

CB No. 191

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

**FIFTH REPORT
(THIRD LOK SABHA)**

(Presented on the 28th April, 1966)



**LOK SABHA SECRETARIAT
NEW DELHI**

April 1966

Vaisakha, 1888(Saka)

Price : ₹ 35 Paise

CONTENTS

	PARA NOS.	PAGE NOS.
COMPOSITION OF THE COMMITTEE		(iii)
REPORT		
I. Introduction	1—3	1
II. Formula for laying of Delegated Legislation before the Houses of Parliament—Bills under Article 357(1) (a) of the Constitution	4—6	1—3
III. The Central Secretariat Service Assistants' Grade (Competitive Examination) Regulations, 1965 (G.S.R. 1151 of 1965)	7—11	3—4
IV. The Petroleum Products (Supply & Distribution) Order, 1965 (G.S.R. 830 of 1965)	12—15	4—5
V. The Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1963 (G.S.R. 1265 of 1963)	16—19	5—7
VI. Bye-laws for regulating the construction of pavements and culverts within the limits of Ajmer Cantonment (S.R.O. 130 of 1963)	20—21	7—8
VII. The Delhi and Himachal Pradesh Civil Service (Probation, Training and Departmental Examination) Regulations 1964 (G.S.R. 1034 of 1964)	22—24	8—9
VIII. Defects in 'Orders'	25—28	9—10
IX. Recommendation of the Committee (<i>vide</i> paras 41—45 of Third Report) Rule 70 of the Conduct of Elections Rules, 1961	29—33	10—13
X. Delay in laying of 'Orders' on the Table of the House	34	12—13
XI. Action taken by Government on recommendations of Committee on Subordinate Legislation (Third Lok Sabha)	35	13
SUMMARY OF RECOMMENDATIONS MADE BY, AND ASSURANCES GIVEN TO, THE COMMITTEE		14—15
APPENDICES—		
I. Statement of 'Orders' in respect of which there has been delay of more than 15 days in laying them on the Table of the House		16—19
II. Statement showing the action taken by the Government on the recommendations made by the Committee on Subordinate Legislation (Third Lok Sabha)		20

COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1965-66)

Shri S. V. Krishnamoorthy Rao—*Chairman*

2. Dr. M. S. Aney
3. Shri Bhagwat Jha Azad
4. Shri Ramchandra Vithal Bade
- *5. Shri Sachindra Chaudhuri
6. Shri Homi F. Daji
7. Shri N. Dandeker
8. Shri Harish Chandra Heda
9. Shri Madhavrao Laxmanrao Jadhav
10. Shri H. V. Kaujalgi
11. Shri Shiv Charan Mathur
12. Shri R. V. Reddiar
13. Shri M. P. Shinkre
14. Shri H. Siddananjappa
15. Shri N. M. Wadiwa.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

*Ceased to be a member of the Committee w.e.f. the 1st January, 1966 on his being appointed a Minister.

REPORT

I

Introduction

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this their Fifth Report.

2. Subsequent to the presentation of their Fourth Report, the Committee have held four sittings and considered 747 'Orders'. The Committee considered and adopted this Report at their sitting held on the 21st April, 1966.

3. Observations of the Committee on matters which arose during the course of examination of the 'Orders' and matters which required to be brought to the notice of the House have been included in this Report.

II

Formula for laying of Delegated Legislation before the Houses of Parliament—Bills under article 357(1) (a) of the Constitution.

4. Clause 3 of the Kerala State Legislature (Delegation of Powers) Bill, 1964, which was brought before the Lok Sabha under Article 357 (1) (a) of the Constitution, conferred on the President the powers of the State Legislature to make laws and provided that every Act enacted by the President shall, as soon as may be after enactment, be laid before each House of Parliament. Sub-clause (4) thereof was as under:—

- '(4) Either House of Parliament may, by resolution passed within seven days from the date on which the Act has been laid before it under sub-section (3), direct any modifications to be made in the Act, and if the modifications are agreed to by the other House of Parliament during the session in which the Act has been so laid before it or the session succeeding, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2):

Provided that nothing in this sub-section shall affect the validity of the Act or of any action taken thereunder before it is so amended.'

5. During the clause by clause consideration of the Bill, an objection was raised* by Dr. L. M. Singhvi, M.P. with regard to the time limit of seven days for modification of a President's Act laid before the House, on the ground that it gave very little time to the members to study the provisions of the Act and to initiate and complete the process of passing a resolution, if any, directing modifications therein. It was suggested that the usual formula providing for laying of statutory rules and orders before the Houses of Parliament, as recommended by the Committee on Subordinate Legislation (Second Lok Sabha) in paragraph 45 of their Seventh Report and accepted by the Government, should be incorporated in the Bills brought before the House under Article 357 (1) (a) of the Constitution. The clause, as it stood was passed by the House, after the Minister of State in the Ministry of Home Affairs (Shri Jai Sukhlal Hathi) had stated:—

"After all, this Bill was introduced the day before and today we are passing it. Therefore, I think, it is in the interest of the State that it should not be delayed too long."

6. Subsequently, this matter was also raised before the Committee. After taking note of the reply† given in the House by the Minister of State in the Ministry of Home Affairs, that a longer period for modification of President's Acts by the Houses would delay the matters, the Committee feel that the period of seven days, is too short a period for exercising the power of modification of a President's Act, if need be, by either House.

The Committee are of the view that the formula, contained in the Bills brought before the House under Article 357 (1) (a) of the Constitution, for laying of the President's Acts before the Houses of Parliament, should conform to the following formula:

'Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses

*L.S. Deb. dt. 24-9-1964, cc. 3523—26.

†L.S. Deb. dt. 24-9-1964, cc. 3533.

agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.' [See Paragraph 45 of the 7th Report of Committee on Subordinate Legislation (Second Lok Sabha)].

III

The Central Secretariat Service Assistants' Grade (Competitive Examination) Regulations, 1965 (G.S.R. 1151 of 1965)

7. The Central Secretariat Service Assistants' Grade (Competitive Examination) Regulations, 1965 were framed under Rule 13(9) of the Central Secretariat Service Rules, 1962.

8. Regulation 7(1) provided that the names of the candidates who were considered by the Union Public Service Commission *in their discretion* to be suitable for appointment on the results of the examination shall be arranged in the order of merit and, subject to the provisions of regulation 8(5), they shall be recommended for appointment in that order.

Regulation 8(5) laid down that the candidates belonging to any of the Scheduled Castes or Scheduled Tribes who were considered by the U.P.S.C. *in their discretion* to be suitable for appointment on the results of the examination with due regard to the maintenance of the efficiency of administration shall be eligible to be appointed to the vacancies reserved for them irrespective of their ranks in the order of merit at the examination.

9. As it was felt that the words "in their discretion" occurring in the aforesaid regulations appeared to give an impression that the discretionary powers so conferred on the Commission could be exercised by them arbitrarily, even otherwise than on the results of the examination, the Ministry of Home Affairs were requested to indicate whether they would omit the words "in their discretion" from the regulations in question.

10. The Ministry of Home Affairs, after consulting the Ministry of Law, stated that on a plain reading of Regulations 7(1) and 8(5)

of the Central Secretariat Service Assistants' Grade (Competitive Examination) Regulations, 1965, the suitability of the candidates had to be considered on the results of the examination. In the circumstances, the Ministry added, the apprehension that the existence of the words 'in their discretion' might give rise to an impression that the discretionary power which had been conferred on the Commission might be exercised by the Commission arbitrarily, even otherwise than on the results of the examination, had no basis. The Ministry further stated that the omission of those words from the sub-rules mentioned above would not make the slightest difference because the discretionary power which had been conferred on the Commission would still be there.

11. *The Committee, after having considered the matter, feel that the impugned words, which are likely to cause an impression that the Commission exercise their discretion even otherwise than on the results of the examination, should be omitted. In fact, the Ministry themselves have admitted that the words "in their discretion" occurring in regulations 7(1) and 8(5) are redundant when they say that "the omission of these words will not make the slightest difference because the discretionary power which has been conferred on the Commission will still be there".*

IV

The Petroleum Products (Supply and Distribution) Order, 1965 (G.S.R. 830 of 1965)

12. Clause 4 of the Petroleum Products (Supply and Distribution) Order, 1965 empowered the Central and the State Governments to appoint any person for conducting searches and seizures etc. to ensure compliance of the provisions of the Order.

13. The expression 'any person' in the clause gave wide discretion to the Government to appoint any person for the purposes of the Order irrespective of his rank and position in life and it was felt that the clause should be amended to provide that instead of 'any person' only 'officers' should be authorised for conducting searches and seizures etc. under the Order.

14. The Ministry of Petroleum and Chemicals, to whom the matter was referred, stated that the said paragraph 4 gave discretion to the Government to appoint 'any person' for conducting search, seizure of stocks etc. because, considering the multiplicity of dealers and agents of petroleum products in cities, towns and even villages, it was

necessary that the Government should have this wide power. In actual practice, the Ministry added, persons normally appointed/authorised for the purposes of conducting searches etc. would be Revenue/Police/Civil Supply Officers and they would probably be of the rank of Tahsildar, Naib-Tahsildar, Sub-Inspector of Police, Assistant Sub-Inspector of Police, Inspector/Sub-Inspector of Civil Supplies Department etc. and that it was not possible to mention the equivalents of these or other ranks in the Order inasmuch as equivalents might vary from State to State. The intention was, the Ministry stated further, that the delegation of this power would be restricted to Government servants. The expression "officer" was not sufficiently comprehensive and its use might lead to difficulties.

The Ministry, accordingly amended paragraph 4 of the Order by substituting the words "Government servant" for the word "person" by a notification published as G.S.R. 1578 of 1965.

15. *The Committee, after having considered the matter at some length, are of the view that it should specifically be stated in the Order that a Government servant not below a specified rank or equivalent officer might be authorised to conduct searches and seizures etc. under the aforesaid Order. It should not be left worded in a manner which would give the Executive the power to authorise any and every Government servant to exercise the power of conducting searches and seizures under the aforesaid Order.*

V

The Income-Tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1963 (G.S.R. 1265 of 1963)

16. Rule 4 of the Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1963, laid down the method of recruitment of members of the Income-tax Appellate Tribunal. Sub-rule (3) thereof authorised the Ministry of Law to prepare a list of candidates "after inviting applications therefor by advertisement or on the recommendations of the appropriate authorities or by personal contacts" and out of this list the Selection Board was required to recommend the names of persons to the Central Government for appointment as members of that Tribunal. The composition

of the Selection Board was provided for in rule 4(1). The Board consisted of:

- (i) a nominee of the Minister of Law;
- (ii) The Secretary to the Government of India, Ministry of Law (Department of Legal Affairs);
- (iii) The President of the Tribunal; and
- (iv) such other persons, if any, not exceeding two as the Minister of Law may appoint.

17. It was felt that the procedure for preparing the list of candidates "on the recommendations of the appropriate authorities or by personal contacts" might cast doubts about the fairness in the selection of candidates as it was not clear from the rules who the "appropriate authorities" were and whose "personal contacts" were to matter in the preparation of such lists. In their reply, the Ministry of Law, with whom the matter was taken up, stated that sufficient number of applications from senior and experienced candidates in the field of law and accountancy were not received and consequently the choice was limited to only few and hence the need for such a procedure.

18. The Committee sought further clarification from the Ministry of Law on the following two points:

- (i) Whether the Ministry of Law would have any objection to consider suitable amendment of the relevant sub-rule relating to the composition of the Selection Board so as to drop or reduce the number of nominees of the Minister of Law on the Selection Board and/or to associate the Chairman or a member of the Union Public Service Commission with it, for, the Board, as it was constituted, was not likely to inspire public confidence and its independence was open to doubt.
- (ii) Whether only two methods viz. "advertisement" and "recommendations of the appropriate authorities" e.g. High Courts, the Central Board of Revenue, Bar Associations, Institute of Chartered Accountants etc. on specific requests made to them, when employed together, would meet the needs of Government in getting sufficient number of senior and experienced candidates in the field of law and accountancy.

As regards the first point, the Ministry of Law stated that the Selection Board constituted, after the Rules had come into force, had only one nominee of the Minister of Law, namely Shri J. L. Kapur, a retired Judge of the Supreme Court, who was hearing Income-tax cases while he was in the Supreme Court, and he was nominated as the Chairman of the Selection Board. The Ministry assured that the Chairman to be appointed would always be of like status in future. Provision had been made for the nomination of two more members by way of abundant caution and had not in fact been utilised so far. The Ministry further assured that if occasion arose for nomination of any additional member, the Minister of Law would do so in consultation with the Chairman of the Selection Board. The Ministry further stated that it was not feasible to associate the Chairman, or a member of the Union Public Service Commission with the Selection Board. The Union Public Service Commission (Exemption from Consultation) Regulations, 1958 expressly excluded from the purview of the Commission all posts of the Chairman or members of a Tribunal created by or under a statute (*vide* item 2 of the Schedule to those Regulations). The general provisions contained in item 2 of the Schedule were made after careful consideration. Apart from that, the work of the Tribunal was of a highly technical nature and it was desirable that the Selection Board should be composed of persons who were well-versed in the technical subjects of income-tax law and accountancy.

Regarding the second point, the Ministry stated that the reference to "personal contacts" would be omitted from the relevant sub-rule.

19. *The Committee note the assurance given by the Ministry of Law that the Chairman of Selection Board will always be of the status of a Judge of the Supreme Court and that the additional member of the Board, if any, will be nominated by the Minister of Law in consultation with the Chairman of the Selection Board. The Committee also note that reference to "personal contacts" occurring in rule 4(3) has since been omitted (vide G.S.R. 1864 of 1965).*

VI

Bye-Laws for Regulating the Construction of Pavements and Culverts within the limits of Ajmer Cantonment (S.R.O. 130 of 1963)

20. Bye-law 9 of the Bye-laws for regulating the construction of pavements and culverts within the limits of Ajmer Cantonment provided that if the owner of a house made any default in carrying out the work in relation to a pavement or culvert as directed by the Cantonment Board or neglected to maintain the same in a proper

state of repair, the work might be carried out by the Cantonment Board and all expenses incurred in carrying out such work shall be recoverable from the owner of the house as if it were an arrear of tax. It was felt that a specific provision should have been made in the bye-laws to provide for giving of due notice to the owner of the house before the Cantonment Board set out to repair a pavement/culvert.

21. *The Committee note that, on a reference having been made to the concerned Ministry of Defence, the necessary provision for giving of notice to the owner of the house has since been made in the Bye-laws and published as S.R.O. 73 of 1965.*

VII

The Delhi and Himachal Pradesh Civil Service (Probation, Training and Departmental Examination) Regulations, 1964 (G.S.R. 1034 of 1964)

22. Regulation 8 of the Delhi and Himachal Pradesh Civil Service (Probation, Training and Departmental Examination) Regulations, 1964 provided that if any question arose relating to the interpretation of those regulations, it should be referred to the Central Government whose decision thereon would be final.

23. This provision was not in accord with the recommendation of the Committee contained in paragraph 18 of their Fourth Report, where, the Committee, while examining a similar provision contained in some other rules, had observed:

"The Committee are of the view that although it is true that the interpretation of the rules given by the Executive is not binding on the Courts, yet the rules should not be worded in a manner which may give an impression on the mind of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desire that if it is considered necessary to retain an interpretation clause in the rules, the clause should be worded on the lines of regulation 24 of the Kandla Port Employees (Allotment of Residence). Regulations, 1964, which reads as under:

'24. *Interpretation of Regulations:—*If any question arises as to the interpretation of these regulations, the same shall be decided by the Board.'

The Committee note that the Ministry of Home Affairs, whose attention was drawn to the above recommendation of the Committee,

have amended the said regulation 8 accordingly (vide G.S.R. 1005 of 1965).

24. The Committee also note that similar action was taken by the Ministry of Industry & Supply in respect of rule 9 of the Directorate General of Supplies and Disposals, Assistant Inspecting Officers (Engineering/Metallurgical/Textiles/Metallurgical-Chemical (Recruitment Rules, 1965 (G.S.R. 917 of 1965) which had provided for the finality of the interpretation of the provisions of the rules given by the Central Government.

VIII

Defects in 'Orders'

(a)

The Civilians in Defence Services (Study Leave) Rules, 1964 (S.R.O. 300 of 1964).

25. According to an earlier recommendation of the Committee on Subordinate Legislation (First Lok Sabha) (vide para 76 of their Sixth Report), it is required that the authority giving power to make rules etc. should specifically be cited in the preamble of the rules for the purpose of enabling all concerned to know under what precise authority the rules have been made. In the case of the rules noted above, this recommendation was not complied with.

The Committee note that, on being pointed out to the concerned Ministry of Defence, a corrigendum containing the relevant statutory authority has since been issued by the Ministry and published as S.R.O. 100 of 1965.

(b)

The Central Institute of Fisheries Technology (Class I & Class II Technical Posts) Recruitment Rules, 1964 (G.S.R. 1627 of 1964).

26. The Central Institute of Fisheries Technology (Class I & Class II Technical Posts) Recruitment Rules, 1964, as published in the Gazette of India (G.S.R. 1627 of 1964) did not contain the Schedule in which the method of recruitment and other connected matters were to be specified. The rules as such were incomprehensible.

27. The Committee note that the Ministry of Food & Agriculture to whom the matter was referred for rectification of the omission, published the rules afresh along with the Schedule as G.S.R. 1767 of

1964 without, however, cancelling the earlier incomplete notification. On being pointed out, again, the Ministry have now cancelled the incomplete notification by a fresh notification published as G.S.R. 26 of 1965.

(c)

The Naval Ceremonial, Conditions of Service and Miscellaneous Regulations, 1963 (S.R.O. 22E of 1964)

28. The Naval Ceremonial, Conditions of Service and Miscellaneous Regulations, 1963, issued under section 184 of the Navy Act, 1957 were published in the Gazette of India—Extraordinary, Part II—Section 4, dated the 3rd August, 1964. It was noticed that although the Regulations had been published, and came into force, in the year '1964', they had been referred to as of '1963'.

The Committee note that, on being pointed out, the concerned Ministry of Defence have changed the year from '1963' to '1964' by an amendment published as S.R.O. 68 of 1965.

IX

Recommendation of the Committee (Vide paras 41—45 of Third Report)—Rule 70 of the Conduct of Elections Rules, 1961.

29. Rule 98¹ of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, which laid down the procedure to be followed before recording of votes in an election by the members of Legislative Assemblies of States to fill seats in Rajya Sabha or the State Legislative Councils, was amended by G.S.R. 433 of 1959 to provide that instead of merely marking the list of electors on delivery of ballot paper, the serial number of the ballot paper delivered to the elector should be put down against his name in that list. (Now the provision is incorporated in rule 70² of the Conduct of Elections Rules, 1961).

30. The Committee on Subordinate Legislation (Second Lok Sabha) in their Eighth Report, para 24, had recommended that the original procedure as it existed before the amendment should be restored because the new procedure for entering the serial number of the ballot paper against the name of the voter in the electoral list could lead to violation of secrecy of vote. The Committee on Subordinate Legislation (Third Lok Sabha) also reiterated this recommendation (vide para 45 of their Third Report).

¹ and ². See foot-notes on next page.

31. The Ministry of Law put forward the following points in support of their stand for retention of the present procedure:—

- (1) Originally the ballot paper for elections to fill seats in the Council of States and Legislative Councils contained a counterfoil in which the name of the electors to whom any particular ballot paper was issued used to be noted. The serial number of the ballot paper was printed on both the counterfoil and the outerfoil. With a view to simplify the form and also reduce the cost of printing, the counterfoil was dispensed with and the form of the ballot papers was completely revised in 1957.
- (2) Such a procedure obtains in respect of elections to Legislative Councils from Council Constituencies and there has been no complaint about violation of the secrecy of the vote even in elections from local authorities constituencies where the electorate is comparatively small.
- (3) The fact that there has been no occasion in the past for using the information about the serial numbers of ballot papers issued to electors cannot be advanced as an argument for doing away with a procedure which has stood the test of time.
- (4) Even in the United Kingdom, where there has not been any election petition in recent times, the procedure of

1. Original rule 98 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 provided as follows:

"98. Procedure before the recording of votes—>

- (1) Immediately before a ballot paper is delivered to an elector a mark shall be placed in the copy of the list of electors maintained under sub-section (1) or sub-section (2) of Section 152 (hereafter in this Chapter referred to as the 'marked copy of the list of electors') against the name of the elector."

2. Rule 70 of the Conduct of Elections Rules, 1961 provides as follows:

"70. Rules for conduct of poll.

38A. Issue of ballot papers to electors.

- (1A) At the time of issuing a ballot paper to an elector, the polling officer shall record the serial number thereof against the entry relating to the elector in the copy of the electoral roll set apart for the purpose.

- (1B) Save as provided in sub-rule (1A), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors."

noting down the name of the elector in the counterfoil on which is printed the serial number of the ballot paper continues even today.

- (5) There is likely to be no violation of the secrecy of the votes and the special precaution provided in rule 98(3) (now rule 70, 38A (1B) of the Conduct of Elections Rules, 1961) for concealing the serial number of the ballot paper at the time of giving it to the elector effectively safeguards the secrecy of the vote.
- (6) On the other hand, the information about the serial number of the ballot issued to the elector may be very useful in the disposal of election petitions and may even avoid unnecessary bye-elections where the allegation is only about the reception of a vote which is void.

32. The Committee also heard the views of the Chief Election Commissioner (Shri K. V. K. Sundaram) and the Special Secretary, Ministry of Law (Shri S. P. Sen Varma) in this connection. The Chief Election Commissioner explained that adequate directions for concealing effectively the serial numbers of ballot papers entered in the electoral roll, for maintaining secrecy of votes, had been issued by the Election Commission under rule 38A(3)^a as incorporated in rule 70 of the Conduct of Elections Rules, 1961. He urged that the existing procedure should be retained.

33. The Committee have reconsidered the matter. In view of the clarification given by the Chief Election Commissioner the Committee feel that the relevant rule might continue in the present form and the recommendation of the Committee contained in para 45 of their Third Report may not be pursued further.

X

Delay in laying of 'Orders' on the Table of the House.

34. The Committee have noted a number of cases involving delay of more than 15 days in laying of the 'Orders' on the Table of the

3. 38A. Issue of ballot papers to electors.—(1) Every ballot paper shall before issue to an elector be stamped with such distinguishing mark as the Election Commission may direct.

* * * * *

(3) Before any ballot paper is delivered to an elector at an election by Assembly members or in a local authorities constituency, the serial number of the ballot paper shall be effectively concealed in such manner as the Election Commission may direct.

House. A statement of such cases is given in Appendix I. Care should be taken to avoid such delays and the 'order' laid on the Table of the House promptly.

XI

Action taken by Government on Recommendations of Committee on Subordinate Legislation.

35. The recommendations of the Committee which have been implemented by the Government are given in Appendix II.

NEW DELHI;
The 21st April, 1966.
Vaisakha 1, 1888 (Saka).

S. V. KRISHNAMOORTHY RAO,
Chairman,
Committee on Subordinate Legislation.

(1A) At the time of issuing a ballot paper to an elector, the polling officer shall record the serial number thereof against the entry relating to the elector in the copy of the electoral roll set apart for the purpose.

(1B) Save as provided in sub-rule (1A), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.

**SUMMARY OF RECOMMENDATIONS MADE BY, AND
ASSURANCES GIVEN TO THE COMMITTEE ON
SUBORDINATE LEGISLATION**

(THIRD LOK SABHA)

(Fifth Report)

S. No.	Reference to para No. of the Report	Summary of Recommendations/Assurances
1	2	3
1	6	The formula, contained in the Bills brought before the House under Article 357(1)(a) of the Constitution, for laying of the President's Acts before the Houses of Parliament, should conform to the formula as contained in paragraph 45 of the 7th Report of Committee on Subordinate Legislation (Second Lok Sabha).
2	11	The words, "in their discretion" occurring in regulations 7(1) and 8(5) of the Central Secretariat Service Assistants' Grade (Competitive Examination) Regulations 1965 (G.S.R. 1151 of 1965), which are likely to cause an impression that the Union Public Service Commission exercise their discretion even otherwise than on the results of the examination, should be omitted.
3	15	It should specifically be stated in the Petroleum Products (Supply and Distribution) Order, 1965 that a Government servant not below a specified rank or equivalent officer might be authorised to conduct searches and seizures etc under that Order. Clause 4 thereof should not be left worded in a manner which would give the Executive the power to authorise any and every Government servant to exercise the power of conducting searches and seizures under the Order.
4	19	The Committee note the assurance given by the Ministry of Law that the Chairman of the

I

2

3

Selection Board constituted under Rule 4 of the Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1963 will always be of the status of a Judge of the Supreme Court and that the additional members of the Board, if any, will be nominated by the Minister of Law in consultation with the Chairman of the Selection Board.

5

33

The existing rule 38A as incorporated in rule 70 of the Conduct of Elections Rules 1961, which lays down the procedure to be followed before recording of votes in an election by the Members of Legislative Assemblies of States to fill seats in Rajya Sabha or the State Legislative Councils, may continue in the present form and the recommendation of the Committee contained in para 45 of their Third Report may not be pursued further.

6

34

Care should be taken to avoid delays and the 'Orders' laid on the Table of the House promptly

APPENDIX I

(See para 34 of the Report)

Statements of 'Orders' in respect of which there has been delay^a of more than 15 days in laying them on the Table of the House.

S. No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	Approximate delay
1	2	3	4	5	6
1	G.S.R. 488 of 1965	Industrial Disputes (Central) Amendment Rules, 1965.	27-3-65	16-8-65	More than 4 months.
2	G.S.R. 655 of 1965	Railway Protection force (Amendment) Rules, 1965.	1-5-65	16-8-65	More than 3 months
3	G.S.R. 702 of 1965	Manufacture in Customs Bonds (General) Second Amendment Rules, 1965.	8-5-65	16-8-65	-do-
4	G.S.R. 701 of 1965	Amendments to the Customs and Central Excise Duties Export Drawback (General) Rules, 1960.	8-5-65	16-8-65	-do-
5	S.O. 1318 of 1965	Madhya Bharat Panchayats (Reorganisation) Order, 1965.	24-4-65	18-8-65	-do-
6	G.S.R. 396 of 1965	Citizenship (Amendment) Rules, 1965.	13-3-65	18-8-65	More than 5 months
7	G.S.R. 624 of 1965	Salar Jung Museum (Amendment) Rules, 1965.	24-4-65	18-8-65	More than 3 months
8	G.S.R. 332 of 1965	Post Office Savings Certificates (First Amendment) Rules, 1965.	6-3-65	19-8-65	More than 5 months

9	G.S.R. 497 of 1965	National Savings Certificates (First Issue) Rules, 1965.	25-3-65	19-8-65	More than 4 months
10	G.S.R. 183 of 1965	Post Office Savings Banks Rules, 1965	25-1-65	19-8-65	More than 6 months
11	G.S.R. 495 of 1965	Post Office Savings Bank (Amendment) Rules, 1965.	25-3-65	19-8-65	More than 4 months
12	G.S.R. 1396 of 1964	Cinematograph (Censorship) Amendment Rules, 1964	26-9-64	24-8-65	More than 10 months
13	G.S.R. 86 of 1965	-do-	9-1-65	24-8-65	More than 6 months
14	No. SEC-2864/B.3 dated the 1st May, 1965	Agricultural Refinance Corporation (Staff) Regulations, 1964.	1-5-65	2-9-65	More than 4 months
15	G.S.R. 741 of 1965	Defence of India (Third Amendment) Rules, 1965.	14-5-65	22-9-65	More than 1 month
16	G.S.R. 1289 of 1965	Amendments to the Customs and Central Excise Duties Export Drawback (General) Rules, 1960.	4-9-65	23-9-65	More than 15 days
17	G.S.R. 1346 of 1965	-do-	7-9-65	23-9-65	-do-
18	G.S.R. 1175 of 1965	All India Services (Provident Fund) Second Amendment Rules, 1965.	21-9-65	24-9-65	More than 1 month
19	G.S.R. 1176 of 1965	All India Services (Death-cum-Retirement Benefits) Fifth Amendment Rules, 1965.	21-8-65	24-9-65	-do-
20	S.O. 2712 of 1965	Cotton Textiles (Control) Second Amendment Order, 1965.	4-9-65	24-9-65	More than 15 days
21	G.S.R. 1223 of 1965	Corrigendum to the Life Insurance Corporation (Amendment) Rules, 1965.	28-8-65	3-11-65	More than 2 months

* The inter-session periods have not been counted for delay in the case of those 'orders' which were published when the house was not in session and were laid on the Table during the session immediately following their publication in the Gazette.

1	2	3	4	5	6
22	G.S.R. 919 of 1965	Customs and Central Excise Duties Export Drawback (General) Twenty-third Amendment Rules, 1965.	3-7-65	4-11-65	More than 2 months
23	S.O. 2658 of 1964	Export of Mica (Inspection) Rules, 1964.	30-7-64	5-11-65	More than 14 months
24	S.O. 4097 of 1964	Export of Jute Hessian and Jute Sacking (Inspection) Rules, 1964.	24-11-64	5-11-65	More than 11 months
25	S.O. 4398 of 1964	Export of Fish and Fish Products (Inspection) Rules, 1964.	29-12-64	5-11-65	More than 8 months
26	S.O. 773 of 1965	Export of Fish and Fish Products (Inspection) Amendment Rules, 1965	6-3-65	5-11-65	Eight months
27	S.O. 1325 of 1965	Export of P.V.C. Leather Cloth (Inspection) Rules, 1965.	24-4-65	5-11-65	More than 6 months
28	S.O. 1346 of 1965	Export of Mica (Inspection) Amendment Rules, 1965.	30-4-65	5-11-65	-do-
29	S.O. 1424 of 1965	Export of Jute Hessian and Jute Sacking (Inspection) Amendment Rules, 1965	27-4-65	5-11-65	-do-
30	S.O. 1892 of 1965	Export of Coir Products (Inspection) Rules, 1965.	15-6-65	5-11-65	More than 2 months
31	S.O. 2140 of 1965	Export of Mica (Inspection) Second Amendment Rules, 1965.	30-6-65	5-11-65	-do-
32	S.O. 2345 of 1965	Export of Flash Lights (Inspection) Rules 1965.	26-7-65	5-11-65	-do-
33	G.S.R. 155 of 1965	Apprenticeship (Fourth Amendment) Rules, 1964.	23-1-65	10-11-65	More than 8 months
34	G.S.R. 1242 of 1965	Apprenticeship (Amendment) Rules, 1965	28-8-65	10-11-65	More than 2 months

35	S.O. 2912 of 1965	Scarce Industrial Materials (Control) Order 1965.	14-9-65	26-11-65	More than 2 months
36	S.O. 2920 of 1965	Scarce Industrial Materials (Control) Second Amendment Order, 1965	18-9-65	26-11-65	-do-
37	S.O. 2921 of 1965	Scarce Industrial Materials (Control) Amendment Order, 1965.	18-9-65	26-11-65	-do-
38	S.O. 3328 of 1965	Scarce Industrial Materials (Control) (Third Amendment) Order, 1965.	18-9-65	26-11-65	-do-
39	S.O. 2911 of 1965	Rescission of Non-Ferrous Metal Control Order, 1958.	14-9-65	26-11-65	-do-
40	G.S.R. 3513 of 1965	Payment of Wages (Railways) Second Amendment Rules, 1965.	13-11-65	30-11-65	More than 15 days
41	G.S.R. 3514 of 1965	Payment of Wages (Mines) Amendment Rules, 1965.	13-11-65	30-11-65	-do-
42	G.S.R. 1545 of 1965	Denatured Spirit (Ascertaining and Determining) Amendment Rules, 1965.	23-10-65	2-12-65	One month
43	G.S.R. 1439 of 1965	Food Corporations (Second Amendment) Rules, 1965.	2-10-65	7-12-65	More than one month
44	G.S.R. 1528 of 1965	Food Corporations (Third Amendment) Rules, 1965.	16-10-65	7-12-65	-do-
45	G.S.R. 1672 of 1965	Union Public Service Commission (Exemption from Consultation) (Third Amendment) Regulations, 1965.	20-11-65	8-12-65	More than 15 days
46	G.S.R. 1673 of 1965	Amendment to Schedule III to the Indian Administrative Service (Pay) Rules, 1954.	20-11-65	8-12-65	-do-

APPENDIX II

(See para 35 of the Report)

Statement showing the action taken by the Government on the recommendations made by the Committee on Subordinate Legislation (Third Lok Sabha).

S. No.	Ref. to para No. of Report	Summary of recommendations	Gist of Government's reply
1	2	3	4
1	Second Report 29	Rule 5 of the Service Rules for Flying Crew, for Employees in Aircraft Engineering Department etc. should either be deleted or amended in such a way that it does not give an impression that the jurisdiction of the courts was being ousted.	This has since been done. [D.P.A. O.M. No. SRIV (13-18) 111/CB/65 dt. 14-10-65]
2	Third Report 7	A provision should be made in rule 12 of the Port of Bombay Passenger Boats Rules, 1962 (G.S.R. 1628 of 1962) that reasons for refusal to grant a licence thereunder should be put on record.	This has since been done. (see G.S.R. 433 of 1966)
3	11	A provision for allowing appeal to some higher authority against the orders passed, specially, under rules 14 and 15, should be made in the Port of Bombay Passenger Boats Rules, 1962.	This has since been done. (See G.S.R. 433 of 1966)