

ADMINISTRATIVE LAW

UNIT – II

Legislative Power of Administration Delegated Legislation

Excessive Delegation • Controls • Administrative Directions

UNIT-II Full Coverage

1. Meaning of Delegated Legislation

2. Why Delegation is Necessary

3. Forms of Delegated Legislation

4. Conditional Legislation

5. Doctrine of Excessive Delegation

6. Essential Legislative Function

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8. Later Case Law on Delegation

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13. Advantages of Delegated Legislation

14. Disadvantages

15. Exclusion of Judicial Review

16. Administrative Directions

17. Directions vs Rules

18. Enforceability of Directions

19. Key Cases

20. Key Takeaways

Delegated Legislation

Delegated legislation means the exercise of legislative power by the executive or other subordinate authority under authority delegated by the legislature. Parliament lays down the policy; the delegate fills in the details.

Pressure of Time

Parliament cannot legislate on every technical detail.

Technicality

Specialised subjects need expert rule-making.

Flexibility

Rules can be amended more easily than Acts.

Emergency

Quick response possible through subordinate legislation.

Types

Rules & Regulations

Made by government under power given by the parent Act.

Bye-laws

Made by local authorities or statutory corporations.

Schemes

Detailed schemes framed under enabling Acts (e.g., town planning).

Orders & Notifications

Executive instruments that may have legislative content.

Conditional Legislation

Legislature makes the law but leaves to executive the power to bring it into force on certain conditions.

Sub-delegation

Further delegation by the original delegate – permitted only if authorised.

Limits

The legislature cannot delegate its essential legislative function. It must lay down the policy and guidelines. Excessive delegation is unconstitutional because it amounts to abdication of legislative power.

Essential Function

Determination of legislative policy and its formulation as a binding rule of conduct.

What can be Delegated

Details, working out of the policy, ancillary matters, power to bring Act into force.

Test

Whether the parent Act provides adequate guidance and policy to the delegate.

Consequence

If excessive, the delegation (and sometimes the provision) is struck down.

How Courts Review Delegated Legislation

Ultra Vires Parent Act

Rules must stay within the four corners of the enabling Act.

Ultra Vires Constitution

Cannot violate fundamental rights or other constitutional provisions.

Excessive Delegation

If parent Act itself suffers from excessive delegation, rules fall with it.

Mala Fide / Unreasonableness

In limited cases courts examine good faith and reasonableness.

Procedural Ultra Vires

Non-compliance with mandatory procedure (publication, consultation) can invalidate.

Presumption of Validity

Strong presumption; burden on the challenger.

Legislative Oversight

Laying on Table

Simple laying, laying with affirmative resolution, laying with negative resolution.

Scrutiny Committees

Committees examine rules for legality, propriety and form.

Questions & Debates

MPs can raise issues on the floor of the House.

Amendment / Repeal

Parliament can always amend or repeal the parent Act or specific rules.

Limitations

Volume of rules makes detailed scrutiny difficult; control is often formal.

Indian Practice

Both Houses have committees on subordinate legislation.

Balanced View

Advantages

- Saves parliamentary time
- Technical expertise
- Flexibility and speed
- Can deal with emergencies
- Allows experimentation
- Reduces pressure on statute book

Disadvantages

- Democratic deficit
- Risk of abuse of power
- Less publicity than Acts
- Complexity and volume
- Weak parliamentary scrutiny
- Possible excessive delegation

Guidelines and Circulars

Meaning

Instructions issued by superior administrative authorities to subordinates for guidance.

Not Law

Generally do not have the force of law; not enforceable at the instance of a citizen as of right.

Exceptions

When directions are issued under statutory power and affect rights, courts may give them legal effect.

Vs Rules

Rules are made under delegated legislative power and bind the public. Directions mainly bind the administration.

Enforceability

Courts have sometimes enforced directions on the ground of fairness or legitimate expectation.

Exam Tip

Always distinguish delegated legislation (rules) from administrative directions (circulars).

Delegated Legislation

In re Delhi Laws Act (1951)	Leading case on the limits of delegation; essential legislative function cannot be delegated.
Hamdard Dawakhana	Delegation of power to ban advertisements – examined for excessive delegation.
Gwalior Rayon	Reaffirmed that policy and guidelines must be laid down by the legislature.
Agricultural Market Committee	Modern statement of the doctrine of excessive delegation.
Rajnarain Singh	Conditional legislation distinguished from delegated legislation.
Indian Express / Other	Publication and accessibility of rules emphasised.

UNIT-II

01

Delegated Legislation

Necessary but must not amount to abdication of essential legislative function.

02

Excessive Delegation

Policy and guidelines must be in the parent Act.

03

Judicial Control

Ultra vires parent Act, Constitution, procedure; presumption of validity.

04

Parliamentary Control

Laying, committees, questions – often formal.

05

Directions

Generally not law; bind administration more than citizens.

06

Key Case

In re Delhi Laws Act remains the foundation.

End of UNIT – II

Delegated Legislation • Excessive Delegation • Controls

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