

COMMITTEE ON SUBORDINATE LEGISLATION**(2022-2023)****(SEVENTEENTH LOK SABHA)****TWENTY-SIXTH REPORT**

**STATUS OF FRAMING OF SUBORDINATE LEGISLATION VIZ.
RULES/REGULATIONS ETC. UNDER VARIOUS ACTS BEING
ADMINISTERED BY THE DEPARTMENT OF DEFENCE IN THE MINISTRY
OF DEFENCE, GOVERNMENT OF INDIA**

(PRESENTED TO LOK SABHA ON 24.03.2023)

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MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2022-2023)

Shri Balashowry Vallabhaneni Chairperson

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3. Shri Pinaki Mishra
4. Dr. Pritam Gopinath Rao Munde
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1. Shri Vinay Kumar Mohan - Joint Secretary
2. Shri Muraleedharan.P - Director
3. Smt. Jagriti Tewatia - Additional Director
4. Shri S Lal Engzau 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 Twenty-sixth Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 03.06.2022 during which oral briefing by the representatives of Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) was taken.

3. The Committee considered and adopted this Report at their sitting held on 23.03. 2023.

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. Extract of the Minutes of the Twenty-fifth sitting of the Committee (2021-2022) held on 03.06.2022 and Extracts from Minutes of the Twelfth sitting of the Committee (2022-23) held on 23.03.2023 relevant to this Report are included in Appendix-II of the Report.

**New Delhi;
23 March, 2023
02 Chaitra, 1945 (Saka)**

**BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation**

REPORT

STATUS OF FRAMING OF SUBORDINATE LEGISLATION VIZ. RULES/REGULATIONS/STATUTES/ORDINANCES ETC. UNDER THE NATIONAL INSTITUTE OF DESIGN ACT, 2014 AS AMENDED IN 2019.

A. INTRODUCTORY

In a modern welfare state, governmental activity has pervaded almost every field of human endeavour, thus, necessitating enactment of multifarious laws to regulate this ever-widening activity. However, the Legislature does not have enough time to deliberate upon, discuss and approve every detail of legislation. Moreover, it is difficult for the legislature to foresee all future contingencies and the flexibilities, the executive authorities may require to deal with the situations. In the nature of things, what the Legislature does, and can do, is to lay down the policy and the objective of any legislation in hand, leaving it to the Executive to frame, in conformity with those principles, formal and procedural details of the legislative measure in the form of orders/rules known as subordinate legislation.

Meaning of the term "subordinate legislation"

2. The term "subordinate legislation" refers to notifications, orders, schemes, rules and bye-laws as defined in Sections 20 and 21 of the General Clauses Act 1897. In the Indian context, the term subordinate legislation refers to rules, regulations, orders, schemes, bye-laws, statutes, ordinances, notifications or any instrument framed under an Act of Parliament or the Constitution. Such subordinate legislations have to be published in the Gazette of India and laid on the Table of both Houses of Parliament, as it affords an opportunity to Members of Parliament, if they so desire, to move amendments or modifications to such "Order", including a Motion for their annulment.

Committee on Subordinate Legislation and its Role

3. As subordinate legislation has become an important constituent element of legislation, the role of legislature has also become equally important to monitor and examine that the subordinate legislation is in accordance with the spirit of the Act or Constitution and also to keep a proper check on the executive exceeding its powers provided under the Acts of Parliament or the Constitution. Legislation is an inherent and inseparable right of Parliament and it has to ensure that this power is neither usurped nor transgressed under the guise of subordinate legislation. The Committee on Subordinate Legislation, Lok Sabha is one such instrument and it is constituted to scrutinize and report to the House whether the powers to make rules, regulations, bye-laws, schemes or other statutory instruments conferred by the Constitution or delegated by Parliament have been properly exercised within such conferment or delegation as the case may be.

4. It is important that legislature must retain in its own hands the essential legislative functions which consist in declaring the legislative policy and laying down the standard which is to be enacted into rule of law, and what can be delegated is

the task of subordinate legislation, which by its own nature ancillary to the Statute, which delegates the power to make it.

Important Recommendations of the Committee with regard to framing of subordinate legislation

5. A Statute can be fully enforced only when all the subordinate legislation stipulated under the Act is framed in time. The Committee, while carrying out its work, has found that the Ministries have taken considerable time in framing of the rules/regulations and therefore the Acts remain unimplemented or partially implemented. The Committee has, therefore, made very important recommendations/observations regarding the delay in framing of rules/regulations by the Ministries. The Committee in its 5th Report presented on 5th May, 1959 has recommended as follows;

"34. The Committee consider that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. If no rules are framed within a reasonable period after the commencement of the Act the Committee will take up the matter with the Ministry concerned and report to the House the cases where it is felt that undue delay has occurred in framing the rules."

6. The Committee has further recommended in para 108 of its 18th Report (Fifth Lok Sabha), that in case a Ministry is not able to adhere to this time limit of 6 months for framing of rules/regulations/bye-laws etc., then should seek extension of time for completing the rule-making process. The recommendation of the Committee reads as follows:

"The Committee restress their earlier recommendation that, ordinarily Rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed 6 months. In case, however, a Ministry/Department finds that for any unavoidable reason it is not possible for them to adhere to the prescribed time-limit in an exceptional Case, they should at the expiration of 6 months from the commencement of the relevant Acts, explain the reasons to the Committee and seek a specific extension of time from them".

7. The Committee, however, found that most of the Ministries do not adhere to the time limit of six months prescribed by it for framing of rules/regulations. The Committee noted that delay in framing of rules has become a recurring phenomenon and the matters which are sought to be governed by statutory rules, are often in actual practice governed by executive directions of guidelines etc. in absence of properly framed statutory rules. Thus to ensure timely framing of rules under the Acts passed by the Parliament, the Committee, in its 24th Report (10th Lok Sabha) presented on 6th March, 1996 recommended as under:-

- "1. The framing of draft rules should be initiated simultaneously with the drafting of the proposed Bill so that the draft rules become ready by the time the Bill is introduced in the House.
2. Whenever a Bill is introduced in parliament and in particular those Bills which propose setting up a Commission or Tribunal, there should be a 'Note' in the Memorandum of Delegated legislation appended to the Bill to the effect that the draft rules have also been prepared under that Bill.
3. To overcome undue delays on account of protracted inter-ministerial correspondence or where consultation with the Ministry of Law or other Ministries/Departments is involved the concerned Ministry should convene meetings of all the concerned agencies so that the matters could be sorted out at the earliest without entering into protracted correspondence.
4. In this context the Committee gave some thought to the idea of each Ministry/Department of the Government having the services of a Law officer exclusively for itself for framing/vetting the rules.

The Law officer can be from the Ministry of Law who could be taken on deputation by the concerned Ministry. The Committee has already consulted few Ministries which have reacted positively to this proposal. The Committee feel that such an arrangement would certainly obviate the need for each Ministry/Department to approach the Ministry of Law every time there is a need to formulate/vet rules, and avoid the consequent delay.

The Committee, therefore, desired that all the Ministries/ Departments of Government of India should ensure strict compliance of the aforesaid recommendations of the Committee with a view to ensure timely framing of rules under the Acts passed by the Parliament.”

8. The Committee repeatedly reiterated its recommendation for framing of rules under the Act within six months in its 18th Report (5th Lok Sabha), 8th Report (6th Lok Sabha), 4th and 13th Reports (8th Lok Sabha), 1st and 13th Report (14th Lok Sabha), 27th and 31st Reports (15th Lok Sabha). The Committee had also recommended in para 21 of their 4th Report of 8th Lok Sabha (presented to the House on 18.12.1985) for drawing suitable guidelines for the Ministries to streamline their procedure with regard to subordinate legislation. In pursuance of this recommendation, the Ministry of Parliamentary Affairs drew up detailed guidelines on the subject which were forwarded to all Ministries/Departments on 18.09.1986. These guidelines have also been enumerated in chapter 11 pertaining to Subordinate Legislation of the Manual of Parliamentary Procedure in the Government of India.

9. Further, regarding seeking extension of time for framing of Rules from the Committee, the Ministry of Parliamentary Affairs, has specifically mentioned in Para 11.3.2 of Manual of Parliamentary Procedures in the Government of India as under:-

"In case the departments are not able to frame the rules within the prescribed period of six months, they should seek extension of time from the Committee on Subordinate Legislation stating reasons for such extension; such extension being not more than for a period of three months at a time. The request should be made after obtaining the approval of the Minister."

10. Despite having such detailed guidelines, the recommendations of the Committee are not being followed by various Ministries. In many of the cases, the Ministries have apologized for their delays and assured strict compliance of the recommendations/observations of the Committee in future.

11. Accordingly, vide this Secretariat O.M. dated 26.04.2022, the Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) was asked to furnish the Status of Rules/Regulations etc. under various Acts (as amended from time to time) being administered by the Department and other Attached Offices, Subordinate Offices/Organizations under the administrative control of the Ministry. On perusal of the Statement furnished by the Ministry vide their communication dated 9th May,2022 pertaining to Status of framing of Subordinate Legislations under the National Institute of Design Act,2014, similar breach of oft repeated recommendations of the Committee was observed in-connection with framing of the requisite Statutes/Ordinances for the four new National Institutes of Design established as per National Institute of Design (Amendment) Act,2019. The Committee, thus, took cognizance of this fact and held a briefing meeting with the representatives of the Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) on 3rd June,2022 on the Status of Rules/Regulations/Statutes/ Ordinances etc. under various Acts (as amended from time to time) being administered by the Department and other Attached Offices, Subordinate Offices/Organizations.

B. Aims, Objectives and Functions of the Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade).

12. Furnishing in brief the aims, objectives and Functions of the Ministry, the Ministry in their background note dated 09.05.2022 submitted as under:-

The main role of DPIIT is to promote industrial development of the country by facilitating investment in new and upcoming technology, accelerate & attract foreign direct investment and support a balanced development of industries & trades.

The Department is responsible for determining the Industrial Policy at Central Government level, including the following matters:

a) General Industrial Policy

- b) Grant of Industrial Licenses (IL) and acknowledging Industrial Entrepreneur Memorandum (IEM)
- c) Industrial Management
- d) Productivity in industry
- e) Matters related to e-Commerce
- f) Promotion of Internal Trade, including Retail Trade
- g) Welfare of Traders and their Employees
- h) Facilitating “Ease of Doing Business (EODB)
- i) Matters related to Startups.
- j) Matters related to PM Gati Shakti National Master Plan for multimodal infrastructure connectivity to various Economic Zones.
- k) Integrated development of Logistics Sector.

The Department is also responsible for promotion and development of industries related to Cables, Light Engineering Products (e.g. Sewing machines, typewriters, weighing machines, bicycles etc.), Light Industries (e.g. Polywood, Stationery, Matches, Cigarette etc.) Light Electrical Engineering products, Raw Films, Hard Boards, Paper, and Newsprint, Tyres and Tubes, Salt, Cement, Ceramics, Tiles and Glass, Leather and Leather Goods Industry, Soaps and Detergents, Footwear Design and Development and any other industry not covered by other Ministries/Departments.

C. FRAMING OF RULES/REGULATIONS

13. During the briefing by the representatives of the Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) before the Committee held on 03.06.2022, the Committee focused mainly on the following points:

- i. the various Acts/Amendment Acts being administered by the Ministry/Department;
- ii. the details of the delegated power of legislation of the Central Government under various Acts/Amendment Act being administered by the Department;
- iii. the status of framing of Rules/Regulations/Statutes/Ordinances under various Acts (as amended from time to time) being administered by the Department or Article 309 of the Constitution of India;
- iv. the status of pending Rules/Regulations/Statutes/Ordinances required to be framed and the reasons for delay in framing of same;

- v. the details of extension sought by the Department from Committees on Subordinate Legislation of Lok Sabha for framing of Rules/Regulations/Statutes under the various Acts/Amendment Act;
- vi. the status of laying of all Rules/Regulations/Statutes/Ordinances framed under the various Acts/Amendment Acts;
- vii. instances, if any, of delay in laying of Rules/Regulations framed under the Act by the Ministry/Department on the Table of Lok Sabha.

14. The Ministry/Department in their background note dated 09.05.2022 submitted to the Committee the status of Rules framed on the following Acts being administered by the Department:-

- a) Industries (Development and Regulation) Act, 1951
- b) The Explosives Act, 1884
- c) The Inflammable Substances Act, 1952
- d) The Indian Boilers Act, 1923
- e) The Patents Act, 1970
- f) The Copyright Act, 1957
- g) The Trade Marks Act, 1999
- h) The Design Act, 2000
- i) The National Institute of Design Act, 2014
- j) The Geographical Indications of Goods (Registration and protection Act, 1999
- k) The Semiconductor Integrated Circuits Layout Design Act, 2000.

The Department had submitted that all rules and regulations under the said Acts have been framed except the National Institute of Design (Amendment) Act, 2019. During briefing meeting on 03.06.2022 also the witness submitted that, "for the whole Department whatever Acts and Amendment Acts were to be framed, have been framed and have been laid in the Parliament. So as on date, there is no pendency".

D. STATUS OF FRAMING OF RULES/STATUTES/ORDINANCES UNDER THE NATIONAL INSTITUTE OF DESIGN ACT, 2014 (as amended in 2019):

15. The NID Act was enacted by Parliament in 2014 and it was amended in 2019 by which four new National Institutes of Design were established at Andhra Pradesh, Assam, Haryana and Madhya Pradesh. The four new NIDs were brought under the ambit of the National Institutes of Design Act, 2014 through the National Institutes of Design (Amendment) Act, 2019. The National Institutes of Design (Amendment) Act, 2019 was enacted on the 29th November, 2019 and notified on 3rd December, 2019

and it came into effect on 13.01.2020. Section 29 and Section 31 of the Principal Act empowers the Governing Council and the Senate of the Institute to frame Statutes and Ordinances respectively, whereas Section 38 gives power to the Central Government to make rules and Sections 38 and 40 of the Act mandates that every Rule, Statute or Ordinance framed under this Act shall be published in the Official Gazette and shall be laid, as soon as, may be after it is made, before each House of Parliament. Accordingly, Statutes, Ordinances and Rules for the four new National Institutes of Design were to be framed within 6 months i.e. by 14 July,2020.

16. The Ministry/Department vide their Background Note dated 23.05.2022 had furnished the updated status of Rules/Regulations framed under the National Institute of Design Acts as indicated below.

National Institute of Design Act, 2014 was applicable to National Institute of Design (NID), Ahmedabad and National Institute of Design (Amendment) Act 2019 has made the same Act applicable to the new four NIDs, namely NID, Andhra Pradesh, NID, Assam, NID, Haryana and NID, Madhya Pradesh. The relevant subordinate legislations as per the NID Act, 2014 as applicable to NID, Ahmedabad were already notified and laid on the table of the houses as per following table:

S.No.	Name of Rules	Details of Notification	Details of laying
1	Director, National Institute of Design (Recruitment, Salary, Allowances and other Condition of Service) Rules, 2015	GSR-852(E) dated 12.11.2015	Rajya Sabha – 16.12.2015 Lok Sabha – 21.12.2015
2	National Institute of Design (Form of Annual Statement of Accounts) Rules, 2016.	GSR-884(E) dated 14.09.2016	Rajya Sabha - 16.11.2016 Lok Sabha - 21.11.2016

National Institute of Design (Amendment) Act, 2019 was notified in the Gazette of India on 03.12.2019 and came into effect on 13.01.2020. Accordingly, this Department initiated the process for framing of the rules/regulations under subordinate legislation. However, the process got delayed due to Covid-19 pandemic hindrances.

Subsequently, the two Rules for each of the four new National Institute of Designs (NIDs) have already been framed and notified on 30.12.2020 by the Department and laid on the table of both the Houses of the Parliament as indicated below:

S.No.	Name of Rules	Details of Notification	Details of laying
1	Director, National Institute of Design (Recruitment, Salary, Allowances and other Condition of Service) Rules,2020	G.S.R Nos.819(E) and 826(E) dated 30.12.2020	Lok Sabha on 17.03.2021 Rajya Sabha on 19.03.2021
2	National Institute of Design (Form of Annual Statement of Accounts) Rules,2020	G.S.R. Nos.820(E) and 826(E) dated 30.12.2020	

17. As regards framing of Statutes and Ordinances, the Ministry/Department submitted as follow:

“Statutes and Ordinances are to be framed by the respective bodies of the Institute i.e the Governing Council and the Senate. Therefore, these may not be considered under the ambit of Subordinate legislation for functioning of an Autonomous institute as these are requirements and stipulations which the institute needs to frame for their regular functioning. Accordingly, this Department vide OM of even number dated 17th February, 2022 requested the Committee on Subordinate Legislation to consider closure of the matter on the ground that the Rules have already been framed and the statutes and ordinances shall be framed by the respective bodies of the institute and be considered outside the ambit of subordinate legislation”.

18. During the sitting of the Committee held on 03.06.2022, when the Committee sought clarification for considering framing of the statutes and ordinances, outside the ambit of Subordinate legislation, the Secretary, Department for Promotion of Industry and Internal Trade (DPIIT) regretted the miscommunication and submitted that, that was in a different context and further stated that “under 2014 Act, all the rules including statutes have been framed. Under 2019 Amendment Act, rules have been framed but Statutes have to be framed by the Governing Council, which is an independent body. However, we are impressing upon them to complete the task by August 2022. He added that the Department had requested the Hon’ble Committee to grant extension to it”.

19. When the Committee further enquired as to how the new Institutes are functioning without rules and regulations, the Secretary, DPIIT, submitted as follows :

“they are actually following what Ahmedabad is doing in practice. I said, if you have any problem, see what is required to be changed and come out with a process. In the meeting I have chaired with all the five NIDs recently, I have given them this task. Actually, we are hopeful that by August they will be in place. That is what we are trying to work on”.

20. The Ministry, however vide their O.M. dated 20th October, 2022 sought further extension of time from 14.10.2022 to 13.01.2023 and vide OM dated 8 February,2023 sought another extension from 14.01.2023 upto 13.04.2023 and apprised the Committee of the latest status as under :-

“The two Rules for each of the four new National Institute of Designs (NIDs) have already been framed and notified on 30.12.2020 by this Department and laid on the Table of both Houses of the Parliament. Concerted efforts are on to frame the first statutes of all the four new NIDs.

The framing of first Statutes is under active consideration of all four new NIDs and the first draft Statutes have been prepared by all four new NIDs in consultation with this Department which have been approved in respective Meeting of Governing Councils of these new 4 NIDs. The draft Statutes were sent to Legislative Department, M/o Law & Justice for vetting on 31.08.2022. However, Legislative Department returned the proposal of draft Statutes on 21.11.2022 with various observations on the same and suggested various changes/addition/ deletion in the draft.

Considering the importance of the matter, this Department carried out intense consultation with Directors of NIDs and the NIDs were requested to finalise the views on the observations of Legislative Department. The consolidated views of NIDs were received in this Department on 16.01.2023. Based on the inputs of new NIDs, this Department analysed the observations of Legislative Department considering Statutes of other INIs. Accordingly, the proposal has been again referred to Legislative Department on 19.01.2023 for vetting the revised draft first Statutes of new NIDs.”

21. In this regard, it may be mentioned that the Ministry/Department has already been given extension of 3 months each 10 times out of which seven ex post facto extensions of 3 months each from 14.07.2020 upto 13.04.2022, and further three extensions of time upto 13.01.2023 by the Committee, in order to complete all the formalities for framing/laying and notifying of all subordinate legislations contemplated under the NID (Amendment) Act, 2019. However, as stated above in the foregoing paragraph, only two Rules for each of the four new National Institute of Design established under the National Institute of Design (Amendment) Act, 2019 have been framed, notified and laid on the Table of both Houses of Parliament and requisite Statutes and Ordinances as mandated by the Act could not be framed, notified and laid on the table of both Houses of the Parliament till today.

OBSERVATIONS/RECOMMENDATIONS

22. The Committee note that the National Institute of Design (NID) Act, 2014 was amended in 2019, which was enacted on 29.11.2019 and notified on 03.12.2019. This Act came into effect on 13.01.2020. The Committee also observe that Section 29 of the Act empowers the Governing Council of the Institutes to frame the Statutes on the subjects mentioned in Section 28 whereas Section 31 empowers the Senate of the Institute to make Ordinances on the subjects matter mentioned in Section 30. Further Section 40 of the Act mandates that every Statute or Ordinance made under the Act shall be published in the Official Gazette and laid on the Table of both Houses of Parliament. Further Section 38 Clause (1) and Clause (2)(a),(b) and (c) give power to the Central Government to make rules and Clause (3) of section 38 mandates the Central Government to lay all those rules framed under this Act before each House of Parliament.

23. The Committee find that two Rules for each four new National Institute of Designs (NIDs) had been framed and notified on 30.12.2020 by the Department and laid on the table of both Houses of Parliament, i.e. in the Lok Sabha on 17.03.2021 and in Rajya Sabha on 19.03.2021. As per procedure, the rules are to be framed within 6 months of the Act coming into force i.e. by 14 July, 2020, and if for unavoidable reasons it is not possible for the Department to frame rules within the prescribed time limit of 6 months, they should after the expiration of 6 months explain the reasons to the Committee and seek extension of time from them i.e. w.e.f. 14.07.2020 for a period of 3 months at a time.

The Committee are concerned to note that the Ministry/Department delayed framing of Rules by more than 5 months and laid the rules in both the Houses of Parliament after a delay of 8 months. Further, the Ministry could neither complete the task of framing of rules/regulations within six months period nor they did follow the laid down procedure of seeking extension of time for framing of rules from the Committee. The Committee are thus of the view that the matter relating to framing of rules under the Act has been dealt with by the Ministry/Department in a very casual manner and no serious attention is paid for expeditious rule making. The Committee, would thus like to reiterate its oft-repeated recommendation that the Ministry/Department should ensure framing of Rules/Regulations etc. within a period of six months of the Act coming into force and in case the Ministry/Department fails to frame the rules within the prescribed period of six months, they should invariably seek extension of time from the Committee.

24. The Committee also find that Statutes for NID, Ahmedabad had been framed in 2017 and 2020. However, the Committee are surprised to note that the requisite Statutes/Ordinances for the four new NIDs are yet to be framed even after 2 years, 7 months of the commencement the amendment Act. The Committee note that under Section 10 of the Act, the Governing Council and the Senate of the Institute are established, Section 17 of the Act deals with

functions, powers and duties of the Chairperson of the Governing Council, Section 18 of the Act deals with powers and duties of the Director of the Institute and Section 29 empowers the Governing Council to frame statutes and ordinances on matters enumerated under Section 28 of the NID Act, such as- formation of Department of teaching, fees to be charged, institution of fellowship, scholarship, medals and prizes, qualifications of teachers of the Institute, Classification, Method of appointment etc., reservation of posts for SC,ST and OBC, Constitution of pension, insurance and provident funds for the benefits of teachers, establishment and maintenance of halls and hostels etc., manner of filling up of vacancies among Members of the Governing Council, allowances to be paid to the Chairperson and Members of the Governing Council, Meeting of Governing Council, Senate or any Committee etc. Similarly, Ordinances of each Institute may provide for the matters as elaborated under Section 30 of the Act, such as admission of the students to the Institute, courses of study to be laid down for all degrees, conditions for award of fellowships, scholarships, exhibitions, conduct of examinations, maintenance of disciplines among the students of the Institute etc. Further the proviso to sub-section (1) of Section 29 of the Act states that, the first Statute of each Institute shall be framed by the Governing Council with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament. As per sub-section (1) of Section 40 of the Act, every Statute and Ordinance under the Act shall be published in the Official Gazette and laid in both Houses of Parliament. Thus, it is evident from the provisions of the NID (Amendment) Act, 2019 that each Institute is required to frame Statutes and Ordinances and publish them in the Official Gazette and lay the same in both Houses of Parliament. In the absence of Statutes/Ordinances, the Committee are astonished as to how these powers and duties which are very crucial for the day to day working of these premier Institutes are determined. The Committee strongly hold that without Statutes and Ordinances, the Governing Council and the Senate of NIDs might become a parallel body running the Institute in an ad-hoc manner.

25. The submission of the Department to the Committee that “both the Statutes and Ordinances are to be framed by the respective bodies of the Institute i.e. the Governing Council and the Senate, therefore, these may not be considered under the ambit of Subordinate legislation for functioning of an Autonomous institute as these are requirements and stipulations which the institute needs to frame for their regular functioning”, is thus totally misplaced. The Committee thus express its anguish over such casual perception of the Ministry especially when the exercise of framing of all the required subordinate legislation viz. Rules, Statutes, Ordinances etc. have already been undertaken by the Ministry earlier in the case of NID Ahmedabad established under the original Act i.e. NID Act,2014. The Committee, therefore, does not accept the contention of the Ministry/Department in this regard. The NIDs/Senate/Governing Council derives its power from the provisions of the Act and has to discharge its duties by exercising the power of delegated legislation as prescribed in the Parent Act. The Committee thus, with utmost

seriousness note that the delay in framing, notifying and laying of the Statutes/Ordinances on the Table of Parliament reflects lack of sincere and concerted efforts on the part of the Department for Promotion of Industry and Internal Trade (DPIIT) in fully implementing all provisions of the NID (Amendment) Act, 2019.

26. The Committee are further compelled to conclude that either the Ministry/Department is not aware of the procedure laid down in Para 11.3.2 of the Manual of Parliamentary Procedure to be followed by all Ministries/Departments of Government of India, pertaining to framing of Subordinate Legislation as the Ministry neither framed the rules, Statutes and Ordinances within the prescribed time limit of 6 months nor did seek extension of time from the Committee after expiry of 6 months. The first communication dated 28th October, 2021 for seeking extension of time from the Committee was received after a delay of more than one year and 3 months. The Committee, took a considerate view and approved seven ex-post-facto extensions of 3 months each w.e.f. 14.07.2020 and another 3 extensions of 3 months each upto 13.01.2023 to the Ministry/Department in order to complete all the formalities for framing, notifying and laying of all subordinate legislations i.e. Statutes/Ordinances contemplated under the NID (Amendment) Act, 2019.

27. The Committee are however perturbed to note that even after seeking 10 extensions and also almost after 9 months of the briefing Meeting held on 03 June, 2022, where the Secretary, Department for Promotion of Industry and Internal Trade had assured the Committee that the Statutes and Ordinances would be in place by August, 2022, the Ministry has again vide its latest Communication dated 08 February, 2023 sought another extension upto 13.04.2023 on the ground that the proposal has been once again referred to the Legislative Department on 19.01.2023 for vetting draft first Statutes of new NIDs. The Committee are concerned to note that the Ministry, vide OM dated 20 October, 2022 had informed the Committee that the Ordinances of the respective Institutes would be framed after notification of their first Statutes.

28. The Committee are of the view that the slow pace of framing rules/regulations/statutes/ordinances negates the very purpose of the important provisions of the legislation passed by the Parliament. The Committee would also like to point out that since the Amendment Act being a very important law dealing with four new Institutes of National Importance, the framing of Rules/Statutes/Ordinances in this regard could have been initiated simultaneously with the drafting of the proposed Amendment Act, as the Statutes and Ordinances with respect to NID Ahmedabad were already in existence and are being implemented effectively. Thus framing of Statutes and Ordinances for the four new NIDs on the pattern of statutes/ordinances, which are already in existence for NID, Ahmedabad could have been ready by the time the Amendment Act was passed by the Parliament. The Committee, therefore, would like to strongly recommend to the Ministry of Commerce and Industry/DPIIT to take immediate steps, without any further delay to finalise

and notify the statutes/ ordinances and lay them before both the Houses of Parliament within 6 months of presentation of the Report to the House. The Committee would like to be apprised of the conclusive action taken in this regard.

New Delhi;
23 March, 2023
02 Chaitra, 1945 (Saka)

BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation

APPENDIX-I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE TWENTY-SIXTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTEENTH LOK SABHA)

Sl.No.	Reference to Para No. in the Report	Summary of the Recommendations
1	22	<p>The Committee note that the National Institute of Design (NID) Act,2014 was amended in 2019, which was enacted on 29.11.2019 and notified on 03.12.2019. This Act come into effect on 13.01.2020. The Committee also observe that Section 29 of the Act empowers the Governing Council of the Institutes to frame the Statutes on the subjects mentioned in Section 28 whereas Section 31 empowers the Senate of the Institute to make Ordinances on the subjects matter mentioned in Section 30. Further Section 40 of the Act mandates that every Statute or Ordinance made under the Act shall be published in the Official Gazette and laid on the Table of both Houses of Parliament. Further Section 38 Clause (1) and Clause (2)(a),(b) and (c) give power to the Central Government to make rules and Clause (3) of section 38 mandates the Central Government to lay all those rules framed under this Act before each House of Parliament.</p>
2	23	<p>The Committee find that two Rules for each four new National Institute of Designs (NIDs) had been framed and notified on 30.12.2020 by the Department and laid on the table of both Houses of Parliament, i.e. in the Lok Sabha on 17.03.2021 and in Rajya Sabha on 19.03.2021. As per procedure, the rules are to be framed within 6 months of the Act coming into force i.e. by 14 July, 2020, and if for unavoidable reasons it is not possible for the Department to frame rules within the prescribed time limit of 6 months, they should after the expiration of 6 months explain the reasons to the Committee and seek extension of time from them i.e. w.e.f. 14.07.2020 for a period of 3 months at a time.</p> <p>The Committee are concerned to note that the Ministry/Department delayed framing of Rules by more than 5 months and laid the rules in both the Houses of</p>

		<p>Parliament after a delay of 8 months. Further, the Ministry could neither complete the task of framing of rules/regulations within six months period nor they did follow the laid down procedure of seeking extension of time for framing of rules from the Committee. The Committee are thus of the view that the matter relating to framing of rules under the Act has been dealt with by the Ministry/Department in a very casual manner and no serious attention is paid for expeditious rule making. The Committee, would thus like to reiterate its oft-repeated recommendation that the Ministry/Department should ensure framing of Rules/Regulations etc. within a period of six months of the Act coming into force and in case the Ministry/Department fails to frame the rules within the prescribed period of six months, they should invariably seek extension of time from the Committee.</p>
3	24	<p>The Committee also find that Statutes for NID, Ahmedabad had been framed in 2017 and 2020. However, the Committee are surprised to note that the requisite Statutes/Ordinances for the four new NIDs are yet to be framed even after 2 years, 7 months of the commencement the amendment Act. The Committee note that under Section 10 of the Act, the Governing Council and the Senate of the Institute are established, Section 17 of the Act deals with functions, powers and duties of the Chairperson of the Governing Council, Section 18 of the Act deals with powers and duties of the Director of the Institute and Section 29 empowers the Governing Council to frame statutes and ordinances on matters enumerated under Section 28 of the NID Act, such as- formation of Department of teaching, fees to be charged, institution of fellowship, scholarship, medals and prizes, qualifications of teachers of the Institute, Classification, Method of appointment etc., reservation of posts for SC,ST and OBC, Constitution of pension, insurance and provident funds for the benefits of teachers, establishment and maintenance of halls and hostels etc., manner of filling up of vacancies among Members of the Governing Council, allowances to be paid to the Chairperson and Members of the Governing Council, Meeting of Governing Council, Senate or any Committee etc. Similarly, Ordinances of each Institute may provide for the matters as elaborated under Section 30 of the Act, such as admission of the students to the Institute, courses of</p>

		<p>study to be laid down for all degrees, conditions for award of fellowships, scholarships, exhibitions, conduct of examinations, maintenance of disciplines among the students of the Institute etc. Further the proviso to sub-section (1) of Section 29 of the Act states that, the first Statute of <u>each Institute</u> shall be framed by the Governing Council with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament. As per sub-section (1) of Section 40 of the Act, every Statute and Ordinance under the Act shall be published in the Official Gazette and laid in both Houses of Parliament. Thus, it is evident from the provisions of the NID (Amendment) Act, 2019 that each Institute is required to frame Statutes and Ordinances and publish them in the Official Gazette and lay the same in both Houses of Parliament. In the absence of Statutes/Ordinances, the Committee are astonished as to how these powers and duties which are very crucial for the day to day working of these premier Institutes are determined. The Committee strongly hold that without Statutes and Ordinances, the Governing Council and the Senate of NIDs might become a parallel body running the Institute in an ad-hoc manner.</p>
4	25	<p>The submission of the Department to the Committee that “both the Statutes and Ordinances are to be framed by the respective bodies of the Institute i.e. the Governing Council and the Senate, therefore, these may not be considered under the ambit of Subordinate legislation for functioning of an Autonomous institute as these are requirements and stipulations which the institute needs to frame for their regular functioning”, is thus totally misplaced. The Committee thus express its anguish over such casual perception of the Ministry especially when the exercise of framing of all the required subordinate legislation viz. Rules, Statutes, Ordinances etc. have already been undertaken by the Ministry earlier in the case of NID Ahmedabad established under the original Act i.e. NID Act,2014. The Committee, therefore, does not accept the contention of the Ministry/Department in this regard. The NIDs/Senate/Governing Council derives its power from the provisions of the Act and has to discharge its duties by exercising the power of delegated legislation as prescribed in the Parent Act. The Committee thus, with utmost seriousness note that the</p>

		<p>delay in framing, notifying and laying of the Statutes/Ordinances on the Table of Parliament reflects lack of sincere and concerted efforts on the part of the Department for Promotion of Industry and Internal Trade (DPIIT) in fully implementing all provisions of the NID (Amendment) Act, 2019.</p>
5	26	<p>The Committee are further compelled to conclude that either the Ministry/Department is not aware of the procedure laid down in Para 11.3.2 of the Manual of Parliamentary Procedure to be followed by all Ministries/Departments of Government of India, pertaining to framing of Subordinate Legislation as the Ministry neither framed the rules, Statutes and Ordinances within the prescribed time limit of 6 months nor did seek extension of time from the Committee after expiry of 6 months. The first communication dated 28th October,2021 for seeking extension of time from the Committee was received after a delay of more than one year and 3 months. The Committee, took a considerate view and approved seven ex-post-facto extensions of 3 months each w.e.f. 14.07.2020 and another 3 extensions of 3 months each upto 13.01.2023 to the Ministry/Department in order to complete all the formalities for framing, notifying and laying of all subordinate legislations i.e. Statutes/Ordinances contemplated under the NID (Amendment) Act, 2019.</p>
6	27	<p>The Committee are however perturbed to note that even after seeking 10 extensions and also almost after 9 months of the briefing Meeting held on 03 June, 2022, where the Secretary, Department for Promotion of Industry and Internal Trade had assured the Committee that the Statutes and Ordinances would be in place by August, 2022, the Ministry has again vide its latest Communication dated 08 February,2023 sought another extension upto 13.04.2023 on the ground that the proposal has been once again referred to the Legislative Department on 19.01.2023 for vetting draft first Statutes of new NIDs. The Committee are concerned to note that the Ministry, vide OM dated 20 October, 2022 had informed the Committee that the Ordinances of the respective Institutes would be framed after notification of their first Statutes.</p>

7	28	<p>The Committee are of the view that the slow pace of framing rules/regulations/statutes/ordinances negates the very purpose of the important provisions of the legislation passed by the Parliament. The Committee would also like to point out that since the Amendment Act being a very important law dealing with four new Institutes of National Importance, the framing of Rules/Statutes/Ordinances in this regard could have been initiated simultaneously with the drafting of the proposed Amendment Act, as the Statutes and Ordinances with respect to NID Ahmedabad were already in existence and are being implemented effectively. Thus framing of Statutes and Ordinances for the four new NIDs on the pattern of statutes/ordinances, which are already in existence for NID, Ahmedabad could have been ready by the time the Amendment Act was passed by the Parliament. The Committee, therefore, would like to strongly recommend to the Ministry of Commerce and Industry/DPIIT to take immediate steps, without any further delay to finalise and notify the statutes/ordinances and lay them on the Table of both Houses of Parliament within 6 months of presentation of the Report to the House. The Committee would like to be apprised of the conclusive action taken in this regard.</p>
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APPENDIX-II

(Vide Para 5 of the Introduction of the Report)

MINUTES OF THE TWENTY FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2021-2022) (SEVENTEENTH LOK SABHA)

The Twenty Fifth sitting of the Committee (2021-22) was held on 03 June, 2022 from 1430 to 1707 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

1. Shri Balashowry Vallabhaneni Chairperson

MEMBERS

2. Shri N.K.Premachandran
3. Shri Suresh Kumar Pujari
4. Shri Nama Nageswara Rao
5. Shri Su.Thirunavukkarasar
6. Shri Manickam Tagore B.
7. Dr. Amar Singh

SECRETARIAT

1. Shri Vinay Kumar Mohan - Joint Secretary
2. Shri Muraleedharan.P - Director
3. Smt. Jagriti Tewatia - Additional Director

WITNESSES

Ministry of Commerce and Industry

(Department for Promotion of Industry and Internal Trade)

- 1 Shri Anurag Jain - Secretary
- 2 Shri Rupa Dutta - Pr. Adviser
- 3 Shri R.S. Thakur - Additional Secretary
- 4 Shri Rajendra Ratnool - Joint Secretary
- 5 Shri R.K. Singh - Joint Secretary

6	Shri T.S.G.Narayannen	-	Technical Adviser.
7	Shri S.S. Das	-	Economic Adviser.
8	Ms. Karamjeet Kaur	-	Joint Director
9	Shri Shushil K. Satpute	-	Director
10	Shri B.Ramanjaneyulu	-	Director
11	Ms. Supriya S. Devasthali	-	Director
12	Ms Aarti Mahawar	-	Assistant Director
13	Shri Sachin Dhania	-	Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. Thereafter, the Joint Secretary, Lok Sabha Secretariat made a brief power point presentation on the agenda item listed for the day viz. on the status of framing of Rules/Regulations etc. under various Acts (as amended from time to time) being administered by the Department and other Attached Offices/Subordinate Offices/Organizations under the administrative control of the Ministry.

3. Thereafter, the representatives of the Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) were called in to brief the Committee about the status of framing of Rules/Regulations etc. under various Acts (as amended from time to time) being administered by the Department and other Attached Offices/Subordinate Offices/Organizations under the administrative control of the Ministry. After welcoming the representatives of the Ministry to the sitting of the Committee, the Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceeding.

4. After the customary introduction, the representatives of the Ministry made a power point presentation giving therein an overview of the roles and functions of the Department for Promotion of Industry and Internal Trade (DPIIT), major initiatives taken by the Department, Acts administered by the Department, details of status of framing of Rules/Regulations/Statutes under these Acts and extension sought for framing of Statutes and Ordinances under National Institute of Design Act, 2014 as amended. The representative also briefed the Committee on different schemes being implemented by DPIIT such as focus on five major aspects of Industries under Make in India, Production Linked Incentive (PLI) schemes, FDI Reforms, Ease of Doing Business, Intellectual Property Right, North East Industrial Development etc.

5. Thereafter, the Committee sought clarifications on various issues such as the projects taken up in different phases of the Industrial Corridor Programme, the time taken and parameters considered to locate a corridor, state-wise break up for the total FDIs, laws for providing punishment under decriminalisation in ease of doing business and the report in this regard, effort taken to further improve the rank of the country in the global index of Ease of Doing business, failed and sick industries, the scheme to revive the Startups, Startups that could not perform, reasons for delay in

framing of the Statutes and Ordinances by the four new National Institute of Design under NID Act,2014, and functioning of these NIDs in absence of the same, the norms or the criteria by which production-linked incentive is provided to the entrepreneurs or the investors etc.

6. The representatives of the Ministry furnished clarifications to the questions raised by the Committee. On some of the points on which the information was not readily available with the representatives, the Chairperson asked them to furnish written replies on the same within 15 days to the Lok Sabha Secretariat.

7. The Chairperson then thanked the representatives of the Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) for giving valuable information on the subject before the Committee.

8. The witnesses then withdrew.

9. A verbatim record of the proceedings of the sitting has been kept on record separately.

The Committee then adjourned.

APPENDIX-II

(Vide Para 5 of the Introduction of the Report)

MINUTES OF THE TWELFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2022-2023)

The Twelfth sitting of the Committee (2022-23) was held on Thursday, the 23rd March, 2023 from 1500 to 1530 hours in Chairperson Room No. 209, Extension to Parliament House Annexe, New Delhi.

PRESENT

Shri Balashowry Vallabhaneni Chairperson

MEMBERS

2. Shri Chandeshwar Prasad
3. Shri N.K. Premachandran
4. Shri Suresh Kumar Pujari
5. Dr. Amar Singh
6. Shri Brijendra Singh
7. Shri Su Thirunavukkarasar
8. Shri Ram Kripal Yadav
9. Shri Arvind Ganpat Sawant

SECRETARIAT

1. Shri V.K. Mohan - Joint Secretary
2. Shri Muraleedharan.P - 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) The Twenty-sixth Report on the status of framing of Subordinate Legislation viz. Rules/Regulations/ Statutes/ Ordinances etc.

under the National Institute of Design Act, 2014 as amended in 2019;

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|-------|----|----|----|
| (ii) | XX | XX | XX |
| (iii) | XX | XX | XX |
| (iv) | XX | XX | XX |

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

The Committee then adjourned.

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