



RULING OF THE CHAIR

INTERPRETATION OF RULES 99, 100 & 166

This Ruling flows as a consequence of the recently initiated practice of placing Bills on the Orders of the Day in terms of sub-rule (1) of rule 99, Rules of Procedure and Conduct of Business in the Senate, 2012, hereinafter referred to as “the Rules, 2012”. The said sub-rule visualises two situations namely (a) when a Bill has been received back from the Standing Committee, or (b) when the time fixed for the Standing Committee to send it back has expired. The procedure regarding a Bill which has been reported back by the Standing Committee is provided under “the Rules, 2012”. There appears to be certain degree of ambiguity when the time fixed for the Standing Committee to send a Bill back to the House has expired, this arises out of rules 100 and 166(3) of “the Rules, 2012.” Through this Ruling the ambiguity is so addressed.

2. I will now proceed to examine rule 99, “the Rules, 2012”, the said rule is re-produced as under:-

“99. Time for consideration of Bills.- (1) When a Bill has been received back from the Standing Committee, or when the time fixed for the Standing Committee to send it back has expired, the Secretary shall cause copies of the Bill, as introduced, together with modifications, if any, recommended by the Standing Committee, to be supplied to each member within seven days after the receipt back or, as the case may be, expiry of time and shall set down the Bill on the Orders of the Day. If it is a private members’ Bill for a day fixed for private members’ business and if it is a Government Bill then for a day meant for Government business for a motion under rule 100.

(2) At least two clear days shall intervene between the day of supply of copies of the Bill to members and the day for setting down of the Bill for a motion under rule 100:

Provided that it shall not be necessary to supply copies of the Bill, where the requirement of rule 98 has been dispensed with or where the Standing Committee has not recommended any modification in the Bill or where the Standing Committee has failed to send back the Bill before the expiry of the time for it to send it back.

(3) In case of urgency, if the Chairman permits, the member-in-charge may move that the requirement of sub-rule (2) be dispensed with and, if the motion is carried, the provisions of that sub-rule shall stand suspended in regard to that Bill and the member-in-charge may forthwith make any of the motions in rule 100."

A perusal of the aforesaid rule shows that it contemplates two scenarios, wherein, the Secretary Senate shall cause to place a Bill on the Orders of the Day, when:

- (i) a Bill has been received back from the Standing Committee; or
- (ii) the time fixed for the Standing Committee to send it back has expired.

In the case when, "a Bill has been received back from the Standing Committee" the following procedure shall be followed:-

- i. The Secretary Senate shall cause copies of the Bill, as introduced, together with modifications, if any, recommended by the Standing Committee, to be supplied to each member within seven days after the receipt back;
- ii. The Secretary Senate shall set down the Bill on the Orders of the Day. If it is a private members' Bill for a day fixed for private members' business and if it is a Government Bill then for a day meant for Government business for a motion under rule 100.
- iii. A member-in-charge or Minister-in-charge may give any of the following motions in regard to his Bill, in terms of rule 100, "the Rules, 2012", :-
 - a) that it be taken into consideration at once; or
 - b) that it be taken into consideration on a date to be fixed forthwith; or
 - c) that it be referred to a Select Committee; or
 - d) that it be circulated for the purpose of eliciting opinion thereon.
- iv. Upon giving of any of the above-mentioned motions, the procedure prescribed by the Rules will be followed.

3. In the second case when, "the time fixed by the Standing Committee to send it back has expired" sub-rule (1) of rule 99, "the Rules, 2012", shall be read in conjunction with sub-rule (3) of rule 166, "the Rules, 2012". Rule 166(3) is re-produced herein as under:-

"166. Functions of Standing Committees.- (1) A Standing Committee shall examine a Bill, subject or matter referred to it by the Senate or the Chairman and shall submit its report to the Senate or to the Chairman, as the case may be, with such recommendations including suggestions for legislation, if any, as it may deem necessary. In the case of a Bill, the Committee shall also examine whether the Bill violates, disregards or is otherwise not in accordance with the provisions of the Constitution.

(2) The Committee may propose amendments which will be shown in its report along-with original provisions of the Bill, but the Committee shall have no power of preventing the Bill from coming to the Senate.

(3) If a Committee does not present its report within the period prescribed, or the time allowed, the Bill, subject or matter referred to it may be considered by the Senate, without waiting for the report, upon a motion by any member or by the Minister concerned and such Bill, subject or matter shall be treated as withdrawn from the Committee.

(4)

(5)

(6) " (emphases provided)

The aforesaid rule is a specific provision in Chapter XVII, "Committees of the Senate", "the Rules, 2012", hence it becomes applicable under rule 200 of "the Rules, 2012". Sub-rule (3) of rule 166, "the Rules, 2012" prescribes a procedure in cases, wherein, the Committee does not present its report on a Bill within the prescribed period, or the time allowed, in terms of rule 194(1), "the Rules, 2012". In terms of the procedure prescribed the Bill may be considered by the Senate, without waiting for a report, upon a Motion by any Member or the Minister-in-charge and such Bill shall be treated as withdrawn from the Committee. Therefore, before sub-rule (1) of rule 99, "the Rules, 2012", becomes operational the requirements of sub-rule (3) of rule 166, "the Rules, 2012", needs to be fulfilled, in other words sub-rule (1) of rule 99" read without sub-rule (3) of rule 166, "the Rules, 2012", is like a sparrow without wings.

4. The upshot of the above discussion is that when rule 99(1) read with rule 166(3), "the Rules, 2012", is brought into operation, i.e. when, "the time fixed for the Standing Committee to send back a Bill has expired the following procedure shall be followed:-

- a. Member-in-charge or the Minister incharge may give a Motion under rule 166(3) that the Bill be treated as withdrawn from the Committee;
- b. The said motion will be placed on the Orders of the Day by the Senate Secretariat;
- c. If the Motion is carried the Bill will be treated as withdrawn from the Committee and will no longer be shown as Committee Business;
- d. Pursuant to such withdrawal, the Secretary Senate shall cause copies of the Bill, as introduced, to be supplied to each member within seven days of withdrawal of the Bill from the Committee;
- e. The Secretary shall set down the Bill on the Orders of the Day. If it is a private members' Bill for day fixed for private members' business and if it is a Government Bill then for day meant for Government business for a motion under rule 100;
- f. A Member-in-charge or the Minister-in-charge may move any one of the Motions under rule 100, "the Rules, 2012", which are re-produced below:
 - (i) that it be taken into consideration at once; or
 - (ii) that it be taken into consideration on a date to be fixed forthwith; or
 - (iii) that it be referred to a Select Committee; or
 - (iv) that it be circulated for the purpose of eliciting opinion thereon.
- g. If the Member-in-charge or the Minister-in-charge gives notice of a Motion for "consideration at once of the Bill", the Senate Secretariat will send an advance notice to the Ministry concerned, Ministry of Law and Justice and Ministry of Parliamentary Affairs, that the said Bill, if the motion is carried, will be taken into consideration on the same day.

