Regulations, 2016 (Notification No. IRDAI/Reg/23/135/2016).
- (iii) The Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 (Notification No. IRDAI/Reg/9/121/2016).

The above mentioned Regulations were published in the Gazette of India, Extraordinary, Part-III, Section 4 in the year 2016. On scrutiny of the above regulations some infirmities were observed and the Ministry of Finance (Department of Financial Services) were requested to furnish their comments on the same. The infirmities observed and the comments so received from the Ministry therein are as under:-

Part-A

A. Discrepancy in the preamble and non-inclusion of foot-note in the regulations

1.2 In the regulations mentioned above at serial Nos. (i) and (ii), the particulars of principal regulations which have been amended by the extant regulations had not been mentioned in the preamble. Moreover, there was no foot-note normally appended in the case of amendment Rules/Regulations giving particulars of publications of the principal Rules/ Regulations and the subsequent amendment carried out therein for the purpose of easier referencing. The Ministry

concerned i.e. the Ministry of Finance were accordingly requested to specify the reasons for deviation from the normal practice followed in this regard and whether they have any objection in amending the Regulations to the above effect.

1.3 The Ministry of Finance (Department of Financial Services) *vide* their OM dated 13 June, 2018 submitted the following reply :-

"..... that as per section 114A of the Insurance Act, 1938 and Section 26 of IRDAI Act, 1999, the Insurance Regulatory and Development Authority of India (IRDAI) may, by Notification in the Official Gazette, make Regulations consistent with the Act and the Rules made there under, to carry out the purposes of the Act.

In view of the above, comments of IRDAI on the issues raised by the Committee are enclosed herewith."

The comments of the IRDAI as enclosed by the Ministry on the above issues are as follows:-

" It may be noted that particulars of the principal regulations proposed to be amended are given in the heading of the regulations by way of first and second amendment. However, no foot note giving particulars of publication of the principal regulation and the subsequent amendment is given.

The observations of the Honorable Committee has been noted and compliance of the same shall be ensured in future."

1.4 The Committee note that amendments were notified in the IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Llyod's) Regulations and the IRDAI (Issuance of e-insurance policies) Regulations in the year 2016. However, the details of the principal Regulations like the year of their publication or title were missing in the preamble. Moreover, there was no foot-note normally appended to the amendment Rules and Regulations etc. giving particulars of publication of the principal Rules or Regulations as the case may be, for the purpose of easier referencing. This requirement

has time and again been emphasized by the Committee on Subordinate Legislation in a number of Reports presented by them. The Committee in this regard note that on being pointed out about this infirmity, the Ministry of Finance (Department of Financial Services) have shifted the onus on IRDAI by stating that the extant Regulations have been framed and notified by them. The reply of the IRDAI as enclosed by the Ministry also does not satisfactorily explain the lapse while submitting that the observations of the Committee have been noted and compliance of the same shall be ensured in future. The Committee, therefore, recommend that the Ministry may issue suitable instructions to IRDAI for being more cautious in future while drafting the regulations so that such lapses are not repeated.

PART-B

(iii) **The Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 (Notification No. IRDAI/Reg/9/121/2016 dated 9.5.2016).**

A. Delay in publication of the above regulation in the Extraordinary Gazette

1.5 The above Regulations dated 13 April, 2016 were published in Gazette of India: Extraordinary, Part 3, Section 4, dated 9 May, 2016 i.e. after a gap of more than 25 days. As per the oft repeated procedural recommendation of the Committee on Subordinate Legislation, the Rules/Regulations published in the Extraordinary Gazette should be published on the same day or very next day on which these are sent for publication. The Ministry of Finance (Department of Financial Services) were accordingly requested to furnish their comments in this regard.

1.6 The Ministry of Finance (Department of Financial Services) vide their OM dated 13 June, 2018 stated that :

"It is hereby clarified that the said notification is published by the department of publication after payment made by IRDAI is received by them. The payment for the said notification was made on 13.4.2016. The amount was Rs. 1,47,000/- @ of Rs. 4900/- per full page for total 30 pages of the notification. Subsequently, it was informed by the department of Publication that the rates for publication of Advertisement/Notices in the gazette of India had been revised w.e.f 1.4.2016 vide their Office Order No. 761/O&M/2014-16 dated 1 April, 2016. As the rate per full page was increased to Rs. 5500/- from the previous Rs. 4900/- and there was a difference of Rs. 600/- per full page, the amount for payment was revised and payment was made on 4 May, 2016. The acknowledgment for receipt of payment by the department of Publication is dated 9.5.2016. Same is the date for publication of the said notification."

1.7 The Committee note that the Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 were published in extraordinary Gazette after a gap of more than 20 days. According to the Ministry, the IRDAI made a payment of Rs. 147000 @ Rs 4900 per page towards publication of the extant Notification was made to the Department of Publication by the IRDAI on 13.04.2016. However, due to the revision of rates of publication by the Department of Publication w.e.f. 1st April, 2016, @ Rs. 5500 per full page, which apparently was not known to the IRDAI, the extant Notification could not be published on the very same date. It was only after the receipt of the revised payment made by IRDAI on 4 May, 2016, the Notification was finally published on 9 May, 2016. Looking at the circumstances of the case, the Committee finds that it is responsibility of both the administrative and publishing departments to ensure timely notification of subordinate legislation. The grounds mentioned for delay are trivial in nature and the dispute relating to rules could have been settled promptly if both the departments would have keenly followed up the case. The Committee observe that timely publication of subordinate legislation is a matter of urgent importance and that ignorance is no defence in eyes of law. The Committee further opine that instead of delaying the publication of the important

Notification, the Department of Publication could have raised a claim for the balance payment from IRDAI as both the organizations are the wings of the Government of India. The Committee, therefore, recommend that the Department of Publication should publish the Rules/Regulations immediately and in case of any error in calculation of the cost of publication by the requisitioning Department, raise the claim for the balance amount from the party concerned. At the same time, the Committee would like the Ministry/ IRDAI to be more watchful in future in ascertaining the exact amount towards the cost of publication while making payment for publication of their Notifications. This will ensure that there are no delays in the publication of Notifications, particularly those being notified in the Gazette of India : Extraordinary.

B. Retrospective effect

1.8 The Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 were published on 9 May, 2016. However, as per commencement clause the same was to come into effect from 1 April, 2016 i.e. with retrospective effect. However, the requisite explanatory memorandum which are normally appended in such cases certifying that no one would be adversely affected by giving the retrospective effect to the Regulations was missing. The Ministry were, therefore, requested to state the rationale behind giving the retrospective effect to the regulations and the reasons for not appending the Explanatory Memorandum.

1.9 The Ministry of Finance (Department of Financial Services) vide their OM dated 13 June, 2018 stated that :

"Even though, clause 1(2) of the Regulations under consideration states that "These Regulations shall come into effect from 1 April, 2016....", contents of the Regulations

apply to quarterly Actuarial Valuations with effect from 30th July, 2016 and onward including statutory annual actuarial valuations for the year ended 31st March, 2017. Thus, it has a prospective impact. As such, in effect, no one has been adversely affected due to the gap period between 1.4.2016 and 9.5.2016. In view of the above, it is felt that no specific certificate may be required to be provided in this regard."

1.10 The Committee note that the Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 were published in the Gazette of India: Extraordinary on 9 May, 2016 and as per the commencement clause the Regulations were slated to come into effect from 1 April, 2016 i.e. with retrospective effect. The Committee, however, observe that the requisite explanatory memorandum which is normally appended in such cases certifying that no one would be adversely affected by giving the retrospective effect to the Regulations was missing. On being pointed out, the Ministry have tried to justify the absence of the explanatory memorandum submitting that the contents of the Regulations apply to quarterly Actuarial Valuations with effect from 30th July, 2016 and onward including statutory annual actuarial valuations for the year ending 31st March, 2017. Thus, it has a prospective impact and in effect, no one has been adversely affected due to the gap period between 1.4.2016 and 9.5.2016. The Ministry have, therefore, felt that no specific certificate was required to be provided in this regard. While not contesting the factual position given by the Ministry, the Committee feel that the same is not reflected in the commencement clause which otherwise should have indicated the date of commencement of Regulations as 30th July, 2016 instead of 1st April, 2016. In this regard the Committee would like to draw the specific attention of the Ministry/IRDAI to their earlier

recommendation contained in para 4.2-4.4 of their 5th Report (10th Lok Sabha) wherein the Committee reiterated that normally all "statutory Orders" should be published before the date of their enforcement or they should be enforced from the date of their publication. Even in cases where the Government has the power to give retrospective effect to subordinate legislation, such powers should be exercised only in unavoidable circumstances, and the rules/ regulations framed thereunder should in each case be accompanied by an explanatory note or memorandum affirming that no one was likely to be adversely affected as a result of retrospective effect given thereto. The Committee, therefore, recommend the Ministry/IRDAI to be more careful on all such aspects while drafting the Regulations so as to avoid recurrence of such kind of lapses in the future. The Committee further recommend that norms and procedures devised by the Committee in matters of framing of subordinate legislation should be followed by the Ministry.

PART-II

Infirmities in the Notification regarding All India Council for Technical Education (Clarifications on certain issues/anomalies pertaining to Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS) etc for Teachers and other Academic Staff of Technical Institutions (Degree/ Diploma), in the parent Regulations of 2016.

The above mentioned Notification was published in the Gazette of India, Part-III, Section 4 dated 6.1.2016 under number **F.No. 27/RIFD/Pay Scale/01/2013-14**. On scrutiny of the Notification, it was observed that in the nomenclature as contained in the short-title, the word 'Regulations' was missing before '2016' and moreover, the commencement clause indicating the date of coming into force of the extant Regulations was also missing. In view of the abnormalities so observed, the Ministry concerned i.e. the Ministry of Human Resource Development (Department of Higher Education) were requested to indicate the specific reasons for deviations from the normal practice followed in the Notification of the Rules/Regulations and also to state whether they have any objection in amending the Regulations to rectify the short-title and incorporate the date of commencement of Regulations.

2.2 The Ministry of Human Resource Development (Department of Higher Education) vide their OM dated 26 June, 2018 submitted the following reply :-

"Regarding the observations of Committee on Subordinate Legislation on the aforementioned regulation of AICTE and to state that :-

- (a) With regard to omission of the word "Regulation" before 2016 in the title clause of the notification dated 4.1.2016, it is stated that the word "Regulation" has already been mentioned in the beginning of title clause (a). The same has also been

mentioned in the Hindi version of the notification in short-title (a) as “□□□□□□”.

- (b) With regard to placing the date of commencement of the regulation at the end of the notification, it is stated that the notification dated 4.1.2016 has been issued in the form of clarifications based on several representations/queries received by AICTE regarding various anomalies/issues relating to Pay Scales, Qualifications and Service Conditions as prescribed in the main AICTE Regulations dated 5.3.2010 and 8.11.2012. (Career Advancement Scheme) (Degree/Diploma) for teachers and other academic staff in Technical Institutions.
- (c) It is further stated that in the main Regulations dated 5.3.2010 and 8.11.2012, there was a clear clause indicating that the respective regulations shall take effect from the date of issue. The clarifications contained in the subsequent regulation dated 4.1.2016 are to be read in continuation of the main regulations dated 5.3.2010 and 8.11.2012.

Henceforth, the Ministry does not consider any amendment in the existing regulation dated 4.1.2016. In future, the normal practice followed in the Notification of the Rules/Regulations shall be adhered to”.

2.3 After taking into consideration the above comments of the Ministry, the matter was again referred to the Ministry vide this Secretariat OM dated 9.10.2018 for obtaining their comments on following queries arising out there from :-

- (a) Whether the Notification is going to be a part of the parent Regulation or not?
- (b) The rationale behind publication of the clarification by way of Regulation; and
- (c) The precise statutory authority under the parent Act requiring publication of clarification on a statutory Notification and not treating the same as part of the parent Regulation.

2.4 In response, All India Council of Technical Education (AICTE) vide their Letter dated 11 June, 2019 submitted the following reply :-

- (a) Notification dated 4.1.2016 is part of the parent Regulation dated 5.3.2010 (Degree/Diploma) and 8.11.2012(CAS)(Degree/Diploma).
- (b) Notification is published due to anomalies arising out of publication of notifications dated 5.3.2010 & 8.11.2012 (CAS). The rationale behind publication of the clarification by way of Regulation dated 4.1.2016 is to inform the stakeholders that the clarifications to the anomalies to be implemented in the same spirit as the Regulations.
- (c) Question does not arise in view of reply given at (a) above.

2.5 The Committee note that in the statutory Notification titled 'All India Council for Technical Education (Clarifications on certain issues/anomalies pertaining to Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS) etc for Teachers and other Academic Staff of Technical Institutions (Degree/ Diploma) 2016' notified by the All India Council of Technical Education (AICTE) in exercise of the powers conferred under the All India Council for Technical Education Act, 1987, the short title did not contain the word 'Regulations' before '2016'. Moreover, the commencement clause indicating the date of coming into force of the extant Regulations was also missing in the aforesaid regulations. On being pointed out, the Ministry of Human Resource Development (Department of Higher Education) have tried to justify the omission of the word "Regulation" before 2016 in the title clause by stating that the word "Regulation" has already been mentioned in the beginning of title clause. As regards the absence of the date of commencement of the regulation, the Ministry have come out with the reply that the extant Notification has been issued in the form of clarifications based on several representations/ queries received by AICTE regarding various anomalies/issues relating to Pay Scales, Qualifications and Service Conditions as prescribed in the main AICTE Regulations dated 5.3.2010 and 8.11.2012.(Career Advancement Scheme) (Degree/Diploma) for teachers and other academic staff in Technical Institutions. The clarifications so furnished by the Ministry to justify the deviations from the normal practice followed in the drafting of the statutory Rules/ regulations do not appear to be satisfactory. This is so because the nomenclatures 'Act', 'Rules' 'Regulation' etc. as the case may be, affixed before the year of incorporation in the short title are the essential ingredients of any statute as well as the 'statutory order'. Similarly, the date of commencement of such statutory Notifications is invariably indicated by way of a commencement clause regarding the date of their coming into force. As the extant Notification is clearly a statutory Notification published under the powers conferred by the AICTE Act, 1987 and according to the Ministry' own admission that it is going to be a part of the parent Regulations published in

the year 2010 it becomes amply clear that the Ministry have erred in justifying their omissions. It is also not clear whether the extant Notification was got vetted by the Legislative Department of the Ministry of Law and Justice. It needs to be emphasized that statutory orders made under the powers conferred by the Acts of Parliament are to be drafted very carefully with due regard to all the associated procedural aspects. The Committee, therefore, recommend that for the sake of clarity and removal of anomalies, the Ministry may issue a corrigendum to the extant Notification in respect of the above discussed shortcomings. Further, to avoid recurrence of such lapses in the future, all such statutory Notifications may duly be got vetted by the Ministry of Law & Justice before their publication in the official Gazette. In this regard the Committee trust the assurance given by the Ministry that the normal practice followed in the Notification of the Rules/Regulations shall be adhered to in future.

New Delhi;
5 March, 2020
15 Phalguna , 1941 (Saka)

RAGHURAMA KRISHNARAJU KANUMURU
Chairperson,
Committee on Subordinate Legislation

APPENDIX I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE SECOND REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTEENTH LOK SABHA)

| Sl.No. | Reference to Para No. in the Report | Summary of Recommendations |
|--------|-------------------------------------|--|
| 1 | 1.4 | <p>(i)The Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Llyod's) Second Amendment Regulations, 2016 (Notification No. IRDA/Reg/24/136/2016) (ii) The Insurance Regulatory and Development Authority of India (Issuance of e-insurance policies) First Amendment Regulations, 2016 (Notification No. IRDAI/Reg/23/135/2016) (iii) The Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 (Notification No. IRDAI/Reg/9/121/2016).</p> <p>The Committee note that amendments were notified in the IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Llyod's) Regulations and the IRDAI (Issuance of e-insurance policies) Regulations in the year 2016. However, the details of the principal Regulations like the year of their publication or title were missing in the preamble. Moreover, there was no foot-note normally appended to the amendment Rules and Regulations etc. giving particulars of publication of the principal Rules or Regulations as the case may be, for the purpose of easier referencing. This requirement has time and again been emphasized by the Committee on Subordinate Legislation in a number of Reports presented by them. The Committee in this regard note that on being pointed out about this infirmity, the Ministry of Finance (Department of Financial Services) have shifted the onus on IRDAI by stating that the extant Regulations have been framed and notified by them. The reply of the IRDAI as</p> |

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| | 1.7 | <p>enclosed by the Ministry also does not satisfactorily explain the lapse while submitting that the observations of the Committee have been noted and compliance of the same shall be ensured in future. The Committee, therefore, recommend that the Ministry may issue suitable instructions to IRDAI for being more cautious in future while drafting the regulations so that such lapses are not repeated.</p> <p>The Committee note that the Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 were published in extraordinary Gazette after a gap of more than 20 days. According to the Ministry, the IRDAI made a payment of Rs. 147000 @ Rs 4900 per page towards publication of the extant Notification was made to the Department of Publication by the IRDAI on 13.04.2016. However, due to the revision of rates of publication by the Department of Publication w.e.f. 1st April, 2016, @ Rs. 5500 per full page, which apparently was not known to the IRDAI, the extant Notification could not be published on the very same date. It was only after the receipt of the revised payment made by IRDAI on 4 May, 2016, the Notification was finally published on 9 May, 2016. Looking at the circumstances of the case, the Committee finds that it is responsibility of both the administrative and publishing departments to ensure timely notification of subordinate legislation. The grounds mentioned for delay are trivial in nature and the dispute relating to rules could have been settled promptly if both the departments would have keenly followed up the case. The Committee observe that timely publication of subordinate legislation is a matter of urgent importance and that ignorance is no defence in eyes of law. The Committee further opine that instead of delaying the publication of the important Notification, the Department of Publication could have raised a claim for the balance payment from IRDAI as both the organizations are the wings of the Government of India. The Committee, therefore, recommend that the Department of Publication should publish the Rules/Regulations immediately and in case of any error in calculation of the cost of publication by the requisitioning</p> |
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Department, raise the claim for the balance amount from the party concerned. At the same time, the Committee would like the Ministry/ IRDAI to be more watchful in future in ascertaining the exact amount towards the cost of publication while making payment for publication of their Notifications. This will ensure that there are no delays in the publication of Notifications, particularly those being notified in the Gazette of India : Extraordinary.

The Committee note that the Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 were published in the Gazette of India: Extraordinary on 9 May, 2016 and as per the commencement clause the Regulations were slated to come into effect from 1 April, 2016 i.e. with retrospective effect. The Committee, however, observe that the requisite explanatory memorandum which is normally appended in such cases certifying that no one would be adversely affected by giving the retrospective effect to the Regulations was missing. On being pointed out, the Ministry have tried to justify the absence of the explanatory memorandum submitting that the contents of the Regulations apply to quarterly Actuarial Valuations with effect from 30th July, 2016 and onward including statutory annual actuarial valuations for the year ending 31st March, 2017. Thus, it has a prospective impact and in effect, no one has been adversely affected due to the gap period between 1.4.2016 and 9.5.2016. The Ministry have, therefore, felt that no specific certificate was required to be provided in this regard. While not contesting the factual position given by the Ministry, the Committee feel that the same is not reflected in the commencement clause which otherwise should have indicated the date of commencement of Regulations as 30th July, 2016 instead of 1st April, 2016. In this regard the Committee would like to draw the specific attention of the Ministry/IRDAI to their earlier recommendation contained in para 4.2-4.4 of their 5th Report (10th Lok Sabha) wherein the Committee reiterated that normally all "statutory Orders" should be published before the date of their enforcement or they should be enforced from the date of their publication. Even in cases

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| | | <p>where the Government has the power to give retrospective effect to subordinate legislation, such powers should be exercised only in unavoidable circumstances, and the rules/ regulations framed thereunder should in each case be accompanied by an explanatory note or memorandum affirming that no one was likely to be adversely affected as a result of retrospective effect given thereto. The Committee, therefore, recommend the Ministry/IRDAI to be more careful on all such aspects while drafting the Regulations so as to avoid recurrence of such kind of lapses in the future. The Committee further recommend that norms and procedures devised by the Committee in matters of framing of subordinate legislation should be followed by the Ministry.</p> |
| 2 | 2.5 | <p>Infirmities in the Notification regarding All India Council for Technical Education (Clarifications on certain issues/anomalies pertaining to Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS) etc for Teachers and other Academic Staff of Technical Institutions (Degree/ Diploma), in the parent Regulations of 2016.</p> <p>The Committee note that in the statutory Notification titled 'All India Council for Technical Education (Clarifications on certain issues/anomalies pertaining to Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS) etc for Teachers and other Academic Staff of Technical Institutions (Degree/ Diploma) 2016' notified by the All India Council of Technical Education (AICTE) in exercise of the powers conferred under the All India Council for Technical Education Act, 1987, the short title did not contain the word 'Regulations' before '2016'. Moreover, the commencement clause indicating the date of coming into force of the extant Regulations was also missing In the aforesaid regulations. On being pointed out, the Ministry of Human Resource Development (Department of Higher Education) have tried to justify the omission of the word "Regulation" before 2016 in the title clause by stating that the word "Regulation" has already been mentioned in the beginning of title clause. As regards the</p> |

absence of the date of commencement of the regulation, the Ministry have come out with the reply that the extant Notification has been issued in the form of clarifications based on several representations/ queries received by AICTE regarding various anomalies/issues relating to Pay Scales, Qualifications and Service Conditions as prescribed in the main AICTE Regulations dated 5.3.2010 and 8.11.2012.(Career Advancement Scheme) (Degree/ Diploma) for teachers and other academic staff in Technical Institutions. The clarifications so furnished by the Ministry to justify the deviations from the normal practice followed in the drafting of the statutory Rules/ regulations do not appear to be satisfactory. This is so because the nomenclatures 'Act', 'Rules' 'Regulation' etc. as the case may be, affixed before the year of incorporation in the short title are the essential ingredients of any statute as well as the 'statutory order'. Similarly, the date of commencement of such statutory Notifications is invariably indicated by way of a commencement clause regarding the date of their coming into force. As the extant Notification is clearly a statutory Notification published under the powers conferred by the AICTE Act, 1987 and according to the Ministry' own admission that it is going to be a part of the parent Regulations published in the year 2010 it becomes amply clear that the Ministry have erred in justifying their omissions. It is also not clear whether the extant Notification was got vetted by the Legislative Department of the Ministry of Law and Justice. It needs to be emphasized that statutory orders made under the powers conferred by the Acts of Parliament are to be drafted very carefully with due regard to all the associated procedural aspects. The Committee, therefore, recommend that for the sake of clarity and removal of anomalies, the Ministry may issue a corrigendum to the extant Notification in respect of the above discussed shortcomings. Further, to avoid recurrence of such lapses in the future, all such statutory Notifications may duly be got vetted by the Ministry of Law & Justice before their publication in the official Gazette. In this regard the Committee trust the assurance given by the Ministry that the normal practice followed in the Notification of the Rules/Regulations shall be adhered to in

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| | | future. |
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APPENDIX II

(Vide Para 5 of the Introduction of the Report)

EXTRACTS FROM MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2019-2020)

—

The eighth sitting of the Committee (2019-20) was held on Thursday, the 6th February, 2020 from 1500 to 1530 hours in Chairperson's Chamber, Room No. 209, Extension Building, Parliament House Annexe, New Delhi.

PRESENT

1. Shri Raghurama Krishnaraju Kanumuru Chairperson

MEMBERS

2. Shri Ajay Bhatt
3. Shri Pinaki Misra
4. Shri Chandeshwar Prasad
5. Shri A. Raja
6. Shri Nama Nageshwar Rao
7. Shri Sanjay Seth
8. Shri B. Manickam Tagore

SECRETARIAT

1. Shri Ajay Kumar Garg - Director

2. Shri Nabin Kumar Jha - Additional Director

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee (2019-20). The Committee, thereafter, considered the following Memoranda:-

(i) **Memorandum No. 2** - (a) The Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Second Amendment Regulations, 2016 (Notification No. IRDA/Reg/24/136/2016). (b) The Insurance Regulatory and Development Authority of India (Issuance of e-insurance policies) First Amendment Regulations, 2016 (Notification No. IRDAI/Reg/23/135/2016). (c) The Insurance Regulatory and Development Authority of India (Assets, Liabilities, and Solvency Margin of Life Insurance Business) Regulations, 2016 (Notification No. IRDAI/Reg/9/121/2016).

(ii) **Memorandum No. 3** - Infirmities in the Notification regarding 'All India Council for Technical Education (Clarifications on certain issues/anomalies pertaining to Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS) etc for Teachers and other Academic Staff of Technical Institutions (Degree/Diploma), in the parent Regulations of 2016.

(iii) XX XX XX XX

(iv) XX XX XX XX

3. After deliberations, the Committee decided to incorporate the points raised in the Memoranda Nos. 2 to 5 in their Reports to be formulated in this regard.

The Committee then adjourned.

EXTRACTS FROM MINUTES OF THE ELEVENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2019-2020)

The eleventh sitting of the Committee (2019-20) was held on Thursday, the 5th March, 2020 from 1500 to 1530 hours in Chairperson's Chamber, Room No. 209, Extension Building, Parliament House Annexe, New Delhi.

PRESENT

1. Shri Raghurama Krishnaraju Kanumuru Chairperson

MEMBERS

2. Prof. S. P. Singh Baghel
3. Shri Ajay Bhatt
4. Shri Jyotirmay Singh Mahato
5. Shri Chandeshwar Prasad
6. Shri Suresh Pujari
7. Shri A.Raja
8. Shri Nama Nageshwar Rao
9. Shri Mahendra Singh Solanky
10. Shri Su Thirunavukkarasar
11. Shri Ram Kripal Yadav

SECRETARIAT

1. Shri Ajay Kumar Garg - Director
2. Shri Nabin Kumar Jha - Additional Director
3. Smt. Jagriti Tewatia - Additional Director

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

(i) XX XX XX XX

(ii) Draft Second Report of the Committee on Subordinate Legislation based on the infirmities observed by the Committee during examination of 'Statutory Orders' notified by the Ministries of Finance and Human Resource Development under delegated legislation.

(iii) XX XX XX XX

3. After deliberations, the Committee adopted the same without any modification. The Committee also authorized the Chairperson to present the same to the House.

4. XX XX XX XX

The Committee then adjourned.

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

