BLOGS

Types of Delegated Legislation

Samridhi M · 30 Jun 2023

Edit TABLE OF CONTENTS Introduction Types of Delegated Legislation Executive Legislation Subordinate Legislation Regulation-making Power Emergency Legislation Statutory Orders Bylaws and Rules Conclusion

Introduction

Delegated legislation refers to the process of granting authority to other bodies or authorities to create rules and regulations on behalf of the legislature. In India, the Constitution allows Parliament and state legislatures to delegate their lawmaking powers to executive bodies, like the central and state governments, as well as administrative agencies. This post explores the various types of delegated legislation in India, emphasizing their importance, and providing examples to illustrate their implementation.

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Types of Delegated Legislation

1. Executive Legislation: Executive legislation involves the creation of rules and regulations by the executive branch of the government. These laws are made under the powers given by the legislature through an enabling act. Executive legislation powers are exercised by the central government, state governments, and administrative agencies. For instance, the Ministry of Finance can issue regulations under the Income Tax Act to provide guidelines for implementing tax laws and determining tax liabilities.
2. Subordinate Legislation: Subordinate legislation refers to the laws created by authorities subordinate to the legislature. It encompasses the rules and regulations formulated by local authorities, municipal corporations, or panchayats to govern specific areas or regions within the country. These laws cater to the local needs and requirements. For example, a state government may delegate legislative power to municipal corporations to create rules regarding local taxation, building codes, or zoning regulations.

3. Regulation-making Power: Regulation-making power grants authority to administrative agencies to formulate rules and regulations for specific sectors or areas. These agencies are empowered to create regulations that have the force of law within their jurisdiction. For instance, the Securities and Exchange Board of India (SEBI) exercises regulation-making power to establish rules and regulations for the securities market, ensuring investor protection and market integrity.
4. Emergency Legislation: Emergency legislation is enacted during times of national emergencies or unforeseen circumstances that require immediate action. Under Article 352 of the Constitution, the President of India can declare a state of emergency. During such periods, the executive branch is authorized to issue orders and ordinances to effectively tackle the crisis. The ordinances have the same legal status as acts passed by the legislature but require subsequent approval from the Parliament. For instance, several ordinances were promulgated by the government during the COVID-19 pandemic to address the public health crisis.
5. Statutory Orders: Statutory orders are legal instruments issued by authorized bodies to provide detailed instructions, directions, or guidelines for implementing existing laws. These orders help clarify legal provisions and ensure uniformity in their application. For example, the Reserve Bank of India (RBI) issues circulars and notifications to banks and financial institutions to regulate banking operations, monetary policies, and compliance standards.
6. Bylaws and Rules: Bylaws and rules are regulations formulated by statutory bodies or authorities to govern specific sectors, professions, or organizations. These laws are often created to regulate professional bodies, educational institutions, or specific industries. For instance, the Medical Council of India (MCI) formulates bylaws and rules to govern the conduct, qualifications, and standards of medical professionals in the country.

Conclusion

Delegated legislation plays a crucial role in the functioning of the Indian legal system by enabling the executive branch and administrative agencies to efficiently implement and enforce laws. The different types of delegated legislation, including executive legislation, subordinate legislation, regulation-making power, emergency legislation, statutory orders, and bylaws/rules, provide flexibility and adaptability in responding to diverse needs and circumstances.

While delegated legislation helps address gaps in legislation and allows for specialized regulations, concerns about accountability and potential misuse of power exist. Therefore, it is essential to ensure that delegated legislation adheres to the principles of fairness, transparency, and public consultation.

Detailed Notes on Delegated Legislation