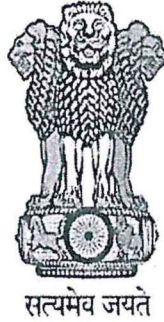


COMMITTEE ON SUBORDINATE LEGISLATION
(2021-2022)

(SEVENTEENTH LOK SABHA)

SEVENTEENTH REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE EIGHTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA) ON "THE CUSTOMS BROKERS LICENSING REGULATIONS, 2018 [G.S.R. No.451(E) OF 2018".



LOK SABHA SECRETARIAT
NEW DELHI
February, 2022/ Magha, 1943 (Saka)

COMMITTEE ON SUBORDINATE LEGISLATION

(2021-2022)

(SEVENTEENTH LOK SABHA)

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(PRESENTED TO LOK SABHA ON 08.02.2022)



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

February, 2022/ Magha, 1943 (Saka)

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MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2021-2022)

Shri Balashowry Vallabhaneni

Chairperson

Members

2. Shri Jyotirmay Singh Mahato
3. Shri Pinaki Mishra
4. Shri Chandeshwar Prasad
5. Shri N.K.Premachandran
6. Shri Suresh Pujari
7. Shri A.Raja
8. Shri Nama Nageshwar Eao
9. Shri Sanjay Seth
10. Shri Mahendra Singh Solanki
11. Shri Su Thirunavukkarasar
12. Shri B.Manickam Tagore
13. Shri Ram Kripal Yadav
14. Vacant
15. Vacant

SECRETARIAT

1. Shri R.C.Tiwari - Additional Secretary
2. Shri T.S. Rangarajan - Director
3. Smt. Jagriti Tewatia - Additional Director
4. Shri S.Lalengzau Ngaihte - Under Secretary

INTRODUCTION

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

2. This Report relates to the action taken on the Observations/Recommendations of the Committee contained in the Eighth Report (2020-2021) (Seventeenth Lok Sabha) which was presented to Lok Sabha on 23.03.2021.

3. The Committee considered and adopted this Report at their sitting held on 15.12.2021

4. The summary of recommendations contained in the Eighth Report and action taken reply of the Government thereon have been reproduced in Part-II (Appendix-I) of the Report.

5. The Extracts of the Minutes of the Eight 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 Eighth Report of the Committee (Seventeenth Lok Sabha) is given in Appendix III of the Report.

New Delhi;
February, 2022
Magha, 1943 (Saka)

BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation

REPORT

This Report of the Committee on Subordinate Legislation (2020-2021) deals with the action taken by the Government on the Observations/Recommendations contained in the Eighth Report (Seventeenth Lok Sabha) of the Committee which was presented to Lok Sabha on 23.03.2021. The Eighth Report dealt with the Regulations pertaining to "The Customs Brokers Licensing Regulations, 2018 [G.S.R.No.451 (E) of 2018]".

2. The shortcomings were noticed in the Customs Brokers Licensing Regulations, 2018 [G.S.R.No.451(E) of 2018]. The Committee examined the matter and the Observations/Recommendations made by the Committee in respect of these shortcomings were given in paras 3 and 4 of the Eighth Report (17th Lok Sabha). The Report, after presentation was forwarded to the Ministry of Finance (Department of Revenue) for implementation of the recommendations contained therein. The Ministry of Finance (Department of Revenue) vide their OM No. 520/07/2013-Cus.VI(Vol.III) dated 16th August, 2021 furnished their action taken replies on all the Observations/Recommendations contained in the Report. A statement showing the Observations/Recommendations made by the Committee and Action Taken by the Government on the same is given in Part II of the Report.

3. Replies to the observations/recommendations contained in the Report have broadly been categorized as follows:-

- | | | |
|-------|--|-----------|
| (i) | Observations/Recommendations which have been accepted by the Government | |
| | Sl. Nos. 3 and 4 | Total 2 |
| (ii) | Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply. | |
| | Sl.No. Nil | Total Nil |
| (iii) | Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee | |
| | Sl. No. Nil | Total Nil |
| (iv) | Observation/Recommendation in respect of which final reply of the Government is still awaited | |
| | Sl. No. Nil | Total Nil |

4. The main Observations/Recommendations made by the Committee in its Eighth Report (17th Lok Sabha) pertaining to "The Customs Brokers Licensing Regulations, 2018 [G.S.R.No.451 (E) of 2018]" (Seventeenth Lok Sabha) and the action taken thereon by the Ministry of Finance (Department of Revenue) are briefly as follows:-

Difference in printed texts of Regulations 13 and 14:

The Committee noted that in the Customs Brokers Licensing Regulations, 2018 (GSR 451 E) dated 14 May, 2018 published in the Gazette of India, Extraordinary, Part-II, Sec 3(i) dated 14 May, 2018, there are difference in the text of Regulations number 13 and 14 printed in the English and Hindi versions of the Gazette. On being pointed out to the Ministry of Finance (Department of Revenue), the Ministry in their reply dated 5 July, 2019 had submitted that, no discrepancies have been noticed in the Hindi version of the gazette copy. However, certain discrepancies as pointed out, have been noticed in the English version of the Gazette copy. The Ministry had further submitted that necessary action is being taken to rectify the discrepancies. The Committee had noted with concern that, Ministry's reply was quite evasive and had been given in perfunctory manner as their reply didn't reflect as to what discrepancies had been finally observed by the Ministry which were to be rectified by them. In the opinion of the Committee, this lackadaisical approach of the Ministry was the reason for occurrence of errors in printing. Further it was also noted that, the discrepancies as noted by the Ministry had also not been corrected in the gazette till date. The Committee had, therefore, strongly deplored the Ministry's casual approach, lack of planning and follow up action in the matter of printing Statutory Orders with the seriousness it deserved. The Committee had, therefore, desired that the Ministry to take corrective measures on priority and apprise the Committee about the measures adopted by them to avoid occurrence of such errors in Printing of Statutory Orders in future. The Ministry of Finance (Department of Revenue) in their Action Taken Reply submitted that, they respectfully accept that it is their responsibility to verify whether the published Gazette version of Customs Brokers Licensing Regulations, 2018 is correct. Further, in order to ensure that such oversight is not repeated in future, remedial measures have been taken by issuing of an Office Order dated 09.08.2021 directing all Under Secretary level officers to verify the correctness of the Gazette version of all notifications issued by their respective sections immediately after publication of the same.

The Ministry further submitted that in regard to the subject oversight pointed out by the Hon'ble Committee, their office did its due diligence and consulted the Ministry of Law and Justice for the right course of action and as advised, issued a Corrigendum dated 30.06.2021 weeding out all discrepancies from the Gazette version (in English) of Notification 41/2018-Cus (NT) dated 14.05.2018 i.e. Customs Brokers Licensing Regulations, 2018.

5. The Committee are satisfied to note that the Ministry of Finance (Department of Revenue) have resolved to rectify the shortcomings pointed out to them and have taken remedial measures by issuing of an Office Order dated 09.08.2021 by which the Ministry have directed all officers of the level of Under Secretary to verify the correctness of the Gazette version of all notifications issued by their respective sections immediately after publication of the same. The Ministry has further submitted that a Corrigendum dated 30.06.2021 have been issued weeding out all discrepancies from the Gazette version (in English) of Notification 41/2018-Cus (NT) dated 14.05.2018 i.e. Customs Brokers Licensing Regulations, 2018. The Committee also note that Gazette notification G.S.R.466 (E) dated 30 June, 2021 has been issued to resolve the infirmities in the above Regulations. A statement showing the Action Taken by the Government on the Recommendations contained in the Eighth Report (17thLok Sabha) is given in Appendix-I.

New Delhi;
February, 2022
Magha, 1943 (Saka)

BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation

Annexure

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF EXCISE AND CUSTOMS)

CORRIGENDA

New Delhi, the 30th June, 2021

G.S.R 466(E).—In the notification of the Government of India in the Ministry of Finance (Department of Revenue), Notification No. 41/2018-Customs (N.T.) published in the Gazette of India, Extraordinary, Part-II, Section- 3, Sub-section (i) vide number G.S.R.451(E), dated the 14th May, 2018;—

(i)

Page No.	Line(s) No.	for	read
22	21-42	“(क), (ख), (ग), (घ), (ङ), (च), (छ), (ज), (झ), (ञ), (ट) and (ठ)”	(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) respectively
23	36	(4)	(3)
25	12	(5)	(2)
25	28	(6)	(3)
25	33	(7)	(4)
28	9-43	2., 3., 4., 5., 6., 7., 8., 9., 10.	(2), (3), (4), (5), (6), (7), (8), (9) and (10) respectively
28	41	(4)	(5)

(ii) in page 28, for lines 46 to 51, read

“(11) Any change in the persons issued a F card or G card or H card and actually engaged in the work in the Customs Station on behalf of a licensee firm or company shall be communicated forthwith by the firm or the company, as the case may be, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, and no new person other than 'F', 'G' or 'H' card holders, shall be allowed to work in the Customs Station as a duly authorised employee on behalf of that firm or company.

(12) The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment.”

14. Revocation of licence or imposition of penalty—The Principal Commissioner or Commissioner of Customs may, subject to the provisions of regulation 17, revoke the license of a Customs Broker and order for forfeiture of part or whole of security, on any of the following grounds, namely:—

- failure to comply with any of the conditions of the bond executed by him under regulation 8;
- failure to comply with any of the provisions of these regulations, within his jurisdiction or anywhere else;
- commits any misconduct, whether within his jurisdiction or anywhere else which in the opinion of the Principal Commissioner or Commissioner of Customs renders him unfit to transact any business in the Customs Station;
- adjudicated as an insolvent;
- of unsound mind; and
- convicted by a competent court for an offence involving moral turpitude or otherwise.”

(iii) in page 29 omit lines 1 to 6.

[F. No. 520/07/2013- Cus.VI(Vol.III)]
KEVIN BOBAN, Under Secy.

Part-II
(Appendix-I)

(Vide Para 4 of the Introduction of the Report)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE EIGHTH REPORT OF THE COMMITTEE (17th LOK SABHA) ON "THE CUSTOMS BROKERS LICENSING REGULATIONS, 2018 [G.S.R.No.451(E) of 2018".

The Customs Brokers Licensing Regulations, 2018.

Observations/ Recommendations of the Committee

The Committee note that the Customs Brokers Licensing Regulations,2018 (GSR 451 E) dated 14 May,2018 was published in the Gazette of india, Extraordinary, Part-II, Sec 3(i) dated 14 may,2018. On scrutiny of the Gazette Notification, difference in the text of Regulation number 13 and 14 printed in the English and Hindi versions of the Gazette were noticed. On being pointed out to the Ministry of Finance (Department of Revenue), the Ministry in their reply dated 5 July,2019 submitted that, no discrepancies have been noticed in the Hindi version of the gazette copy. However, certain discrepancies as pointed, have been noticed in the English version of the Gazette copy. The Ministry further submitted that necessary action is being taken to rectify the discrepancies.

(Para 3 of the Report)

The Committee note with concern that Ministry's reply is quite evasive and has been given in perfunctory manner as their reply didn't reflect as to what discrepancies have been finally observed by the Ministry which will be rectified by them. In the opinion of the Committee, this lackadaisical approach of the Ministry is the reason for occurrence of errors in printing and publication of important statutory orders, which should have been taken seriously. The Committee point out that the responsibility of the Ministry doesn't end after sending the important piece of Legislation for printing and are of the firm opinion that the Ministry should check scrupulously the final copy of the E-Gazette both in Hindi and English version so as to ensure that the same is error free. The Committee express their surprise that even after being pointed out the specific discrepancies and patent errors, the Ministry have not bothered to correct the discrepancies as noted by them in the English version of the E-Gazette published by the Directorate of Printing under the Ministry of Housing and Urban Affairs. The Committee has taken note that as on date also, clause (12) of Regulation No.13 the heading and first 3 lines of Regulation No.14 are missing in the English

version of the Customs Brokers Licensing Regulation, 2018 e-published vide GSR 451 (E) of 2018. In the view of the Committee, this may be construed as a glaring mistake because the grounds given under Regulation 14 regarding 'Revocation of License or Imposition of Penalty' are being reflected under Regulation 13 pertaining to engagement or employment of persons in the e-gazette. In the opinion of the Committee, the Ministry have failed to recognize the importance of Rules/Regulations being framed upon the Legislation passed by the Parliament and if such Rules/Regulations are being printed erroneously, it would have had tremendous adverse impact in implementation of laws and at times may lead to avoidable litigations. The Committee, therefore, strongly deplore the Ministry's casual approach, lack of planning and follow up action in the matter of printing Statutory Orders with the seriousness it deserved. The Committee, therefore, desire the Ministry to take corrective measure on priority and apprise the Committee about the measures adopted by them to avoid occurrence of such errors in Printing of Statutory Orders in future.

(Para 4 of the Report)

REPLY OF THE MINISTRY

In this regard, it is submitted that this office respectfully accepts that it is its responsibility to verify whether the published Gazette version of Customs Brokers Licensing Regulations, 2018 is correct. Further, in order to ensure that such oversight is not repeated in future, remedial measures have been taken by issue of an Office Order dated 09.08.2021 (copy attached) directing all Under Secretary level officers to verify the correctness of the Gazette version of all notifications issued by their respective sections immediately after publication of the same.

In regard to the subject oversight pointed out by the Hon'ble Committee, this office did its due diligence and consulted the Ministry of Law for the right course of action and as advised, issued a Corrigendum dated 30.06.2021 weeding out all discrepancies from the Gazette version (in English) of Notification 41/2018-Cus (NT) dated 14.05.2018 i.e. Customs Brokers Licensing Regulations, 2018. Copy of the said notification is enclosed herewith. It is added that the Ministry of Law also opined that the timeline of 30 days for issuing a corrigendum relates to rectification of the mismatch in the 'year' shown in the short titles of Rules, Regulations etc. and the year of publication of the rules, whereas in the present case there are inadvertent typographical error because of the omission or accidental slip committed in publication of the Notification in the gazette.

(Ministry of Finance, Department of Revenue)
(Central Board of Indirect Taxes & Customs)
OM F. No. 520/07/2013-Cus VI(Vol.III)
Dated: 16th August, 2021

(Appendix-II)
(Vide Para 5 of the Introduction of the Report)

EXTRACTS FROM MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2021-2022)

The eighth sitting of the Committee (2021-22) was held on Wednesday, the 15th December, 2021 from 1500 to 1715 hours in Committee Room No. B, Parliament House Annexe, New Delhi

PRESENT

1. Shri Balashowry Vallabhaneni Chairperson

MEMBERS

1. Shri Chandeshwar Prasad
2. Shri N.K. Premachandran
3. Shri Suresh Pujari
4. Shri A. Raja
5. Shri Nama Nageshwar Rao
6. Shri Sanjay Seth
7. Shri Ram Kripal Yadav

SECRETARIAT

1. Shri R.C.Tiwari - Joint Secretary
2. Shri T.S. Rangarajan - 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) XX XX XX XX

(iii) The Seventeenth Report on action Taken by the Government on the Observations/Recommendations contained in the Eighth Report of the Committee on Subordinate Legislation (Seventeenth Lok Sabha) on the Customs Brokers Licensing Regulations, 2018 [G.S.R. no.451(E) of 2018;and

(iv) 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

5. XX XX XX XX

6. XX XX XX XX

7. XX XX XX XX

8. XX XX XX XX

9. XX XX XX XX

The Committee then adjourned.

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

APPENDIX-III

(vide Para 6 of Introduction of the Report)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE EIGHTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA)

I	Total No. of observations/recommendations made	2
II	Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos.3 and 4]	2
	Percentage of total	100%
III	Recommendations which the Committee do not want to pursue in view of Government reply	Nil
	Percentage of total	0%
IV	Recommendations in respect of which replies of the Government have not been accepted by the Committee.	Nil
	Percentage of total	0%
V	Recommendations in respect of which final replies of Government are still awaited	Nil
	Percentage of total	0%