

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(FIFTH LOK SABHA)

FIFTH REPORT

(Presented on the 18th December, 1972)



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1972 | Agrahayana, 1894 (Saka)

Price: Rs. 2.30 Paise

LOK SABHA SECRETARIAT

Corrigenda to the Fifth Report of the Committee on
Subordinate Legislation (Fifth Lok Sabha).

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
(11)	-	4 from bottom	Subordiante	Subordinate
		3 from bottom	o the	of the
5.	17	6	be	in-
17	64	9	1970	1910
19	70	8	out	not
20	73	4 from bottom	the	to
22	79	4	held	help
23	80	2	Recruitment	Recruitment
32	108	14	I.A.S.	is I.A.S.
45	-	6 from bottom	Posts	Post
50	Heading to col.(5)	4	Minister	Ministry
54	S.No.28	col.3	Indian Service	Indian Police Service
	S.No.36	col.4	9-1-197	9-1-1971
56	S.No.57	col.3	Audltration	Audltration
58	S.No.58	col.3	Monobolies	Monopolies
82	26	5	Siv	Six
92	23	5	1972	1971
109	13	1	meeting	committee

CONTENTS

	PARA NOS.	PAGE NOS.
COMPOSITION OF THE COMMITTEE		(iii)
REPORT		
I. Introduction	1—5	1
II. The Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 (S.O. 599 of 1972)	6—17	1—5
III. Indication of incorrect year in the short title of Rules, Regulations, etc.	18—28	5—7
IV. Delay in laying 'Orders' on the Table	29—43	7—11
V. The Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972 (G.S.R. 212 of 1972)	44—46	11—12
VI. Publication of rules etc. in draft form—Non-indication of certain particulars in the preamble to the final rules as required by the recommendation of the Committee on Subordinate Legislation	47—49	12—13
VII. The Central Translation Bureau, Ministry of Home Affairs (Class III and Class IV Posts) Recruitment Rules, 1972 (G.S.R. 499 of 1972)	50—52	13—14
VIII. The Railway Service Commissions (Chairmen, Member-Secretaries and Assistant Secretaries) Recruitment Rules, 1970 (G.S.R. 226 of 1970)	53—58	14—15
IX. The Minimum Wages (Central) Amendment Rules, 1968 (G.S.R. 220f of 1968)	59—62	16
X. The Indian Museum Rules, 1970 (G.S.R. 622 of 1970)	63—65	17—18
XI. The Metalliferous Mines (Second Amendment) Regulations, 1970 (G.S.R. 949 of 1970)	66—69	18—19
XII. The Indian Economic Service (Amendment) Rules, 1970 (G.S.R. 1272 of 1970) and Indian Statistical Service (Third Amendment) Rules, 1970 (G.S.R. 1273 of 1970)	70—79	19—22
XIII. The Armed Forces Medical College, Poona (Animal Supervisor) Recruitment Rules, 1971 (S.R.O. 92 of 1972)	80—83	23
XIV. The Hindi Translator Grade I (Ministry of Home Affairs) Department of Administrative Reforms Recruitment Rules, 1971 (G.S.R. 496 of 1972)	84—86	23—24
XV. The Department of Works, Housing and Urban Development Arbitrator's Recruitment Rules, 1970 (G.S.R. 1279 of 1970)	87—90	24—25

(i)

XVI. (1) Rehabilitation Reclamation Organisation Drilling Sub-Division [Assistant Engineer (Drilling) Class II Posts] Recruitment Rules, 1970 (G.S.R. 1881 of 1970)		
(2) Department of Industrial Development (Joint Director and Editor in the Rural Industrial Planning Committee) Recruitment Rules, 1970 (G.S.R. 838 of 1970)	91—95	25—26
XVII. The Mineral Concession (Fourth Amendment) Rules, 1968 (G.S.R. 703 of 1968)	96—98	26—27
XVIII. Implementation of recommendations—		
(i) Armed Forces Headquarters Clerical Service Rules, 1968 and Armed Forces Headquarters Stenographers Service Rules, 1968 [Paragraph 35 of Fourth Report (Fourth Lok Sabha)]	99—103	27—29
(ii) All India Services (Fixation of Cadre Strength) Regulations providing for 'Central Deputation Reserve' [Para 11 of Fifth Report (Fourth Lok Sabha) and Para 54 of Sixth Report (Fourth Lok Sabha)]	104—117	29—34
(iii) Framing of bye-laws for the custody and handling of exhibits in the Indian Museum, Calcutta [Para 15 of Second Report (Fourth Lok Sabha) and Para 20 of Fifth Report (Fourth Lok Sabha)]	118—124	34—36
XIX. Action taken or proposed to be taken by Government on various recommendations of, and assurances given to, the Committee on Subordinate Legislation	125	36
APPENDICES		
I. Summary of main Recommendations/Observations made by the Committee		37—46
II. 'Orders' published in 1972, but referred to as of 1971		47
III. 'Orders' published in 1970, but-referred to as of 1969		48—49
IV. 'Orders' sent to the Press towards the end of the year 1971 and published in 1972		50
V. Statement of 'Orders' in respect of which there has been delay in laying them on the Table		51—55
VI. List of 'Orders' in which certain particulars about previous publication of draft 'Orders' were not indicated		60—61
VII. Statement showing the progress of action taken or proposed to be taken on the recommendations made by, and assurances given by Ministries/Departments, to the Committee on Subordinate Legislation		62—66
VIII. Minutes of the Ninth, Thirteenth, Fourteenth, Eighteenth, and Twenty-first to Twenty-fifth Sittings of the Committee		69—111

COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1972-73)

- Shri Vikram Mahajan—*Chairman*.
2. Shri Frank Anthony
 3. Shri M. C. Daga
 4. Shri Dharnidhar Das
 5. Shri T. H. Gavit
 6. Shri Samar Guha
 7. Shri Subodh Hansda
 8. Shri Dinesh Joarder
 9. Shri S. A. Kader
 10. Shri G. Y. Krishnan
 11. Shri Y. S. Mahajan
 12. Shri S. N. Misra
 13. Shri D. K. Panda
 14. Shri K. Narayana Rao
 15. Shri Tulmohan Ram.

SECRETARIAT

- Shri P. K. Patnaik—*Joint Secretary*.
Shri H. G. Paranjpe—*Deputy Secretary*.

REPORT

I

INTRODUCTION

1. 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. The Committee have held 5 sittings—on the 6th and 7th October, the 7th and 9th November and the 6th December, 1972.

3. The Committee took evidence of the representatives of the Cabinet Secretariat (Department of Personnel) in regard to laying down the nomenclature of the Central Deputation Reserve posts and giving retrospective effect to Rule 10(iii) of the Indian Economic Service Rules, 1961 and the Indian Statistical Service Rules, 1961 at their sitting held on the 7th October, 1972. The Committee also took evidence of the representatives of the Ministries of Shipping and Transport (Transport Wing) and Works and Housing at their sitting held on the 9th November, 1972 in regard to the Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 and indication of incorrect year in the short title of certain Rules, Regulations, etc.

The Committee (1971-72) had also taken evidence of the representatives of the Ministries of Home Affairs, Education & Social Welfare and Works and Housing in regard to delay in laying of 'Orders' on the Table, at their sitting held on the 29th January, 1972.

4. The Minutes of the sittings which form part of the Report are appended to it.

5. A statement showing the summary of recommendations/ observations of the Committee is appended to the Report (Appendix I).

II

THE MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT RULES, 1971 (S.O. 599 OF 1972)

6. It was noticed from the preamble to the Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 that the objections and suggestions from the public on the draft Rules, as required by Section 133(1) of the Motor Vehicles Act, 1939, were invited up to the 23rd July, 1971, while the copies of the Gazette containing the said draft Rules were made available to the public on the 26th

August, 1971. Thus, the last date for receipt of objections/suggestions had already expired before the copies of the Gazette were made available to the public.

7. The Ministry of Shipping and Transport (Transport Wing), to whom the matter was referred for comments, stated in their reply as follows:

"...this Ministry's notification (S.O. 2359 dated 3rd June, 1971) publishing certain draft rules further to amend the Motor Vehicles (Third Party Insurance) Rules, 1946, was sent for issue on 4th June, 1971 and it was presumed that it would be published and copies of the relevant gazette made available to the public by the 23rd July, 1971. Accordingly, the date for receipt of objections was fixed as the 23rd July, 1971. Unfortunately, however, it appears that copies of the relevant gazette in which the notification was published were made available to the public only on 26th August, 1971. It may, however, be mentioned that the general public was not affected by the proposed amendments which had application only in relation to the State Road Transport Undertakings, local authorities and Central and State Governments, as mentioned in Section 94(3) of the Motor Vehicles Act, 1939. The Governments of Orissa and Tamil Nadu sent their suggestions in September and October, 1971 (i.e. after the last date specified in S.O. No. 2359). These were duly taken into account before the final notification was published on 29th December, 1971. In future, care will be taken to specify the date for receipt of objections after taking into account the possibility of delay in the publication of the notification and copies of the relevant gazette being made available to the public."

8. The representative of the Ministry of Shipping and Transport who was examined by the Committee in this regard at their sitting held on the 9th November, 1972, stated that the Motor Vehicles (Third Party Insurance) Amendment Rules, 1971, were published in draft form in June, 1971 and the last date for receiving objections/suggestions from the public on the draft Rules was fixed as 23rd July, 1971. The date, 26th August, 1971 (as the date of circulation to public) was the one ascertained by one of the officials of the Ministry from Government Press on phone. He added that the proper course for the Ministry under such circumstances should

have been to extend the time for receipt of objections from the public but it was felt that it was not necessary to do so as the amendment mainly concerned the Central and State Governments and they had received objections from some of the State Governments. He, however, admitted that it was a lapse on the part of the Ministry.

9. When asked as to what steps they proposed to take to avoid recurrence of such mistakes in future, it was stated that the officers had been asked to ensure that the requisite time was made available to the public before final notification was issued.

10. Explaining the gap of more than two months between the date of publication of draft Rules in the Gazette and the date on which it was made available to the public, the representative of the Ministry of Works and Housing who was also examined by the Committee stated that the notification was published in the Gazette after a delay of more than a month due to increased work-load in the Press. When asked as to why they did not inform the Ministry about the delay in the publication of the Gazette, it was stated that according to the present practice, the concerned Departments were not informed of the delay in printing. In reply to a further question as to whether any letter giving the date for publication in the Gazette had been received alongwith the notification from the Ministry of Shipping and Transport in this case, it was stated that generally the practice was that only the notification was sent for publication and it appeared that the same practice was followed in this case also.

11. When the attention of the representative of the Ministry of Works and Housing was drawn to the fact that the draft Rules were published in the Gazette on the 9th June, 1971 and were made available to the public on the 26th August, 1971, he stated that the notification went to Publication Branch on 14th July, 1971 and the distribution thereof was completed on the 17th July, 1971. It was not correct to say that the Gazette copies containing the draft Rules were circulated in August, 1971.

12. In a written note received from the Ministry of Shipping and Transport (Transport Wing) regarding the gap between the date of publication of the Rules and the date of making copies of the Gazette available to the public, the Ministry have stated as under:—

"The date on which copies of the draft notification (S.O. No. 2359 of 1971 dated 19th June, 1971) were made available to the public as given in the final notification (S.O. 599 of 1972 dated 19th February, 1972) viz. 26th August, 1971,

is now found not to be correct. The correct date is 15th July, 1971. The date (26th August, 1971) given in the final notification (S.O. 599 of 1972) was obtained on phone from an official of the Publication Branch of the Government of India Press. It may thus be seen that the actual gap between the two dates i.e. the date of publication and the date on which copies of the notification were released for sale, is about a month.

2. The concerned officers have been instructed to be careful in future and get the information in writing from the Press before including it in formal notifications."

13. In another written note the Ministry of Works and Housing have stated as under:—

"...the printed copies of the Gazette of India, Part II, Section 3(ii), dated the 19th June, 1971, containing the Ministry of Transport Notification bearing No. S.O. 2359 of 1971 were made available for sale in the Publications Branch main Office counter on the 15th July, 1971 and at the sale counter of Kitab Mahal, New Delhi on the 17th July, 1971. Therefore the said Gazette was available to public on the 15th July, 1971."

14. The Committee are not happy over the way the Ministry of Shipping and Transport (Transport Wing) had acted in this case. They see no reason why the Ministry should not have extended the time for receipt of suggestions/objections from the public on the draft Rules when they learnt that the last date for the purpose as originally fixed by them had already expired before the Gazette copies were made available to the public.

15. It is hardly necessary for the Committee to re-stress that when the Acts give a right to the public to send their comments on the draft rules, sufficient time should be given to them to study the draft and send their comments on the provisions contained therein.

16. The Committee are not satisfied with the explanation given by the Ministry of Works and Housing for the gap between the date of publication of the Gazette containing the draft rules and the date on which copies thereof were made available to the public. The Committee desire the Ministry to stream-line their procedure regarding printing of rules, etc. and their circulation to the public to obviate such delays in future.

17. The Committee also desire that whenever Ministries/Departments want their notification containing rules, regulations, etc. to be published by a particular date, they should send them to the Press alongwith a covering letter indicating therein the date by which they want them to be published. In case the Government Press do not find it possible to publish them by that date, they should be form the concerned Ministry/Department accordingly.

III

INDICATION OF INCORRECT YEAR IN THE SHORT TITLE OF RULES, REGULATIONS, ETC.

18. It is a well-accepted practice that short title of Rules, Regulations, bye-laws, etc. should bear the year in which they are published and not some other year. The Committee on Subordinate Legislation have also made a recommendation to this effect in para 44 of their Third Report (First Lok Sabha) and paras 30-31 of their Thirteenth Report (Second Lok Sabha). Indication of incorrect year in the short title causes difficulty in location of 'Orders'.

19. It was, however, noticed in a number of cases (*vide* Appendix II) that even though the rules were published in the year 1972 and came into force in that year, in the short title they had been referred to as of 1971.

20. The error was brought to the notice of the Ministries concerned who stated that they were taking necessary action to correct the year in the short title.

In respect of the 'Orders' published in 1970, amendments to correct the year had to be issued by the Ministries/Departments concerned in 19 cases (*vide* Appendix III).

21. Apart from the cases referred to in the preceding para, a large number of other cases (*vide* Appendix IV) appearing in the Gazettes in 1972 came to notice where the error was due to the fact that while the Rules were sent by the Ministries concerned for publication towards the end of the year 1971, these were published in the year 1972.

22. At their sitting held on the 9th November, 1972, the Committee examined the representatives of the Ministries of Shipping and Transport (Transport Wing) and Works and Housing in regard

to the following Rules appearing at S. Nos. 7, 8, 10, 17 and 19 of Appendix III which were issued by them. These rules were published in the year 1970, whereas in their short title, they had been referred to as of 1969.

- (1) *Andaman Laccadive Harbour Works (Class I and II Posts) Recruitment Rules, 1969 (G.S.R. 1869 of 1970).*
- (2) *Andaman Laccadive Harbour Works (Special Draftsman) Recruitment Rules, 1969 (G.S.R. 2054 of 1970).*

23. The representative of the Ministry of Shipping and Transport (Transport Wing) stated that incorrect year had been indicated in the short title of the above Rules due to oversight. The original draft Rules framed in 1969 were in English. Hindi translation of these Rules was done in 1970. This led to the mistake in the year of the short title.

24. In reply to a question, he said that the amendment to correct the year was issued in 1972. The same mistake occurred in this case also. The amendments were sent to the Press towards the end of 1971. These were published after a few days when the year 1972 had already started. So the year should have been shown as 1972. He further said that to avoid such mistakes in future, it was proposed to issue instructions to the Press through the Ministry of Works and Housing that where such notifications were sent towards the close of the year and were published in the next year, they should make out the correction in the year after consulting them.

25. When it was pointed out that such mistakes were being made repeatedly, he said that instructions would be issued that a serious view would be taken if such mistakes occurred in future.

- (1) *Directorate of Estates (Estate Manager, Calcutta) Recruitment Rules, 1969 (G.S.R. 1036 of 1970).*
- (2) *Directorate of Estates [Deputy Director of Estates (Rents)] Recruitment Rules, 1969 (G.S.R. 1035 of 1970).*
- (3) *Land and Development Office (Class III and IV Posts) Recruitment Rules, 1969 (G.S.R. 1107 of 1970).*

26. Explaining the circumstances in which the year in short title of the above Rules had been indicated incorrectly, the representative of the Ministry of Works and Housing stated that the processing of the Rules was started in 1969 but they were finalised in 1970. The

year was, however, not changed due to inadvertence at the time of sending the Rules to the Press for printing. He further said that they would warn the persons who were responsible for the lapse.

27. The Committee regret to note that the error in indication of correct year in short title of Rules, Regulations, etc. has been found to be recurring year after year. It is a well accepted practice that short title of Rules, Regulations, Bye-laws, etc. should bear the year in which they are published and not some other year. The Committee have also made a recommendation to this effect in para 44 of their Third Report (First Lok Sabha). The Committee re-impress upon Ministries/Departments of the Government the need for indication of correct year in the short title.

28. The Committee also note that in a large number of cases the error occurs due to the fact that while the Rules are sent by the Ministries/Departments for publication towards the end of a year, these are published by the Press in the next year. The Committee desire the Ministry of Law and Justice (Legislative Department) to devise, in consultation with the Government of India Press, some procedure for making a consequential change in the short title in such cases.

IV

DELAY IN LAYING 'ORDERS' ON THE TABLE

29. In terms of the recommendation of the Committee on Subordinate Legislation contained in paras 71-72 of the Second Report (Second Lok Sabha), all 'Orders' required to be laid on the Table of the House, should be laid within a period of 15 days after their publication in the Gazette, if the House is in session; and within a period of 15 days of the commencement of the following session, if the House is not then in session. In para 143 of their First Report (Second Lok Sabha), the Committee recommended that whenever rules are laid on the Table of the House after the prescribed time-limit, they should be accompanied by a statement explaining the reasons for delay.

30. It was noticed that out of 348 'Orders' laid on the Table of the House during the First and Second sessions of the Fifth Lok Sabha, as many as 87 'Orders' (*vide* Appendix V) had been laid after the prescribed time-limit of 15 days. The number of cases in which the Government had laid statements showing reasons for delay was 32. The number of cases in which no such statement had been laid was 55.

The delay in the above cases range from 15 days to more than 3 years. A break up of the cases, according to the period of delay, is as follows:—

Delay upto one month	11 Orders'
Delay of 1—3 months	29 "
Delay of 3—6 Months	37 "
Delay of 6—9 months	5 "
Delay of 9—12 months	2 "
Delay of more than one year.	1 "
Delay of more than two years.	1 "
Delay of more than three years.	1 "
TOTAL	87

31. The Committee considered the matter at their sitting held on the 17th November, 1971 and desired the Ministries|Departments concerned to furnish statements showing reasons for delay. On a perusal of these statements it was seen that the delay in laying the 'Orders' on the Table of the House had been ascribed mainly to (i) late receipt of printed copies of the relevant Gazette|intimation regarding G.S.R. numbers, etc. from the Government of India Press, (ii) delay in publication of the Hindi version, and (iii) inadvertence.

32. At their sitting held on the 29th January, 1972, the Committee examined the representatives of the Ministries of Home Affairs, Education and Social Welfare and Works and Housing in regard to following selected cases of inordinate delay in laying on the Table of the House.

The Border Security Force (Amendment) Rules, 1970 (S.O. 1362 of 1970)

33. There was a delay of more than one year and two months in laying the above Rules on the Table. During evidence, the representative of the Ministry of Home Affairs stated that it was 'a very unfortunate case' in which there had been a lapse on the part of the Ministry. As regards the steps taken by the Ministry to obviate such delays in future, he stated that instructions had been issued that all Rules framed under delegated authority must be placed

before the Houses of Parliament, as enjoined by the Parliamentary procedure.

- (1) *The Indian Museum Recruitment Rules, 1970* (G.S.R. 1681 of 1970).
- (2) *The Khuda Baksh Oriental Public Library Rules, 1970* (G.S.R. 1695 of 1970).

34. The above Rules were laid on the Table after a delay of more than 9 months. During evidence, the representative of the Ministry of Education and Social Welfare admitted that there was a lapse on the part of the Ministry, for which there could be no valid explanation. The delay had occurred partly because the Ministry had not been able to get the G.S.R. numbers and the date of publication of the Rules from the Government of India Press upto January 1970. Thereafter, the delay was wholly in the Ministry. As to the remedial measures taken in the matter, he stated that under a new procedure introduced in the Ministry request for intimating the G.S.R. numbers would be made in the very letter asking the Government Press to publish the notifications.

- (1) *The Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968* (S.O. 1457 of 1968).
- (2) *The Delhi Development Authority (Management and Disposal of Housing Estates) Amendment Regulations, 1968* (S.O. 1755 of 1969).

35. The above Regulations were published in the Gazette on 27-4-1968 and 10-5-1969 respectively but were laid on the Table of Lok Sabha on 31-5-1971, resulting in a delay of more than three years in the case of the former Regulations and a delay of more than two years in the case of latter Regulations.

36. Explaining the reasons for delay in laying the above Regulations on the Table of the House, the representative of the Ministry of Works and Housing stated that in the preamble to the principal regulations, it had been mentioned that the regulations had been made "with the previous approval of the Central Government", whereas the fact was that these had been made with the previous approval of Lt. Governor of Delhi. Amendments to cover this point were notified on 23-4-1969. In the meantime the Rajya Sabha Secretariat had also pointed out that Regulation 59 was likely to be construed as excluding the jurisdiction of Courts of Law. The Delhi Development Authority decided to delete this Regulation by passing a resolution on 24-12-1970.

37. In reply to a question, he stated that in his opinion the original regulations should have been laid on the Table in spite of the infirmities therein. But the then officer concerned felt that it was not proper to lay defective regulations on the Table, particularly when the necessary amendments were already under consideration.

38. The Committee also heard evidence of the representative of the Ministry of Works and Housing who are the administrative Ministry in charge of the Government of India Press in regard to 28 'Orders' in whose case the delay had been ascribed by other Ministries to late receipt of printed copies of the relevant Gazette intimation regarding G.S.R. numbers etc. from the Government of India Press. He stated that the responsibility of the Government Press was limited to the interval between the date of publication of the Rules and the date of despatch of copies thereof to the Ministries/Departments. The representative of the Ministry of Works and Housing did not agree that there was much delay on the part of the Press in the above 28 cases.

From the figures subsequently furnished by the Ministry of Works and Housing, the Committee, however, note that in as many as 10 cases, time-lag between the date of publication and despatch was a week or more; in 8 cases the time-lag was two weeks or more; and in 3 cases four weeks or more.

39. In a written note furnished to the Committee, the Ministry of Works and Housing have informed that they have since introduced a new procedure according to which a request for G.S.R./S.O. No. should be made in writing in duplicate to the Press which should be sent through messenger. Such requests in the case of extraordinary issues should be made one day after the date on which the notification is required to be published, and on Mondays in case of notifications published in the weekly Gazette. The Press will immediately indicate the G.S.R./S.O. Nos. on both copies of the request received from the indenter and deliver one copy to the representative of the indenter.

40. In their successive Reports, the Committee on Subordinate Legislation have drawn attention to delays in laying of 'Orders' on the Table of the House. The Committee regret to note that there has been no improvement in position. Out of 248 'Orders' laid on the Table during the First and Second Sessions of Fifth Lok Sabha, 87 'Orders' were laid after the prescribed time-limit. The delay in

these cases ranged from 15 days to over three years. The Committee note that cases of inordinate delay have continued to occur in subsequent sessions also. In respect of two* 'Orders' laid on the Table during the Sixth Session, there was a delay of more than two years. The Committee take a serious view of such delays. It is hardly necessary for them to point out that inordinate delays in laying are against the spirit of the relevant provisions in the Act which requires that the 'Orders' should be laid before Parliament *as soon as possible*, after they are published.

41. The Committee also note that out of 87 cases in which the delay had occurred, statements showing reasons for delay had been laid only in 32 cases. The Committee feel strongly about non-observance of their recommendation in this regard. They again urge that in case, due to any unavoidable reason, it is not possible for a Ministry/Department to lay an order on the Table within the prescribed time-limit, they should make it a point to lay a statement showing reasons for delay alongwith the 'Order'. The Committee would henceforth take a serious note of this omission.

42. The Committee have perused in detail statements showing reasons for delay in laying the 'Orders' on the Table, as furnished by the Ministries/Departments concerned. In their opinion, with a little more care on the part of the Ministries/Departments, the delay could have been avoided in most cases.

43. One of the main reasons for delay given by the Ministries/Departments was that copies of the relevant Gazette/intimation regarding G.S.R. numbers, etc. were received late from the Government of India Press. The Committee note that to obviate such delays, the Ministry of Works and Housing have introduced a new procedure for supply of G.S.R. Nos. etc. to the Ministries/Departments concerned. The Committee desire that the new procedure should be brought to the notice of all Ministries/Departments for strict compliance in future so that the 'Orders' are laid on the Table promptly.

V

THE MINISTRY OF IRRIGATION AND POWER CLASS II (STATISTICAL POSTS) RECRUITMENT RULES, 1972 (G.S.R. 212 OF 1972)

44. Second Proviso to rule 4 of the Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972, provides for relaxation of standard for candidates belonging to Scheduled Castes and Scheduled Tribes to make up the deficiency in the reserve

*Merchant Shipping (Registration of Indian Ships) Amendment Rules, 1970 (G.S.R. 751 of 1970 dt. 9-5-70) and Merchant Shipping (Tonnage Measurement of Ships) Amendment Rules, 1970 (G.S.R. 897 of 1970 dt. 6-6-1970) laid on the Table on 27-11-72

quota, irrespective of their ranks in the order of merit at the examination.

There is, however, no provision in the Rules or the Schedule there-to for holding an examination for recruitment to posts covered there-by.

45. The Ministry of Irrigation and Power to whom the matter was referred stated as follows:—

“.....rule 4 of the Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972 was added on the advice of the Ministry of Law and Justice, as referred to in the Ministry of Home Affairs O.M. No. 8(12)|71-Estt. (SCT) dated the 19th October, 1971. It has now been checked up that the posts referred to in the above mentioned Recruitment Rules are to be filled by promotion, failing which by direct recruitment. In the case of direct recruitment, these posts have not to be filled on the basis of examination, but by interview conducted by the U.P.S.C.

Accordingly, rule 4 of the Recruitment Rules, referred to above, is being amended in the light of the Department of Personnel's O.M. No. 8|12|71|Ests (SCT), dated the 21st September, 1971, in consultation with the Ministry of Law and Justice. A copy of the amending rules will be supplied to the Lok Sabha Secretariat soon after the amendment to the rules is issued.”

46. The Committee note that even though the two posts referred to in the Rules were intended to be filled by interview, second proviso to Rule 4 indicated that these were to be filled on the basis of an examination. In their opinion, this was a regrettable case of carelessness on the part of the Ministry of Irrigation and Power and also the Ministry of Law and Justice (Legislative Department), on whose advice rule 4 was added to the Rules. They desire the Ministries concerned to be careful in future. They further desire that the rule in question should be amended to the necessary effect at an early date.

VI

PUBLICATION OF RULES ETC. IN DRAFT FORM—NON-INDICATION OF CERTAIN PARTICULARS IN THE PREAMBLE TO THE FINAL RULES AS REQUIRED BY THE RECOMMENDATION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

47. It was observed that in twenty-two cases (*vide* Appendix VI) where the rules, regulations, etc. had been published previously in

draft form as required by the parent Act, the following particulars were not given in the preamble to the final rules, as recommended by the Committee on Subordinate Legislation in para 28 of their First Report (Fourth Lok Sabha):—

- (a) the date of the Gazette in which the draft Notifications were published;
- (b) the date on which the Gazette copies containing the draft Notifications were made available to the public; and
- (c) the last date fixed for receipt of public comments thereon.

48. The Ministries concerned which were asked to state the reasons for not giving the above particulars in the preamble to the final rules, as required by the recommendation of the Committee contained in para 28 of their First Report (Fourth Lok Sabha), have promised to comply with the said recommendation in future.

49. In para 28 of their First Report (Fourth Lok Sabha), the Committee on Subordinate Legislation had observed that adequate opportunities should be given to the public to go through the draft rules and offer their comments. To ensure this, the committee had stressed that particulars about (i) the date of the Gazette in which the draft Rules were published (ii) the date on which the Gazette copies containing the draft Rules were made available to the public; and (iii) the last date fixed for receipt of public comments thereon, should be specifically mentioned in the preamble to the final Rules. The Committee, however, regret to note that the above recommendation of the Committee has not been complied with in a large number of cases. The Committee like to re-impress upon the Ministries/ Departments of the Government the need for strict compliance with their afore-mentioned recommendation.

VII

THE CENTRAL TRANSLATION BUREAU, MINISTRY OF HOME AFFAIRS (CLASS III AND CLASS IV POSTS) RECRUITMENT RULES, 1972 (G.S.R. 499 OF 1972)

50. Under col. 6 against S. No. 3 of the Schedule to the Central Translation Bureau, Ministry of Home Affairs (Class III and Class IV Posts) Recruitment Rules, 1972, the age limit for direct recruitment to the post of Technical Assistant is provided as '21—30 years, may be relaxed in suitable cases'.

The Ministry of Home Affairs were requested to state whether they had any objection to amending the expression 'suitable cases'

3060 L.S.—2.

in the Schedule so as to indicate precisely the types of cases in which the age limit might be relaxed.

51. In their reply, the Ministry of Home Affairs stated as under:

“.....The Ministry of Home Affairs now propose to amend the Recruitment Rules in respect of the post of Technical Assistant by deleting the provision in the Schedule in col. 6 against S. No. 3 ‘the age limit may be relaxed in suitable cases’.”

52. The Committee note that the Ministry of Home Affairs have decided to delete the words ‘may be relaxed in suitable cases’ appearing in column 6, against S. No. 3 of the Schedule to the Central Translation Bureau, Ministry of Home Affairs (Class III and Class IV posts) Recruitment Rules, 1972. They desire the Ministry to take early action to amend the Rules to the necessary effect. They also desire that, while making specific provisions for relaxation of such essential conditions as the age-limit, the Ministries/Departments should spell out precisely the types of cases in which the conditions are proposed to be relaxed. ..

VIII

THE RAILWAY SERVICE COMMISSIONS (CHAIRMEN, MEMBER-SECRETARIES AND ASSISTANT SECRETARIES) RECRUITMENT RULES, 1970 (GSR 226 OF 1970).

53. Rules 5 and 6 of the Railway Service Commissions (Chairmen, Member-Secretaries and Assistant Secretaries) Recruitment Rules, 1970 read as follows:—

“5. Tenure of office of Chairman.—(1) A Chairman of a Railway Service Commission shall hold office for a term of four years from the date on which he enters upon his office or until he attains the age of 62 years, whichever is earlier.

(2) A person who holds office as a Chairman of a Railway Service Commission, shall, on the expiration of his term of office, be ineligible for re-appointment as a Member-Secretary or Chairman of a Railway Service Commission.”

“6. Tenure of office of Member-Secretary.—(1) A Member-Secretary of a Railway Service Commission shall hold office until he attains the age of 58 years.

(2) A person who holds office as a Member-Secretary of a Railway Service Commission shall on the expiration of his term of office, be ineligible for re-appointment to that

office but shall be eligible for appointment as a Chairman of a Railway Service Commission."

54. The Rules were on the lines of Clauses (2) and (3) of Article 316 of the Constitution relating to the tenure of office of the Members of the Union/State Public Service Commission which read as follows:—

"(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty five years, and in the case of a State Commission or a joint Commission, the age of sixty years, whichever is earlier;

* * * * *

(3) A person who holds office as a member of Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office".

55. It was, however, noticed, that whereas the maximum age-limit/term of office of the Members of the Union/State Public Service Commissions specified in Article 316 could not be extended, nor could other provisions thereof be relaxed, under Rule 8, *ibid.*, the Central Government could, in consultation with the U.P.S.C. relax any of the provisions of Rules 5 and 6 relating to the tenure of office of Chairman/Member-Secretaries of Railway Service Commissions.

56. The matter was taken up with the Ministry of Railways (Railway Board) who were asked whether, having regard to the object underlying the said Rules 5 and 6, they had any objection to taking the provisions of these rules out of the purview of Rule 8, *ibid.*

57. In their reply, the Ministry of Railways stated as follows:—

"....The Ministry of Railways agree that the provisions of Rules 5 and 6 of the Recruitment Rules for the posts of Chairman and Member-Secretaries may be taken out of the purview of Rule 8, *ibid.*...".

58. The Committee note with satisfaction that the Ministry of Railways have amended Rule 8 so as to take the provisions of Rules 5 and 6 relating to the tenure of office of Chairmen/Member-Secretaries of Railway Service Commissions out of the purview of the relaxation provision (vide G.S.R. No. 215 of 1972 dated 19th September, 1972).

**THE MINIMUM WAGES (CENTRAL) AMENDMENT RULES, 1968
(G.S.R. 2201 OF 1968)**

59. Rule 14 of the Minimum Wages (Central) Rules, 1950 as substituted by the Minimum Wages (Central) Amendment Rules, 1968, *inter alia* provides as under:—

“...if at any meeting, less than one-third of the members are present, or not even one representative each of both the employers and employees are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of class, of members present.”

60. Attention of the Ministry of Labour and Rehabilitation (Department of Labour and Employment) was invited to the earlier *recommendations of the Committee on Subordinate Legislation made from time to time that in cases where a meeting of a body was adjourned for lack of quorum, a notice regarding the date, time and place of the adjourned meeting should be given to all the members, whether present or absent, and a specific provision therefor should be made in the Rules.

61. The Ministry of Labour and Rehabilitation (Department of Labour and Employment) have now amended rule 14, *ibid.*, by adding the following further provision:

“Provided further that the date and time of such adjourned meeting shall be intimated to the absentee members by telephone, by telegram or by a written communication.”

62. The Committee note the above reply of the Ministry of Labour and Rehabilitation (Department of Labour and Employment) and desire that the new proviso should be further amended to provide that not only date and time but also the place of such adjourned meeting be intimated to the absentee members by telegram or by a written communication and the words “by telephone” be omitted therefrom..

* Sixth Report (Third Lok Sabha)—para 9 and First Report (Fourth Lok Sabha)—paras 19—21.

THE INDIAN MUSEUM RULES, 1970

(G.S.R. 622 OF 1970)

63. Rule 4 of the Indian Museum Rules, 1970, *inter alia*, empowers the Trustees to fix or alter the scales of pay of posts in the Museum, with the previous sanction of the Central Government. However, under sub-section (2) (a) of section 15A of the Indian Museum Act, 1910, as amended from time to time, the power to make rules regarding recruitment and conditions of service of officers and servants of the Museum vests in the Central Government. It was felt that empowering the Trustees to fix or alter the scales of pay of the officers and servants of the Museum was tantamount to sub-delegation of legislative power, for which an express authorisation in the parent Act was necessary. As there was no such authorisation in the parent Act, the Ministry of Education and Social Welfare were requested to State whether they had any objection to specifying the scales of pay in the Rules, as envisaged by sub-section (2) (a) of section 15A of the Indian Museum Act.

64. The Ministry of Education and Social Welfare have forwarded the following opinion of the Ministry of Law and Justice in the matter:—

“The question is whether the authority given to the trustees for the creation of posts for the care and maintenance of Museum and for fixing and altering the scales of pay of such posts under the Indian Museum Rules, 1970 framed in exercise of the powers conferred by section 15A of the Indian Museum Act, 1970, would amount to sub-delegation of legislative power which the Act confers on the Central Government.

Rule 4 begins with ‘with the previous sanction of the Government and subject to such conditions as may be imposed by it’———. The rule thus provides for an overall control by the Central Government under whose supervision and directions the trustees may, according to the needs for the care and maintenance of this Museum, create any posts and fix its pay scales. The need for making such a provision appears to be because the trustees would be in a better position to appreciate the type of post which would be required for the care and maintenance of the Museum. The rule, however, does

not create independent authority for the creation of posts in favour of the trustees. In view thereof, so long as the overall control of the Central Government is there, it would not amount to sub-delegation of legislative power, and the rule is very much in conformity with the provisions of section 15A(2) (a) of the Act."

65. The Committee are not convinced by the arguments given by the Ministry of Law and Justice that authorisation of the Trustees to fix or alter the scales of pay of the employees of the Museum would not amount to sub-delegation of legislative power because the Central Government keeps an overall control over the power to be exercised by the Trustees in the matter. In their view, the fact that the delegating authority keeps some control over the powers to be exercised by the delegate does not alter the fact that the delegation of power has taken place. The Committee, therefore, desire the Ministry of Education and Social Welfare to specify the scales of pay of posts in the Museum through the Rules.

XI

THE METALLIFEROUS MINES (SECOND AMENDMENT)

REGULATIONS, 1970

(G.S.R. 949 OF 1970)

66. Sub-Regulation (9) of Regulation 11 of the Metalliferous Mines Regulations, 1961, as substituted by the Metalliferous Mines (Second Amendment) Regulations, 1970, empowers the Board to make bye-laws for regulating the procedure of its working.

67. It was felt to be a case of sub-delegation of legislature power, for which an express authorisation in the parent Act was considered necessary. As no such authorisation had been provided for in the parent Act, the Department of Labour and Employment were asked to state whether they had any objection to incorporating the provisions relating to the procedure of the working of the Board in the Regulations.

68. In their reply, the Department of Labour and Employment stated as follows:—

"As regards sub-regulation (9) of regulation 11 to the effect that the Board may make bye-laws for regulating the procedure of its working, it is pointed out that such a provision was there ever since the Metalliferous Mines Regulations were framed in 1961. When the draft was first pre-published for comments, the provision relating to bye-laws was not there. Subsequently the same was

inserted in the final publication, as per the suggestion received from the public, to that effect. However, on a further consideration this Ministry has no objection to incorporating the provision relating to the procedure of the working of the Board in the regulations."

69. The Committee note that the Department of Labour and Employment have agreed to incorporate the provision relating to the procedure of the working of the Board of Mining Examinations in the Regulations. They desire that necessary action in this regard should be taken at an early date.

XII

THE INDIAN ECONOMIC SERVICE (AMENDMENT) RULES, 1970 (G.S.R. 1272 OF 1970) AND INDIAN STATISTICAL SERVICE (THIRD AMENDMENT) RULES, 1970 (G.S.R. 1273 OF 1970)

70. Rule 10 (iii) of the Indian Economic Service Rules, 1961 and Rule 10 (iii) of the Indian Statistical Service Rules, 1961, as they stood prior to their amendment by the aforesaid G.S.Rs., empowered the controlling authority to make temporary arrangements to fill duty posts for a period not exceeding six months. These Rules were amended by the above G.S.Rs. to empower the controlling authority to make temporary arrangements to fill duty posts against vacancies, other than regular, which were out to be brought on the recruitment roster, by *ad hoc* promotion of officers of lower grade in the Service.

71. The G.S.Rs. in question—1272 and 1273 of 1970—were published in the Gazette of India, Part II, Section 3(i), dated the 5th September, 1970 but were deemed to have come into force on the 15th day of February, 1964.

72. From the explanatory memoranda appended to the G.S.Rs. in question, it appeared that although under the original Rule 10 (iii) of the Indian Economic Service Rules, 1961 and Rule 10 (iii) of the Indian Statistical Service Rules, 1961, the controlling authority could not fill up posts for periods exceeding six months, and under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, for a period exceeding one year, without consulting the U.P.S.C., the controlling authority had been filling up posts for longer periods without such consultation, and the purpose of giving retrospective effect to the rules from the 15th February, 1964 was to cover such appointments. The Cabinet Secretariat (Department of Personnel) was asked to confirm this. They were also asked to state the reasons for a time-lag of over six and a half years between the date of effect of the Rules and their

publication in the Gazette. They were further requested to indicate as to when the necessary action to amend the Rules was initiated and whether there were any difficulties in amending the Rules earlier.

73. In their reply, the Cabinet Secretariat (Department of Personnel) stated as follows:

“.....the controlling authority of the IES and the ISS have been filling short-term vacancies of duration of more than one year by promotion of officers belonging to the lower grade since such short term vacancies could not be brought on the recruitment roster. The procedure of promotion was the same as adopted in the case of regular promotions. The Union Public Service Commission, however, raised the question in October, 1964, whether it would be necessary to consult them in terms of Rule 4 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1964. The IES|ISS comprise posts in the various Ministries/Departments of the Government of India and are all in Class I. It was, therefore, not considered necessary to consult the Union Public Service Commission in respect of short term promotions made in these Services. After considerable correspondence, the Union Public Service Commission advised in June, 1968 that suitable provision in the Service rules to regulate appointments to such short-term vacancies may be examined in consultation with the Ministry of Law. The question was examined in consultation with the Ministry of Law and it was decided to amend rule 10(iii) of the IES|ISS Rules to enable the controlling authority of the two Services to fill duty posts temporarily provided the procedure laid down in rule 8 for filling regular vacancies was adopted. In view of the fact that the controlling authority had been making such arrangements right from the date on which the appointments to the Services were made viz., 15th February, 1964 it was necessary to give retrospective effect to the amendment to regularise such appointments under Regulation 3 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1954. It is, therefore, confirmed that the retrospective amendments to the rules were necessitated the regularise the temporary arrangements made in duty posts against vacancies other than regular which were not brought on the recruitment roster without consulting the Union Public Service Commission.

2. The Union Public Service Commission and the Law Ministry had to be consulted extensively. The Union Public Service Commission finally concurred in the amendment only in April, 1970. This has resulted in delay in publishing the amendment earlier."

74. The Committee heard the views of the representatives of the Cabinet Secretariat (Department of Personnel) at their sitting held on the 7th October, 1972. While explaining the background for giving retrospective effect to Rule 10(iii) of the Indian Economic Service Rules, 1961 and Indian Statistical Service Rules, 1961, the representative of Department of Personnel stated that these rules were enforced *w.e.f.* 1st November, 1961, but the appointments were made only from 15th February, 1964. In the meantime the posts were being held on an *ad hoc* basis by other persons. Even after the initial constitution, temporary appointments continued to be made on *ad hoc* basis. The result was that Rule 10(iii) was being infringed in the process. This rule provides that the controlling authority could make temporary appointments for a period not exceeding six months, whereas two years had expired already and the people continued to hold these posts. In July 1964, the Director of the Central Statistical Organisation brought to the notice of the Controlling Authority that these appointments were technically not in accordance with the Rules. The Home Ministry, therefore, issued a circular to all the Departments relaxing the rules in favour of these people. When U.P.S.C. came to know of it, they enquired why these appointments were being made without consulting them. The Ministry of Home Affairs took the stand that persons were being promoted against short term deputation vacancies. All the services were in Class I and under the U.P.S.C. (Exemption from Consultation) Regulations, they need not be consulted for appointment from Class I to Class I. Consultation was being done for initial appointment to Grade IV which was also in Class I. U.P.S.C. questioned it and ultimately the Home Ministry conceded that they should have been consulted. U.P.S.C. also insisted that the temporary vacancies should be brought on the recruitment roster. After a great deal of discussion the U.P.S.C. conceded that the temporary vacancies need not be brought on the recruitment roster.

75. The representative of the Department of Personnel further stated that a large number of appointments of more than six months duration had already taken place in infringement of the rules over this period. U.P.S.C. suggested that the rules be amended to regularise these cases. They also suggested that retrospective effect be given to the rule to cover all these cases.

76. In reply to a question, the representative of the Department of Personnel said that the service consists of four grades. A regular examination was held every year by U.P.S.C. for appointments to Grade IV. At present, 75 per cent or more of the posts in Grade IV were filled by competitive examination and 25 per cent or less by promotion of people holding Class II posts. For Grade III, the proportion was 75 per cent or more by promotion for people holding Grade IV posts and 25 per cent or less by direct recruitment through U.P.S.C. For Grade II the proportion was 50 per cent or more by promotion of Grade III officers and 50 per cent or less by direct recruitment and for Grade I, the proportion was 75 per cent or more by promotion from Grade II and 25 per cent or less by direct recruitment. Direct recruitment for Grade I, II and III was not done by competitive examination.

77. In reply to another question, he said that it was not possible to make direct recruitment through U.P.S.C. for temporary posts. Temporary vacancies occurred in two cases. Either when somebody went on leave or when a person was borrowed by some organisation for a certain period. The vacancy had to be kept for him. If it was filled by direct recruitment, he would be thrown out as a consequence of the man's return. Such temporary vacancies were, therefore, filled by persons from within the service so that when the person returned, he could be reverted to the old post.

78. In reply to a further question, the representative of the Department of Personnel stated that the rules were amended to cover temporary appointments which had continued for more than six months. When asked whether they considered it a mistake, he said that there was no *malafide* of any kind. He however, agreed that it should have been taken up at a high level in the U.P.S.C. and other offices.

79. While the Committee appreciate the need for giving retrospective effect to Rule 10(iii) of the Indian Economic Service Rules, 1961 and to Rule 10(iii) of the Indian Statistical Service Rules, 1961 (vide G.S.Rs. 1272-1273 of 1970), they cannot help observing that in filling up posts for periods exceeding 6 months/one year without consulting the U.P.S.C., the controlling authority (viz., Ministry of Home Affairs/Department of Personnel) had acted without due legal authorisation and thereby gravely erred. They also feel that the time taken to amend the Rules was inordinately long, even allowing for consultations with the U.P.S.C. and the Ministry of Law.

XIII

THE ARMED FORCES MEDICAL COLLEGE, POONA (ANIMAL SUPERVISOR) RECRUITMENT RULES, 1971 (S.R.O. 92 OF 1972)

80. Under the relaxation provision normally occurring in Recruitment Rules relating to Gazetted posts, the Central Government are empowered to relax, for reasons to be recorded in writing, any provision of the Rules with respect to any class or category of persons but this power has to be exercised in consultation with the Union Public Service Commission. Even in case of non-gazetted posts, recruitment to which is made through the Union Public Service Commission, the relaxation rule normally provides for consultation with the Union Public Service Commission.

81. The rules in question (published *vide* S.R.O. 92 of 1972) sought to regulate recruitment to the post of Animal Supervisor in the Armed Forces Medical College, Poona—a non-gazetted post but recruitment to which was to be made through the Union Public Service Commission. The relaxation provision contained in these rules—*viz.*, Rule 6—did not provide for consultation with the Union Public Service Commission.

82. The Ministry of Defence with whom the matter was taken up stated that necessary corrigenda to Rule 6 (providing for consultation with the Union Public Service Commission) was being referred to the Ministry of Law and Justice for vetting and would be published shortly.

83. **The Committee note with satisfaction that the Ministry of Defence are issuing necessary corrigendum to Rule 6, providing for consultation with the U.P.S.C. before the Rules are relaxed. They desire the Department of Personnel to issue general instructions to all Ministries/Departments that in all cases where recruitment is made through the U.P.S.C., the relaxation provision in the Recruitment Rules should invariably provide for consultation with the U.P.S.C.**

XIV

THE HINDI TRANSLATOR GRADE I (MINISTRY OF HOME AFFAIRS) DEPARTMENT OF ADMINISTRATIVE REFORMS RECRUITMENT RULES, 1971 (G.S.R. 496 OF 1972)

84. Recruitment rules providing for direct recruitment generally contain a provision for relaxation of the prescribed age-limit in case of candidates belonging to the Scheduled Castes, Scheduled Tribes, etc.

85. It was, however, seen that the above Rules which, *inter alia*, provided for direct recruitment to the post of Hindi Translator Grade I in the Administrative Reforms Department (Ministry of Home Affairs) did not contain a provision to the above effect. The Ministry of Home Affairs with whom the matter was taken up, stated in their reply as under:

"The proviso relating to the relaxation of the upper age-limit in favour of candidates belonging to Scheduled Castes| Scheduled tribes in the case of direct recruitment was omitted by oversight and necessary steps to include the following proviso and 'saving clause' at the appropriate places in the rules would be taken immediately:—

'Provided that the upper age limit prescribed for direct recruitment may be relaxed in the case of candidates belonging to Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the general orders issued from time to time by the Central Government; and

'Saving: Nothing in these rules shall affect reservations and other concessions required to be provided for Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.'

The omissions are very much regretted and necessary corrective measures are being taken."

86. The Committee note with satisfaction the above reply of the Ministry of Home Affairs and desire that the Ministry should take early steps to amend the Rules to include the provisions indicated therein.

XV

THE DEPARTMENT OF WORKS, HOUSING AND URBAN DEVELOPMENT ARBITRATOR'S RECRUITMENT RULES, 1970 (G.S.R. 1279 OF 1970)

87. Rule 7 of the Department of Works, Housing and Urban Development Arbitrator's Recruitment Rules, 1970 reads as follows:—

"If any question arises as to the meaning or application of these rules or any of them to any person, the matter shall be referred to the Central Government for its decision."

88. It was pointed out to the Ministry of Works and Housing that the use of the words "*application of these rules or any of them to any person*" in the Rule was likely to give an impression that while all the Rules might apply to some persons, only some of the Rules might apply to others, thereby leaving scope for discriminatory treatment.

89. In their reply, the Ministry of Works and Housing stated as follows:—

"Rule 7 of the Rules regulating the method of recruitment to the post of Arbitrator in the Ministry of Works & Housing as drafted by this Ministry is intended to mean 'application of (all) these rules or any of them' to all the persons. This Ministry have, however, no objection to amend the rule to make the intention clear and for that purpose, it is proposed to amend the interpretation clause as follows:—

'If any question arises as to the interpretation of these rules, the same shall be decided by the Central Government.'

The Ministry of Law and Justice and the Department of Personnel who were consulted in the matter have agreed to the above amendment."

90. **The Committee note with satisfaction the above reply of the Ministry of Works and Housing. They desire that rule 7 of the Rules in question should be amended on the lines indicated in the Ministry's reply at an early date.**

XVI

- (1) Rehabilitation Reclamation Organisation Drilling Sub-Division [Assistant Engineer (Drilling) Class II Posts] Recruitment Rules, 1970 (G.S.R. 1881 of 1970).
- (2) Department of Industrial Development (Joint Director and Editor in the Rural Industrial Planning Committee) Recruitment Rules, 1970 (G.S.R. 838 of 1970).

91. The relaxation provision in recruitment rules relating to Gazetted posts generally reads as follows:—

"Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons."

92. It was, however, noticed that the relaxation provision contained in rule 6 of the above recruitment rules relating to Gazetted posts did not contain the phrase "with respect to any class or category of persons" occurring in the normal relaxation provision.

93. It was seen that whereas in terms of the normal relaxation provision, the relaxations to be made by Government had to be with respect to a class or category of persons (as contradistinguished from an individual), there was no such limitation in the rules under reference. It was felt that the inclusion of the phrase "with respect to any class or category of persons" in the relaxation provision was necessary to obviate the possibility of discrimination among persons similarly placed by making the benefits of relaxation available to all persons coming in the same 'category' or class.

94. The Ministry of Labour and Rehabilitation (Department of Rehabilitation) and the Ministry of Industrial Development, with whom the matter was taken up, have amended the rules in question so as to bring them in line with the normal relaxation provision.

95. The Committee note with satisfaction that the Ministries of Labour and Rehabilitation (Department of Rehabilitation) and Industrial Development have amended the Rules in question to include the phrase "with respect to any class or category of persons" so as to bring them in line with the normal relaxation provision in Recruitment Rules [vide Corrigendum No. 10(56)/68-RHIII dated 26th October, 1971 issued by the Department of Rehabilitation and G.S.R. 413 of 1972 issued by the Ministry of Industrial Development].

XVII

THE MINERAL CONCESSION (FOURTH AMENDMENT) RULES, 1968 (G.S.R. 703 OF 1968)

96. Rule 24(4) and (5) of the Mineral Concession (Fourth Amendment) Rules, 1968 provide that in cases where an application for a mining lease for a mineral or minerals not specified in the existing mining lease or leases is made for the whole or part of the area held under mining lease, by a person *other than the lessee*, the State Government shall notify that fact to the person who already holds mining leases for another mineral in the land applied for, and if *the lessee* applies for a prospecting licence or mining lease within six months from the date of communication of the information by the State Government, the lessee shall be given preference.

97. It was noticed that, while under Rule 24(4) the State Governments were required to notify the relevant facts to the lessee, the Rules did not provide a procedure for ensuring the delivery of the communications containing the relevant facts to the lessee. Thus, if a communication sent by the State Government under Rule 24(4) did not, due to any reason, reach the lessee, he could well lose the preference sought to be given to him by Rule 24(5).

98. The Committee note that the Ministry of Steel and Mines (Department of Mines) with whom the matter was taken up have amended Rule 24 (4) so as to provide that the communications referred to therein will be sent to the addressee by Registered Post/Acknowledgement due (vide G.S.R. 1579 of 1971 dated 23-10-1971).

XVIII

IMPLEMENTATION OF RECOMMENDATIONS

(i) *Armed Forces Headquarters Clerical Service Rules, 1968 and Armed Forces Headquarters Stenographers Service Rules, 1968 [Paragraph 35 of Fourth Report (Fourth Lok Sabha)].*

99. While examining the Armed Forces Headquarters Clerical Service Rules, 1968 (S. R. O. 119 of 1968) and the Armed Forces Headquarters Stenographers' Service Rules, 1968 (S.R.O. 120 of 1968), the Committee on Subordinate Legislation (1969-70) observed that provision relating to eligibility for confirmation of probationers, appointed to the Upper/Lower Division Grade of the Armed Forces Headquarters Clerical Service and Grades I and II of the Armed Forces Headquarters Stenographers' Service, after completing the probation period satisfactorily, had not been made in the above-mentioned Rules, as had been done in the case of the Armed Forces Headquarters Civil Service Rules, 1968 (S.R.O. 118 of 1968). Commenting upon this, the Committee, in Para 35 of their Fourth Report (Fourth Lok Sabha), recommended as follows:—

“The Committee desires that the Ministry of Defence should make a similar provision in the Armed Forces Headquarters Clerical Service Rules, 1968, and Armed Forces Headquarters Steographers' Service Rules, 1968 (S.R.Os. 119 and 120 of 1968) as has been provided in rule 14 of the Armed Forces Headquarters Civil Service Rules, 1968”.

100. In their initial reply dated the 10th August, 1970, the Ministry of Defence stated as follows:—

“...on reviewing the matter in consultation with the Ministries of Home Affairs and Law, it is proposed to include suitable

provisions relating to confirmation of probationers on the lines of rule 14 of the Armed Forces Headquarters Civil Service Rules, 1968, in the Armed Forces Headquarters Stenographers' Service Rules, 1970 (which will be issued in supersession of the Armed Forces Headquarters Stenographers' Service Rules, 1968), and the Armed Forces Headquarters Clerical Service Rules, 1968, as recommended by the Committee on Subordinate Legislation."

101. In a further reply dated the 9th March, 1971, the Ministry of Defence stated as follows:—

"...the Draft AFHQ Stenographers' Service Rules, 1970 containing provisions relating to confirmation of probationers were forwarded to U. P. S. C. for their approval. The U. P. S. C. suggested that since a probationer denoted a direct recruit appointed to a grade on probation in or against a substantive vacancy, the definition of the term 'Probationer' and provisions regarding confirmation of probationers contained in draft AFHQ Stenographers' Service Rules, 1970 should be deleted since there would be no direct recruitment against substantive vacancies in any grade of the AFHQ Stenographers' Service. The matter was discussed with the officer concerned in the UPSC on 2nd December, 1970 and it was explained that these provisions were being made on the insistence of the Committee on Subordinate Legislation. The UPSC were strongly of the view that it was not at all necessary to make a provision in the draft AFHQ Stenographers' Service Rules, 1970, in respect of probationers and suggested that the above position be again explained to the Committee on Subordinate Legislation. Accordingly, provisions regarding confirmation of probationers have not been incorporated in the AFHQ Stenographers' Service Rules, 1970, which have been promulgated as S.R.O. No. 10, dated 22nd December, 1970, published in the Gazette of India, Part II, Section 4, dated 2nd January, 1971.

Draft amendments to the AFHQ Clerical Service Rules, 1968, containing provisions relating to confirmation of probationers, have been concurred in by the Department of Personnel in the Cabinet Secretariat and forwarded to Ministry of Law (Legislative Department) for vetting and furnishing Hindi version thereof. These draft amendments were not required to be approved by the UPSC, as they are no longer responsible for recruitment to the Lower

Division Grade in the Central Secretariat Clerical Service and AFHQ Clerical Service. On receipt of the approval of Ministry of Law and its Hindi version, the above draft amendment Rules will be published in the Gazette of India."

102. The Armed Forces Headquarters Clerical Service Rules, 1968 were amended on the lines suggested by the Committee (*vide* S.R.O. 175 of 1971). The relevant rule—13A—as inserted by the aforesaid S.R.O. reads as follows:—

"13A. *Confirmation or continuance of officers on probation—*

- (1) When a member of the Service appointed to a Grade on probation has passed the tests, if any, prescribed (including the typewriting test held by the Commission or the Secretariat Training School or has been specifically exempted by the Government from passing the typewriting test due to physical disability) and has completed the period of probation to the satisfaction of the appointing authority, he shall be eligible to be substantively appointed or continued therein, as the case may be, in accordance with the provisions contained in the Third Schedule.
- (2) When a probationer in the Lower Division Grade has passed the tests, if any, prescribed (including the typewriting test held by the Commission or the Secretariat Training School or has been specifically exempted by the Government from passing the typewriting test due to physical disability) and has completed the period of probation to the satisfaction of the appointing authority, he shall be eligible for confirmation in that grade. Until a probationer is confirmed under this rule or is discharged or reverted under rule 14, he shall continue to have the status of a probationer."

103. The Committee are satisfied with the above reply of the Ministry of Defence.

(ii) *All-India Services (Fixation of Cadre Strength) Regulations providing for 'Central Deputation Reserve' [Para 11 of Fifth Report (Fourth Lok Sabha) and Para 54 of Sixth Report (Fourth Lok Sabha)].*

104. The Committee on Subordinate Legislation (1969-70) had observed in para 11 of their Fifth Report (Fourth Lok Sabha) that it should not be difficult for the Ministry of Home Affairs to lay

down the nomenclature of the 'Central Deputation Reserve Posts' in each Regulation fixing cadre strength of various All India Services. This would go a long way in regulating properly the periods of tenure of officers brought from States on deputation for manning posts under the Central Government and to eliminate any element of favouritism which might creep in at the time of allocation of such posts and the incumbents thereof to the various Central Ministries. The Committee also saw no reason why it should not be possible for Government to fix the tenure in respect of officers appointed to the posts above Joint Secretary's rank in the interest of providing healthy and clean administration. The Committee considered that the duration of tenure in one post should be kept in view while sanctioning another tenure to the same incumbent against the next higher post.

105. In their reply to the above recommendation, the Ministry of Home Affairs stated as follows:—

"...the recommendation..... that posts included in the Central Deputation Reserve should be shown by nomenclature has been re-examined and this Ministry is still of the view that it would not be feasible to give the precise nomenclature of the posts which would be manned by the officers brought on deputation to the Centre. Regarding the recommendation that tenure should also be fixed in the case of officers appointed to posts above the rank of Joint Secretaries the scheme for staffing the senior administrative posts under the Centre already lays down that officers who are borrowed for appointment to the post of, or equivalent to, Joint Secretaries and Secretaries will revert to their cadres on the expiry of a period of five years. There were no posts in the State equivalent in pay and status to the post of Secretaries and Additional Secretaries in the Government of India. It is mainly because of this that this rule has not been enforced in the case of the posts of Additional Secretaries and above. The position regarding periods of tenure in various posts are now proposed to be fixed under statutory rules."

106. The Committee on Subordinate Legislation (1970) which considered the above reply of the Ministry of Home Affairs observed as follows in para 54 of their Sixth Report (Fourth Lok Sabha):

"The Committee has considered the above reply of the Ministry of Home Affairs, but has not been able to agree to its views. The Committee, therefore, reiterates its earlier

recommendation made in para 11 of Fifth Report (Fourth Lok Sabha) that the Ministry of Home Affairs should lay down the nomenclature of the 'Central Deputation Reserve Posts' in each Regulation fixing cadre strength of various All India Services. The Committee desires that necessary Amendments in this regard be made in the All India Services (Fixation of Cadre Strength) Regulations and they may be laid on the Table of Lok Sabha within a period of three months."

107. In their interim reply dated the 9th February, 1971 to the above recommendation, the Cabinet Secretariat (Department of Personnel) stated as follows:—

"...In the first place, one of the recommendations of the Administrative Reforms Commission is that there should not be any reservation in the Central posts for the Indian Administrative Service, and that all Central posts in the middle and senior management levels should be open to all class I Services. These recommendations are still under consideration of the Central Government, in consultation with the State Governments. A decision on these recommendations would involve radical changes in the present system of filling up of posts under the Central Government. The recommendation of the Committee on Subordinate Legislation contained in para 54 of their Sixth Report could therefore be more appropriately taken up for consideration after a decision has been reached on the above cited recommendation of the Administrative Reforms Commission.

It may however be pointed out that appointments to posts under the Central Government are even now being made by selection from among the members of the All India Services and Class I Central Services, the choice depending on the qualifications and experience of the officer, and the requirements of the post in question. By specifying posts in the Central Deputation Reserve which are to be filled up from All India Services, members of the Class I Central Services will become ineligible for consideration for these posts. Again, by specifying the posts in the Central Secretariat to be filled up from different services now eligible for consideration to these posts, the field of choice for filling up of these posts will become restricted

and we shall be deprived of the chance to select the best available talent for each job.

The matter will, however, be examined further along with the recommendation of the Administrative Reforms Commission and the decision taken communicated to the Lok Sabha Secretariat in due course."

108. The Committee heard the views of the representatives of the Cabinet Secretariat (Department of Personnel) at their sitting held on the 7th October, 1972. Giving details about the Central Deputation Reserve Posts, the representative of the Department of Personnel stated that in every State cadre of the I.A.S. the actual senior posts under the State Government were specified. 40 per cent of the number of such senior posts under the State Government is the strength of the Central Deputation Reserve Posts. This indicated the number of posts at the Centre which could be manned by I.A.S. officers belonging to a particular State Cadre. A Resolution giving the scheme for the staffing of senior administrative posts at the Centre was published in October, 1957. According to this Scheme the incumbents of posts of the Central Government are drawn from various sources and one of these I.A.S. Other sources are Central Services Class I, Central Secretariat Service and the State Civil Service. The Scheme does not lay down any proportion of posts to be shared by these services so that the Government may have a free hand in selecting suitable persons for the available posts.

109. Explaining the reasons for not specifying the posts at the Centre in the I.A.S. cadre of the different States, the representative of the Department of Personnel stated that the very scheme of selecting senior officers to hold these posts provided that they should be borrowed from all services and there should be no reservation of quota from any service. This was to ensure that suitable person was selected wherever he might be. Any attempt to specify the posts and relate them to a particular service was bound to restrict the field of choice for appointment to such posts. Another difficulty in earmarking posts at the Centre in the I.A.S. cadre was that the number of posts of a particular type in various Ministries was limited. If these were earmarked for particular States and they did not get people of that type from those States, then those posts would remain vacant for want of availability of suitable persons. The other States also may have a feeling that there is an element of reservation of posts for particular States. Secondly, there was the problem of providing adequate promotion opportunities to the members of the Central Secretariat

Service. They usually relied on the Ministries to make efforts to promote their Central Secretariat Officers once they came out in the selection list.

110. Giving the procedure for getting officers from various services for consideration and appointment at the Centre, the representative of the Department of Personnel stated that around the month of December every year, they issued a circular to the States and the various cadres in which they attempted to give a breakup of the type of posts which were likely to fall vacant at the Centre and requested them to recommend suitable officers for filling posts at various levels. The names received by the Department were scrutinised from the point of view of suitability and eligibility. Record of I.A.S. personnel was maintained in the Department of Personnel and so they did not face any difficulty in the selection of suitable persons from them.

111. Listing the difficulties in actual placement of officers, it was stated that in certain situations the State might find it difficult to spare their best officers and the States had to be persuaded to part with suitable officers. The other difficulty was that the Ministry or Department might have in mind some officers who were suitable for their posts but they did not fulfil the eligibility criteria. Then sometimes officers themselves preferred certain Ministries to others.

112. When asked whether there could be any scope for injustice to any region of India, the representative of the Department of Personnel stated that in one particular case the States had represented that they were not adequately represented at the Centre. In such cases, the Department of Personnel persuaded them to offer more suitable names.

113. Dealing with the suggestion for fixing quota for a region and laying down that officers be drawn from another region only when suitable persons were not available from a certain region, the representative of the Department said that that would lead to endless controversy with the State about the suitability or otherwise of a particular person.

114. In reply to a question whether there had been any complaint of favouritism, he stated that no system could be perfect and a marginal case here and there could not be ruled out. A conscious effort was made by the Department of Personnel to place the right person on the right job.

115. The Committee desired to know whether any tenure was fixed for officers above the level of Joint Secretaries and whether they went back to their cadre or not. The representative of the Department of Personnel stated that the tenure was three years for Under Secretary and equivalent posts, four years for Deputy Secretaries and five years for Joint Secretaries and above. Secretaries and Additional Secretaries were also returnable after a period of five years. In actual practice it had not been possible to do so but recently Government had made up its mind to adhere to the principle of five years.

116. When asked about the number of Secretaries and Additional Secretaries who had continued in their posts after the expiry of their tenure, he said that most of them had continued but in some cases they had gone back. In reply to a further query about the need of statutory rules in this regard, the representative of the Department of Personnel stated that the matter was under consideration.

117. The Committee are satisfied with the reasons given by the representatives of the Department of Personnel for not being able to lay down the nomenclature of the Central Deputation Reserve Posts in each regulation fixing cadre strength of All India Services, as recommended by the Committee in para 11 of their Fifth Report (Fourth Lok Sabha) and reiterated in para 54 of their Sixth Report (Fourth Lok Sabha).

(iii) *Framing of bye-laws for the custody and handling of exhibits in the Indian Museum, Calcutta [Para 15 of Second Report (Fourth Lok Sabha) and para 20 of Fifth Report (Fourth Lok Sabha)].*

118. In para 15 of their Second Report (Fourth Lok Sabha), presented to the House on the 14th December, 1968, the Committee on Subordinate Legislation had noted with surprise that even though section 15A of the Indian Museum Act, 1910, inserted in 1960, empowered the Central Government to make rules regarding preservation and safe custody of antiquities, rare exhibits, etc., neither the Central Government nor the Board of Trustees of the Indian Museum, Calcutta had taken any steps to frame the rules in this regard. The Committee (1968-69) stressed upon Government the urgent need of framing the rules and urged them to expedite the matter.

119. In their reply to the above recommendation, the Ministry of Education and Youth Services, *inter alia* stated on 5th March, 1969 as follows:—

“... The Board of Trustees, Indian Museum, Calcutta have been requested to take immediate action for framing regulations relating to preservation and safe custody of art

objects of the Indian Museum, Calcutta under Section 8(1) of the Indian Museum Act, 1910. The Indian Museum authorities have informed this Ministry that as the said bye-laws have to be approved by members of the Board by circulation, finalisation of the same will take some time more. However, efforts are being made to finalise these bye-laws as expeditiously as possible."

120. The Committee on Subordinate Legislation (1969-70), which considered the above reply, desired the Ministry of Education and Youth Services to expedite the finalisation of the bye-laws [*vide* para 20 of Fifth Report (Fourth Lok Sabha)].

121. In their reply dated 11th May, 1970, the Ministry of Education and Youth Services had, *inter alia* stated as follows:—

"As regards framing of rules/Bye-laws for the custody and handling of exhibits in the Indian Museum, Calcutta, it may be stated that draft rules/Bye-laws in this behalf have since been prepared by the Indian Museum authorities and these are under preliminary examination by the Honorary Secretary of the Board of Trustees, Indian Museum, Calcutta. A copy of the rules/Bye-laws when finalised by the Board of Trustees will be sent to the Lok Sabha Secretariat."

122. The Committee, at their sitting held on the 24th June, 1972, considered the above reply of the Ministry and took a serious note of the delay in the finalisation of the bye-laws for the preservation and safe custody of art objects in the Indian Museum, Calcutta. They desired that the Ministry of Education and Social Welfare should have the bye-laws in question finalised by the end of July, 1972 and, in case it was not possible for them to have this done by the end of that period, to explain the position orally to the Committee.

123. The Department of Culture, to whom the above decision of the Committee was communicated, have in their letter of 28th July, 1972 stated as follows:—

"The Rules in question have since been finalised in consultation with the Ministry of Law and Justice and the Board of Trustees of the Indian Museum, Calcutta and the Rules have now been sent to the Government of India Press, New Delhi on the 26th July, 1972 for publication in the Gazette of India. The Press has been requested to publish the Rules in the Gazette of India immediately and intimate the G.S.R. number and date of publication to this

Department. Immediate action will be taken thereafter to lay the Rules on the Table of the House.”

124. While the Committee note that the Rules for the custody and handling of exhibits in the Indian Museum, Calcutta have since been finalised and published in the Gazette of India [vide Part II, Section 3(i) dated the 2nd September, 1972 under G.S.R. 1071], they cannot help expressing regret over the undue delay in their finalisation.

XIX

ACTION TAKEN OR PROPOSED TO BE TAKEN BY GOVERNMENT ON VARIOUS RECOMMENDATIONS OF, AND ASSURANCES GIVEN TO, THE COMMITTEE ON SUBORDINATE LEGISLATION

125. The Committee note with satisfaction the action taken by Government on their earlier recommendations, as indicated in Appendix VII.

NEW DELHI;
The 2nd December, 1972.

VIKRAM MAHAJAN,
Chairman,
Committee on Subordinate
Legislation.

APPENDIX I

(Vide para 5 of the Report)

Summary of main Recommendations/observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
	14	The Committee are not happy over the way the Ministry of Shipping and Transport (Transport Wing) had acted in this case. They see no reason why the Ministry should not have extended the time for receipt of suggestions/objections from the public on the draft Motor Vehicles (Third Party Insurance) Amendment Rules, 1971, when they learnt that the last date for the purpose as originally fixed by them had already expired before the Gazette copies were made available to the public.
	15	It is hardly necessary for the Committee to re-stress that when the Acts give a right to the public to send their comments on the draft rules, sufficient time should be given to them to study the draft and send their comments on the provision contained therein.
	16	The Committee are not satisfied with the explanation given by the Ministry of Works and Housing for the gap between the date

of publication of the Gazette containing the draft rules and the date on which copies thereof were made available to the public. The Committee desire the Ministry to stream-line their procedure regarding printing of rules, etc., and their circulation to the public to obviate such delays in future.

17

The Committee also desire that whenever Ministries/Departments want their notification containing rules, regulations, etc., to be published by a particular date, they should send them to the Press alongwith a covering letter indicating therein the date by which they want them to be published. In case the Government Press do not find it possible to publish them by that date, they should inform the concerned Ministry/Department accordingly.

27

The Committee regret to note that the error in indication of correct year in short title of Rules, Regulations, etc., has been found to be recurring year after year. It is a well accepted practice that short title of Rules, Regulations, Bye-laws, etc., should bear the year in which they are published and not some other year. The Committee have also made a recommendation to this effect in para 44 of their Third Report (First Lok Sabha). The Committee re-impress upon Ministries/Departments of the Government the need for indication of correct year in the short title.

28

The Committee also note that in a large number of cases the error occurs due to the fact that while the Rules are sent by the Minis-

tries|Departments for publication towards the end of a year, these are published by the Press in the next year. The Committee desire the Ministry of Law and Justice (Legislative Department) to devise, in consultation with the Government of India Press, some procedure for making a consequential change in the short title in such cases.

4)

In their successive Reports, the Committee on Subordinate Legislation have drawn attention to delays in laying of 'Orders' on the Table of the House. The Committee regret to note that there has been no improvement in position. Out of 348 'Orders' laid on the Table during the First and Second Sessions of Fifth Lok Sabha, 87 'Orders' were laid after the prescribed time-limit. The delay in these cases ranged from 15 days to over three years. The Committee note that cases of inordinate delay have continued to occur in subsequent sessions also. In respect of Merchant Shipping (Registration of Indian Ships) Amendment Rules, 1970 (G.S.R. 751 of 1970 dated 9th May, 1970) and Merchant Shipping Tonnage (Measurement of Ships) Amendment Rules, 1970 (G.S.R. 897 of 1970 dated 6th June, 1970) laid on the Table on 27th November, 1972 there was a delay of more than two years. The Committee take a serious view of such delays. It is hardly necessary for them to point out that inordinate delays in laying are against the spirit of the relevant provision in the Acts which requires that the 'Orders' should be laid before Parliament *as soon as possible*, after they are published.

3

(1)

(2)

(3)

41 The Committee also note that out of 87 cases in which the delay had occurred, statements showing reasons for delay had been laid only in 32 cases. The Committee feel strongly about non-observance of their recommendation in this regard. They again urge that in case, due to any *unavoidable* reason, it is not possible for a Ministry/Department to lay an order on the Table within the prescribed time-limit, they should make it a point to lay a statement showing reasons for delay alongwith the 'Order'. The Committee would henceforth take a serious note of this omission.

42 The Committee have perused in detail statements showing reasons for delay in laying the 'Orders' on the Table, as furnished by the Ministries/Departments concerned. In their opinion, with a little more care on the part of the Ministries/Departments, the delay could have been avoided in most cases.

43 One of the main reasons for delay given by the Ministries/Departments was that copies of the relevant Gazette/intimation regarding G.S.R. numbers, etc., were received late from the Government of India Press. The Committee note that to obviate such delays, the Ministry of Works and Housing have introduced a new procedure for supply of G.S.R. Nos. etc., to the Ministries/Departments concerned (*vide* para 39). The Committee desire that the new procedure should be brought to the notice of all Ministries/Departments for strict compliance in future so that the 'Orders' are laid on the Table promptly.

The Committee note that even though the two posts referred to in the Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972, were intended to be filled by interview, second proviso to Rule 4 thereof indicated that these were to be filled on the basis of an examination. In their opinion, this was a regrettable case of carelessness on the part of the Ministry of Irrigation and Power and also the Ministry of Law and Justice (Legislative Department), on whose advice Rule 4 was added to the Rules. They desire the Ministries concerned to be careful in future. They further desire that the rule in question should be amended to the necessary effect at an early date.

In Para 28 of their First Report (Fourth Lok Sabha), the Committee on Subordinate Legislation had observed that adequate opportunities should be given to the public to go through the draft rules and offer their comments. To ensure this, the Committee had stressed that particulars about (i) the date of the Gazette in which the draft Rules were published; (ii) the date on which the Gazette copies containing the draft Rules were made available to the public; and (iii) the last date fixed for receipt of public comments thereon, should be specifically mentioned in the preamble to the final Rules. The Committee, however, regret to note that the above recommendation of the Committee has not been complied with in a large number of cases. The Committee like to re-impress upon the Ministries/Departments of the Government the need for strict compliance with their afore-mentioned recommendation.

6

52

The Committee note that the Ministry of Home Affairs have decided to delete the words 'may be relaxed in suitable cases' appearing in column 6 against S. No. 3 of the Schedule to the Central Translation Bureau, Ministry of Home Affairs (Class III and Class IV Posts) Recruitment Rules, 1972. They desire the Ministry to take early action to amend the Rules to the necessary effect. They also desire that, while making specific provisions for relaxation of such essential conditions as the age-limit, the Ministries/Departments should spell out precisely the types of cases in which the conditions are proposed to be relaxed.

7

58

The Committee note with satisfaction that the Ministry of Railways have amended Rule 8 of the Railway Service Commissions (Chairmen, Member-Secretaries and Asstt. Secretaries) Recruitment Rules, 1970, so as to take the provisions of Rules 5 and 6 relating to the tenure of office of Chairmen/Member-Secretaries of Railway Service Commissions out of the purview of the relaxation provision.

8

62

The Committee note that the Ministry of Labour and Rehabilitation (Department of Labour and Employment) have amended rule 14 of the Minimum Wages (Control) Rules, 1950 so as to add the further proviso that the date and time of an adjourned meeting shall be intimated to the absentee members by telephone, by telegram or by a written communication. They desire that the new proviso should be further amended to provide that not only date and time but also the place of such adjourned meeting be intimated to

the absentee members by telegram or by a written communication and the words "by telephone" be omitted therefrom.

9

65 The Committee are not convinced by the arguments given by the Ministry of Law and Justice that authorisation of the Trustees of the Indian Museum, Calcutta to fix or alter the scales of pay of the employees of the Museum would not amount to sub-delegation of Legislative power because the Central Government keeps an overall control over the power to be exercised by the Trustees in the matter. In their view, the fact that the delegating authority keeps some control over the powers to be exercised by the delegate does not alter the fact that the delegation of power has taken place. The Committee, therefore, desire the Ministry of Education and Social Welfare to specify the scales of pay of posts in the Museum through the Rules.

10

69 The Committee note that the Department of Labour and Employment have agreed to incorporate the provision relating to the procedure of the working of the Board of Mining Examinations in the Metalliferous Mines Regulations, 1961. They desire that necessary action in this regard should be taken at an early date.

11

79 While the Committee appreciate the need for giving retrospective effect to Rule 10 (iii) of the Indian Economic Service Rules, 1961 and to Rule 10 (iii) of the Indian Statistical Service Rules, 1961, they cannot help observing that in filling up posts for periods exceeding six months/one year, without consulting the U.P.S.C., the controlling authority (*viz.*, Ministry of Home Affairs/Department of

Personnel) had acted without due legal authorisation (and thereby gravely erred. They also feel that the time taken to amend the Rules was inordinately long, even allowing for consultations with the U.P.S.C. and the Ministry of Law.

12

83 The Committee note with satisfaction that the Ministry of Defence are issuing necessary corrigendum to Rule 6 of the Armed Forces Medical College, Poona (Animal Supervisor) Recruitment Rules, 1971 providing for consultation with the U.P.S.C. before the Rules are relaxed. They desire the Department of Personnel to issue general instructions to all Ministries/Departments that in all cases where recruitment is made through the U.P.S.C., the relaxation provision in the Recruitment Rules should invariably provide for consultation with the U.P.S.C.

13

86 The Committee note with satisfaction that the Ministry of Home Affairs have agreed to include the usual provisions relating to concessions for candidates belonging to the Scheduled Castes and Scheduled Tribes, etc., in the Hindi Translator Grade I (Ministry of Home Affairs) Department of Administrative Reforms Recruitment Rules, 1971 and desire that the Ministry should take early steps to amend the Rules accordingly.

14

90 The Committee note with satisfaction that the Ministry of Works and Housing have agreed to amend rule 7 of the Department of Works, Housing and Urban Development Arbitrator's Recruitment Rules, 1970 as follows:

"If any question arises as to the interpretation of these rules, the same shall be decided by the Central Government."

The Committee desire that the amendment should be made at an early date.

15

95 The Committee note with satisfaction that the Ministries of Labour and Rehabilitation (Department of Rehabilitation) and Industrial Development have amended the relaxation provision in Rehabilitation Reclamation Organisation Drilling Sub-Division [Assistant Engineer (Drilling) Class II Posts] Recruitment Rules, 1970 and Department of Industrial Planning Development (Joint Director and Editor in the Rural Industrial Planning Committee) Recruitment Rules, 1970 to include the phrase "with respect to any class or category of persons" so as to bring them in line with the normal relaxation provision in Recruitment Rules.

16

98 The Committee note that the Ministry of Steel and Mines (Department of Mines) have amended Rule 24(4) of the Mineral Concession (Fourth Amendment) Rules, 1968 so as to provide that the communications referred to therein will be sent to the addressee by Registered Posts/Acknowledgement due.

17

103 The Committee are satisfied that the Ministry of Defence have amended the Armed Forces Headquarters Clerical Service Rules, 1968 so as to include therein a provision relating to confirmation of probationers, as suggested by the Committee. As regards inclusion of a similar provision in the Armed Forces Headquarters Steno-

graphers Service Rules, 1968, the Committee are satisfied with the reply of the Ministry that it was not necessary to make this provision in the Rules as there would be no direct recruitment against substantive vacancies in any grade of the A.F.H.Q. Stenographers' Service.

18

117

The Committee are satisfied with the reasons given by the representatives of the Department of Personnel for not being able to lay down the nomenclature of the Central Deputation Reserve Posts in each regulation fixing cadre strength of all India Services, as recommended by the Committee in para 11 of their Fifth Report (Fourth Lok Sabha) and reiterated in para 54 of their Sixth Report (Fourth Lok Sabha).

19

124

While the Committee note that the Rules for the custody and handling of exhibits in the Indian Museum, Calcutta have since been finalised and published in the Gazette of India, they cannot help expressing regret over the undue delay in their finalisation.

20

125

The Committee note with satisfaction the action taken by Government on their earlier recommendations, as indicated in Appendix VII.

APPENDIX II

(Vide para 19 of the Report)

'Orders' published in 1972, but referred to as of 1971

Sl. No.	Short title and No. of the Rules	Date of publication in the Gazette	Ministry/ Department concerned
(1)	(2)	(3)	(4)
1	Indian Air Force (Draughtsmen and Tracers) Recruitment Rules, 1971—S.R.O. 81 of 1972.	18-3-1972	Defence.
2	Corps of Electrical and Mechanical Engineers Civilians School Masters Recruitment Rules, 1971—S.R.O. 82 of 1972.	18-3-1972	Do.
3	Corps of Signals (Mess Supervisor) Recruitment Rules, 1971—S.R.O. 85 of 1972.	25-3-1972	Do.
4	Indian Air Force (Civilian Technical Officer) Recruitment Rules, 1971—S.R.O. 93 of 1972.	1-4-1972	Do.
5	Armed Forces Medical College, Poona (Animal Supervisor) Recruitment Rules, 1971—S.R.O. 92 of 1972.	1-4-1972	Do
6	Navy (Class II Gazetted Posts) Recruitment (Second Amendment) Rules, 1971—S.R.O. 94 of 1972.	1-4-1972	Do.
7	Navy Class III (Non-Industrial Posts) Recruitment Rules, 1971—S.R.O. 95 of 1972.	1-4-1972	Do.
8	Navy Class IV (Non-Industrial Posts) Recruitment Rules, 1971—S.R.O. 96 of 1972.	1-4-1972	Do.
9	Navy (Class III and IV Industrial Posts) Recruitment Rules, 1971—S.R.O. 97 of 1972.	1-4-1972	Do.
10	Jawaharlal Institute of Post-Graduate Medical Education and Research, Pondicherry (Gas Plant Attendant) Recruitment Rules, 1971—G.S.R. 400 of 1971.	1-4-1972	Health & Family Planning
11	Jawaharlal Institute of Post-Graduate Medical Education and Research, Pondicherry (Laboratory Attendant) Recruitment Rules, 1971—G.S.R. 401 of 1971.	1-4-1972	Health and Family Planning
12	The Indian Post Office (Twenty-first Amendment) Rules, 1971—S.O. 857 of 1972)	4-3-1972	Communications (P & T Deptt.)
13	The Hindi Translator Grade-I (Ministry of Home Affairs) Department of Administrative Reforms Recruitment Rules, 1971—G.S.R. 496 of 1972.	29-4-1972	Home Affairs.

APPENDIX III

(Vide para 20 of the Report)

‘Orders’ published in 1970, but referred to as of 1969

Sl. No.	Short title and G.S.R. number	Date of publication in the Gazette	Notification/Corrigendum No. <hr style="width: 50%; margin: 0 auto;"/> Date of correcting the year	Ministry/Deptt. concerned
(1)	(2)	(3)	(4)	(5)
1	All India Services (Medical Attendance) Amendment Rules, 1969—G.S.R. 78 of 1970.	17-1-1970	8/8/69-AIS(III) <hr style="width: 50%; margin: 0 auto;"/> 10-6-1971	Cabinet Sectt. (Deptt. of Personnel)
2	Directorate General of Technical Development (Class I Posts) Recruitment (Fourth Amendment) Rules, 1969—G.S.R. 410 of 1970.	7-3-1970	1/20/68-E. IV <hr style="width: 50%; margin: 0 auto;"/> 7-7-1971.	Industrial Development
3	Indian Posts and Telegraphs (Selection Grade Posts) Recruitment (Amendment) Rules, 1969—G.S.R. 411 of 1970.	7-3-1970	4/31/71-SPB-II <hr style="width: 50%; margin: 0 auto;"/> 9-12-1971	Communications (P & T Board)
4	Department of Agriculture [Deputy Commissioner (Commercial Crops) and Deputy Commissioner (Horticulture)] Recruitment Rules, 1969—G.S.R. 478 of 1970.	21-3-1970	11/20/67-Estt. V. <hr style="width: 50%; margin: 0 auto;"/> 15-9-1971	Agriculture (Deptt. of Agriculture)
5	C. B. I. (Central) Forensic Science Laboratory (Delhi) Class I and Class II Gazetted posts Recruitment Rules, 1969—G.S.R. 880 of 1970.	6-6-1970	14/16/69-P. VI/Pers. I. <hr style="width: 50%; margin: 0 auto;"/> 18-9-1971	Home Affairs
6	C. W. & P. C. (Power Wing) (Class I Scientific posts) Recruitment Rules, 1969—G.S.R. 983 of 1970.	4-7-1970	39/14/68-Adm. I <hr style="width: 50%; margin: 0 auto;"/> 18-7-1971	Irrigation and Power
7	Directorate of Estates [Deputy Director of Estates (Rents)] Recruitment Rules, 1969—G.S.R. 1035 of 1970.	11-7-1970	44/21/68-Adm. B <hr style="width: 50%; margin: 0 auto;"/> 17-8-1971	Works & Housing (Directorate of Estates)
8	Directorate of Estates (Estate Manager, Calcutta) Recruitment Rules, 1969—G.S.R. 1036 of 1970.	11-7-1970	44/22/68-Adm. B <hr style="width: 50%; margin: 0 auto;"/> 17-8-1971	Do.
9	Planning Commission (Director, Power) Recruitment Rules, 1969—G.S.R. 1091 of 1970	25-7-1970	23(3)/69-Adm. I <hr style="width: 50%; margin: 0 auto;"/> 7-10-1971	Planning Commission.

(1)	(2)	(3)	(4)	(5)
10	Land and Development Office (Class III and IV posts) Recruitment Rules, 1969—G.S.R. 1107 of 1970.	1-8-1970	<u>10/76/68-L II</u> 10-9-1971	Works and Housing,
11	Directorate of Extension (Assistant Administrative Officer) Recruitment Rules, 1969—G.S.R. 1135 of 1970.	8-8-1970	<u>A12018/6/71/EE. I</u> 19-1-1972	Agriculture (Deptt. of Agriculture)
12	Department of Agriculture (Law Officer (Fertilizer) Recruitment Rules, 1969—G.S.R. 1226 of 1970.	22-8-1970	<u>11-7/69 Estt. I</u> 6-11-1971	Do.
13	Library Assistant (Ministry of Petroleum and Chemicals and Mines and Metals) Recruitment Rules, 1969—G.S.R. 1670 of 1970.	19-9-1970	<u>2-4/68 Adm. I</u> 7-1-1972	Petroleum and Chemicals
14	Junior Library Assistant (Ministry of Petroleum and Chemicals and Mines and Metals) Recruitment Rules, 1969—G.S.R. 1671 of 1970.	19-9-1970	<u>2/4/68-Adm. I</u> 7-1-1972	Do.
15	Library Attendant (Ministry of Petroleum and Chemicals and Mines and Metals) Recruitment Rules, 1969—G.S.R. 1672 of 1970.	19-9-1970	<u>2/4/68-Adm. I</u> 7-1-1972	Do.
16	Junior Library Attendant (Ministry of Petroleum and Chemicals and Mines and Metals) Recruitment Rules, 1969—G.S.R. 1673 of 1970.	19-9-1970	<u>2/4/68-Adm. I</u> 7-1-1972	Do.
17	Andaman Laccadive Harbour Works (Class I and II Posts) Recruitment Rules, 1969—G.S.R. 1869 of 1970.	7-11-1970	<u>ALHW/ADM/ESTT/1(18)/67</u> 29-12-1971	Shipping and Transport (Transport Wing)
18	Brackishwater Fish Farm (Class II Posts) Recruitment Rules, 1969—G.S.R. 1998 of 1970.	12-12-1970	<u>33-1/69-EEI</u> 4-5-1972	Agriculture (Deptt. of Agriculture)
19	Andaman Laccadive Harbour Works (Special Draftsman) Recruitment Rules, 1969—G.S.R. 2054 of 1970.	26-12-1970	<u>ALHW/ADM/ESTT/1(3)/69</u> 29-12-1971	Shipping and Transport (Transport Wing)

APPENDIX IV

(Vide para 21 of the Report)

'Orders' sent to the Press towards the end of the year 1971 and published in 1972

Sl. No.	Short title and No. of the Rules	Date of Notification	Date of publication in the Gazette	Minister concerned
(1)	(2)	(3)	(4)	(5)
1	Indian Statistical Service (Third Amendment) Rules, 1971—G.S.R. 1972.	23-12-1971	8-1-1972	Cabinet Sectt. (Deptt. of Personnel).
2	Central Secretariat Stenographers' Service (Grade II Limited Departmental Competitive Examination) (Second Amendment) Regulations, 1971—G.S.R. 76 of 1972.	27-12-1971	8-1-1972	Do.
3	Central Reserve Police Force (Seventh Amendment) Rules, 1971—G.S.R. 83 of 1972.	27-12-1971	8-1-1972	Home Affairs.
4	Press Information Bureau Regional and Branch Office Class III (Non-Gazetted) Recruitment (Amendment) Rules, 1971—G.S.R. 85 of 1972.	21-10-1971	8-1-1972	Information and Broadcasting.
5	Directorate of Advertising and Visual Publicity (Class I Posts) Recruitment (Amendment) Rules 1971—G.S.R. 86 of 1972.	17-12-1971	8-1-1972	Do.
6	Hospital for Mental Diseases Ranchi Psychiatric Social Worker (Senior) Recruitment Rules, 1971—G.S.R. 101 of 1972.	24-12-1971	8-1-1972	Health & Family Planning.
7	Central Health Transport Organisations (Technical Assistant) Recruitment Rules, 1971—G.S.R. 102 of 1972.	24-12-1971	8-1-1972	Do.
8	Publications Division (Class III Posts) Recruitment (Third Amendment) Rules, 1971—G.S.R. 202 of 1972.	15-12-1971	19-2-1972	Information and Broadcasting.

APPENDIX V

(Vide para 30 of the Report)

Statement of 'Orders' in respect of which there has been delay in Laying them on the Table

S. No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	Appx. delay	Ministry/Department concerned
1	2	3	4	5	6	7
*1	S.O. 3768 of 1970	The Railway Accidents (Compensation) (Amendment) Rules, 1970.	19-11-1970	30-3-1971	More than four months	Railways
2	GSR 1956 of 1970	The Indian Forest Service (Appointment) by Competitive Examination Amendment Regulations, 1970.	28-11-1970	31-3-1971	Do.	Cabinet Sectt. (Deptt. of Personnel)
3	GSR 1957 of 1970	The Indian Forest Service (Initial Recruitment) Amendment Regulations, 1970.	28-11-1970	31-8-1971	Do.	Do.
4	GSR 1958 of 1970	The Indian Forest Service (Released Emergency Commissioned and Short Service Commissioned Officer) (Appointment by Competitive Examination) Regulations, 1970.	28-11-1970	31-8-1971	More than four months	Cabinet Sectt. (Deptt. of Personnel)
5	GSR 1942 of 1970	The Central Industrial Security Force (Amendment) Rules, 1970.	28-11-1970	31-3-1971	Do.	Home Affairs

*Statement showing reasons for delay also laid on the Table.

1	2	3	4	5	6	7	
	*6	Notification No. 11/LRO(R) of 1970 of 1970	The Delhi Land Reforms (Amendment) Rules, 1970.	6-7-1970	31-3-1971	More than eight months	Agriculture
7	GSR 1971 of 1970	The Bihar and Uttar Pradesh (Inspection of Boundary Pillars) Rules, 1970.	30-11-1970	31-3-1971	More than four months	Home Affairs	
8	GSR 1793 of 1970	The Passports (Third Amendment) Rules, 1970.	13-10-1970	2-4-1971	More than five months	External Affairs	
9	GSR 297 of 1971	The Passports (Amendment) Rules, 1971.	25-2-1971	24-5-1971	More than three months	Do.	
10	GSR 283 of 1971	The Indian Telegraph (Second Amendment) Rules, 1971.	27-2-1971	26-5-1971	Do.	Communications	
11	GSR 1 of 1971	The Eighteenth Amendment of 1970 to the Indian Administrative Service (Pay) Rules, 1954.	3-1-1971	26-5-1971	More than four months	Cabinet Sectt. of Personnel (Deptt.)	
12	GSR 163 of 1971	The First Amendment of 1971 to the Indian Administrative Service (Pay) Rules, 1954.	6-2-1971	26-5-1971	More than three months	Do.	
13	GSR 191 of 1971	The Contract Labour (Regulations and Abolition) Central Rules, 1971.	10-2-1971	27-5-1971	More than three months	Labour & Reh. (Deptt. of Lab. & Emp.)	
14	GSR 285 of 1971	The Indian Merchant Shipping (Medical Examination) Amendment Rules, 1971.	27-1-1971	28-5-1971	More than four months	Shipping & Transport	
15	SO 1971 of 1971	The Income-tax (Amendment) Rules, 1971	22-2-1971	28-5-1971	More than three months	Finance	
16	SRO 457 of 1970	The Navy (Pension) Second Amendment Regulations, 1970.	21-11-1970	31-5-1971	More than six months	Defence	

17	SRO 461 of 1970	The Navy (Pension) Third Amendment Regulations, 1970.	28-11-1970	31-5-1971	Do	Do.
18	SRO 65 of 1971	The Navy (Discipline and Miscellaneous Provisions) First Amendment Regulations, 1971.	30-1-1971	31-5-1971	More than four months	Do.
*19	SO 1457 of 1968	The Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968.	27-4-1968	31-5-1971	More than three years	Works and Housing
*20	SO 1755 of 1969	The Delhi Development Authority (Management and Disposal of Housing Estates) Amendment Regulations, 1968.	10-5-1969	31-5-1971	More than two years	Do.
*21	GSR 2022 of 1970	The Indian Administrative Service (Fixation of Cadre Strength) Eighth Amendment Regulations, 1970.	19-12-1970	2-6-1971	More than five months	Cabinet Sectt. (Deptt. of Personnel)
*22	GSR 48 of 1971	The Nineteenth Amendment of 1970 to the Indian Administrative Service (Pay) Rules, 1954.	9-1-1971	2-6-1971	More than four months	Do.
*23	GSR 127 of 1971	The Indian Administrative Service (Fixation of Cadre Strength) Second Amendment Regulations, 1971.	24-1-1971	2-6-1971	Do.	Do.
*24	GSR 128 of 1971	The Indian Administrative Service (Fixation of Cadre Strength) Third Amendment Regulations, 1971.	24-1-1971	2-6-1971	Do.	Do.
*25	GSR 130 of 1971	The Indian Administrative Service (Pay) Third Amendment Rules, 1971.	24-1-1971	2-6-1971	Do.	Do.
*26	G.S.R. 132 of 1971	The Indian Police Service (Fixation of Cadre Strength) First Amendment Regulations, 1971.	24-1-1971	2-6-1971	Do.	Do.

* Statement showing reasons for delay also laid on the Table.

1	2	3	4	5	6	7
*27	GSR 133 of 1971	The Indian Police Service (Fixation of Cadre Strength) Second Amendment Regulations, 1971.	24-1-1971	2-6-1971	More than four months	Cabinet Sectt. (Deptt. of Personnel)
*28	GSR 134 of 1971	The Indian Service (Pay) First Amendment Rules, 1971.	24-1-1971	2-6-1971	Do.	Do.
*29	GSR 158 of 1971	The Indian Administrative Service (Fixation of Cadre Strength) First Amendment Regulations, 1971.	6-2-1971	2-6-1971	More than three months	Do.
*30	GSR 166 of 1971	The Indian Administrative Service (Fixation of Cadre Strength) Seventh Amendment Regulations, 1970.	6-2-1971	2-6-1971	Do.	Do.
*31	GSR 167 of 1971	The Second Amendment of 1971 to the Indian Administrative Service (Pay) Rules, 1954.	6-2-1971	2-6-1971	More than three months	Do.
32	GSR 310 of 1971	The Customs and Central Excise Duties Export Drawback (General) Fifteenth Amendment Rules, 1971.	6-3-1971	4-6-1971	Do.	Finance
33	GSR 240 of 1971	The Cost Audit (Report) Amendment Rules, 1971.	20-2-1971	4-6-1971	Do.	Company Affairs
*34	SO 1362 of 1970	The Border Security Force (Amendment) Rules, 1971.	8-4-1971	9-6-1971	More than 1 yr. 2 months.	Home Affairs
35	GSR 362 of 1971	The Employees' State Insurance (Central) Amendment Rules, 1971.	20-3-1971	10-6-1971	More than two months.	Lab. & Rehb. (Deptt. of Lab. & Emp.)
*36	GSR 47 of 1971	The I.A.S. (Fixation of Cadre Strength) Ninth Amendment Regulations, 1971.	9-1-1971	16-6-1971	More than five months	Cabinet Sectt. (Deptt. of Personnel)
*37	GSR 316 of 1971	The I.A.S. (Recruitment) Amendment Rules, 1971.	6-3-1971	16-6-1971	More than three months	Do.

*38	GSR 317 of 1971	The I.P.S. (Recruitment) Rules, 1971.	Amendment:	6-3-1971	16-6-1971	Do.	Do.
*39	GSR 318 of 1971	The I.A.S. (Appointment by Competitive Examination) Regulations, 1971.	Amendment Regulations,	6-3-1971	16-6-1971	Do.	Do.
*40	GSR 319 of 1971	The I.P.S. (Appointment by Competitive Examination) Regulations, 1971.	Amendment Regulations,	6-3-1971	16-6-1971	Do.	Do.
41	S.O. 935 of 1971	The Ancient Monuments and Archaeological Sites and Remains (Amendment) Rules, 1971.	Amendment	27-2-1971	25-6-1971	Do.	Education and Social Welfare
*42	GSR 1695 of 1970	The Khuda Baksh Oriental Public Library Rules, 1970.	Amendment	26-9-1970	2-7-1971	More than nine months	Do.
*43	GSR 1681 of 1970	The Indian Museum Recruitment Rules, 1970.	Amendment	19-9-1970	2-7-1971	Do.	Do.
44	GSR 918 of 1971	The Central Excise (Seventh Amendment) Rules, 1971.	Amendment	5-6-1971	2-7-1971	About one month	Finance
45	GSR 897 of 1971	The Indian Administrative Service (Fixation of Cadre Strength) Fourth Amendment Regulations, 1971.	Amendment	5-6-1971	7-7-1971	More than one month	Cabinet Secret. (Deptt. of Personnel)
46	GSR 898 of 1971	The Indian Administrative Service (Pay) Ninth Amendment Rules, 1971.	Amendment	5-6-1971	7-7-1971	Do.	Do.
*47	SO 324 of 1971	The Cotton Textiles (Control) Amendment Order, 1971.	Amendment	16-1-1971	7-7-1971	More than five months	Foreign Trade
48	SO 2155 of 1971	The Export of Cast Iron Manhole Covers and Frames (Inspection) Rules, 1971.	Amendment	28-5-1971	7-7-1971	More than one month	Do.
49	Notification No. 2/71	The Industrial Finance Corporation (Issue and management of Bonds) Amendment Regulations, 1971.	Amendment	5-6-1971	9-7-1971	Do.	Finance

*Statement showing reasons for delay also laid on the Table.

1	2	3	4	5	6	7
						Finance
50	GSR 911 of 1971	The Customs and Central Excise Duties Export Drawback (General) Twenty-Seventh Amendment Rules, 1971.	5-6-1971	9-7-1971	More than one month	
51	GSR 912 of 1971	The Customs and Central Excise Duties Export Drawback (General) Twenty-eighth Amendment Rules, 1971.	5-6-1971	9-7-1971	Do.	Do.
52	GSR 913 of 1971	The Customs and Central Excise Duties Export Drawback (General) Twenty-ninth Amendment Rules, 1971.	5-6-1971	9-7-1971	Do.	Do.
53	GSR 914 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirtieth Amendment Rules, 1971.	5-6-1971	9-7-1971	Do.	Do.
54	GSR 915 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirty-first Amendment Rules, 1971.	[5-6-1971	9-7-1971	Do.	Do.
55	GSR 916 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirty-second Amendment Rules, 1971.	5-6-1971	9-7-1971	Do.	Do.
56	GSR 917 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirty-third Amendment Rules, 1971.	5-6-1971	9-7-1971	Do.	Do.
57	GSR 938 of 1971	The Prevention of Food Adulteration (Amendment) Rules, 1971.	12-6-1971	12-7-1971	Do.	Health and Family Planning (Deptt. of Health)
58	GSR 799 of 1971	The Indian Telegraph (Fifth Amendment) Rules, 1971.	29-5-1971	14-7-1971	Do	Communications.
59	GSR 980 of 1971	The L.A.S. (Recruitment) Third Amendment Rules, 1971.	26-6-1971	14-7-1971	More than 15 days	Cabinet Sectt. (Deptt. Personnel)

60	GSR 981 of 1971	The I.P.S. (Recruitment) Third Amendment Rules, 1971.	26-6-1971	14-7-1971	Do.	Do.
61	GSR 982 of 1971	The I.A.S. (Emergency Commissioned and Short Service Commissioned Officers) (Appointment by Competitive Examination) Regulations, 1971.	26-6-1971	14-7-1971	Do.	Do.
62	GSR 983 of 1971	The I.P.S. (Emergency Commissioned and Short Service Commissioned Officers) (Appointment by Competitive Examination) Regulations, 1971.	26-6-1971	14-7-1971	Do.	Do.
63	SO 2454-B of 1971	Export of Inorganic Chemicals (Inspect on) Amendment Rules, 1971.	24-6-1971	14-7-1971	Do.	Foreign Trade.
64	GSR 946 of 1971	The I.A.S. (Fixation of Cadre Strength) Twelfth Amendment Regulations, 1971.	19-6-1971	21-7-1971	More than one month	Cabinet Sectt. (Deptt. Personnel)
65	GSR 948 of 1971	The Tenth Amendment of 1971 to the I.A.S. (Pay) Rules, 1954.	19-6-1971	21-7-1971	Do.	Do.
66	GSR 949 of 1971	The I.A.S. (Fixation of Cadre Strength) Eleventh Amendment Regulations, 1971.	19-6-1971	21-7-1971	Do.	Do.
67	GSR 947 of 1971	The Eleventh Amendment of 1971 to the I.A.S. (Pay) Rules, 1954.	19-6-1971	28-7-1971	Do.	Do.
68	SO 2199 of 1971.	The Cotton Textiles (Control) Third Amendment Order, 1971.	5-6-1971	28-7-1971	Do.	Foreign Trade.
69	SO 2544 of 1971	The Delhi Meerut Bulandshahr Milk and Milk Product Control (Amendment) Order, 1971.	8-7-1971	29-7-1971	More than 15 days	Agriculture.
*70	GSR 299 of 1971	The Coal Mines Family Pension Scheme, 1971.	1-3-1971	5-8-1971	More than five months	Lab. & Rehb. (Deptt. of Lab. & Emp.)

*Statement showing reasons for delay also laid on the Table.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
*71.	G.S.R. 315 of 1971	The Employees' Family Pension Scheme, 1971.	4-3-1971	5-8-1971	More than five months	Lab. & Rehb. (Deptt of Lab. & Emp.)
*72	GSR 1033 of 1971	The Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971.	10-7-1971	5-8-1971	More than 15 days	Industrial Development
73	GSR 992 of 1971	The Prevention of Food Adulteration (Second Amendment) Rules, 1971.	3-7-1971	9-8-1971	More than one month	Health & Family Planning
*74	GSR 23 of 1971	The Aircraft (Second Amendment) Rules, 1971.	20-2-1971	10-8-1971	More than five months	Shipping and Transport
75	GSR 972 of 1972	The Customs and Central Excise Duties Export Drawback (General) Thirty-fourth Amendment Rules, 1971.	26-6-1971	10-8-1971	More than one month	Finance
76	GSR 973 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirty-fifth Amendment Rules, 1971.	26-6-1971	10-8-1971	Do.	Do.
77	GSR 974 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirty-sixth Amendment Rules, 1971.	26-6-1971	10-8-1971	Do.	Do.
78	GSR 975 of 1971	The Customs and Central Excise Duties Export Drawback (General) Thirty-seventh Amendment Rules, 1971.	26-6-1971	10-8-1971	Do.	Do.
*79	SO 3590 of 1971	The Coffee (Second Amendment) Rules, 1971	10-7-1971	11-8-1971	Do.	Foreign Trade.
80	GSR 1023 of 1971	The Tea Board (Recruitment and conditions of service of Officers appointed by Government) Rules, 1971.	10-7-1971	11-8-1971	Do.	Do.
81	GSR 2055 of 1970	The National Welfare Board for Seafarers (Amendment) Rules, 1970.	26-12-1970	12-8-1971	More than seven months	Shipping & Transport

82	GSR 621 of 1971	The National Welfare Board for Sea-farers (Amendment) Rules, 1971.	1-5-1971	12-8-1971	More than three months	Do.
83	GSR 1105 of 1971	The Government Saving Certificates (Amendment) Rules, 1971.	26-7-1971	12-8-1971	More than 15 days	Finance
84	GSR 1106 of 1971	The Post Office Savings Certificates (Third Amendment) Rules, 1971.	26-7-1971	12-8-1971	Do.	Do.
85	GSR 1107 of 1971	The Government Savings Certificates (Fixed Deposits) (Amendment) Rules, 1971.	26-7-1971	12-8-1971	Do.	Do.
86	Notification No. F.4(97)/69- Fin (G) of 1971	The Delhi Sales Tax (First Amendment) Rules, 1971.	18-3-1971	12-8-1971	More than four months	Do.
87	GSR 579 of 1971	The Employees' Provident Funds (First Amendment) Scheme, 1971.	24-4-1971	12-8-1971	More than three months	Lab. & Rehb. (Deptt. Lab. & Emp.)

*Statement showing reasons for delay also laid on the table.

N.B.— 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 the publication in the Gazette.

APPENDIX VI

(Vide para 47 of the Report)

List of 'Orders' in which certain particulars about previous publications of draft 'Orders' were not indicated

S. No.	Title of 'Order'	No. of 'Order' Date of pub- lication in the Gazette	Ministry/ Department concerned
(1)	(2)	(3)	(4)
1	Bristles Grading and Marking Rules, 1969.	S. O. 3245 16-8-1969	Agriculture (Deptt. of Agriculture)
2	Cardamom Grading and Marking (Amendment) Rules, 1969.	S. O. 3246 16-8-1969	Do.
3	Cumin Seeds Grading and Marking Rules, 1969	S. O. 4105 11-10-1969	Do.
4	Pepper Grading and Marking Rules, 1969.	S.O. 78 10-1-1969	Do.
5	Curry Powder Grading and Marking (Amend- ment) Rules, 1970.	S. O. 338 31-1-1970	Do.
6	Honey Grading and Marking Rules, 1970.	S. O. 537 14-2-1970	Do.
7	Drugs and Cosmetics (Third Amendment) Rules, 1969.	S.O. 2889 19-7-1969	Health and Fa- mily Planning (Deptt. of Health).
8	Drugs and Cosmetics (Fourth Amendment) Rules, 1969.	S. O. 2944 26-7-1969	Do.
9	Drugs and Cosmetic (Sixth Amendment) Rules, 1969.	S. O. 4921 12-1-1969	Do.
10	Drugs and Cosmetics (First Amendment) Rules, 1970.	S. O. 642 21-2-1970	Do.
11	Drugs and Cosmetics (Second Amendment) Rules, 1970.	S. O. 2008 6-6-1970	Do.

(1)	(2)	(3)]	(4)
12	Amendments to the Bye-laws for regulating the Disposal of Corpses, Management of Burial and Burning Places, Shillong Cantonment.	S. R. O. 83 <u>7-2-1970</u>	Defence
13	Mathura Cantonment (Division into Wards) Rules, 1970	S. R. O. 84 <u>7-2-1970</u>	Do.
14	Amendments to the bye-laws for prevention and extinction of fire made by the Cantonment Board, Shillong.	S.R.O. 88 <u>14-2-1970</u>	Do.
15	Aurangabad Cantonment (Division into Wards) Rules, 1970.	S. R. O. 180 <u>18-4-1970</u>	Do.
16	Ranikhet Cantonment (Division into Wards) Rules, 1970.	S. R. O. 186 <u>18-4-1970</u>	Do.
17	Dehra Dun Cantonment (Division into Wards) Rules, 1970.	S.R.O. 188 <u>25-4-1970</u>	Do.
18	Allahabad Cantonment (Division into Wards) Rules, 1970.	S. R. O. 191 <u>25-4-1970</u>	Do.
19	Poona Cantonment (Division into Wards) Rules, 1970	S. R. O. 198 <u>25-4-1970</u>	Do.
20	Bareilly Cantonment (Division into Wards) Rules, 1970.	S. R. O. 225 <u>9-5-1970</u>	Do.
21	Mines (Amendment) Rules, 1970	G. S. R. 1786 <u>17-10-1970</u>	Labour and Re- habilitation (Depatt. of Labour & Employment)
22	The Meralliferous Mines (Second Amendment) Regulations, 1970.	G. S. R. 949 <u>20-6-1970</u>	Do.

APPENDIX VII

(Vide para 125 of the Report)

Statement showing the progress of action taken or proposed to be taken on the recommendations made by, and Assurances given by Ministries/Departments, to the Committee on Subordinate Legislation

Sl. No.	Reference to para No. of Report	Summary of recommendations, assurances	Gist of the Government's reply
(1)	(2)	(3)	(4)
1.	Fourth Report (4 LS) 28	The Committee would like to reiterate that all the Ministries/Departments of the Government of India should strictly follow the recommendation already made by the Committee in para 44 of its Third Report (First Lok Sabha) and should adopt the procedure suggested therein also in respect of all amendments to rules (including amendments to Schedules to the rules), as giving of short titles and numbering of amendments are absolutely necessary for reference and tracing of the rules, etc. and the amendments thereto. [Para 44 of Third Report (First Lok Sabha) relates to giving of short titles and numbering of amendments to the rules, etc.]	The Department of Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries/Departments of Government of India for their guidance and necessary action [Vide D.P.A. O. M. No. F. 32/(2) L.S. IV (25-28)/70-R. & C. dt. 13-4-70.]
2.	Seventh Report (4 LS) 8-10	The Committee has been repeatedly stressing the need for citation of exact statutory authority in the preamble to the 'Orders. One of the arguments put forth by the Ministry of Law for not giving effect to the above recommendation of the Committee in the case of the Rules regulating the duties, remuneration, etc. of the Attorney-General for India, the Solicitor-General and the Additional Solicitor-General is that so long as the	The needful has since been done (See G.S.R. 255 of 1972, dated 4-3-1972).

I

(2)

(3)

(4)

power to make appointment and to prescribe terms and conditions is available, is unnecessary to quote the relevant Article.

The Committee is unable to accept this argument. It would like to re-stress that citation of exact Constitutional/statutory authority is necessary for enabling the Committee to examine whether an 'Order' has been made under due legal authority and within the limits laid down in the parent law.

(ii) Another argument advanced by the Ministry of Law for not citing the statutory authority in this case is that while the terms and conditions of the Attorney-General derive authority from Article 76 of the Constitution, the terms and conditions of the other two Law Officers [Viz., the Solicitor-General and the Additional Solicitor-General] do not derive authority from that Article. There is thus no single authority in regard to the terms and conditions of all the three law officers. To meet this difficulty, the Committee suggests that separate rules should be framed by the Ministry of Law (Department of Legal Affairs) for regulating the terms and conditions of service of (a) the Attorney-General of India, and (b) other Law Officers the former under Article 76 and the latter under Article 309, as is being done by Government in respect of other executive appointments. In the preamble to the Rules so framed, the exact statutory authority should be cited.

(1)

(2)

(3)

(4)

(iii) The Committee has noted that except the original Rules regulating the remuneration and duties of the Attorney-General, which were published in the Gazette in 1950, none of the Rules relating to the terms and conditions of the three law Officers framed subsequently by Government had been published in the Gazette. The explanation of the Ministry of Law for the non-publication of the Rules in the Gazette is that there was no requirement of law in this regard. The Committee is surprised at this explanation. It is inexplicable that while rules regulating the recruitment and conditions of services of all categories of Government employee (including the lowest one) framed by Government under the proviso to Article 309 of the Constitution are published in the Gazette, rules relating to the terms and conditions of the highest Law Officers of Government should not have been published by Government for public information on a technical Plea of absence of legal requirement. It is unnecessary for the Committee to point out that so far as the question of legal requirement for publication is concerned, there is hardly any difference between the Rules framed under Article 76 and those framed under proviso to Article 309. The Committee desires that all Rules framed by Government, pursuant to Constitutional or statutory provisions, should invariably be published in the Gazette for public information.

3 Second Report
(5 LS)

14

The Committee are not happy over ~~some~~ provisions as contained in Rule 6 of the Border Sec-

The recommendation of the Committee has been noted by the Ministry of Home Affairs who have

(1)

(2)

(3)

(4)

urity Force Rules, 1969 (S.O. 2336 of 1969) under which, in regard to residuary matters, anything done or any action taken by the competent authority, which it might consider "just and proper in the circumstances of the case" would be lawful. They feel that ordinarily the powers available under an Act should be properly canalised and regulated; and, for this purpose, not only the powers exercisable by the authorities concerned should be specified but the procedure for the exercise of those powers also laid down. However, having regard to the unforeseen contingencies the Border Security Force has to deal with in protecting the borders of the country, and also the assurances of the representatives of the Ministry of Home Affairs and the Border Security Force that Rule 6 would be invoked only when absolutely necessary and that too not for giving undeserved protection to the members of the Force, The Committee feel that an exception may be made in this case. Even so they hope that in cases where any action under this rules is likely to adversely affect any citizen the Border Security Force would, as far as possible, give a reasonable opportunity of being heard to the citizen concerned.

assured that Rule 6 of the Border Security Force Rules, 1969 will be used with great discretion and utmost care and every opportunity will be given to the citizens in the circumstances mentioned by the Committee [vide Ministry of Home Affairs O.M. No. 18/21/71-GPA-I. dt. 16-3-72].

4 Third Report
(5 LS)

35

While the Committee note that Regulations 6(2) and 16(2) of the Post Graduate Institute of Medical Education and Research, Chandigarh Regulations, 1967 have been amended on the lines suggested by the Committee, they cannot help observing that the time taken by the autho-

Noted by the Ministry of Health and Family Planning (Department of Health) who have issued instructions to all concerned in the Ministry to take care to avoid such delays in future (vide Ministry of Health & Family Planning (Deptt. of Health) O.M. No. H-11011/1/72--ME-(PG) dt. 6-7-72).

(1)

(2)

(3)

(4)

rities in making the amendments (a period of nearly 3 years) was too long. The Committee trust that the authorities concerned will take care to avoid such delays in future.

5 Third Report
(5 LS)

47

The Committee note with satisfaction the amendments made by Government to Regulation 8(5) of the Central Secretariat Stenographers Service (Competitive Examination) Regulations, 1969. They desire that, in cases where Government consider it necessary to insert a rule providing for relaxation of standard for candidates belonging to Scheduled Castes and Scheduled Tribes to make up the deficiency in the reserve quota, the rule should, as far as possible be on the lines of the Regulation, as now amended, instead of the original one.

Instructions have already been issued by the Deptt. of Personnel to all the Ministries advising them to make a similar provision in the recruitment Rules/Regulations for examinations for relaxation of standards in favour of Scheduled Castes/ Scheduled Tribes candidates [vide Deptt. of Personnel (Cabinet Secretariat) O.M. No. 12/10/72/CS/II, dated 28-6-1972].

MINUTES

IX

**MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
1971-72**

The Committee met on Wednesday, the 17th November, 1971 from 15.30 to 16.15 hours.

PRESENT

Shri Vikram Mahajan—*Chairman.*

MEMBERS

2. Shri Salehbhoy Abdul Kadar
3. Shri H. K. L. Bhagat
4. Shri M. C. Daga
5. Shri R. R. Sharma

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 15 to 17 and 20 on the following subjects:—

S. No.	Memo No.	Subject
(i) to (iii)	15-17	* * * * *
(iv)	20	Delay in laying of 'Orders' on the Table of the House
3-18		* * * * *

(iv) *Delay in laying of 'Orders' on the Table of the House (Memo No. 20)*

19. From the list of 'Orders' laid on the Table during the first and second Sessions of the Fifth Lok Sabha, the Committee noted that in a considerable number of cases, Government had not adhered to the prescribed time-limit of 15 days. Of the 348 'Orders' laid on the Table of the House during these Sessions, as many as 87 'Orders' had

*Omitted portions of the Minutes are not covered by this Report.

been laid after the prescribed time-limit of 15 days. The period of delay ranged from over 15 days to over three years. The number of cases in which Government had laid statements showing reasons for delay was 32. The number of cases in which no such statements had been laid was 55.

20. The Committee felt strongly about the delays in laying of 'Order' on the Table of the House. They desired that the explanation of the Ministries concerned should be called for in all cases where statements showing reasons for delay had not been laid on the Table.

The Committee then adjourned to meet again at 15.30 hours on Friday, the 3rd December, 1971.

XIII

MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION FIFTH LOK SABHA (1971-72)

The Committee met on Saturday, the 29th January, 1972 from 14.30 to 16.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*.

MEMBERS

2. Shri Salehbhoy Abdul Kadar
3. Shri H. K. L. Bhagat
4. Shri G. Bhugarahan
5. Shri M. C. Daga
6. Shri Dharnidhar Das
7. Shri T. H. Gavit
8. Shri Samar Guha
9. Shri Subodh Hansda
10. Shri V. Mayavan
11. Shri P. V. Reddy
12. Shri R. R. Sharma.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri Govind Narain, *Secretary*.
2. Shri B. Venkataraman, *Joint Secretary*.
3. Shri K. F. Rustamji, *Director-General, Border Security Force*.

REPRESENTATIVES OF THE MINISTRY OF EDUCATION AND SOCIAL WELFARE

1. Shri T. P. Singh, *Secretary*.
2. Shri P. Somasekharan, *Deputy Secretary*.

REPRESENTATIVES OF THE MINISTRY OF WORKS & HOUSING

1. Shri P. C. Mathew, *Secretary*.
2. Shri P. Prabhakar Rao, *Joint Secretary*.
3. Shri A. C. Das Gupta, *Controller of Printing and Stationery*.

SECRETARIAT

Shri H. G. Paranjpe—~~Deputy~~ Secretary.

(i) *Border Security Force (Amendment) Rules, 1970 (S.O. 1362 of 1970)*

2. The Border Security Force (Amendment) Rules, 1970 were published in the Gazette on 8th April, 1970, but were laid on the Table of Lok Sabha on 9th June, 1971, resulting in a delay of more than 1 year and two months. In the Statement showing reason for delay laid on the Table of the House, the delay in laying the Rules had been explained as due to late publication of the Hindi version.

3. During evidence, the representative of the Ministry of Home Affairs stated that it was "a very unfortunate case" in which there had been a lapse on the part of the Ministry. He, however, assured the Committee that there was no intention of keeping anything away from Parliament.

4. As to the circumstances in which the delay had occurred, he stated that, on the recommendation of the Administrative Reforms Commission, a new procedure (viz. single file system) was introduced in the Ministry of Home Affairs and the Office of the Director General, Border Security Force in the beginning of 1970. Before this system was introduced, there used to be a cell in the Ministry which was responsible for matters required to be placed before Parliament. When the single file system was introduced, the cell was abolished and the same file used to move from the Office of the Director General, Border Security Force to the Home Ministry and back. This was the main reason for delay. The delay in the publication of the Hindi version was only a contributory factor.

5. As regards the steps taken by the Ministry to obviate such delays in future, the representative of the Ministry stated that instructions had been issued that all rules, framed under delegated authority, must be placed before the Houses of Parliament, as enjoined by Parliamentary procedure. In case of failure to observe the instructions, responsibility could be fixed.

(The representatives of the Ministry of Home Affairs then withdrew.)

(ii) (a) *The Indian Museum Recruitment Rules, 1970 (G.S.R. 1681 of 1970)*

(b) *The Khuda Baksh Oriental Public Library Rules, 1970 (G.S.R. 1695 of 1970)*

6. The Indian Museum Recruitment Rules, 1970 and the Khuda Baksh Oriental Public Library Rules, 1970 were published in the Gazette on 19th September, 1970 and 26th September, 1970 respectively, but were laid on the Table of Lok Sabha on 2nd July, 1971 resulting in a delay of more than 9 months.

7. During evidence, the representative of the Ministry of Education and Social Welfare admitted that there was a lapse on the part of the Ministry, for which there could be no valid explanation. The delay had occurred partly because the Ministry of Education and Social Welfare had not been able to get the G.S.R. Nos. and the dates of publication of the Rules from the Government of India Press upto January, 1970. But, thereafter, the delay was wholly in the Ministry. Even, as regards the delay attributable to late receipt of G.S.R. numbers from the Government of India Press, he admitted that it was the responsibility of the Ministry to get the G.S.R. numbers in time.

8. In reply to a question, the witness stated that, according to his experience, one of the reasons for lapses of the present nature was that important work was sometimes lost sight of due to its mixing up with a large volume of work of a routine nature.

9. As to the remedial measures taken in the matter, the representative of the Ministry stated that under a new procedure introduced in the Ministry of Education & Social Welfare, request for intimating the G.S.R. Nos. would be made in the very letter asking the Government Press to publish the notification. First reminder would issue on the 14th day and the second reminder a week thereafter. Within the next week, an Assistant would be sent to the Press to personally bring the copy of the notification and the G.S.R. Nos. Another procedural change introduced was that all pending matters concerning Parliament would be brought to the personal notice of the Secretary of the Ministry once a week.

10. In reply to a question, the witness stated that responsibility for delay in the present case rested at several levels. Explanation had already been called from the Assistants and Section Officer concerned.

(The representatives of the Ministry of Education and Social Welfare then withdrew)

(iii) (a) *The Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968 (S.O. 1457 of 1968)*

(b) *The Delhi Development Authority (Management and Disposal of Housing Estates) Amendment Regulations, 1968 (S.O. 1755 of 1969)*

11. The Delhi Development Authority (Management & Disposal of Housing Estates) Regulations, 1968 (S.O. 1457 of 1968) and the Delhi Development Authority (Management & Disposal of Housing Estates) Amendment Regulations, 1968 (S.O. 1755 of 1969) were published in the Gazette on 27th April, 1968 and 10th May, 1969 respectively but were laid on the Table of Lok Sabha on 31st May, 1971, resulting in a delay of more than three Years in the case of the former Regulations and a delay of more than two years in the case of the latter regulations.

12. Explaining the reasons for delay in laying the above Regulations on the Table of the House, the representative of the Ministry of Works & Housing stated that in the preamble to the principal Regulations, it had been mentioned that the Regulations had been made "with the previous approval of the Central Government." This was not correct as the said Regulations had been made with the approval of the Lieutenant Governor of Delhi, in exercise of the powers delegated to him. Amendments covering this point notified by the Delhi Development Authority on 23rd April, 1969. On 25th April, 1969, the Rajya Sabha Secretariat wrote to the Ministry of Works & Housing, in continuation of their original letter dated 15th October, 1968 addressed to the Ministry of Health, that Regulation 59 which provided that the decision of the Delhi Development Authority in cases of dispute mentioned therein shall be final was likely to be construed as excluding the jurisdiction of courts of law. In their opinion, such exclusion was not authorised by the Delhi Development Act, 1957. The Rajya Sabha Secretariat letter was passed on to the Delhi Development Authority which pointed out that a similar provision had been made in the rules framed by certain State Housing Boards. The Law Ministry, however, advised that the contention of the Rajya Sabha Secretariat was correct. The Delhi Development Authority further examined the matter and decided to delete Regulation 59, by passing a Regulation on 24th December, 1970.

13. In reply to a question, the representative of the Ministry stated that, in his opinion, the original Regulations should have been laid on the Table in spite of the infirmities therein. But the then Officer concerned felt that it was not proper to lay defective Regulations on the Table, particularly when the necessary amendments were already under consideration.

14. It was pointed out by the Committee that the main Regulations came into force on their publication in April, 1968 but these were laid on the Table on 31st May, 1971. As a result of delay in laying, the members had been deprived of an opportunity to suggest amendments thereto for a period of over 3 years. The representative of the Ministry stated that there could be delay in certain circumstances. In such a case, the procedure to be followed by Ministries in connection with the Parliamentary work envisaged that along with the relevant document, a statement giving the reasons for delay should also be laid on the Table. This requirement had been met.

15. The Committee then referred to a list of 28 'Orders' in respect of which the delay in laying on the Table had *inter alia* been ascribed to late receipt of printed copies of the Gazette and/or intimation regarding GSR Nos. etc. from the Govt. of India Press. The representative of the Ministry of Works and Housing stated that the responsibility of the Govt. Press was limited to the interval between the date of publication of the rules and the date of despatch of copies thereof to the Ministries/Departments. In some cases, the interval was only two days while in others, it was more. Only in one case—in the case of Railway Accidents (Compensation) Amendment Rules, 1970—the interval was too long—a month. These Rules, were published on 19th November, 1970 but copies thereof were despatched to the Ministry on 19th December, 1970. The Committee pointed out that this information was not consistent with the statement showing reasons for delay laid on the Table wherein it had been stated that copies of the Rules could be obtained by the Ministry from the Press on 20th January, 1971, after several reminders on telephone and through letters.

16. In reply to a question, the representative of the Ministry stated that, according to standing instructions, in cases where a Ministry/Department wanted spare copies of a Gazette Notification, they should state the requirement in the very letter asking the Press to publish the Notification. In case this was not done, the sets were dismantled without taking spare copies. If the Press were requested to supply spare copies after the sets had been dismantled, the matter had to be re-composed.

*Section 58 of the Delhi Development Act, 1957 *inter alia* provides that the Rules & Regulations laid on the Table shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

17. To examine the matter in detail, the Committee desired to be furnished with further information on the following points:—

- (i) the date of despatch of printed copies of the Gazette, intimation regarding GSR Nos. etc. in respect of all the aforesaid 28 'Orders'; and
- (ii) the comments of the Ministry of Works and Housing on the statements of reasons for delay furnished by the Ministries/Departments concerned in regard to the aforesaid 28 cases.

(The representatives of the Ministry of Works and Housing then withdrew).

The Committee then adjourned.

XIV

MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1971-72)

The Committee met on Wednesday, the 22nd March, 1972 from 15.00 to 15.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri M. C. Daga
4. Shri Subodh Hansda
5. Shri V. Mayavan
6. Shri P. V. Reddy
7. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 28 to 30 on the following subjects and 'Orders':—

Sl. No.	Memorandum No.	Subject
(i)	28	All-India Services (Fixation of Cadre Strength) Regulations providing for Central Deputation Reserve—action taken on the recommendation of the Committee contained in para 54 of their Sixth Report (Fourth Lok Sabha)
(ii)—(iii)	29-30	* * * * *

*Omitted portions of the Minutes are not covered by this Report.

- (i) *All-India Services (Fixation of Cadre Strength) Regulations providing for 'Central Deputation Reserve'—Action taken on the recommendation of the Committee contained in Para 54 of their Sixth Report (Fourth Lok Sabha). (Memorandum No. 28).*

3. The Committee on Subordinate Legislation (1969-70) had observed in para 11 of its Fifth Report (Fourth Lok Sabha) that it should not be difficult for the Ministry of Home Affairs to lay down the nomenclature of the 'Central Deputation Reserve Posts' in each Regulation fixing cadre strength of various All India Services. This would go a long way in regulating properly the periods of tenure of officers brought from States on deputation for manning posts under the Central Government and to eliminate any element of favouritism which might creep in at the time of allocation of such posts and the incumbents thereof to the various Central Ministries. The Committee also saw no reason why it should not be possible for Government to fix the tenure in respect of officers appointed to the posts above Joint Secretary's rank in the interest of providing healthy and clean administration. The Committee considered that the duration of tenure in one post should be kept in view while sanctioning another tenure to the same incumbent against the next higher post.

4. In their reply to the above recommendation, the Ministry of Home Affairs stated as follows:—

".....the recommendation.....that posts included in the Central Deputation Reserve should be shown by nomenclature has been re-examined and this Ministry is still of the view that it would not be feasible to give the precise nomenclature of the posts which would be manned by the officers brought on deputation to the Centre. Regarding the recommendation that tenure should also be fixed in the case of officers appointed to posts above the rank of Joint Secretaries the scheme for staffing the senior administrative posts under the Centre already lays down that officers who are borrowed for appointment to the post of or equivalent to, Joint Secretaries and Secretaries will revert to their cadres on the expiry of a period of five years. There were no posts in the State equivalent in pay and status to the post of Secretaries and Additional Secretaries in the Government of India. It is mainly because of this that this rule has not been enforced in the case of the posts of Additional Secretaries and above. The position regarding periods of tenure in various posts are now proposed to be fixed under statutory rules."

5. The Committee on Subordinate Legislation (1970) which considered the above reply of the Ministry of Home Affairs observed as follows in para 54 of their Sixth Report (Fourth Lok Sabha):

“The Committee has considered the above reply of the Ministry of Home Affairs, but has not been able to agree to its views. The Committee, therefore, reiterates its earlier recommendation made in para 11 of Fifth Report (Fourth Lok Sabha) that the Ministry of Home Affairs should lay down the nomenclature of the ‘Central Deputation Reserve Posts’ in each Regulation fixing cadre strength of various All India Services. The Committee desires that necessary amendments in this regard be made in the All India Services (Fixation of Cadre Strength) Regulations and they may be laid on the Table of Lok Sabha within a period of three months.”

6. In their interim reply dated the 9th February, 1971 to the above recommendation, the Cabinet Secretariat (Department of Personnel) stated as follows:—

“.....In the first place, one of the recommendations of the Administrative Reforms Commission is that there should not be any reservation in the Central posts for the Indian Administrative Service, and that all Central posts in the middle and senior management levels should be open to all Class I Services. These recommendations are still under consideration of the Central Government, in consultation with the State Governments. A decision on these recommendations would involve radical changes in the present system of filling up of posts under the Central Government. The recommendation of the Committee on Subordinate Legislation contained in para 54 of their Sixth Report could therefore be more appropriately taken up for consideration after a decision has been reached on the above cited recommendation of the Administrative Reforms Commission.

It may however be pointed out that appointments to posts under the Central Government are even now being made by selection from among the members of the All India Services and Class I Central Services, the choice depending on the qualifications and experience, of the officer, and the requirements of the post in question. By specifying posts in the Central Deputation Reserve which are to be filled up from All India Services, members of the

Class I Central Services will become ineligible for consideration for these posts. Again, by specifying the posts in the Central Secretariat to be filled up from different services now eligible for consideration to these posts, the field of choice for filling up of these posts will become restricted and we shall be deprived of the chance to select the best available talent for each job.

The matter will, however be examined further along with the recommendation of the Administrative Reforms Commission and the decision taken communicated to the Lok Sabha Secretariat in due course."

7. The Committee took note of the difficulties expressed by Government in implementing the above recommendation of the Committee and decided to hear the oral evidence of the representatives of the Cabinet Secretariat (Department of Personnel) in the matter.

8—12 * * * * *

The Committee then adjourned to meet again at 15.00 hours on Thursday, the 6th April, 1972.

XVIII

MINUTES OF THE EIGHTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) 1972-73

The Committee met on Monday, the 24th July, 1972 from 15.00 to 16.45 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri Dharnidhar Das
3. Shri T. H. Gavit
4. Shri Subodh Hansda
5. Shri Dinesh Joarder
6. Shri S. A. Kader
7. Shri Y. S. Mahajan
8. Shri S. N. Misra
9. Shri D. K. Panda
10. Shri K. Narayana Rao
11. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 37 to 46 on the following subjects and 'Orders':—

Sl. No.	Memorandum No.	Subject
1-5	37-41	* * * * *
6	42	Indian Economic Service (Amendment) Rules, 1970 (G.S.R. 1272 of 1970) and Indian Statistical Service Third Amendment) Rules, 1970 (GSR No. 1273 of 1970)
7-10	43-46	* * * * *

*Omitted portions of the Minutes are not covered by this Report.

- (vi) *Indian Economic Service (Amendment Rules, 1970 (G.S.R. 1972 of 1970) and Indian Statistical Service (Third Amendment) Rules, 1970 (G.S.R. 1273 of 1970) (Memorandum No. 42).*

24. Rule 10(iii) of the Indian Economic Service Rules, 1961 and Rule 10(iii) of the Indian Statistical Service Rules, 1961, as they stood prior to their amendment by the aforesaid G.S.Rs., empowered the controlling authority to make temporary arrangements to fill duty posts for a period not exceeding six months. These Rules were amended by the above G.S.Rs. to empower the controlling authority to make temporary arrangements to fill duty posts against vacancies, other than regular, which were not to be brought on the recruitment roster, by ad hoc promotion of officers of lower grade in the Service.

25. The G.S.Rs. in question—1272 and 1273 of 1970—were published in the Gazette of India, Part II, Section 3(i), dated the 5th September, 1970 but were deemed to have come into force on the 15th day of February, 1964.

26. From the explanatory memoranda appended to the G.S.Rs. in question, it appeared that although under the original Rule 10(iii) of the Indian Economic Service Rules, 1961 and Rule 10(iii) of the Indian Statistical Service Rules, 1961, the controlling authority could not fill up posts for periods exceeding six months, and under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958 for a period exceeding one year, without consulting the U.P.S.C., the controlling authority had been filling up posts for longer periods without such consultation, and the purpose of giving retrospective effect to the rules from the 15th February, 1964 was to cover such appointments. The Cabinet Secretariat (Department of Personnel) were asked to confirm this. They were also asked to state the reasons for a time-lag of over six and a half years between the date of effect of the Orders and their publication in the Gazette. They were further requested to indicate as to when the necessary action to amend the Rules was initiated and whether there were any difficulties in amending the Rules earlier.

*Omitted portions of the Minutes are not covered by this Report.

27. In their reply, the Cabinet Secretariat (Department of Personnel) stated as follows:

.....the controlling authority of the IES and the ISS have been filling short-term vacancies of duration of more than one year by promotion of officers belonging to the lower grade since such short term vacancies could not be brought on the recruitment roster. The procedure of promotion was the same as adopted in the case of regular promotions. The Union Public Service Commission, however, raised the question in October, 1964, whether it would be necessary to consult them in terms of Rules 4 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1964. The IES/ISS comprise posts in the various Ministries/Departments of the Government of India and are all in Class I. It was, therefore, not considered necessary to consult the Union Public Service Commission in respect of short term promotions made in these Services. After considerable correspondence, the Union Public Service Commission advised in June, 1968 that suitable provision in the Service rules to regulate appointments to such short-term vacancies may be examined in consultation with the Ministry of Law. The question was examined in consultation with the Ministry of Law and it was decided to amend rule 10(3) of the IES/ISS Rules to enable the controlling authority of the two Services to fill duty posts temporarily provided the procedure laid down in rule 8 for filling regular vacancies was adopted. In view of the fact that the controlling authority had been making such arrangements right from the date on which the appointments to the Services were made viz. 15th February, 1964 it was necessitated to regularise the temporary arrangements to regularise such appointments under Regulation 3 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1954. It is, therefore, confirmed that the retrospective amendments to the rules were necessitated to regularise the temporary arrangements made in duty posts against vacancies other than regular which were not brought on the recruitment roster without consulting the Union Public Service Commission.

2. The Union Public Service Commission and the Law Ministry had to be consulted extensively. The Union Public Service Commission finally concurred in the amendment

only in April, 1970. This has resulted in delay in publishing the amendment earlier."

28. The Committee were not satisfied with the above reply. After considering the matter at some length, they decided to hear the representatives of the Depart of Personnel in the matter.

29-47 * * * * *

The Committee then adjourned to meet again at 15.00 hours on Tuesday, the 25th July 1972.

~~*Omitted portions of the Minutes are not covered by this Report.~~

XXI

MINUTES OF THE TWENTY-FIRST SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)

1972-73

The Committee met on Friday, the 6th October, 1972 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri Dharnidhar Das
4. Shri T. H. Gavit
5. Shri Samar Guha
6. Shri Subodh Hansda
7. Shri Dinesh Joarder
8. Shri S. A. Kadar
9. Shri G. Y. Krishnan
10. Shri Y. S. Mahajan
11. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 47 to 56 on the following subjects and 'Orders':—

Sl. No.	Memorandum No.	Subject
1	2	3
(i)	47	Action taken or proposed to be taken by Government on various recommendations of and assurances given to the Committee on Subordinate Legislation.
(ii)	48	Employees' State Insurance (Central) Third Amendment Rules, 1968 (G.S.R. 1006 of 1968).
(iii)	49	Department of Works, Housing and Urban Development Arbitrator's Recruitment Rules, 1970 (G.S.R. 1279 of 1970).
(iv)	50	Minimum Wages (Central) Amendment Rules, 1968 (G.S.R. 2201 of 1968).

1	2	3
(v)	51	Implementation of the recommendation of the Committee on Subordinate Legislation contained in paragraph 35 of their Fourth Report (Fourth Lok Sabha).
(vi)	52	The Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972 (G.S.R. 212 of 1972).
(vii)	53	The Motor Vehicles (Third Party Insurance) Amendment of Rules, 1972 (S.O. 599 of 1972).
(viii)	54	Rules' Regulations etc., published in 1972—Indication of incorrect year in the short-title.
(ix)	55	The Hindi Translator Grade I (Ministry of Home Affairs) Department of Administrative Reforms Recruitment Rules, 1971 (G.S.R. 496 of 1972).
(x)	56	* * * *

(i) *Action taken or proposed to be taken by Government on various recommendations of, and assurances given to, the Committee on Subordinate Legislation (Memorandum No. 47).*

3. The Committee noted with satisfaction the action taken by Government on their earlier recommendations, as indicated in Appendix I**.

(ii) *The Employees' State Insurance (Central) Third Amendment Rules, 1968 (G.S.R. 1006 of 1968) (Memorandum No. 48).*

4. In para 151 of their 1st Report (2nd Lok Sabha) presented to the House on 12.9.1957, the Committee on Subordinate Legislation (1957-58) had recommended as follows:—

“.....The Employees' State Insurance Corporation Act, 1948 should be suitably amended to provide (i) that a representative of the Lok Sabha should cease to be a member of the Corporation on his ceasing to be a member of the Lok Sabha and (ii) that Parliament should be represented by three members on the Corporation, two from Lok Sabha and one from Rajya Sabha.”

5. The Ministry of Labour, Employment and Rehabilitation have informed that they had implemented part (i) of the above recommendation by amending section 12(3) of the principal Act through Amendment Act No. 44 of 1966.

*Omitted portions of the Minutes are not covered by this Report.

**See Appendix VII of the Report.

.Part (ii) of the recommendation was implemented by the Ministry in June, 1968. This had been done by amendment to Rule 2A of the Employees' State Insurance (Central) Rules, 1950 (*vide* G.S.R. 1006 of 1968).

6. The Committee took serious note of the fact that Government had taken 9 years to implement the first part of the recommendation and 11 years to implement the second part. They desired that Ministry might be asked to explain the reasons for this unreasonable delay in amending the Act and the Rules.

(iii) *The Department of Works, Housing and Urban Development Arbitrator's Recruitment Rules, 1970 (G.S.R. 1279 of 1970). (Memorandum No. 49).*

7. Rule 7 of the Department of Works, Housing and Urban Development Arbitrator's Recruitment Rules, 1970 read as follows:—

"If any question arises as to the meaning or *application* of these rules or any of them to any person, the matter shall be referred to the Central Government for its decision."

8. It was pointed out to the Ministry of Works and Housing that the use of the words "*application of these rules or any of them to any person*" in the Rule was likely to give an impression that while all the Rules might apply to some persons, only some of the Rules might apply to others, thereby leaving scope for discriminatory treatment.

9. In their reply, the Ministry of Works & Housing have stated as follows:—

"Rule 7 of the Rules regulating the method of recruitment to the post of Arbitrator in the Ministry of Works & Housing as drafted by this Ministry is intended to mean "*application of (all) these rules or any of them*" to all the persons. This Ministry have, however, no objection to amend the rule to make the intention clear and for that purpose, it is proposed to amend the interpretation clause as follows:—

"If any question arises as to the interpretation of these rules, the same shall be decided by the Central Government."

The Ministry of Law and Justice and the Department of Personnel who were consulted in the matter have agreed to the above amendment."

10. The Committee noted with satisfaction the above reply of the Ministry of Works and Housing.

(iv) *The Minimum Wages (Central) Amendment Rules, 1968* (G.S.R. 2201 of 1968) (Memorandum No. 50).

11. Rule 14 of the Minimum Wages (Central) Rules, 1950 as substituted by the Minimum Wages (Central) Amendment Rules, 1968, *inter alia*, provided as under:—

“.....If at any meeting, less than one third of the members are present or not even one representative each of both the employers and employees are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of class, of members present.”

12. Attention of the Ministry of Labour & Rehabilitation (Deptt. of Labour and Employment) was invited to the *recommendation of the Committee on Subordinate Legislation made from time to time that in cases where a meeting of a body was adjourned, for lack of quorum, a notice regarding the date, time and place of the adjourned meeting should be given to all the members, whether present or absent, and a specific provision therefor should be made in the Rules.

13. The Ministry of Labour & Rehabilitation (Deptt. of Labour & Employment) have now amended rule 14, *ibid* by adding the following further provision:

“Provided further that the date and time of such adjourned meeting shall be intimated to the absentee members by telephone, by telegram or by a written communication.”

14. The Committee noted the above reply of the Ministry of Labour and Rehabilitation (Department of Labour and Employment) and desired that above proviso should be further amended to provide that not only date and time but also the place of such adjourned meeting be intimated to the absentee members by telegram or by a written communication and the words “by telephone” be omitted therefrom.

(v) *Implementation of the recommendation of the Committee on Subordinate Legislation contained in paragraph 35 of their Fourth Report (Fourth Lok Sabha) (Memorandum No. 51).*

*Sixth Report (Third Lok Sabha)—Para 9 and First Report (Fourth Lok Sabha)—Paras 19—21.

15. While examining the Armed Forces Headquarters Clerical Service Rules, 1968 (S.R.O. 119 of 1968) and the Armed Forces Headquarters Stenographers' Service Rules, 1968 (S.R.O. 120 of 1968), the Committee on Subordinate Legislation (1969-70) observed that provision relating to eligibility for confirmation of probationers, appointed to the Upper|Lower Division Grade of the Armed Forces Headquarters Clerical Service and Grades I and II of the Armed Forces Headquarters Stenographers' Service, after completing the probation period satisfactorily, had not been made in the above-mentioned Rules, as had been done in the case of the Armed Forces Headquarters Civil Service Rules, 1968 (S.R.O. 118 of 1968). Commenting upon this, the Committee, in para 35 of their Fourth Report (Fourth Lok Sabha), recommended as follows:—

“The Committee desires that the Ministry of Defence should make a similar provision in the Armed Forces Headquarters Clerical Service Rules, 1968 and Armed Forces Headquarters Stenographers' Service Rules, 1968 (S.R.Os. 119 and 120 of 1968) as has been provided in rule 14 of the Armed Forces Headquarters Civil Service Rules, 1968.”

16. In their initial reply dated the 10th August, 1970, the Ministry of Defence stated as follows:—

“.....on reviewing the matter in consultation with the Ministries of Home Affairs and Law, it is proposed to include suitable provisions relating to confirmation of probationers on the lines of rule 14 of the Armed Forces Headquarters Civil Service Rules, 1968, in the Armed Forces Headquarters Stenographers' Service Rules, 1970 (which will be issued in supersession of the Armed Forces Headquarters Stenographer's Service Rules, 1968), and the Armed Forces Headquarters Clerical Service Rules, 1968, as recommended by the Committee on Subordinate Legislation.”

17. In a further reply dated the 9th March, 1971, the Ministry of Defence stated as follows:—

“.....the Draft AFHQ Stenographers' Service Rules, 1970 containing provisions relating to confirmation of probationers were forwarded to U.P.S.C. for their approval. The U.P.S.C. suggested that since a probationer denoted a direct recruit appointed to a grade on probation in or

against a substantive vacancy, the definition of the term 'Probationer' and provisions regarding confirmation of probationers contained in draft AFHQ Stenographers' Service Rules, 1970 should be deleted, since there would be no direct recruitment against substantive vacancies in any grade of the AFHQ Stenographers' Service. The matter was discussed with the officer concerned in the UPSC on 2nd December, 1970 and it was explained that these provisions were being made on the insistence of the Committee on Subordinate Legislation. The U.P.S.C. were strongly of the view that it was not at all necessary to make a provision in the draft AFHQ Stenographers' Service Rules, 1970, in respect of probationers and suggested that the above position be again explained to the Committee on Subordinate Legislation. Accordingly, provisions regarding confirmation of probationers have not been incorporated in the AFHQ Stenographers' Service Rules, 1970, which have been promulgated as S.R.O. No. 10, dated 22nd December, 1970, published in the Gazette of India, Part II, Section 4, dated 2nd January, 1971.

Draft amendments to the AFHQ Clerical Service Rules, 1968, containing provisions relating to confirmation of probationers, have been concurred in by the Department of Personnel in the Cabinet Secretariat and forwarded to Ministry of Law (Legislative Department) for vetting and furnishing Hindi version thereof. These draft amendments were not required to be approved by the U.P.S.C., as they are no longer responsible for recruitment to the Lower Division Grade in the Central Secretariat Clerical Service and AFHQ Clerical Service. On receipt of the approval of Ministry of Law and its Hindi version, the above draft amendment Rules will be published in the Gazette of India."

18. The Armed Forces Headquarters Clerical Service Rules, 1968 were amended on the lines suggested by the Committee (*vide* S.R.O. 175 of 1971). The relevant rule—13A—as inserted by the aforesaid S.R.O. read as follows:—

"13A. *Confirmation or continuance of officers on probation.*—

(1) When a member of the Service appointed to a Grade on probation has passed the tests, if any, prescribed (including the typewriting test held by the Commission or the Secretariat Training School or has been specifically

exempted by the Government from passing the typewriting test due to physical disability) and has completed the period of probation to the satisfaction of the appointing authority, he shall be eligible to be substantively appointed or continued therein, as the case may be, in accordance with the provisions contained in the Third Schedule.

- (2) When a probationer in the Lower Division Grade has passed the tests, if any, prescribed (including the typewriting test held by the Commission or the Secretariat Training School or has been specifically exempted by the Government from passing the typewriting test due to physical disability) and has completed the period of probation to the satisfaction of the appointing authority, he shall be eligible for confirmation in that grade. Until a probationer is confirmed under this rule or is discharged or reverted under rule 14, he shall continue to have the status of a probationer."

19. The Committee noted with satisfaction the above reply of the Ministry of Defence.

- (vi) *The Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972 (G.S.R. 212 of 1972) (Memorandum No. 52).*

20. Second proviso to rule 4 of the Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972, provided for relaxation of standard for candidates belonging to Scheduled Castes and Scheduled Tribes to make up the deficiency in the reserved quota, *irrespective of their ranks in the order of merit at the examination.*

There was, however, no provision in the Rules or the Schedule thereto for holding an examination for recruitment to posts covered thereby.

21. The Ministry of Irrigation and Power to whom the matter was referred stated as follows:—

".....rule 4 of the Ministry of Irrigation and Power Class II (Statistical Posts) Recruitment Rules, 1972, was added on the advice of the Ministry of Law and Justice, as referred to in the Ministry of Home Affairs O.M. No. 8(12) | 71-Estt. (SCT) dated the 19th October, 1971. It has now been checked up that the posts referred to in the above

mentioned Recruitment Rules are to be filled by promotion, failing which by direct recruitment. In the case of direct recruitment, these posts have not to be filled on the basis of examination, but by interview conducted by the U.P.S.C.

Accordingly, rule 4 of the Recruitment Rules, referred to above, is being amended in the light of the Department of Personnel's O.M. No. 8|12|71|Ests (SCT), dated the 21st September, 1971, in consultation with the Ministry of Law and Justice. A copy of the amending rules will be supplied to the Lok Sabha Secretariat soon after the amendment to the rules is issued."

22. The Committee noted that even though the two posts referred to in the Rules were intended to be filled by interview, second proviso to Rule 4 indicated that these were to be filled on the basis of an examination. In the opinion of the Committee, this was a regrettable case of carelessness on the part of the Ministry of Irrigation and Power and also the Ministry of Law and Justice (Legislative Department), on whose advice rule 4 was added to the Rules. They desired the Ministries to be careful in future. They further desired that the rule in question should be amended to the necessary effect at an early date.

(vii) *The Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 (S.O. 599 of 1972) (Memorandum No. 53).*

23. It was noticed from the preamble to the Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 that the objections and suggestions from the public on the draft Rules, as required by Section 133 (1) of the Motor Vehicles Act, 1939, were invited up to the 23rd July, 1972, while the copies of the Gazette containing the said draft Rules were made available to the public on the 26th August, 1971. Thus, the last date for receipt of objections/suggestions had already expired before the copies of the Gazette were made available to the public.

24. The Ministry of Shipping and Transport (Transport Wing), to whom the matter was referred for comments, have stated in their reply as follows:—

"..... This Ministry's notification (S.O. 2559 dated 3rd June, 1971) publishing certain draft rules further to amend the Motor Vehicles (Third Party Insurance) Rules, 1946, was sent for issue on 4th June, 1971 and it was presumed that

it would be published and copies of the relevant gazette made available to the public by the 23rd July, 1971. Accordingly, the date for receipt of objections was fixed as the 23rd July, 1971. Unfortunately, however, it appears that copies of the relevant gazette in which the notification was published were made available to the public only on 26th August, 1971. It may however, be mentioned that the general public was not affected by the proposed amendments which had application only in relation to the State Road Transport Undertakings, local authorities and Central and State Governments, as mentioned in Section 94(3) of the Motor Vehicles Act, 1939. The Governments of Orissa and Tamil Nadu sent their suggestions in September and October, 1971 (i.e. after the last date specified in S.O. No. 2359). These were duly taken into account before the final notification was published on 29th December, 1971. In future, care will be taken to specify the date for receipt of objections after taking into account the possibility of delay in the publication of the notification and copies of the relevant gazette being made available to the public.

25. The Committee were not satisfied with the explanation furnished by the Ministry. They had recommended time and again that when the Acts gave a right to the public to send their comments on draft rules, it was only reasonable that sufficient time should be given to them to study the draft and send their comments on the provisions contained therein. To this end, the Committee had suggested in para 31 of their Sixth Report (First Lok Sabha) that a period of not less than 30 clear days, exclusive of the time taken in publishing the draft rules in the Gazette and despatching the Gazette to various parts of the country, should be given to the public to send their comments on such draft rules. In the present case, the last date for receipt of objections/suggestions as fixed by the Ministry had already expired before the copies of the Gazette were made available to the public.

26. After discussing the matter at some length, they desired that the representatives of the Ministry of Shipping and Transport (Transport Wing) might be asked to appear before the Committee to explain the reasons for not extending the period for receipt of objections and suggestions on the said draft Rules from the public when they came to know that the last date (23rd July, 1971) as fixed by them, had already expired before the copies of the Gazette

were made available to the public. The Committee also desired that the representatives of the Ministry of Works and Housing might be asked to appear before them for explaining the reasons for delay (over two months) in making the Gazette copies, containing the said draft Rules, available to public on the 26th August, 1971.

(viii) *Rules, Regulations, etc. published in 1972—Indication of incorrect year in the short-title (Memorandum No. 54).*

27. According to a well accepted practice, short title of Rules, Regulations, bye-laws etc. should bear the year in which they were published and not some other year. The Committee on Subordinate Legislation had also made a recommendation to this effect in para 44 of their Third Report (First Lok Sabha) and paras 30-31 of their Thirteenth Report (Second Lok Sabha). Indication of incorrect year in the short title causes difficulty in location of 'Orders'.

28. It was, however, noticed in a number of cases that even though the rules were published in the year 1972 and came into force in that year, in the short title they had been referred to as of 1971 (*vide Appendix II).

29. The error was brought to the notice of the Ministries concerned who stated that they were taking necessary action to correct the year in the short title.

30. The Committee noted that Rules listed in Appendix II were sent to the Government of India Press for publication in the year 1972 itself. They observed that had the Ministries concerned corrected the year in short title of the Rules before sending them for publication, the error would have been avoided.

31. The Committee further noted that this error of incorrect year had been found to be recurring year after year. In respect of the 'Orders' published in 1970 (see Appendix III)**, amendments to correct the year had to be issued by the Ministries/Departments concerned. Apart from this a large number of 'Orders' published in the Gazette of 1972 came to notice where the error was due to the fact that while Rules were sent by the Ministries concerned for publication towards the end of 1971, these were published in 1972. Some of such cases have been given in Appendix IV†.

After discussing the matter at some length, the Committee desired to hear the representatives of a few Ministries that were

* See Appendix II of the Report.

** See Appendix III of the Report.

† See Appendix IV of the Report.

concerned and the Ministries of Law and Justice (Legislative Department) and Works and Housing to know the reasons for this error being repeated year after year.

(ix) *The Hindi Translator Grade I (Ministry of Home Affairs) Department of Administrative Reforms Recruitment Rules, 1971 (G.S.R. 496 of 1972). (Memorandum No. 55).*

32. Recruitment rules providing for direct recruitment generally contained a provision for relaxation of the prescribed age-limit in case of candidates belonging to the Scheduled Castes, Scheduled Tribes, etc.

33. It was seen that the above Rules which, *inter alia*, provided for direct recruitment to the post of Hindi Translator Grade I in the Administrative Reforms Department (Ministry of Home Affairs) did not contain a provision to the above effect. The Ministry of Home Affairs with whom the matter was taken up, stated in their reply as under:—

“The proviso relating to the relaxation of the upper age-limit in favour of candidates belonging to scheduled castes| scheduled tribes in the case of direct recruitment was omitted by oversight and necessary steps to include the following proviso and ‘saving clause’ at the appropriate places in the rules would be taken immediately:—

‘Provided that the upper age limit prescribed for direct recruitment may be relaxed in the case of candidates belonging to Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the general orders issued from time to time by the Central Government’ and

‘Saving: Nothing in these rules shall affect reservations and other concessions required to be provided for Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.’

The omissions are very much regretted and necessary corrective measures are being taken.”

34. The Committee noted with satisfaction the above reply of the Ministry of Home Affairs and desired that the Ministry might be asked to take early steps to amend the Rules accordingly.

35—39. * * * * *

The Committee then adjourned to meet again on Tuesday, the 7th November, 1972 and Thursday, the 9th November, 1972.

XXII

**MINUTES OF THE TWENTY-SECOND SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1972-73)**

The Committee sat on Saturday, the 7th October, 1972 from 11.00 to 12.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman.*

MEMBERS

2. Shri M. C. Daga
3. Shri Dharnidhar Das
4. Shri T. H. Gavit
5. Shri Subodh Hansda
6. Shri Dinesh Joarder
7. Shri S. A. Kader
8. Shri G. Y. Krishnan
9. Shri Y. S. Mahajan
10. Shri Tulmohan Ram

*Representatives of the Cabinet Secretariat
(Department of Personnel)*

1. Shri B. P. Bagchi—*Secretary.*
2. Shri H. K. L. Capoor—*Establishment Officer.*
3. Shri S. Prabhakaran—*Deputy Secretary (AIS).*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee examined the representatives of the Cabinet Secretariat (Department of Personnel) in regard to laying down the nomenclature of the Central Deputation Reserve Posts and giving retrospective effect to Rule 10(iii) of the Indian Economic Service Rules, 1961 and Indian Statistical Service Rules, 1961 *vide* G.S.R. Nos. 1272-1273 of 1970.

3. Giving details about the Central Deputation Reserve Posts, the representative of the Department of Personnel stated that in

every State|cadre of the I.A.S. the actual senior posts under the State Government were specified. 40 per cent of the number of such senior posts under the State Government is the strength of the Central Deputation Reserve Posts. This indicated the number of posts at the Centre which could be manned by I.A.S. officers belonging to a particular State cadre. A Resolution giving the scheme for the staffing of senior, administrative posts at the Centre was published in October, 1957. According to this Scheme the incumbents of posts of the Central Government are drawn from various sources and one of these is I.A.S. Other sources are Central Services Class I, Central Secretariat Service and the State Civil Services. The Scheme does not lay down any proportion of posts to be shared by these services so that the Government may have a free hand in selecting suitable persons for the available posts.

4. Explaining the reasons for not specifying the posts at the Centre in the I.A.S. cadre of the different States, the representative of the Department of Personnel stated that the very scheme of selecting senior officers to hold these posts provided that they should be borrowed from all services and there should be no reservation of quota from any service. This was to ensure that suitable person was selected wherever he might be. Any attempt to specify the posts and relate them to a particular service was bound to restrict the field of choice for appointment to such posts. Another difficulty in earmarking posts at the Centre in the I.A.S. cadre was that the number of posts of a particular type in various Ministries was limited. If these were earmarked for particular States and they did not get people of that type from those States, then those posts would remain vacant for want of availability of suitable persons. The other States also may have a feeling that there is an element of reservation of posts for particular States. Secondly, there was the problem of providing adequate promotion opportunities to the members of the Central Secretariat Service. They usually relied on the Ministries to make efforts to promote their Central Secretariat Officers once they came out in the selection list.

5. Giving the procedure for getting officers from various services for consideration and appointment at the Centre, the representative of the Department of Personnel stated that around the month of December every year, they issued a circular to the States and the various cadres in which they attempted to give a break-up of the type of posts which were likely to fall vacant at the Centre and requested them to recommend suitable officers for filling posts at various levels. The names received by the Department were scrutinised from the point of view of suitability and eligibility. Record of I.A.S. personnel was maintained in the Department of

Personnel and so they did not face any difficulty in the selection of suitable persons from them.

6. Listing the difficulties in actual placement of officers, it was stated that, in certain situations the States might find it difficult to spare their best officers and the States had to be persuaded to part with suitable officers. The other difficulty was that the Ministry or Department might have in mind some officers who were suitable for their posts but they did not fulfil the eligibility criteria. Then sometimes officers themselves preferred certain Ministries to others.

7. In reply to a question it was stated that about one-third of the posts at the Centre were filled up from the I.A.S., about 40 per cent from the Central Secretariat Service and the remaining posts from various Class I Services.

8. When asked whether there could be any scope for injustice to any region India, he stated that in one particular case the States had represented that they were not adequately represented at the Centre. In such cases, the Department of Personnel persuaded them to offer more suitable names.

9. Dealing with the suggestion for fixing quota for a region and laying down that officers be drawn from another region only when suitable persons were not available from a certain region, the representative of the Department said that that would lead to endless controversy with the State about the suitability or otherwise of a particular person.

10. In reply to a question whether there had been any complaint of favouritism, he stated that no system could be perfect and a marginal case here and there could not be ruled out. A conscious effort was made by the Department of Personnel to place the right person on the right job.

11. The Committee desired to know whether any tenure was fixed for officers above the level of Joint Secretaries and whether they went back to their cadre or not. The representative of the Department of Personnel stated that the tenure was three years for Under Secretary and equivalent posts, four years for Deputy Secretaries and five years for Joint Secretaries and above. Secretaries and Additional Secretaries were also returnable after a period of five years. In actual practice it had not been possible to do so but recently Government had made up its mind to adhere to the principle of five years.

12. When asked about the number of Secretaries and Additional Secretaries who had continued in their posts after the expiry of their tenure, he said that most of them had continued but in some

cases they had gone back. In reply to a further query about the need of statutory rules in this regard, the representative of the Department of Personnel stated that the matter was under consideration.

13. The representative of the Department of Personnel then explained the background for giving retrospective effect to Rule 10(iii) of the Indian Economic Service Rules, 1961 and Indian Statistical Service Rules, 1961. He said that these rules were enforced *w.e.f.* 1-11-1961, but the appointments were made only from 15-2-1964. In the meantime the posts were being held on an *ad hoc* basis by other persons. Even after the initial constitution, temporary appointments continued to be made on *ad hoc* basis. The result was that Rule 10(iii) was being infringed in the process. This rule provides that the controlling authority could make temporary appointments for a period not exceeding six months, whereas 2 years had expired already and the people continued to hold these posts. In July 1964, the Director of the Central Statistical Organisation brought to the notice of the Controlling Authority that these appointments were technically not in accordance with the Rules. The Home Ministry therefore issued a circular to all the Departments relaxing the rules in favour of these people. When U.P.S.C. came to know of it, they enquired why these appointments were being made without consulting them. The Ministry of Home Affairs took the stand that persons were being promoted against short term deputation vacancies. All the services were in Class I and under the U.P.S.C. (Exemption from Consultation) Regulations, they need not be consulted for appointment from Class I to Class I. Consultation was being done for initial appointment to Grade IV which was also in Class I. U.P.S.C. questioned it and ultimately the Home Ministry conceded that they should have been consulted. U.P.S.C. also insisted that the temporary vacancies should be brought on the recruitment roster. After a great deal of discussion the U.P.S.C. conceded that the temporary vacancies need not be brought on the recruitment roster.

14. A large number of appointments of more than 6 months duration had already taken place in infringement of the rules over this period. U.P.S.C. suggested that the rules be amended to regularise these cases. They also suggested that retrospective effect be given to the rule to cover all these cases.

15. In reply to a question, the representative of the Department of Personnel said that the service consists of four grades. A regular examination was held every year, by U.P.S.C. for appointments to Grade IV. At present, 75 per cent or more of the posts in Grade IV were filled by competitive examination and 25 per cent or less

by promotion of people holding Class II posts. For Grade III, the proportion was 75 per cent or more by promotion for people holding Grade IV posts and 25 per cent or less by direct recruitment through U.P.S.C. For Grade II the proportion was 50 per cent or more by promotion of Grade III officers and 50 per cent or less by direct recruitment and for Grade I, the proportion was 75 per cent or more by promotion from Grade II and 25 per cent or less by direct recruitment. Direct recruitment for Grade I, II and III was not done by competitive examination.

16. In reply to another question, he said that it was not possible to make direct recruitment through U.P.S.C. for temporary posts. Temporary vacancies occurred in two cases. Either when somebody went on leave or when a person was borrowed by some organisation for a certain period. The vacancy had to be kept for him. If it was filled by direct recruitment, he would be thrown out as a consequence of the man's return. Such temporary vacancies were, therefore, filled by persons from within the service so that when the person returned, he could be reverted to the old post.

17. In reply to a further question, he said that the rules were amended to cover temporary appointments which had continued for more than 6 months. When asked whether they considered it a mistake, he said that there was no *malafide* of any kind. He, however, agreed that it should have been taken up at a high level in the U.P.S.C. and other offices.

18. The Committee desired the Department of Personnel to furnish information on the following points:

- (i) Strength of the Central Deputation Reserve of each State and the extent of its representation at the Centre as on 1-1-1972.
- (ii) Executive Instructions issued, if any, in lieu of statutory Rules in the matter of tenure in various posts manned by officers brought on deputation to the Centre.
- (iii) List of officers of Secretaries and Additional Secretaries level who have gone back to States after completion of their tenure and the number of such officers who have been retained at the Centre.
- (iv) Executive instructions, if any, issued to avoid irregularities in filling short term vacancies in the Indian Economic Service and Indian Statistical Service.

19. The Committee decided to meet again on Tuesday, the 7th November, 1972 and Thursday, the 9th November, 1972.

20. The Committee then adjourned.

XXIII
MINUTES OF THE TWENTY-THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1972-73)

The Committee met on Tuesday, the 7th November, 1972 from 15.00 to 16.15 hours.

PRESENT

Shri Vikram Mahajan — *Chairman.*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavit
4. Shri Subodh Hansda
5. Shri Dinesh Joarder
6. Shri K. Narayana Rao.

SECRETARIAT

Shri H. G. Paranjpe — *Deputy Secretary.*

2. The Committee considered Memoranda Nos. 57 to 65 on the following subjects and 'Orders':—

S. No.	Memo No.	Subject
1.	57	The Armed Forces Medical College, Poona (Animal Supervisor) Recruitment Rules, 1971 (S.R.O. 92 of 1972).
2.	58	The Central Translation Bureau, Ministry of Home Affairs (Class III and Class IV Posts) Recruitment Rules, 1972 (G.S.R. 499 of 1972).
3.	59	The Railway Service Commissions (Chairmen, Member Secretaries and Assistant Secretaries) Recruitment Rules, 1970 (G.S.R. 226 of 1970).
4.	60	The Metalliferous-Mines (Second Amendment) Regulations, 1970 (G.S.R. 949 of 1970).
5.	61	Relaxation provision in Recruitment Rules.

<i>S. No.</i>	<i>Memo No.</i>	<i>Subject</i>
6.	62	The Indian Museum Rules, 1970 (G.S.R. 622 of 1970).
7.	63	The Mineral Concession (Fourth Amendment) Rules, 1968 (G.S.R. 703 of 1968).
8.	64	Framing of bye-laws for the custody and handling of exhibits in the Indian Museum, Calcutta—Action taken by Government on the recommendation of the Committee contained in Para 20 of their Fifth Report (Fourth Lok Sabha).
9.	65	Publication of rules, etc. in draft form—Non-indication of certain particulars in the preamble to the final rules, as required by the recommendation of the Committee on Subordinate Legislation.

(i) *The Armed Forces Medical College, Poona (Animal Supervisor) Recruitment Rules, 1971 (S.R.O. 92 of 1972) (Memorandum No. 57).*

3. The Committee noted with satisfaction that the Ministry of Defence were issuing necessary corrigendum to Rule 6, providing for consultation with the U.P.S.C. before the rules were relaxed.

4. The Committee also desired the Department of Personnel to issue general instructions that in all cases where recruitment was made through the U.P.S.C., the relaxation provision should invariably provide for consultation with the U.P.S.C.

(ii) *The Central Translation Bureau, Ministry of Home Affairs (Class III and Class IV Posts) Recruitment Rules, 1972 (G.S.R. 499 of 1972) (Memorandum No. 58).*

5. The provision that 'the age limit may be relaxed in suitable cases' appearing in col. 6 of the Schedule to the above Rules against the post of Technical Assistant did not indicate precisely the types of cases in which the relaxation might be made. The Committee noted that the Ministry of Home Affairs had since decided to amend the Rules accordingly.

(iii) *The Railway Service Commissions (Chairmen, Member Secretaries and Assistant Secretaries) Recruitment Rules, 1970 (G.S.R. 226 of 1970) Memorandum No. 59).*

6. The Committee considered the above Memorandum and noted that the Ministry of Railways had amended Rule 8 so as to take the provisions of Rules 5 and 6 relating to the tenure of office of Chairmen|Member Secretaries of Railway Service Commissions out of the purview of the relaxation provision of the Rules (*Vide G.S.R. No. 215 dated 19-2-1972*).

(iv) *The Metalliferous Mines (Second Amendment) Regulations, 1970 (G.S.R. 949 of 1970) (Memorandum No. 60)*

PART I

7. The Committee were informed that the particulars relating to (i) the date of the Gazette in which the draft regulations were published; (ii) the date on which the Gazette copies containing the draft Regulations were made available to the public; and (iii) the last date fixed for receipt of public comments thereon, were not mentioned in the preamble to the above Rules by the Ministry of Labour and Rehabilitation (Department of Labour and Employment) due to inadvertence and they had noted the requirements in this regard for future compliance. In view of this, the Committee decided not to pursue the matter.

PART II

8. * * * * *

PART III

9. Sub-Regulation (9) of Regulation 11 of the Metalliferous Mines Regulations, 1961, as substituted by the Metalliferous Mines (Second Amendment) Regulations, 1970, empowered the Board of Mining Examinations to make bye-laws for regulating the procedure of its working. It was felt that it was a case of sub-delegation of legislative power for which there was no express authorisation in the parent Act.

10. The Committee were informed that the Department of Labour and Employment, with whom the matter was taken up, had no objection to incorporating the provision relating to the procedure of the working of the Board of Mining Examinations in the Regulations. The Committee decided that the Department of Labour and Employment might be asked to take early action in this regard.

(v) *Relaxation provision in Recruitment Rules*

(*Memorandum No 61*)

11. The Committee were informed that the Ministries of Labour and Rehabilitation (Department of Rehabilitation) and Industrial

*Omitted portions of the Minutes are not covered by this Report.

Development had amended the relaxation provisions in the following recruitment rules so as to include the phrase "with respect to any class or category of persons" therein in order to bring them in line with the normal relaxation provision—

- (i) Rehabilitation Reclamation Organisation Drilling Sub-division [Assistant Engineer (Drilling) Class II posts] Recruitment Rules, 1970 (G.S.R. 1881 of 1970)—Rule 6.
- (if) Department of Industrial Development (Joint Director and Editor in the Rural Industrial Planning Committee) Recruitment Rules, 1970 (G.S.R. 838 of 1970)—Rule 6.
- (vi) *The Indian Museum Rules, 1970 (G.S.R. 622 of 1970) (Memorandum No. 62)*

12. The Committee considered the above Memorandum and did not agree with the opinion expressed by the Ministry of Law and Justice that authorisation of the Trustees to fix or alter the scales of pay of the employees in the Museum by Rule 4 would not amount to sub-delegation of legislative power because the Central Government kept an over-all control over the power to be exercised by the Trustees. In their view, sub-section (2) (a) of Section 15A of the Indian Museum Act, 1910 clearly envisaged that condition of service of the employees of the Museum should be regulated by the Central Government through Rules. The Committee, therefore, desired that the Ministry of Education and Social Welfare might specify the scales of pay of posts in the Museum through Rules.

- (vii) *The Mineral Concession (Fourth Amendment) Rules 1968 (G.S.R. 703 of 1968) (Memorandum No. 63)*

13. The Committee noted that the Ministry of Steel and Mines (Department of Mines) had amended Rule 24(4) of the Mineral Concession (Fourth Amendment) Rules, 1968 so as to provide that the communications referred to therein are sent to the addressee by Registered Post|Acknowledgement Due (*vide* G.S.R. No. 1579 dated 23-10-1971).

- (viii) *Framing of bye-laws for the custody and handling of exhibits in the Indian Museum, Calcutta—action taken by Government on the recommendations of the Committee contained in Para 20 of their Fifth Report (Fourth Lok Sabha). (Memorandum No. 64).*

14. The Committee noted that the Rules for the preservation and safe custody of the art objects in the Indian Museum, Calcutta had been finalised and published in the Gazette of India, Part II, Section 3(i), dated 2-9-1972 under G.S.R. No. 1071.

(ix) *Publication of rules etc. in draft form—Non-indication of certain particulars in the preamble to the final rules, as required by the recommendation of the Committee on Subordinate Legislation (Memorandum No. 65).*

15. The Committee were informed that particulars about previous publication of the Rules, Regulations, etc. in draft form were not being given in the preamble to the final rules in a large number of cases*. In view of this, the Committee decided to re-stress upon the **Ministries/Departments** of the Government of India the need for strict compliance with their earlier recommendation made in para 28 of their First Report (Fourth Lok Sabha).

16. *The Committee then adjourned to meet again on Thursday, the 9th November, 1972.*

*See Appendix VI of the Report.

XXIV

**MINUTES OF THE TWENTY-FOURTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION**

(FIFTH LOK SABHA)

(1972-73)

The Committee met on Thursday, the 9th November, 1972 from 11.00 to 12.15 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

- 2. Shri M. C. Daga
3. Shri Dharindhar Das
4. Shri T. H. Gavit
5. Shri Dinesh Joarder
6. Shri S. N. Misra
7. Shri K. Narayana Rao

**REPRESENTATIVES OF THE MINISTRY OF SHIPPING AND TRANSPORT
(TRANSPORT WING)**

1. Shri N. R. Reddy—*Joint Secretary.*
2. Shri K. Sivaraj—*Joint Secretary.*

REPRESENTATIVES OF THE MINISTRY OF WORKS AND HOUSING

1. Shri S. Chaudhri—*Joint Secretary*
2. Shri S. M. Jambholkar—*Director*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

***Motor Vehicles (Third Party Insurance) Amendment Rules, 1971
(S.O. 599 of 1972)***

2. The Committee examined the representatives of the Ministries of Shipping and Transport (Transport Wing) and Works and Housing in regard to the Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 and indication of incorrect year in the short title of certain Rules and Regulations (Annexure).

3. The representative of the Ministry of Shipping and Transport stated that the Motor Vehicles (Third Party Insurance) Amendment Rules, 1971 were published in draft form in June 1971 and the last date for receiving objections/suggestions from the public on the draft Rules was 23rd July, 1971. It was noticed that copies of the Gazette containing the draft rules were made available to the public in August, 1971. The proper course for the Ministry under such circumstances should have been to extend the time for receipt of objections from the public but it was felt that it was not necessary to do so as the amendment mainly concerned the Central and State Governments and they had received objections from some of the State Governments. He, however, admitted that it was a lapse on the part of the Ministry.

4. In reply to a question, he stated that as the date on which the draft Rules were made available to the public had to be given in the final rules, one of their officials obtained that information from the Press on the telephone.

5. When asked as to what steps they proposed to take to avoid the recurrence of such mistakes in future, it was stated that the officers had been asked to ensure that the requisite time was made available to the public before final notification was issued.

6. Explaining the gap of more than two months between the date of publication of draft Rules in the Gazette and the date on which it was made available to the public, the representative of the Ministry of Works and Housing stated that the notification was published in the Gazette after a delay of more than a month due to increased work-load in the Press. When asked as to why they did not inform the Ministry concerned about the delay in the publication of the Gazette, it was stated that according to the present practice, the concerned Ministries were not informed of the delay in printing. In reply to a further question as to whether any letter indicating the date by which the notification ought to be published in the Gazette had been received alongwith the notification, it was stated that the practice was that only the notification was sent to the Press for publication and it appeared that the same practice might have been followed in this case also.

7. When the attention of the representative of the Ministry of Works and Housing was drawn to the fact that the draft Rules were published in the Gazette on the 19th June, 1971 and were made available to the public on the 26th August, 1971, he stated that according to the information available with them the notification went to Publication Branch on the 14th July, 1971 and the distribution thereof was completed on the 17th July, 1971.

8. As complete details were not available with the representatives of the Ministries, the Committee desired that the Ministries of Shipping & Transport and Works & Housing might furnish a note explaining the reasons for a gap of more than two months between the date of publication of the above rules in draft form in the Gazette of India i.e. the 19th June, 1971 and the date of making copies of the Gazette available to the public i.e. 26th August, 1971.

I. *Andaman Laccadive Harbour Works (Class I and II Posts) Recruitment Rules, 1969—G.S.R. 1869 of 1970.*

II. *Andaman Laccadive Harbour Works (Special Draftsman) Recruitment Rules 1969—G.S.R. 2054 of 1970.*

9. The representative of the Ministry of Shipping & Transport (Transport Wing) explained the circumstances in which incorrect year had been indicated in the short title of the above Rules. He stated that it had happened due to oversight. The original draft Rules framed in 1969 were in English. Hindi Translation of these Rules was done in 1970. This led to the mistake in the year of the short title.

10. In reply to a question, he said that the amendment to correct the year was issued in 1972. The same mistake occurred in this case also. The amendments were sent to the Press towards the end of 1971. These were published after a few days when the year 1972 had already started. So the year should have been shown as 1972. He further said that to avoid such mistakes in future, it was proposed to issue some instructions to the Press through the Ministry of Works & Housing that where such notifications were sent towards the close of the year and were published in the next year, they should make out the correction in the year after consulting them.

11. When it was pointed out that such mistakes were being made repeatedly, he said that instructions would be issued that a serious view would be taken if such mistakes occurred in future.

I. *Directorate of Estates (Estate Manager, Calcutta) Recruitment Rules, 1969—G.S.R. 1036 of 1970.*

II. *Directorate of Estates [Deputy Director of Estates (Rents)] Recruitment Rules, 1969—G.S.R. 1035 of 1970.*

III. *Land and Development Office (Class III and IV Posts) Recruitment Rules, 1969—G.S.R. 1107 of 1970.*

12. Explaining the circumstances in which the mistake had occurred in the year in short title of the above Rules, the representative of the Ministry of Works and Housing stated that the processing

of the Rules was started in 1969 but they were finalised in 1970. The year was, however not changed due to inadvertence at the time of sending the Rules to the Press for printing. He further said that they would warn the persons who were responsible for the lapse.

13. The meeting then adjourned to meet again at 15.30 hours on Wednesday, the 6th December, 1972 to consider their draft **Fifth Report**.

ANNEXURE

(Vide para 2 of the Minutes)

List of Rules, Regulations etc., in which incorrect year in short title is indicated

Sl. No.	Short title and No. of G.S.R.	Date of publication in the Gazette	Notification/Corrigendum No. Date of correcting the year	Ministry/Department concerned
1	Andaman Laccadive Harbour Works (Class I and II Posts) Recruitment Rules, 1969—G.S.R. 1869 of 1970.	7-11-70	ALHW/ADM/ ESTT/1(18)/67 29-12-1971 (G.S.R. 93 of 1972 dated 8-1-72)	Shipping & Transport (Transport Wing)
2	Andaman Laccadive Harbour Works (Special Draftsman) Recruitment Rules, 1969—G.S.R. 2054 of 1970.	26-12-70	ALHW/ADM/ ESTT/1(3)/69 29-12-1971 (G.S.R. 94 of 1972 dated 8-1-72)	Do.
3	Directorate of Estates (Estate Manager, Calcutta) Recruitment Rules, 1969—G.S.R. 1036 of 1970.	11-7-70	44/22/68/Adm. B. 17-8-1971 (G.S.R. 1427 of 1971 dated 2-10-71)	Works & Housing (Directorate of Estates)
4	Directorate of Estates [Deputy Director of Estates (Rents)] Recruitment Rules, 1969—G.S.R. 1035 of 1970.	11-7-70	44/21/68/Adm. B. 17-8-1971 (G.S.R. 1428 of 1971 dated 2-10-71)	Do.
5	Land and Development Office (Class III and IV Posts) Recruitment Rules, 1969—G.S.R. 1107 of 1970.	1-8-70	10/76/68-L II 10-9-1971 (G.S.R. 1805 of 1971 dt. 4-12-71)	Do.

XXV

MINUTES OF THE TWENTY-FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)

(1972-73)

The Committee met on Wednesday, the 6th December, 1972 from 15.30 to 16.00 hours.

PRESENT

Shri S. N. Misra—*In the Chair.*

MEMBERS

2. Shri M. C. Daga
3. Shri Dinesh Joarder
4. Shri Y. S. Mahajan
5. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of Chairman, Shri S. N. Misra was chosen to act as Chairman for the sitting in terms of Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered their draft Fifth Report and adopted it.

4. The Committee authorised the Chairman, and in his absence, Shri S. N. Misra to present the Report to the House on their behalf on the 18th December, 1972.

The Committee then adjourned.