

प्र. मार मल्होत्रा
सचिव
P. K. Malhotra
Secretary



भारत सरकार
विधि और न्याय मंत्रालय
विधायी विभाग
GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
LEGISLATIVE DEPARTMENT
Dated the 5th February, 2014

D.O. No. 11 (35)/ 2013-L.I

Dear Shri

In the modern context, pre-legislative consultative policy as a process supports many of the legitimate and growing expectations for transparent and better informed Government. The process tends to resolve contentious and complex policies and the areas where Government is seeking a policy to build consensus.

2. The effectiveness and importance of pre-legislative scrutiny was under consideration of the Government for quite some time. Briefly, the pre-legislative scrutiny takes place before the final drafting of a Bill has been decided and it is introduced in Parliament. As per past practice, only a limited number of Bills were published in draft form and scrutinised this way.

3. While following this process, the Government sets out clearly the policy problem that is to be addressed through the provision of supportive evidence and analysis, the options that it has considered and the reasons for the choices the Government have made in bringing forward a legislation. The process also involves the study of social and financial costs, benefits and the key challenges that required to be settled before undertaking the legislation. Looking into all these aspects facilitate formation of perfect policy objectives which a Bill intends to achieve and improve the efficacy of any Act in its implementation.

4. Taking into consideration the recommendations of the National Advisory Council, the National Commission to Review the Working of the Constitution and the practice followed in other countries, the Committee of Secretaries has formulated a policy on pre-legislative consultation which should invariably be followed by every Ministry/ Department of the Central Government before any legislative proposal is submitted to the Cabinet for its consideration and approval. This policy should also guide and govern the handling of subordinate legislations. The details of such legislative process are given in the Appendix to facilitate systematic compliance and adherence with the policy so laid down. It is requested that the policy document be given wide publicity in your Ministry/Department for strict adherence.

With regards,

Yours sincerely,

(P.K. Malhotra)

To : All Secretaries to the Government of India.

Copy to Cabinet Secretary, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.


P.K. Malhotra

**Decisions taken in the meeting of the Committee of Secretaries (CoS)
held on 10th January, 2014 under the Chairmanship of Cabinet
Secretary on the Pre-legislative Consultation Policy (PLCP)
(including principal and subordinate legislation).**

1. Every Department/Ministry shall proactively publish the proposed legislations both on the internet as also through other means; the detailed modalities of such publication may be worked out by the Department/Ministry concerned.
2. The Department/Ministry concerned should publish/place in public domain the draft legislation or at least the information that may *inter alia* include brief justification for such legislation, essential elements of the proposed legislation, its broad financial implications, and an estimated assessment of the impact of such legislation on environment, fundamental rights, lives and livelihoods of the concerned/affected people, etc. Such details may be kept in the public domain for a minimum period of thirty days for being proactively shared with the public in such manner as may be specified by the Department/Ministry concerned.
3. Where such legislation affect specific group of people, it may be documented and disclosed through print or electronic media or in such other manner, as may be considered necessary to give wider publicity to reach the affected people.
4. As a matter of practice, a provision regarding the previous publication of rules should be made in all new principal legislations.
5. Every draft legislation or rules, placed in public domain through pre-legislative process should be accompanied by an explanatory note explaining key legal provisions in a simple language.
6. The summary of feedback/comments received from the public/other stakeholders should also be placed on the website of the Department/Ministry concerned.
7. The Department/Ministry concerned might, in addition to placing the proposal in public domain, also hold consultations with all stakeholders. However, the degree of participation and mode of consultations may be decided by the Department/Ministry concerned and may vary according to the nature of the subject and the potential impact on those who will be affected by such legislation.

8. The Bill should be referred to the Ministry of Law and Justice for vetting after the pre-legislative consultation as well as inter-ministerial consultations are over. The Ministry of Law and Justice shall also, at the time of examination of the draft legislation or rules, ensure that the concerned Department/Ministry has complied with the process of pre-legislative consultation.
9. The Department/Ministry concerned should include a brief summary of the feedback received from stakeholders (including Government Departments and the public) along with its response in the note for the Cabinet along with the draft legislation.
10. The summary of pre-legislative process should also be placed before the Department Related Parliamentary Standing Committee by the Department/Ministry concerned when the proposed legislation is brought to the Parliament and is referred to the Standing Committee.
11. If the Department/Ministry concerned is of the view that it is not feasible or desirable to hold pre-legislative consultation as detailed above, it may record the reasons in the note for the Cabinet.
12. The Manual for Parliamentary Procedures in the Government of India, and the instructions issued by the Cabinet Secretariat on writing Cabinet Notes may, to the extent required, be suitably modified.
