

**COMMITTEE  
ON  
SUBORDINATE LEGISLATION**

**(FIFTH LOK SABHA)**

**ELEVENTH REPORT**

*(Presented on the 9th May, 1974)*



**LOK SABHA SECRETARIAT  
NEW DELHI**

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LOK SABHA SECRETARIAT

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

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**PERSONNEL OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION (1973-74)**

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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 Eleventh Report.

2. The Committee have held six sittings—on the 24th, 25th, 28th, 29th January, 28th March and 7th May, 1974.

3. The Committee considered and adopted this Report at their sitting held on the 7th May, 1974. The Minutes of the sittings which form part of the Report are appended to it.

4. A Statement showing the summary of recommendations/observations of the Committee is also appended to the Report (Appendix I).

## II

### THE EMERGENCY RISKS (GOODS) INSURANCE SCHEME, 1971 (S.O. 5483 of 1971).

5. Paragraph 19(6) of the Emergency Risks (Goods) Insurance Scheme, 1971, provides that no interest shall be due in respect of any payment under scheme which remains unpaid for any reason.

6. The Ministry of Finance (Department of Revenue and Insurance) to whom the matter was referred for stating the reasons for not paying the interest on unpaid payments, have stated as follows:

“.....before a claim under ERI Scheme can be paid the following formalities have to be completed, namely:—

- (i) The claim has to be assessed by loss assessors in accordance with the instruction on the subject.
- (ii) The Government Agent has to scrutinise the report of the loss assessors and recommend to the Government the amount payable.
- (iii) Government has to scrutinise the reports of the Loss Assessor and the Government Agent.

- (iv) The Government has to verify from the Treasury Officer concerned whether the challan sent by the party in support of the payment of premium is genuine.

These formalities require some time for completion and the question of payment of interest can arise only if there is delay beyond a reasonable period required for the completion of the above mentioned formalities.

In some cases, the parties do not accept the payment offered to them but appeal to a court of law demanding higher payment.

A case for provision for payment of interest can arise only in relation to those cases where the amount due has been settled but unconscionable delay occurs in its payment. Since Government does not normally withhold payment once all the formalities are completed, there seems to be no need to provide for payment of interest in cases of delay.

Another important consideration may also be mentioned. In the working of commercial insurance, a balance is usually maintained between the premium collections and the claim payments; taking the policy holders as a whole the premiums are fixed in such a way that the insurer is not out of pocket but actually makes a profit after all his liabilities are met out of premium collections. In the case of Emergency Risks Insurance such an equality cannot be established. Emergency risks are of very uncertain and variable nature and while at one extreme no claim may occur, at the other end, catastrophic losses (of a kind which no independent insurance fund can bear) are also possible. There is, therefore, the risk of substantial burden falling on Government. In other words, insurance against emergency risks cannot be worded on a commercial basis and it is only the strong backing of Government which enables such schemes to be worked. By providing such a scheme Government has conferred a special benefit on the insured in the form of availability of cover and security which will not be cancelled (as commercial insurers do with war cover at a time of threatened war) even in case of threatened hostilities or war. It does not, therefore, seem desirable to suggest that Government should in addition pay interest on claims which are not settled within a certain period after occurrence of the actual



loss. It may be mentioned that no provision for payment of interest is contained even in ordinary policies of commercial insurers. In view of this position, this Ministry is of the view that it is not advisable to include a provision for payment of interest on delayed claim amounts."

7. The Committee note that the Committee on Public Undertakings, while examining L.I.C., recommended as follows in para 164 of their Fourth Report (Third Lok Sabha) in respect of payment of interest on the unpaid claims :

"The Committee feel that the Corporation has not set that importance to the question of prompt payment of money due under its policies as it ought to. It is significant that there has been no enquiry in any case of delay whether the delay was avoidable. There has been no case of disciplinary action against any officer or other employee of the Corporation for delaying settlement of claims. It cannot be that all the cases of delay referred to.....arose out of default on the part of the policy holders or their heirs. The Committee are of the view that a policy maturing, be it by efflux of time or by the death of the policy holders the money payable in terms of the policy becomes the property of the policy-holders or his heir or assignee as the case may be and since the Corporation has the use of that money and earns interest on it, the amount under the policy should be paid to the policy holder, his heir or assignee as the case may be with interest at an appropriate rate."

8. In their action taken on the above recommendation, the Ministry of Finance stated as follows:—

"The Corporation has since decided to allow simple interest at the rate of 3 per cent on all claims, the settlement of which has been delayed for more than three months, subject to the condition that no interest would be payable in cases of death claims where investigation is necessary or where the delay is on account of operation of Exchange Control Regulations or where the delay is due to circumstances beyond the control of the Corporation. The Corporation is paying such interest on delay claims with effect from 3rd March, 1966."

9. The Committee further note that in para 18 of their Second Report (Fifth Lok Sabha) they had recommended as follows regarding the Post Office Savings Bank Rules, 1965:

"The Committee are not convinced by the arguments given by the Ministry of Finance for non-payment of interest on any amount deposited in the account of a deceased depositor subsequent to his death or of any interest after the end of the month in which the notice is issued. The Committee note in this regard that the account of a deceased depositor in a bank continues to earn interest until the balance is paid to the legal heir, either in cash or by transfer to a new account opened in his name. The Committee desire that, in the interest of both equity and thrift, the practice obtaining in the banks in this regard should also be followed in case of deposits in the Post Office Savings Bank Accounts, and the rules suitably amended to this end."

10. In accepting the above recommendation the Ministry of Finance (Department of Economic Affairs) had amended the Post Office Savings Bank Rules, 1965 accordingly.

11. In the light of above compliance of the recommendations of the Committee on Public Undertakings and this Committee by Government, the Committee are not convinced by the arguments given by the Ministry of Finance (Department of Revenue and Insurance) for not paying interest on unpaid payment under the Emergency Risks (Goods) Insurance Scheme. If the Life Insurance Corporation can pay simple interest at the rate of 3 per cent since 3rd March, 1966 on all claims which remain unsettled for more than 3 months except the cases of death claims where investigation is necessary or where the delay is on account of operation of Exchange Control Regulations or where the delay is due to circumstances beyond the control of the Corporation, the Committee cannot understand why under the Emergency Risks (Goods) Insurance Scheme also interest cannot be paid on unpaid payments.

12. Taking into account the peculiar features of the Emergency Risks (Goods) Insurance, the Committee recommend that in cases where the payment is delayed even after the completion of formalities, Government should pay interest to the policy holders on the unpaid claims. They also desire the Ministry of Finance (Department of Revenue and Insurance) to fix certain maximum time limit within which the claims should be settled.

## III

THE INDIAN AIR FORCE ACT (AMENDMENT) RULES, 1970  
(S.R.O. 396 OF 1970).

13. Sub-rule (j) of Rule 137A of the Indian Air Force Act Rules, as introduced by the Indian Air Force Act (Amendment) Rules, 1970, provides that a copy of the proceedings of the Court of Inquiry shall be furnished to the party concerned on payment.

14. The matter was taken up with the Ministry of Defence who were asked to state the consideration for supplying copies of proceedings of the court of inquiry to the affected persons on payment. They were also asked whether they had any objection to supplying the copies of proceedings of the court of inquiry to the affected persons free of charge.

14A. In their reply, the Ministry of Defence have stated as follows:—

“...this Ministry is not in favour of supplying copies of proceedings of the Court of Inquiry to the affected persons free of charge, for the following reasons:

- (a) The number of Courts of Inquiry held is very large and there would be indiscriminate demand for supply of copies if the same are to be supplied free of cost.
- (b) The affected persons are allowed to see the proceedings during the conduct of inquiry.

Further it is pointed out that the provisions incorporated in Rule 137A (j) as introduced *vide* SRO 396 dated 21st August, 1970 for supply of a copy of proceedings of Court of Inquiry to the affected persons only on payment is not new. A similar provision existed in Rule 137A(h) before it was amended by the Indian Air Force Act (Amendment) Rules, 1970. The Rule position on the Army side is also similar. Rule 184 of the Army Rules, 1954 refers.”

15. After pursuing the matter further as to whether there was any provision in the Indian Air Force Act, 1950 enabling Chief of Air Staff to charge fees, for supply of the copy of the proceedings of Court of Inquiry to the affected persons, the Ministry of Defence in their reply dated the 9th April, 1973 *inter alia* stated as under:—

“There is no provision in the Air Force Act, 1950 which would vest powers in the Chief of the Air Staff to charge fees for the supply of copies of the proceedings of the court

of inquiry. The authority to charge fees is given by the Rules made under the Air Force Act, 1950. Section 191 of the Air Force Act provides that the rules and regulations made under the Act shall be published in the official gazette and on such publication shall have effect as if enacted in the Air Force Act.

IAF Act Rules 1932 which had been amended by the Indian Air Force (Amendment) Rules, 1970 were superseded by Air Force Rules, 1969 which came into force on 1st June, 1972. Similar provisions for supplying copies on payment at the rate of 0.50 paise for every 200 words or part thereof appear in Rules 156(9), thereof."

16. The Committee considered above reply of the Ministry of Defence at their sitting held on the 3rd October, 1973 and desired that clarification might be sought from the Ministry of Defence whether the Court of Inquiry partakes Departmental Inquiry or Court of Law. The Committee further desired that interpretation of Section 191 of the Air Force Act, 1950 might be obtained from the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs).

17. The Ministry of Defence, in their reply dated the 3rd January, 1974, stated as follows :

"It is confirmed that a Court of Inquiry does not partake the nature of a 'departmental inquiry' (in the sense in which this term is understood in the context of disciplinary action against civilian government employee) or a court of law. It is a fact finding body, which may be convened by any officer in command of any unit or portion of the Air Force to collect evidence and if so required by him, to report with regard to any matter which may be referred to it."

18. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) who were asked to state (i) whether a provision on the lines of section 191 of the Air Force Act exist in other Acts also and (ii) whether in view of the wording of section 191 of the Air Force Act, there need not be an express provision in the Act authorizing charging of fees, have stated as under:—

"No fee was prescribed by the amendment made by S.R.O. No. 396. What was done was that a provision was made that a copy of the proceedings of the court of inquiry

shall be furnished on payment at the rate laid down in rule 112 of the Air Force Act Rules, 1932, for copies of the proceedings of the court martial. The 1932 rules were pre-constitution Rules and they were continued by rule 13 of the Air Force Act Rules, 1950.

In view of the fact that the provision for payment of fees in S.R.O. No. 396 was only referential to a pre-Constitution rule and in view of the legal position indicated above, the concerned Legislative Counsel was of opinion that the rule in question could be validly made.

.....provisions similar to the provisions of section 191 of the Air Force Act, 1950 exist in,—

- (i) section 76(2) of the Stamp Act, 1899;
- (ii) section 38 of the Central Excises and Salt Act, 1944;
- (iii) section 31(4) of Mines Act, 1923 (4 of 1923) and section 50(5) of the Mines Act, 1952; and
- (iv) section 19(5) of Madras General Sales Tax Act, 1939 (9 of 1939).

Some of these provisions came up for consideration before courts. In appeal *State of Kerala vs. K. M. Charia* reported in (1965) S.C.R. Page 601 at page 608 their Lordships of the Supreme Court have laid down the law as follows:

Sub-section (5) of section 19 provides that all rules made under this section shall be published in the Fort St. George Gazette, and upon such publication shall have effect as if enacted in the Act.

The Advocate General for the State of Kerala contends that rule 14-A was validly made in exercise of the powers under section 19 and that in any event the rule having by sub-section (5) of section 19 the effect as if it is enacted in that Act it is not liable to be declared invalid. The alternative ground advanced by the Advocate General may be easily disposed of. The rules made under section 19 and published in the government gazette have by the express provision to have effect as if enacted in the Act but thereby no additional sanctity attaches to the rules. Power to frame rules is conferred by the Act upon the

State Government and that power may be exercised within the strict limits of the authority conferred. If in making a rule, the state transcends its authority, the rule will be invalid, for statutory rules made in exercise of delegated authority are valid and binding only if made within the limits of authority conferred. Validity of a rule whether it is declared to have effect as if enacted in the Act or otherwise is always open to challenge on the ground that it is unauthorised.

Answer to the second question raised by Lok Sabha Secretariat is, express provisions in the Act authorising charging of fees are needed for making rules providing for charging of fees."

19. The Committee note that, according to the opinion [Appendix I of the First Report of the Committee on Subordinate Legislation (Second Lok Sabha)] given by the Attorney-General, no fee can be imposed under a rule unless there is an express authorisation therefor in the parent Act. Even though there is no express provision for the levy of a fee for supply of copies of proceeding of courts of inquiry, the Ministry of Defence thought that they could levy such a fee under the Air Force Act Rules because of the wording of Section 191 of the Act which provides that the rules framed under the Act, on their publication in the Gazette, shall have effect, as if enacted in the Air Force Act. The Committee also note that provisions similar to the provision of Section 191 of the Air Force Act, 1950 exist in some other Acts also (i) Section 76(2) of the Stamp Act, 1899; (ii) section 38 of the Central Excises and Salt Act, 1944; (iii) section 31(4) of Mines Act, 1923 (4 of 1923) and section 59(5) of the Mines Act, 1952; and (iv) section 19(5) of Madras General Sales Tax Act, 1939 (9 of 1939)].

20. The Committee, however, note from the reply furnished by Law Ministry that according to the ruling of the Supreme Court in the State of Kerala vs. K.M. Charia (Supreme Court Reporter—1965, p. 691), no additional sanctity attaches to the rules made under section 19(5) of the Madras General Sales Tax Act, 1939—which is similar to the provision contained in Section 191 of the Air Force Act, 1950. According to the Supreme Court, if in making a rule, the State transcends its authority, the rule will be invalid, for statutory rules made in exercise of delegated authority are valid and binding only if made within the limits of authority conferred. Validity of a rule whether it is declared to have effect as if enacted in the Act or otherwise is always open to challenge on the ground that it is unauthorised.

21. The Committee like the Ministry of Law to examine, in the light of the above ruling of the Supreme Court, whether in framing any rule under the afore-mentioned four Central Acts, the Central Government has transcended its authority.

22. The Committee also desire the Ministry of Defence to make an express provision in the Indian Air Force Act, 1950 providing for charging of fee for supply of copies of the proceedings of the court of inquiry.

#### IV

#### THE ASIAN INSTITUTE OF EDUCATIONAL PLANNING AND ADMINISTRATION (CLASS I AND II POSTS) RECRUITMENT RULES, 1969 (G.S.R. 835 OF 1969)

23. Rule 6 of the Asian Institute of Educational Planning and Administration (Class I and II Posts) Recruitment, Rules, 1969, reads as under:—

“Power to relax—Where the Central Government is of opinion that it is necessary or expedient so to do it may, by order, for reasons to be recorded in writing relax any of the provisions of these rules in respect of any class or category of persons:

Provided that any such order relating to the post of Private Secretary to the Director shall be issued only in consultation with the Union Public Service Commission.”

24. Normally the relaxation clause in recruitment rules relating to gazetted posts reads as follows:—

“Where the Central Government is of 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 U.P.S.C., relax any of the provisions of these rules with respect to any class or category of persons or posts.”

25. On a comparison of above two rules, it was seen that whereas in the normal relaxation rule, there is a provision for consultation with the U.P.S.C. in respect of each gazetted post covered by the Rules, the Rule mentioned above did not provide for consultation with the U.P.S.C. except for the post of Private Secretary to the Director.

26. The Ministry of Education and Social Welfare to whom the matter was referred had stated as follows :

- “(i) Of the five Class I and II posts mentioned in the aforesaid Notification, only the post of Private Secretary to the Director (Class II post) has been brought within the purview of the Union Public Service Commission. The remaining posts of Co-ordinator of Studies, Economist, Statistician and Documentalist (Class I Posts) have been excluded from the purview of the U.P.S.C. for purposes of Sub-Clauses (a) and (b) of Clause (3) of Article 320 of the Constitution of India.
- (ii) Although the Asian Institute of Educational Planning and Administration functions, for technical and administrative reasons, as a Subordinate office of the Department of Education in the Ministry of Education and Social Welfare, it is in fact a UNESCO-sponsored Research Institute established at New Delhi, for trainees from Asian Countries. Under an Agreement signed between the Government of India and UNESCO, the entire expenditure incurred by the Government of India on account of the posts in question is reimbursed by UNESCO at the close of each calendar year. Appointments to these posts are made in consultation with UNESCO under the provisions of the said Agreement. The continuance of these posts beyond any term of two years depends upon UNESCO making necessary provision in its budget for this purpose. It was, therefore, decided, in consultation with the erstwhile Ministry of Home Affairs that the posts in question may be excluded from the purview of the U.P.S.C. It was also decided that the exclusion should be treated as covered under item 15 of the Schedule to the Union Public Service Commission (Exemption from Consultation) Regulations, 1958.
- (iii) Since the posts of Co-ordinator of Studies, Economist, Statistician and Documentalist are exempt from the purview of the UPSC, the power to relax any of the provisions of the Recruitment Rules in respect of these posts has not been made subject to the prior consultation with U.P.S.C.

It may be added that the Asian Institute of Educational Planning and Administration, which was established in 1962 for a period of 10 years, is expected to be closed



down at the end of December, 1972 following the cessation of UNESCO assistance to the Institute. It is, therefore, not proposed, at this late state, to make any changes in the Recruitment Rules already prescribed in respect of any class of posts."

27. Item 15 of the Schedule to the U.P.S.C. (Exemption from Consultations) Regulations 1958 covers the posts of consultants in the Planning Commission only. Thus the posts in the Asian Institute of Educational Planning and Administration did not seem to be covered by this provision as stated by the Ministry.

28. The matter was referred to the Department of Personnel (Cabinet Secretariat) and Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) for comments. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in their reply dated 16-4-73 have stated as follows:—

"Item No. (15) of the Schedule 'Posts of consultants in the Planning Commission'. It is found from O.M. dated 31-7-72 from the Ministry of Education and Social Welfare that the Asian Institute of Educational Planning and Administration functions as a Subordinate Office of Department of Education. Hence it is clear that the Institute is not the Planning Commission nor a part of it and consequently the posts in the Institute cannot be treated as posts of consultants in the Planning Commission which has a distinct and separate entity. It does not appear to be possible to broaden the scope and meaning of entry (15) so as to include any other body or subordinate office of a Ministry or Department in the Planning Commission. Mere existence of the word 'Planning' in the name of the Institute does not make it a part of Planning Commission."

29. The Department of Personnel in their reply, stated as from their purview.

"...under the proviso to clause (3) of article 320 of the Constitution, the President can make regulations specifying in which either generally, or in any particular class of cases or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted. Although Government thus have powers in the matter of excluding posts from the Commission's purview, a convention has been established whereby the Commission are consulted before any post is excluded from their purview.

The Asian Institute of Educational Planning and Administration was set up as a temporary organisation which was not expected to last long. In view of this, and the fact that expenditure on the post was being reimbursed by the UNESCO and the agreement between the Government of India and UNESCO provided for consultation with UNESCO in making appointments to the posts, the UPSC were requested to agree to the exclusion of the posts from their purview. The Commission agreed to the proposal and the posts were accordingly excluded from their purview.

In view of the Constitutional provisions referred to in paragraph...above, the fact that the Asian Institute of Educational Planning functions, for technical reasons, as a Subordinate Office of the Ministry of Education, did not prevent exclusion of certain posts therein from the Commission's purview. In this connection, it may, however, be added that the UPSC had suggested in 1969 that the posts in the Institute already excluded from the Commission's purview may be brought back within the Commission's purview as and when the existing incumbents vacated them."

30. The Committee note the opinion of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that Item No. 15 of the Schedule to the Union Public Service Commission (Exemption from Consultations) Regulations, 1958 do not include the posts in the Asian Institute of Educational Planning and Administration. The Committee are of the view that the Ministry of Education had definitely erred in treating the posts of Coordinator of Studies, Economist, Statistician and Documentalist as exempt from the purview of Union Public Service Commission. They desire the Department of Personnel to issue necessary instructions to all Ministries/Departments to ensure that Union Public Service Commission is invariably consulted while relaxing any of the rules relating to Gazetted posts unless a post is specifically covered by Union Public Service Commission (Exemption from Consultations) Regulations, 1958.

## V

### THE DRAFT DRUGS AND COSMETICS (AMENDMENT) RULES, 1971 (S.O. 2361 OF 1971)

31. Rule 84-A, of the Drugs and Cosmetics Rules, 1945, being inserted by above amending Rules, provides that no person shall

manufacture for sale cyclamates and preparations containing cyclamates.

32. The Drugs and Cosmetics Act, 1940 under which the above Rules have been framed do not specifically provide for the prohibition of the manufacturing of such drug.

33. The Ministry of Health and Family Planning (Department of Health) to whom the matter was referred have stated as under:—

“...Cyclamates are non-caloric artificial sweetening agents which are used by diabetics and obese persons in place of natural sugar. Cyclamates are used by drug manufacturers in the following categories of preparations:—

- (1) Tablets containing mixtures of cyclamates and saccharine as sweetening agent.
- (2) Pediatric syrups containing antibiotics like chloromphenics and tetracycline. preparations of vitamins, gripe waters etc.
- (3) As a pharmaceutical aid in the manufacture of tablets etc.

Although cyclamates have been in use for many years, recent reports published in medical journals have caused doubts on the safety of this drug. Published reports have shown that cyclamates when fed to laboratory animals produce bladder tumours, Metabolic studies on cyclamates have revealed that the hitherto held belief that cyclamates are not metabolised is not correct. The metabolic product of cyclamate which is cyclohexylamine has been shown to produce high blood pressure in animals and also cause chromosome damage in rats.

Following these reports, the question as to whether the use of cyclamates in drugs should be restricted was examined by the Drugs Technical Advisory Board (which is a statutory body constituted under the Drugs and Cosmetics Act, 1940 to advise the Central and State Governments in technical matters arising out of the administration of the Act) which was of the view that there was sufficient data to indicate that harmful results could arise from indiscriminate use of cyclamates and it would not be advisable in the interest of public health to permit their use in medicinal preparations. As regards its use by diabetic and and cardiac patients it was felt that such patients could

use saccharine which is an alternative sweetening agent. Government of India accepted the recommendations made by the Drugs Technical Advisory Board and the rule was published on 17th April, 1970 for comments from the public. A large number of comments both in favour and against the amendment, were received and these were carefully examined by the Drugs Technical Advisory Board. The Board was of the view that in India the detoxicating functions of the livers of the population operate under severe strain on account of chronic amaebiasis, malaria, anemic conditions etc. which are widespread. Further, the nutritional standards of the population are generally below the margin of safety. As the metabolic product of cyclamate has been found to be toxic, it would be advisable to err on the safe side and recommend that cyclamates should not be permitted to be manufactured for sale in this country. Consequent on this decision, the Ministry of Health and Family Planning, Government of India, published the notification prohibiting the manufacture of cyclamates and preparations containing cyclamates in final form on 21st June, 1972. The decision to prohibit the manufacture of cyclamate was therefore, taken in view of the health hazard attendant on the use of cyclamates. Following the publication of this rule no representations from the industry have been received and it could be assumed that the publication of the rule had the desired effect.

The preamble to the Drugs and Cosmetics Act states that the object of the Act is to regulate the import manufacture, distribution and sale of drugs and cosmetics. The purpose of this Act is to ensure that drugs imported, manufactured, distributed and sold in the country are safe for use. As regulating manufacture is one of the objectives of the Act it can be contended that it is within the scope of this Act to prohibit the manufacture of a drug which is considered to be not safe for use. In view of the serious health hazard involved Government have relied upon the general rule making powers in making the rule in question. *Nevertheless it is recognised that an excess provision should be made in the Drugs and Cosmetics Act empowering Government to prohibit the manufacture of drug considered unsafe for use and it is proposed to make such provision when the Drugs and Cosmetics Act is amended next."*

34. The Committee note with satisfaction that the Ministry of Health and Family Planning (Department of Health) have agreed to amend the Drugs and Cosmetics Act so as to make an express provision therein to empower the Government to prohibit the manufacture of a drug considered unsafe for use. The Committee desire the Ministry to amend the Act at an early date.

## VI

### THE MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION (DEPARTMENT OF REHABILITATION) SETTLEMENT ORGANISATION (NON-GAZETTED STAFF) RECRUITMENT RULES, 1969 (G.S.R. 1674 OF 1969).

35. Above Rules were published in the Gazette of India, dated the 19th July, 1969 but were deemed to have come into force from the 11th July, 1967. The Ministry of Labour and Rehabilitation (Department of Rehabilitation) whom the matter was referred, informed the Committee as follows:—

“the Settlement Organisation came into existence in 1952 for dealing with matters relating to compensation and settlement of claims etc. of displaced persons from West Pakistan. As the Organisation was not of a permanent character, recruitment rules in respect of a number of posts had not been framed. Subsequently, it was decided to convert about 450 non-gazetted posts into permanent ones with effect from 11th July, 1967. The Minister of Home Affairs, who were consulted in the matter, advised that no confirmation should be made against posts for which recruitment rules had not been framed. It, therefore, became necessary to frame the recruitment rules for such posts in consultation with the Ministry of Home Affairs before the eligible staff could be confirmed against posts. The finalisation of the recruitment rules took a good deal of time and the finalised rules became available only in March, 1969. In order that confirmation could be given effect to from 11th July, 1967, the date from which the posts were made permanent, the Ministry of Law were consulted whether this could be done even though the recruitment rules were framed subsequently. The Ministry of Law advised that in the instant case, there might be no objection to the draft rules being made effective from the earlier date to suit the convenience of the Department.

Retrospective effect to the recruitment rules was given with a view to overcoming any administrative difficulty com-

ing in the way of the Department in giving the benefit of confirmation from an earlier date to a large number of employees of the Department who had been working in temporary capacity for a number of years."

36. The Ministry of Labour and Rehabilitation (Department of Rehabilitation) also informed that no one has been/would be adversely affected by the retrospective effect of the rules.

37. The Committee are satisfied with the explanation given for retrospective effect being given to the Rules. They are, however, surprised to note that no recruitment Rules were framed till 1969 by the Ministry of Labour and Rehabilitation (Department of Rehabilitation) for various types of posts which were created in the Settlement Organisation in 1952. It appears incredible that a period of 17 years should have elapsed without the recruitment Rules having been framed. The Committee are of the view that it is a regrettable case of undue delay.

## VII

### THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (CLASSIFICATION OF GOODS) RULES, 1971 (G.S.R. 1033 OF 1971).

38. The above Rules provide that the goods shall be classified in the manner specified in the Schedule to these Rules. There was, however, no provision for affording an opportunity of representation to the aggrieved parties against such classification.

39. The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) to whom the matter was referred, have stated as under:—

"...since the exercise of the power to make rules under any statute is a general one and not confined only to the MRTP Act, this aspect should be looked into in the wider perspective. The rules can be amended, varied or rescinded, if there is any representation against any of the provisions from any person, in exercise of the powers under section 21 of the General Clauses Act. In view of this, since a general power is vested in the Central Government for amending the rules, there is no need for making any special provision providing for appeal in the MRTP (Classification of goods) Rules. Incidentally, Explanation II to clause (d) of section 2 of the MRTP Act empowers

the Central Government to resort to groupings which, in the ultimate analysis, are material in so far as the administration of the provisions of section 21 and sub-section (3) of 26 are concerned. Since all orders made by the Central Government under Section 21 and sub-section (3) of 26 are appealable to the Supreme Court under Section 55 of the Act, the right of appeal against the classification of goods done by the Central Government is indirectly available."

40. The Committee are not satisfied with the indirect availability of the right of appeal against the classification of goods under section 55 of the Monopolies and Restriction Trade Practices Act. They are of the view that there should be a specific provision in the Rules for affording an opportunity against classification. They desire the Ministry to amend the Rules suitably.

### VIII

THE ADMINISTRATIVE OFFICER, GOVERNMENT HOSPITALITY ORGANISATION OF THE MINISTRY OF EXTERNAL AFFAIRS (RECRUITMENT) RULES, 1969 (G.S.R. 395 OF 1970).

#### (A)

41. Rule 6 of the Administrative Officer, Government Hospitality Organisation of the Ministry of External Affairs (Recruitment) Rules, 1969 reads as follows:—

*"Power to relax.* Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules."

42. Normally the relaxation clause in the Recruitment Rules relating to Gazetted posts reads as follows:—

*"Where the Central Government is of 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 or persons or posts."*

43. It was observed that even though the post of Administrative Officer in the Government Hospitality Organisation of the Ministry

of External Affairs was a gazetted post, Government were not required to consult the Union Public Service Commission for relaxing the provisions of the Rules.

44. The Ministry of External Affairs to whom the matter was referred stated, in their reply dated 25-2-1972, that since the posts in the Government Hospitality Organisation were outside the purview of the Union Public Service Commission, consultation with Union Public Service Commission was not necessary.

45. The Committee on Subordinate Legislation considered the above reply at their sitting held on the 9th February, 1973 and desired to know the considerations on which posts in the Government Hospitality Organisation had been included in the schedule to the Union Public Service Commission (Exemption from Consultation) Regulations, 1958. The Committee also desired to be furnished with a list of persons who had benefited as a result of the relaxation of rules under the original relaxation provision.

46. The Ministry of External Affairs, in their reply dated 18-4-1973, stated as under:—

“.....under Schedule 12 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, the Staff of the Office of the Military Secretary to the President are exempted from the purview of the Union Public Service Commission. In July, 1948, the GHO came into existence under the Director Generalship of the Military Secretary to the President. A month later, the Hospitality Centre at the Prime Minister's official residence also came under the G.H.O.

The office of the Military Secretary to the President and the G.H.O. were two separate establishments. But in course of time, due to exigencies of work, the distinction between these two establishments could not be maintained, especially as the Military Secretary to the President happened to be incharge of both these Organisation. The staff of the G.H.O. and the Office of the Military Secretary to the President came to be treated as a common cadre for purposes of seniority, promotion, confirmation etc. In view of this, the Staff of the G.H.O. were considered to be part and parcel of the Staff of the Office of the Military Secretary to the President and were considered to be outside the purview of the Union Public Service Commission.



In 1966, the Dutt Committee appointed to go into the question of the re-organisation of the G.H.O. recommended the merger of the Hospitality Centre at the Prime Minister's House with the Centre at Hyderabad House, to be run under the control of the Ministry of External Affairs.

The question regarding validity of the continuance of the exemption of the G.H.O. under item (12) of the Schedule to the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, after transfer of Control of the Organisation to this Ministry came up for discussion between the UPSC, the Ministry of Home Affairs and this Ministry. The UPSC are of the view that this exemption continues to hold good till it is rescinded through a formal notification. This view has also been endorsed by the Ministry of Home Affairs."

Regarding persons who had benefited as a result of the relaxation of rules under the original relaxation provision, the Ministry have stated as under:

".....Km. Vimla Sindhi, the first incumbent of the post of Amn. Officer, was confirmed in that post and she still continues to hold this post. Therefore, no one else has been appointed against this post under the exemption powers of the Government."

47. Above reply of the Ministry of External Affairs did not give straight answer to the question as to why the posts in the Government Hospitality Organisation were exempted from the purview of U.P.S.C. The matter was again referred to the Ministry of External Affairs to enquire whether they had any objection if the posts in the Government Hospitality Organisation were excluded from the U.P.S.C. (Exemption from Consultation) Regulations, 1958.

48. The Ministry of External Affairs, in their reply dated 24th May, 1973 stated as under:

"The matter was carefully examined in all aspects and it has been decided that the posts in the GHO, Ministry of External Affairs should remain exempt from the purview of the UPSC for the reasons given below:—

- (a) The number of posts in the GHO, Ministry of External Affairs is very small—about 6 excluding Class IV staff—and appointments to these posts are made on the personal recommendation of the P.M/P.M's Secretariat, etc.  
and

- (b) As these posts are already enjoying exemption from the purview of the UPSC, continued exemption will not tend to dilute the authority of the Commission in any ways."

49. In the normal circumstances, for the post of Administrative Officer, Government Hospitality Organisation which is a Gazetted post relaxation of rules should have been done with the consultation of Union Public Service Commission. However, in view of the reason explained by the Ministry of External Affairs, the Committee are inclined to agree that in this case, the Relaxation Clause was justifiably differently worded.

(B)

50. Rule 4 regarding method of recruitment, age-limit and other qualifications, etc. of the Administrative Officer, G.H.O. of the Ministry of External Affairs (Recruitment) Rules, 1969 did not contain following proviso which is normally provided in all recruitment rules:

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

51. The Ministry of External Affairs, with whom the matter was taken up, have amended the Rules by adding following clause:—

"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."

52. The Committee note with satisfaction that the Ministry of External Affairs with whom the matter was taken up have amended the rules suitably by providing 'Saving Clause'.

IX

THE PASSPORTS (FIFTH AMENDMENT) RULES, 1971 (G.S.R. 1962 OF 1971).

53. Rule 6 of the Passports Rules, 1967 provides that an application for the issue of a passport or travel document shall be accom-

\*Vide notification No. 50 PF 73, dt. 12-6-1973.

panied by a guarantee provided that no such guarantee shall be necessary in respect of an applicant in the following cases; when he,—

- (i) furnishes a certificate from a Stipendiary Magistrate of the First Class or from an officer not below the rank of Deputy Secretary to the Government;
- (ii) pays income tax or property tax;
- (iii) furnishes an entry permit by a foreign Government in his favour;
- (iv) proceeds out of India under the India Emigration Act, 1922 (7 of 1922) and the Employer has furnished the required security deposit;
- (v) proceeds abroad on any employment voucher or offer of employment;
- (vi) proceeds on scholarship or fellowship;
- (vii) proceeds on pilgrimage or for other purpose to neighbouring foreign countries;
- (viii) furnishes a ticket in proof of the journey to a foreign country and return therefrom;
- (ix) proceeds to a foreign country to join father, mother, husband, wife, brother, sister, son or daughter and produces a sponsorship declaration by the applicants relation signed before an authorised officer of the local Government or Notary Public and attested by the Consular Officer in the Indian Mission on Port in that country or signed before the Consular Officer.

54. An additional proviso to Rule 6 being inserted by above Amending Rules reads as under:—

“Provided further that no financial guarantee shall be necessary in respect of an applicant abroad, if he—

- (i) satisfies the passport authority that he has sufficient means to maintain himself abroad; or
- (ii) was exempted from producing financial guarantee at the time the original passport was issued to him.”

55. The Ministry of External Affairs to whom the matter was referred for stating as to how the passport authority satisfied itself that the applicant has sufficient means to maintain himself abroad, have stated as under:—

"Whenever an Indian national abroad approaches the Indian Mission for the renewal of his passport, he has to satisfy the competent authority in the Mission that he is gainfully employed in that country and that his income or other financial resources, if any, are sufficient for his maintenance in that country. If he is supported by his relatives/friends he has to satisfy the Indian Missions in this regard also. In the event of any doubt, the Mission concerned will make discreet enquiries from the local sources to verify the financial status of the applicant, if employed in that country, before renewing his passport."

56. The Ministry of External Affairs were further asked whether they had any objection to amending the Rules so as to lay down the specific criterion for applicants living abroad as had been done in the case of applicants from India in the existing Rule 6 *ibid* rather than leaving it to the subjective judgement of the officials of the Indian Missions.

57. The Ministry, in their reply, dated 1st March, 1974 have stated as follows:

"The subject has, however, now been carefully examined. It is felt that there will be difficulty in prescribing in respect of applicants abroad, the same set of criteria as are laid down in the case of applicants from India, because the situations are naturally different. But we agree that to achieve the objective pointed out by the Committee on Subordinate Legislation, the existing proviso (i) inserted by G.S.R. 1962 of 24-12-1971 after rule 6 of the Passport Rules, 1967 (G.S.R. 709 of 10th May, 1967) should be amended. It is accordingly proposed to amend the said proviso, to read as follows instead of the present text:—

'(i) furnishes to the passport authority documentary evidence to establish that he has sufficient means to maintain himself abroad; or'.....

58. The Committee note that on being pointed out the Ministry of External Affairs have agreed to amend proviso to Rule 6 of the Passport Rules to indicate that for seeking exemption from financial guarantee, the applicants abroad have to furnish to the passport authority documentary evidence to establish that he had sufficient means to maintain himself abroad. The Committee desire the Ministry to take early steps to amend the Rules accordingly.

## X

- (i) THE RAILWAYS RED TARIFF (THIRD AMENDMENT) RULES, 1970 (G.S.R. 1021 OF 1970)
- (ii) THE SAFDARJANG HOSPITAL AND THE WILLINGDON HOSPITAL AND NURSING HOME (NON-MEDICAL GAZETTED POSTS) RECRUITMENT (AMENDMENT) RULES, 1971 (G.S.R. 335 OF 1972).

## (A)

59. First Amendment and Third Amendment to the Railways Red Tariff Rules, 1960 were published in 1970 (*vide* G.S.R. 1018 and 1021 of 1970). The Second Amendment to the above Rules was published in 1971.

60. As the Second Amendment to the above Rules was published in 1971, it was felt that this would cause confusion to all concerned for referencing and tracing because it would be taken as Second Amendment of 1971.

61. The Ministry of Railways (Railway Board), who were requested to state whether they had any objection issuing the corrigendum to amending the 'Third Amendment' as 'Second Amendment' of 1970 and 'Second Amendment' published in 1971 as the 'First Amendment' of 1971, have amended the Rules accordingly.

62. The Committee note with satisfaction that the Ministry of Railways on being pointed out have amended the 'Third Amendment' of 1970 to the Railways Red Tariff Rules as 'Second Amendment' and 'Second Amendment' of 1971 as the 'First Amendment' of 1973 so that there is no confusion in referencing and tracing the Rules.

## (B)

63. The Safdarjang Hospital and the Willingdon Hospital and Nursing Home (Non-Medical Gazetted Posts) Recruitment (Amendment) Rules, 1971 were published during the year 1972 but in the short title these were shown as of the year 1971.

64. Retrospective effect was also given to above Rules w.e.f. 16th October, 1965 and no explanatory Memorandum to the effect that no body would be affected adversely by the retrospective effect given to Rules was published with the Rules.

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\*Vide Notification No.72—TGIV/21/2 dated 12.11.1973

65. The Ministry of Health and Family Planning (Department of Health) whom the matter was referred for amending the Rules, have stated as under:—

“...the proposed corrigendum was referred to the Ministry of Law who have opined that a corrigendum will not be the proper thing, as there was neither a typographical error nor any printing mistake which would require to be rectified. It has also been advised by them that even amending notification would not be necessary for the amendments proposed to be made as the amending notification of 1971 would have become part and parcel of the original rules of 1965 and such an amending notification having served its purpose cannot be amending now. Normally amendments are stated to be carried out to the parent rules and not to the amending notification which also purports to amend the parent rules.

In view of the position explained above, the Lok Sabha Secretariat may not insist on the proposed notification”.

66. Regarding explanatory memorandum, the Ministry have stated as follows :—

“As regards clarification by way of an explanation in the rules to the effect that no one would be affected adversely as a result of retrospective effect given in the rules, the necessary ‘Memorandum’ (No. 2-10/70-H dated 20-1-72) was issued to the Manager, Government Press of India, New Delhi, for publication in the Gazette of India. As this was not published, a corrigendum in this connection is now being issued for publication in the Gazette of India in consultation with the Ministry of Law”.

67. The Committee are not convinced by the opinion of the Ministry of Law that corrigendum to correct the year in short title will not be the proper thing. They are of the view that in order to avoid confusion in referencing and tracing by all concerned, the year in the short title should be amended. The Committee desire the Ministry of Health and Family Planning (Department of Health) to take necessary action in the matter at an early date.

68. The Committee are satisfied to note from the reply of the Ministry of Health and Family Planning (Department of Health) that explanatory memorandum to the effect that no body will be

adversely affected by the retrospective effect given to the Rules, which was not published previously, is now being published. They desire the Ministry to take necessary action in the matter at an early date.

## XI

- (i) THE CENTRAL VIGILANCE COMMISSION (RESEARCH ASSISTANT) RECRUITMENT RULES, 1971 (G.S.R. 1352 OF 1971).
- (ii) THE CENTRAL VIGILANCE COMMISSION (STENOGRAPHER) RECRUITMENT RULES, 1971 (G.S.R. 975 OF 1972).

69. Rule 5 of the Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 have a special provision under which the Central Vigilance Commission may, for a period not exceeding three months, make temporary arrangements if it is not possible to recruit a suitable person to the post in accordance with the provisions of the Rules. Similar provision is contained in the Central Vigilance Commission (Stenographer) Recruitment Rules, 1972.

70. The Cabinet Secretariat (Department of Personnel and Administrative Reforms), who were asked to state the genesis for making such a special provision, have stated as under :—

“...in respect of the Central Government Departments, arrangements exist whereby when approved officers are not available, vacancies are filled by making temporary/*ad-hoc* arrangements for a period not exceeding 3 months. In this connection, attention is invited to sub-rule 5 of rule 12 of the Central Secretariat Service Rules, 1962 and also regulation 7 of the Union Public Service Commission (Staff) Regulations, 1958, which permit such temporary/*ad-hoc* arrangements. Following the precedent of regulation 7 of the U.P.S.C. (Staff) Regulations, a provision was accordingly made in the C.V.C. (Staff) Rules, 1964 *vide* Rule 9 thereof that the Central Vigilance Commissioner may, for a period not exceeding 3 months, make purely temporary and officiating arrangements to any of the posts in the Central Vigilance Commission, if suitable persons cannot be recruited to these posts in accordance with the provisions of these Rules. As a corollary to this, rule 5 has been incorporated in the recruitment rules for the post of Research Assistant in the Central Vigilance Commission.”

71. The Committee have noticed that generally Recruitment Rules do not contain a provision regarding making temporary arrangements for a period not exceeding 3 months in case suitable persons are not available (vide illustrative list in Appendix II). They, therefore, desire the Department of Personnel and Administrative Reforms to issue necessary instructions to all Ministries/ Departments that a uniform pattern should be followed in framing Recruitment Rules.

## XII

THE SURVEY OF INDIA (RECRUITMENT FROM THE CORPS OF ENGINEER OFFICERS) AMENDMENT RULES, 1971 (G.S.R. 1014 OF 1971).

72. The Survey of India (Recruitment from the Corps of Engineer Officers) Amendment Rules, 1971 were published in the Gazette of India on the 10th July, 1971 but were deemed to have come into force retrospectively from the 1st July, 1959.

73. The Explanatory Memorandum attached to the above Rules reads as follows :—

“The scales of pay of all classes and categories of posts under the Government of India were revised with effect from 1st July, 1959 in terms of the C.C.S. (Revised Pay) Rules, 1960.

The existing Annexure to para 7 of the Survey of India (Recruitment from Corps of Engineer Officers) Rules, 1950, was not, however, correspondingly revised in terms of the new pay scales prescribed under the C.C.S. (Revised Pay) Rules, 1960. Consequently, the officers governed by para 7 of the Survey of India (Recruitment from Corps of Engineer Officers) Rules, 1950 have been continuing to draw pay in the pre-revision scales of pay as given in the Annexure referred to above.

It is, therefore, necessary to amend the aforesaid Annexure in terms of the pay scales prescribed under the C.C.S. (Revised Pay) Rules, 1960. Since these pay scales came into the effect from 1st July, 1959, the amended Annexure should also have retrospective effect from that date, so that the officers concerned are brought on to the same scale of pay as have been made applicable to others in the corresponding grades in the Survey of India.



It is also confirmed that interest of no one in the cadre would be prejudicially affected by reasons of the retrospective operation of the rules."

74. The Department of Science and Technology was asked to state the reasons for taking 12 years in amending the Rules. That Department in their reply dated the 30th November, 1973 have stated as follows:—

"... the case took twelve years as it related to the amendment of Recruitment from the Corps of Engineer Officers Rules. This required consultation with a number of Departments of the Government of India like the Surveyor General, Ministry of Defence, Engineer-in-Chief/Army Headquarters Branch of that Ministry, the Defence, the Establishment and S. R. Divisions of the Ministry of Finance, Ministry of Home Affairs, Union Public Service Commission and Ministry of Law.

From the past records we observed that the Ministry of Scientific Research and Cultural Affairs had mooted the proposal in 1960 itself to amend Annexure to para 7 of the said rules on the basis of Central Civil Service (Revised Pay) Rules, 1960 but the Ministry of Defence suggested re-examination of the case in June, 1962 as the pay scales of military officers were further revised with effect from 1st April, 1960. Apart from examining the proposal *de-novo* a point was also raised as to whether the pay scales in the case of the Army Officers in the Survey of India be revised from 1st April, 1960 (the date from which scales of pay were revised in the Army) or from 1st July, 1959 (the date from which the pay of civil side was revised). After prolonged examination, it was finally decided that Annexure to Rule 7 of the Recruitment from the Corps of Engineer Officers Rules, 1950 be modified by inserting the revised rates of pay sanctioned in the C.C.S. (Revised Pay) Rules, 1960 and the pay be admitted from 1st July, 1959. This decision was conveyed by the Ministry of Finance only in 1965.

After that the Annexure to para 7 of the Recruitment from Corps of Engineer Officers Rules, 1950 were recast in consultation with the Surveyor General, and the other concerned Departments. The Ministry of Law suggested incorporation of some additional information in the draft-notification by way of explanatory memoranda, which also required re-reference to the Surveyor General.

After getting the complete material from the surveyor General, the draft notification was naturally to be shown to the Ministry of Defence, U.P.S.C. and the Ministry of Law. The Ministry of Law vetted it in July, 1970 and the Ministry of Finance concurred in October, 1970. The notification was accordingly issued only by 29th May, 1971 after getting its Hindi translation vetted by the Official Language Commission of the Ministry of Law."

75. The Committee agree that in the circumstances explained by the Ministry of Science and Technology they had no other option but to give retrospective effect to the Survey of India (Recruitment from the corps of Engineer Officers) Amendment Rules. They, however, strongly deprecate the delay of 12 years on the part of the Ministry in finalising the amendments.

### XIII

#### THE RAILWAY SERVICE COMMISSIONS (CHAIRMAN, MEMBER-SECRETARIES ASSISTANT SECRETARIES) RECRUITMENT (AMENDMENT) RULES, 1971 (G.S.R. 1657 OF 1971).

76. Rule 5 of the above Rules reads as under:—

**"Tenure of office of Chairman.—**(1) A Chairman of a Railway Service Commission shall hold office for a term as specified below:—

- (a) When filled by transfer on deputation a period of six years or till he attains the age of superannuation, whichever is earlier.
  - (b) When filled by direct recruitment—a period of six years or till he attains the age of 62 years, whichever is earlier.
- (2) A person who is appointed as Chairman of a Railway Service Commission by direct recruitment shall, on the expiration of his term of office, be ineligible for re-appointment as Member-Secretary or Chairman of a Railway Service Commission.
- (3) A person who is appointed as Chairman of a Railway Service Commission by transfer on deputation 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 or to revert back to his parent Service or Department."

77. The fixation of different tenures for the office of the Chairman for two types of candidates selected either by direct recruit-

ment or through transfer on deputation appeared to be discriminatory.

78. The Ministry of Railways (Railway Board) with whom the matter was taken up, have amended Rule 5, which reads as under:—

**“Tenure of office of Chairman: (1) A Chairman of a Railway Service Commission shall hold office for a period of six years or till he attains the age of 62 years, whichever is earlier.**

Provided that a serving officer when appointed as Chairman, Railway Service Commission will be on ‘deputation’ until he attains the age of superannuation and thereafter, he will be on ‘re-employment’ terms.

**(2) A person who is appointed as a Chairman of a Railway Service Commission, shall on the expiry of his tenure of office, be ineligible for appointment as Chairman or Member-Secretary of a Railway Service Commission and, in the case of a person initially appointed as Chairman by transfer on deputation also to revert back to his parent department”.**

79. The Committee note with satisfaction that on being pointed out the Ministry of Railways (Railway Board) have amended Rule 5 of the Railway Service Commissions (Chairman, Member-Secretaries, Assistant Secretaries) Recruitment (Amendment) Rules, 1971 in order to provide same tenure for the office of the Chairman selected either by direct recruitment or through transfer on deputation in order to eliminate the scope of discrimination.

## XI\*

### THE TOURIST BAGGAGE (AMENDMENT) RULES, 1971 (G.S.R. 483 of 1971)

80. Rule 4-A of the Tourist Baggage Rules, 1958, being inserted by the Tourist Baggage (Amendment) Rules, 1971 reads as follows:

**“Exemption from customs duty on gifts, souvenirs etc. imported by persons of Indian origin—Persons of Indian origin who have been resident outside India for over two years may be allowed to import free of duty at the discretion of**

*the proper officer*, those articles which are to be given away as gifts, if such articles are such as could be passed free of duty under the Baggage Rules, 1970."

81. The words 'at the discretion of the proper officer' appeared to result in different treatment to different persons and thus lead to discrimination.

82. The Ministry of Finance (Department of Revenue and Insurance) who were requested to state whether with a view to minimising the possibility of discriminatory treatment, they have any objection to laying down the guidelines that might be followed while giving exemptions under the Rule, have stated as under:

"As regards the observation of the Committee that the words 'at the discretion of the proper officer' may result in different treatment to different persons leading to discrimination and the suggestion that guide-lines to be followed while giving exemption should be laid, it may be stated that the exemptions contemplated under the rule are normally granted if the conditions laid down are satisfied. No discriminatory treatment is possible on account of words 'at the discretion of the proper officer' which is meant only to give the discretion to the officer to deny the concession to those persons who do not satisfy all the required conditions laid down for the exemption. However, in order to remove all doubts, after consultation with the Ministry of Law, it is proposed to modify the text of Rule 4(a) of the Tourists Baggage Rules, 1958, in the following manner which does not include the words "at the discretion of the proper officer":—

"4-A Exemption from Customs duty on gifts, souvenirs etc. imported by persons of Indian origin.

Persons of Indian origin who have been resident outside India for over two years may be allowed to import free of duty gifts including souvenirs if the proper officer is satisfied that such articles could be passed free of duty under the Baggage Rules, 1970."

83. The Committee are not satisfied with the proposed Rule 4-A of the Tourist Baggage Rules, 1958 as the substitution of words "if the proper officer is satisfied" for the words "at the discretion of the proper officer" did not eliminate the possibility of discriminatory treatment. They desire the Ministry to delete these words from the proposed Rule 4A.

## XV

- (i) ARMED FORCES HEADQUARTERS CIVIL SERVICE SUPERINTENDENTS' GRADE (APPOINTMENT BY COMPETITIVE EXAMINATION) REGULATIONS, 1970 (S.R.O. 252 OF 1970).
- (ii) ARMED FORCES HEADQUARTERS CIVIL SERVICE ASSISTANTS' GRADE (APPOINTMENT BY COMPETITIVE EXAMINATION) REGULATIONS, 1970 (S.R.O. 253 OF 1970).
- (iii) ARMED FORCES HEADQUARTERS STENOGRAPHERS SERVICE (APPOINTMENT BY COMPETITIVE EXAMINATION) REGULATIONS, 1970 (S.R.O. 254 OF 1970).

84. Proviso to Regulation 8(5) of the (i) Armed Forces Headquarters Civil Service, Superintendents' Grade (Appointment by Competitive Examination) Regulations, 1970; (ii) Armed Forces Headquarters Civil Service Assistants' Grade (Appointment by Competitive Examination) Regulations, 1970; and (iii) Armed Forces Headquarters Stenographers Service (Appointment by Competitive Examination) Regulations, 1970 provides that if sufficient number of candidates belonging to the Scheduled Castes and the Scheduled Tribes is not available to fill all the vacancies reserved for them in accordance with the orders of the Government issued in this behalf from time to time, the unfilled vacancies shall be filled in the manner prescribed by Government.

85. It was felt that if sufficient number of candidates belonging to the Scheduled Castes and the Scheduled Tribes was not available to fill up all the vacancies reserved for them, the unfilled vacancies should be filled in the manner prescribed by Government *in consultation with U.P.S.C.*

86. The Ministry of Defence to whom the matter was referred, have stated as follows:

".....It was proposed to substitute sub-regulation (5) of regulation 8 of S.R.Os. 252 and 253 dated 19-5-70 and S.R.O. 332 dated 24-8-71, as follows:—

'Candidates belonging to any of the Scheduled Castes or the Scheduled Tribes may, to the extent the number of vacancies reserved for the Scheduled Castes and the Scheduled Tribes cannot be filled on the basis of the general standard, be recommended by the Union Public Service Commission by a relaxed standard to make up

the deficiency in the reserved quota subject to the fitness of these candidates for selection to the post/service, irrespective of their ranks in the order of merit at the examination.'

S.R.O. 332 dated 24-8-71 regarding the AFHQ Stenographers' Service (Appointment by Competitive Examination) Regulations, 1971 was amended as indicated in para 1 above vide S.R.O. 205 dated 26-6-72 promulgated in the Gazette of India dated 5-8-72.....The proviso in question was not added in S.R.O. 205 dated 26-6-72 because the UPSC while according to their concurrence in the draft SRO in December, 1971, did not suggest the insertion of such proviso therein.

However, the UPSC while according to their concurrence in February, 1971 in the draft amendments to (SROs 252 & 253).....stated that the existing proviso to sub-regulation (5) of regulation 8 was to be retained in the above mentioned Regulations and as such it would be necessary to reproduce the following proviso in the draft amendments....

'Provided that if a sufficient number of candidates belonging to the Scheduled Castes and the Scheduled Tribes is not available to fill all the vacancies reserved for them in accordance with the orders of Government issued in this behalf from time to time, the unfilled vacancies shall be filled in the manner prescribed by Government.'

The recommendations made by the UPSC were accepted and after the draft SROs had been vetted by Ministry of Law, the proviso in question was \*incorporated in sub-regulation (5) of regulation 8 of SROs No. 252 and 253 dated 19-5-70.....

....SRO 332 dated 24-8-71, has since been repealed by the AFHQ Stenographers' Service Grade II (Appointment by Competitive Examination) Regulations, 1973 incorporated as Tenth Schedule to the AFHQ Stenographers' Service (Second Amendment) Rules, 1973, vide SRO 74 dated 9-3-73. Keeping in view the fact that the proviso referred to above has been included in sub-regulation (5) of regulation 8 of SROs 252 and 253 dated 19-5-70, at the instance of the UPSC, a similar proviso has also been incorporated

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\*Vide S.R.Os 128 and 129 dated 13-5-72.

in sub-regulation (5) of regulation 8 of the AFHQ Stenographers' Service Grade II (Appointment by Competitive Examination) Regulations, 1973 (Tenth Schedule) mentioned above."

87. In view of the position explained above, the Committee are of the view that the proviso in question which has been inserted by the UPSC themselves, needs no further modification and should be allowed to stand in its present form.

## XVI

- (i) The Delhi and Andaman and Nicobar Islands Civil Service (Second Amendment) Rules, 1971—(G.S.R. 1627 of 1971).
- (ii) The Delhi and Andaman and Nicobar Islands Civil Service (Third Amendment) Rules, 1971—(G.S.R. 1628 of 1971).
- (iii) The Delhi and Andaman and Nicobar Islands Police Service (Second Amendment) Rules, 1971—(G.S.R. 1629 of 1971).

88. Retrospective effect has been given to above Rules from the dates shown below:

No. of 'Orders'	Date of publication	Date of retrospective effect
(i) G.S.R. 1627	30-10-71	10-6-71
(ii) G.S.Rs. 1628 and 1629	30-10-71	26-2-71

89. G.S.R. 1627 provides for the change of designation of the District Panchayat Officer to Assistant Commissioner, South Andaman. G.S.Rs. 1628 provide for the increase of Selection Grade Posts from 10 per cent to 20 per cent in the Civil Service and 64 per cent to 13 per cent in the Police Service respectively. The minimum service required for promotion to Selection Grade has also been reduced from 12 years to 8 years.

90. The Ministry of Home Affairs to whom the matter was referred for stating the reasons of giving retrospective effect to the above Rules have stated as under:—

"The position in respect of three notifications is as below:—

- (i) No. 1/33/70-DS(S) dated 18-9-71 (G.S.R. 1627 of 1971)—  
DANI Civil Service (Second Amendment) Rules, 1971. In

Schedule I to the DANI Civil Service Rules, 1971, the designation of the post "District Panchayat Officer" under the Andaman and Nicobar Administration, was changed to "Assistant Commissioner, South Andaman" *vide* this notification. The amendment was given retrospective effect from 10th June, 1971, as the Andaman Administration had issued the order for the change in the designation of the post from 10th June, 1971.

- (ii) No. 1/5/69-DH(S) (i), dated 20-9-71 (G.S.R. 1628 of 1971)—DANI Civil Service (Third Amendment) Rules, 1971.
- (iii) No. 1/5/69-DH(S) (i)—dated 20-9-71 (G.S.R. 1629 of 1971)—Delhi and Andaman and Nicobar Islands Police Service (Second Amendment) Rules, 1971.

The amendments in the DANI Civil|Police Service Rules, 1971, made *vide* these notifications, were made effective retrospectively from 26th February, 1971, the date on which the Ministry of Finance agreed to these amendments."

91. The Committee are not satisfied with the reasons given by the Ministry of Home Affairs for not giving the reasons in the explanatory note regarding retrospective effect given to the above Rules. They feel that retrospective effect in the case of G.S.Rs. 1628 and 1629 may have affected some persons adversely as they provide for the increase of Selection Grade posts from 10 per cent to 20 per cent in the Civil Service and 6.4 per cent to 13 per cent in the Police Service and also reduced the minimum service from 12 years to 8 years for promotion to selection grade. The Committee therefore reiterate their earlier recommendation made in para 10 of their Second Report (Fourth Lok Sabha) in regard to giving explanatory note in all cases where retrospective effect is given to 'Orders'.

## XVII

(I) THE ARMY ORDNANCE CORPS (PUNCHER/VERIFIER)  
RECRUITMENT RULES, 1971 (SRO 29 OF 1971).

(II) THE INDIAN AIR FORCE (CIVILIAN GAZETTED OFFICERS)  
RECRUITMENT RULES, 1971 (SRO 70 OF 1971).

92. Rule 2 of (i) the Army Ordnance Corps (Puncher|Verifier) Recruitment Rules, 1971 and (ii) the Indian Air Force (Civilian Gazetted Officer) Recruitment Rules, 1971 provides that the Rules shall apply to the post specified in column 1 of the Schedule. Column



1 of the Schedule contained only one category of post. This was also evident from the title of the Rules. Rule 2 *ibid* regarding 'Application' therefore, appeared to be superfluous.

93. The Ministry of Defence, whom this matter was referred have stated as follows:—

"The rule on 'application' is in accordance with a set form— at for recruitment Rules for this Ministry and forms part of almost all the recruitment rules. . . . . It does not, therefore, appear necessary to delete the said rule on 'application' in SRO Nos. 29 and 70 of 1971, as suggested by the Committee on Subordinate Legislation, unless all the rules pertaining to one post and having such a clause are amended which will be a huge task and the advantage to be gained will not be commensurate with the efforts involved. However, in future no rule on 'application' will be included in the Recruitment Rules which relate to only one post."

94. The Committee note with satisfaction the assurance of the Ministry of Defence that in future no Rule on 'application' will be included in the Recruitment Rules which relate to one post.

### XVIII

#### THE DIRECTORATE OF ADVERTISING AND VISUAL PUBLICITY (CLASS II POSTS) RECRUITMENT RULES, 1971 (G.S.R. 790 OF 1971).

95. Rule 8 of the Directorate of Advertising and Visual Publicity (Class II posts) Recruitment Rules, 1971 reads as follows:—

"Repeal.—As from the commencement of these rules, the Directorate of Advertising and Visual Publicity (Class II posts) Recruitment Rules, 1963, in so far as they relate to posts other than the post of Supervisor mentioned in serial No. 12 of the Schedule to the said rules, shall cease to apply."

96. The Ministry of Information and Broadcasting to whom the matter was referred for stating the reasons of excluding the post of Supervisor from the purview of above Rules, have stated as under:—

"... Recruitment Rules for Class II posts notified under G.S.R. 357, dated 16th February, 1963, were renotified in 1971

under G.S.R. 790, dated 29th May, 1971, due to the following reasons:—

- (1) to exclude posts which had since been abolished;
- (2) to introduce as required by the U.P.S.C. the column regarding number of posts in the Schedule which had been omitted in the original notification; and
- (3) to include recruitment rules of other posts which had been framed since then.

Before re-notifying the recruitment rules in respect of Class II posts the proposal was referred to the Ministry of Home Affairs (now the Department of Personnel) for approval. At that time, it was observed by them that the post of Supervising might be filled by transfer/deputation of officers holding similar, equivalent or analogous posts in the Central Government offices. The suggestion of the Department of Personnel meant amendment to the Recruitment Rules for the post and pending finalisation of the matter, the recruitment rules for the post of Supervisor were not included in the Schedule attached to the Notification.....published under G.S.R. 790 of 1971.

Since the rules for the post of Supervisor were not republished in 1971, the repeal clause was not made applicable to the post of Supervisor."

97. The Ministry of Information and Broadcasting, who were requested to state whether they had any objection to including the post of Supervisor in the above Rules so that the Rules of all the categories of posts are consolidated at one place, in their reply dated the 30th November, 1973, have stated as follows:

"The revised recruitment rules for the post of Supervisor are still under consideration in consultation with the Union Public Service Commission. The revised rules, which are expected to be finalised soon, will be notified as amendment to the Directorate of Advertising and Visual Publicity (Class II posts) Recruitment Rules, 1971."

98. The Committee note with satisfaction the assurance of the Ministry that revised recruitment Rules for the post of Supervisor, which are under consideration, would on finalisation be notified as an amendment to above Rules. They desire the Ministry to take necessary action at an early date.

## XIX

**THE PORT HEALTH ORGANISATION, KANDLA (ALLOTMENT OF RESIDENTIAL QUARTERS) RULES, 1971 (G.S.R. 510 OF 1971).**

99. S.R. 317(AA-11 (4&5) and S.R. 317-AA-12 of the Port Health Organisation, Kandla (Allotment of Residential Quarters) Rules, 1971 reads as follows:—

*“Subletting and sharing of residences—S.R.—317-AA-11.—If an officer sublets a residence allotted to him or any portion thereof or any of the out-houses, garages or stables appurtenant thereto, in contravention of these rules, he may, without prejudice to any other action that may be taken against him be charged enhanced rent not exceeding four times the standard rent under Fundamental Rule 45-A. The quantum of rent to be recovered and the period for which the same may be recovered in each case will be decided by the Port Health Officer on merits. In addition the officer may be debarred from sharing the residence for a specified period in future as may be decided by the Port Health Officer.*

The Port Health Officer shall be competent to take action under sub-rule (4) and also to declare the officer, who commits a breach of the rules and instructions issued to him, to be ineligible for allotment of residential accommodation for a period not exceeding three years.

*Overstayal in residence after cancellation of allotment—S.R. 317-AA-12.—Where, after an allotment has been cancelled or is deemed to be cancelled under any provision contained in these rules, the residence remains or has remained in occupation of the officer to whom it was allotted or of any person claiming through him such officer shall be liable to pay damage for use and occupation of the residence, service, furniture and garden charges, equal to the market rent as may be determined by Government from time to time.”*

100. There was no indication in the Rules that reasonable opportunity of being heard would be given to the allottee before action is taken against him under above Rules.

101. The Ministry of Health and Family Planning (Department of Health) to whom the matter was referred, have stated as under:—

“action under S.R. 317-AA-11 (4) and (5) and under S.R. 317-

AA-12 will be taken in writing in the usual manner. If, however, the allottee of the out houses feels that there is a reasonable cause to represent against the action taken under the aforesaid rules, it will doubtlessly be open to him/her to represent his/her case. The allottee of the concerned accommodation will not doubt be working under the Port Health Officer at the same station, and there would be no difficulty in explaining the position, if necessary, to the Port Health Officer personally. So long as, the rules referred to above do not contain anything to the effect that the action taken by the competent authority i.e., the Port Health Officer will be final, it is felt that there is hardly any need to provide in the said rules for a reasonable opportunity of being heard."

102. In a similar case regarding the India Meteorological Department (Allotment of Residences) Rules, 1969, the Ministry of Tourism and Civil Aviation, on being pointed out to them by the Committee on Subordinate Legislation [Paras 63 to 66 of the Eight Report (Fifth Lok Sabha)] had agreed to amend the Rules for affording a reasonable opportunity of being heard to the aggrieved person before action is taken against him under the Rules.

103. The Committee are not convinced by the reply of the Ministry of Health and Family Planning (Department of Health) that it is open to the allottee to represent against the action taken against him/her under S.R. 317-AA-11(4) and (5) and S.R. 317-AA-12 of the Port Health Organisation, Kandla (Allotment of Residential Quarters) Rules, 1971. In a similar case regarding the Indian Meteorological Department (Allotment of Residences) Rules, 1969, the Ministry of Tourism and Civil Aviation, with whom the matter was taken up, agreed to amend the Rules for affording a reasonable opportunity of being heard before action is taken under the Rules.

104. The Committee desire the Ministry of Health and Family Planning to amend the above Rules on the lines of the Indian Meteorological Department (Allotment of Residences) Rules, 1969.

## XX

- (i) THE AIRCRAFT (SECOND AMENDMENT) RULES, 1972 (G.S.R. 324 OF 1972).
- (ii) THE EMPLOYEES' PROVIDENT FUND STAFF (CLASSIFICATION CONTROL AND APPEAL) RULES, 1971 (G.S.R. 1662 OF 1971).

(A)

105. Rule 135-C of the Aircraft Rules, 1937, being inserted by the Aircraft (Second Amendment) Rules, 1972 provided as follows:

**“Appeal.—Any operator of an air transport service aggrieved by an order of the Director-General under sub-rule (3) of rule 135 or under sub-rule (3) of rule 135-B may, within a period of thirty days from the date of any such order, prefer an appeal to the Central Government and the decision of the Central Government on such appeal shall be final.”**

106. It was felt that the words “decision of the Central Government on such appeal shall be final” instead of the usual expression “the Government shall decide the matter” might give an impression that the jurisdiction of the court of law was being ousted. In this connection, attention of the Ministry was invited to para 18 of the Fourth Report of the Committee on Subordinate Legislation (Third Lok Sabha) where in the Committee observed as follows:

**“The Committee are of the view that although it is true that the interpretation of the rules given by the Executive is not binding on the Courts, yet the Rules should not be worded in a manner which may give an impression on the mind of the persons concerned that the jurisdiction of courts of law is being ousted.....”**

107. The Ministry of Tourism and Civil Aviation to whom the matter was referred, have stated as follows:

**“This Rule has been framed to enforce discipline in the sphere of air transport. Under the ordinary law of the country, a case can still be taken to a Court of Law. However, we have no objection to amend the rule if necessary to avoid any erroneous impression.”**

108. The Committee note with satisfaction that the Ministry of Tourism and Civil Aviation with whom the matter was taken up have agreed to amend rule 135-C of the Aircraft Rules, 1937 so that its wording does not give an impression on the minds of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desire the Ministry to amend the Rule at an early date.

(B)

109. Rule 30 of the Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971 reads as follows:—

**"Removal of doubts.—If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Government whose decision thereon shall be final."**

110. It was felt that the words 'Government's decision shall be final' might give an impression that jurisdiction of Courts was being ousted. The Ministry of Labour (Department of Labour and Employment) to whom the matter was referred, have proposed to amend Rule 30 as follows:

**"Removal of doubts.—If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be decided by the Central Board with the approval of the Government."**

111. The Committee note with satisfaction that the Ministry of Labour (Department of Labour and employment) with whom the matter was taken up have agreed to amend Rule 30 of the Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971 so that it does not give an impression on the minds of the persons concerned that the jurisdiction of Courts of Law is being ousted. The Committee desire the Ministry to issue the necessary amendment at an early date.

## XXI

### SPECIFYING THE MINIMUM RANK OF PERSONS AUTHORISED TO CONDUCT SEARCH/SEIZURE WITH A VIEW TO SECURE THE COMPLIANCE OF THE 'ORDERS'

112. Following 'Orders' provided for the delegation of power to conduct search seizure to 'any officer'/'any person' with a view to secure the compliance of the 'Order'—

- (1) The Cotton Textiles (Control) Fourth Amendment Order, 1971 (S.O. 3807 of 1971).
- (2) The Copper (Prohibition of use in the manufacture of of Electrical Cables and Wires) Order, 1970 (S.O. 4082 of 1970).
- (3) The Electrical Cables and Wires Control Order, 1970 (S.O. 4083 of 1970).
- (4) The Paraffin Wax (Supply, Distribution and Price Fixation) Order, 1972 (G.S.R. 71-E of 1972).

- (5) The Tractors (Distribution and Sale) Control Order, 1971 (S.O. 3258 of 1971).
- (6) The Staple Fibre Distribution Order, 1972 (S.O. 5356 of 1972).

113. The expression 'any officer'/'any person' appeared to give an impression that the authorities might appoint any person for the purposes of the 'Orders' irrespective of his rank and position. In this connection, attention of the Ministries concerned was invited to the recommendations of the Committee on Subordinate Legislation contained in para 15 of their Fifth Report (Third Lok Sabha) wherein they stressed the need for indication of the minimum rank of persons to be authorised by Government to conduct searches/seizures.

114. The Ministries concerned to whom the matter was referred, have stated that they have no objection to amending the 'Orders' suitably.

115. The Committee note with satisfaction that the Ministries concerned have agreed to amend above Orders so as to indicate therein the minimum rank of persons to be authorised by the Government to conduct search/seizure. The Committee desire the Ministries concerned to amend the Orders at an early date.

## XXII

### THE MINERAL CONCESSION (SECOND AMENDMENT) RULES, 1971 (G.S.R. 1580 of 1971)

116. Rule 16 of the Mineral Concession Rules, 1960, as it stood prior to amendment reads as under:—

*"Report of information obtained by licensee.—*The licensee shall submit *confidentially* to the State Government within one month of expiry of the licence or abandonment of the operations or determination of the licence, whichever is earlier a full report of the work done by him and disclose all information acquired by him in the course of prospecting operations, regarding the geology and mineral resources of the area covered by the licence."

117. Rule 16 being substituted by the Mineral Concesion (Second Amendment) Rules, 1971 reads as follows:—

*"Report of Information obtained by licensee.—*The licensee shall submit *confidentially* to the State Government, a quarterly report of work done by him stating the number of persons engaged and disclosing the geological and geo-

physical and other valuable data collected by him during the period and also submit to the State Government within three months of the expiry of the licence or abandonment of the operations or determination of licence, whichever is earlier, a full report of the work done by him and all other relevant informations acquired by him in the course of prospecting operations in the area covered by the licence."

118. The Ministry of Steel and Mines (Department of Mines), who were requested to state (i) the reasons for having above information from the licensee confidentially; and (ii) whether there was any provision in the Rules enjoining upon the licensee to keep the information confidential, have stated as follows:—

"Rule 16 of the Mineral Concession Rules, 1960 is a modified version of Rule 25 of the Mineral Concession Rules, 1949 which is reproduced below:—

"25. Report of the information obtained by licensees:— The Licensee shall, before the deposit made under Rule 19 is returned to him, submit *confidentially* to the State Government a full report of the work done by him, and .....

In other words, the words 'confidentially' was there in the rules since the date of promulgation of Mineral Concession Rules, 1949 for the first time in India in October, 1949.

The grant of a prospecting licence is a privilege and as such the reports to be submitted by the Licensees under rule 16 and Clause 17(A)—Form 'F' of Schedule I are treated as confidential to eliminate misuse of the privilege. The information collected by the Licensee during the period of prospecting licence contains the nature of the reserves and the potentialities of the area concerned and it is, therefore, incumbent on the part of the Licensee to keep it confidential."

119. The Committee are not convinced by the arguments given by the Ministry of Steel and Mines (Department of Mines) for having the information confidentially from the licensee regarding geology and mineral resources of the area covered by him. The Committee note that there is no provision in the Rules to ensure that the licensee will keep the information confidential. They desire the Ministry to re-examine the need for retaining the above stipulation in Rule 16 of the Mineral Concession Rules, 1960.



## XXIII

THE RADIATION PROTECTION RULES 1971  
(G.S.R. 1601 OF 1971)

## (A)

120. Rule 1(3) of the Radiation Protection Rules, 1971 provides that the Rules would come into force at once.

121. It was not clear from above Rules whether they came into force on the date of their publication in the Gazette, dated the 30th October, 1971 or from the date when these Rules were sent to the Press by the Department of Atomic Energy—13th September, 1971.

122. The Department of Atomic Energy to whom the matter was referred for clarifying the position, have proposed to amend the Rule to read as follows:—

“Rules shall come into force from the date of their publication in the Gazette.”

123. The Committee note with satisfaction that the Department of Atomic Energy have agreed to amend Rules 1(3) of the Radiation Protection Rules, 1971, so as to make it clear that they came into force from the date of their publication in the Gazette. The Committee desire the Department of Atomic Energy to amend the Rules at an early date.

## (B)

124. The Atomic Energy Act under which the Radiation Protection Rules, 1971, have been framed was passed in the year 1962, whereas the Rules under reference have been framed and published in 1971.

125. The Department of Atomic Energy who were asked to state the reasons for taking 9 years in framing the Rules have stated as under:—

“The Atomic Energy Act, 1962 was enacted in September, 1962. The task of framing rules and regulations under the Act was thereafter entrusted to the Directorate of Radiation Protection (DRP), Bhabha Atomic Research Centre. The first draft version of the Radiation Protection Rules was prepared by DRP in 1964 and was submitted to the Director Atomic Energy Establishment Trom-

bay, who was also Chairman of the Atomic Energy Commission. These rules were examined by him and some modifications were suggested. The revised draft version of the Radiation Protection Rules incorporating changes suggested by Director, AEEA, as well as some other changes were finalised in consultation with the Legal Adviser of the Department in July, 1968. These draft Rules were referred by the Department to the Ministry of Law for vetting from the legal angle. The Ministry of Law made some remarks on the draft Rules. These remarks were studied and the draft amended in their light. The final draft was submitted to the Prime Minister as Minister-in-charge of the Department for approval. Approval of the Prime Minister was obtained on March, 26, 1971. These Rules were then sent to the Government of India Press for notification in the Gazette and were published in October, 1971.

Drafting of the Radiation Protection Rules involved study of international practices and conventions, norms established in respect of radiation protection in other countries like the U.S.A., U.K., Canada, France etc., recommendations of International Commission on Radiological Protection and the basic safety standards published by the International Atomic Energy Agency, Vienna. At the same time the Rules had to be modified to suit the conditions prevailing in India. This was time consuming. Nevertheless, the delay in the formulation of the Rules is deeply regretted. Even though, criteria laid down by the Rules have in practice been ensured by the Directorate of Radiation Protection and this organisation did not encounter any serious difficulties in this regard".

126. The Committee deprecate the delay of 9 years on the part of the Department of Atomic Energy in framing the Rules under the Atomic Energy Act. They would like the Department of Atomic Energy to be more careful in future. In this connection, the Committee reiterate their earlier recommendation made in para 34 of their fifth Report (Second Lok Sabha) that ordinarily Rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. They would like the Department of Parliamentary Affairs to bring this recommendation to the notice of all Ministries/Departments for compliance.

## XXIV

THE ROORKEE CANTONMENT (CONTROL AND  
SUPERVISION OF MILLS) BYE-LAWS,  
1970 (S. RO. 206 OF 1970).

## (A)

127. There is no indication in the preamble to the above by-laws about (a) the date of the Gazette in which the draft Bye-laws were published; (b) the date on which the Gazette copies containing the draft Bye-laws were made available to the public; and (c) the last date fixed for the receipt of public comments thereon.

128. The Ministry of Defence to whom the matter was referred, have indicated above details by issuing an amendment to above Bye-laws (*vide* S.R.O. 12 dated 12-1-1974).

129. The Committee note with satisfaction that the Ministry of Defence with whom the matter was taken up have amended the Roorkee Cantonment (Control and Supervision of Mills) Bye-laws suitably.

## (B)

130. Bye-laws 7 and 10 of the above Bye-laws reads as follows:—

“7. *Building requirements of Mill.*—The building or premises in which a mill is proposed to be installed shall:

- (i) be situated at a reasonable distance from place which gives out offensive smell such as latrine or cesspit (in case of public latrines at a distance of 30 metres; and
- (ii) consist of a solid structure able to withstand the vibration of the engine, with adequate space for fixing a dynamo of engine in a railed enclosure.

10. *Outlet for smoke.*—In the case of mill run by oil, there shall be a chimney of adequate height so fixed as to eliminate nuisance and danger to persons residing in the neighbourhood on account of smoke.”

131. It was felt that the expressions “reasonable distance”, “adequate space” and ‘adequate height’ used in above bye-laws were liable to be interpreted differently by different officers.

132. The Ministry of Defence to whom the matter was referred, have amended above bye-laws by laying down the specific distances, etc. to be maintained in constructing the building or premises of the Mills (Vide S.R.O. No. 12 dated 2-1-1974).

133. The Committee note with satisfaction that the Ministry of Defence, on being pointed out to them, have amended the Bye-laws 7 and 10 by laying down specific distances, etc., to be maintained in constructing the building or premises of Mills.

## (C)

134. Bye-law 14 of the above Bye-laws reads as follows:

*"Cancellation of licence for contravention.—If the licensee commits any contravention of these bye-laws, his licence shall, without prejudice to the provisions of bye-law 12, be liable to cancellation by the Executive Officer and no fresh licence shall be issued to him until such time as he has carried out the orders of the Executive Officer, satisfactorily for the purpose of enforcing these bye-laws."*

135. There was no indication in above bye-law that reasonable opportunity of being heard would be given before the licence of a licensee is cancelled.

136. The Ministry of Defence, who were asked whether they had any objection to amending the said bye-law, have amended it (vide S.R.O. 12 dated 2-1-1974) by providing an opportunity of being heard to a licensee before cancellation of licence.

137. The Committee note with satisfaction that on being pointed out the Ministry of Defence have amended Bye-law 14 by providing therein an opportunity of being heard to a licensee before cancellation of licence.

## XXV

THE CENTRAL EXCISE (TWELFTH AMENDMENT)  
RULES, 1971 (G.S.R. 1087 of 1971).

138. Rule 96 ZO being inserted by above Rules reads as follows:—

*"Application to avail of special procedure.—(1) Where a manufacturer who processes cotton fabrics falling under sub-item I(2) of Item No. 19 of the First Schedule to the Act without the aid of power or steam makes, in the proper form, an application to the Collector in this behalf, the*

special provisions contained in this section shall, on such application being granted by the Collector, apply to such manufacturer in substitution of the provisions contained elsewhere than in this section for the period in respect of which the application has been so granted.

- (2) Such application shall be made so as to cover a period of not less than six consecutive calendar months, but may be granted for a shorter period in the discretion of the Collector.
- (3) If at any time during such period, the manufacturer does not desire to avail himself of the special provisions contained in this section, he shall give a notice in writing to the proper officer of his intention at least one week in advance; and if he fails to give such notice he shall be precluded from availing himself of such provisions for a period of six months from the date of such failure.
- (4) If the manufacturer desires to avail himself of the special provisions contained in this section on the expiry of the period for which his application was granted, he shall before such expiry make an application to the Collector under sub-rule (1), and on his failure to do so, he shall unless otherwise ordered by the Collector, be precluded from availing himself of such provisions for a period of six months from the date on such expiry."

139. The preclusion period of 6 months referred to in sub-rule (3) and (4), *ibid* appeared to be too harsh. The Ministry of Finance (Department of Revenue and Insurance) who were asked whether they have any objection to reducing the period of preclusion from 6 months to 3 months, have stated as under:—

".....the intention behind prescribing the six months' period of preclusion is to provide for time necessary for making administrative arrangements so that the duty under normal procedure can be collected without any inconvenience either to the manufacturer or to the department, and for looking into the bonafides of the applicant and completion of other essential formalities such as spot verification of the premises etc. This disability clause also ensures that the licences take the requirement of advance intimation of their intention in such cases seriously. We do not appear to have received any complaint of hardship caused

by this provision to the trade. However, the suggestion made in this regard has been considered and it is felt that the period of preclusion of six months may cause hardship in some cases. Strictly speaking, even the suggested period of three months may operate harshly in some cases. It is, therefore, proposed to amend Rule 96 ZO (3) and to give discretionary powers to the Collectors of Central Excise to relax, where deemed fit, the period of preclusion after considering the merits of each case on the lines of discretion vested in the Collectors in sub-rule (4) of rule 96 ZO."

140. The Committee note with satisfaction that on being pointed out the Ministry of Finance (Department of Revenue and Insurance) have agreed to amend Rule 96 ZO (3) of the Central Excise Rules to give discretionary powers to the Collectors of Central Excise to relax where deem fit, the period of preclusion, after considering the merits of each case on the lines of discretion vested in Rule 96 ZO (4). The Committee desire the Ministry to take early steps to amend the Rules.

## XXVI

### THE JULLUNDUR CANTONMENT (REGULATION AND CONTROL OF USE OF LOUD-SPEAKERS) BYE-LAWS, 1970 (S.R.O. 136 OF 1971)

#### (A)

141. Bye-law (3) of the above by-laws provides that no person shall make use of any loud-speaker, whether stationary or fitted to any motor vehicle or other moving vehicle, within the limits of the Jullundur Cantonment except with the permission of the Executive Officer and on such condition as he may impose under the bye-laws.

142. Empowering the Executive Officer to impose such conditions which are not mentioned in the bye-laws tantamount to sub-delegation of legislative power for which an express authorisation of the parent law is necessary.

143. The Ministry of Defence, to whom the matter was referred, have amended\* the bye-laws by laying down the following conditions in the bye-laws subject to which the Executive Officer could grant permission for the use of loud-speaker:—

\*Vide S.R.O No. 73 dated 23-2-74.

**"Restriction on use:—**No person shall make use of any loud speaker within the limits of the Jullundur Cantonment -except with the permission of the Executive Officer and on the following conditions, namely:—

- (1) that the application for grant of permission—to the use of Loud Speaker for marriage or for any other occasion shall be made to the Cantonment Executive Officer on any working day during office hours on a Form specified in the Schedule annexed to these bye-laws at least three days before the time the loud speaker is required to be played. The form shall be obtainable from the Cantonment Board Office free of cost;
- (2) that the Executive Officer may, having regard to public welfare and convenience, either refuse or grant permission for the use of the said apparatus for such period as may be specified;
- (3) that an amplifier possessing more than 25 watts capacity shall ordinarily not be used;
- (4) that a loud speaker of 10 watts fitted in a wooden box or in a ground metal container shall be used;
- (5) that the volume of loud speaker shall not exceed the record stage of the regulator of the amplifier;
- (6) That the loud speaker shall not be fitted more than eight feet high from the ground level. In no case shall it be positioned on the top of a building.
- (7) that the loud speaker shall face towards premises or place and the noise shall be restricted to the audience only;
- (8) that in the use of the loud speaker there shall be no hinderance to the traffic or annoyance to the public;
- (9) that the use of loud speaker for commercial or advertisement purposes shall not be allowed. The advertisement may be allowed with beat of drum or any other soft musical instrument or through megaphones;
- (10) that the use of loud speaker shall not be allowed beyond 01.00 A.M. in any circumstances.

Provided that no such permission shall be necessary for the use of a loud speaker for the announcement of any notice or com-

munique issued by the Central Government, the State Government, the Deputy Commissioner or the District Magistrate of the District, Superintendent of Police of the District or the Executive Officer."

144. The Committee note with satisfaction that on being pointed out the Ministry of Defence have amended bye-law 3 of the Jullundur Cantonment (Regulation and Control of use of Loud-Speakers) Bye-laws, 1970, to indicate the conditions subject to which a person can make use of the loud-speaker in the Jullundur Cantonment..

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145. Proviso to bye-law (5) of the Jullundur Cantonment (Regulation and Control of use of Loud Speakers) Bye-laws, 1970 provided that every permission for the use of Loud-speaker in the Jullundur Cantonment shall be subject to an order passed by any Magistrate during emergency.

146. It was not clear from the bye-laws whether the term "emergency" meant "National Emergency" or "local emergency".

147. The Ministry of Defence to whom the matter was referred have amended\* the bye-laws by substituting the words "National Emergency" for the word "emergency".

148. The Committee note with satisfaction that on being pointed out, the Ministry of Defence have amended bye-law 5 of the Jullundur Cantonment (Regulations and Control of use of Loud-Speakers) Bye-laws, 1970 to substitute the term "National Emergency" for "Emergency".

## XXVII

THE MINISTRY OF FINANCE (DEPARTMENT OF BANKING)  
STAFF CAR DRIVER RECRUITMENT RULES, 1971 (G.S.R.  
1639 OF 1971).

149. Rule 6 of the above Rules reads as follows:—

**"Repeal and Saving.**—Any rules corresponding to these rules and in force immediately before the commencement of these rules are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provision of these rules."

150. The Rule as worded appeared to be vague as it did not specify the Rules which had been repealed.

\* File Notification No. A12018/3/A/mn/70. Date: 7-2-74



151. The Ministry of Finance (Department of Banking) to whom the matter was referred, have deleted\* Rule 6.

152. The Committee note that on being pointed out, the Ministry of Finance (Department of Banking) have deleted Rule 6 of the Ministry of Finance (Department of Banking) Staff Car Driver Recruitment Rules, 1971, as it was vaguely worded.

### XXVIII

#### DELAY IN SENDING FINAL REPLIES BY THE MINISTRIES/ DEPARTMENTS TO REFERENCES MADE BY THE COM- MITTEE ON SUBORDINATE LEGISLATION

153. At their sitting held on the 29th January, 1974, the Committee noted that in case of two Orders issued in 1970, and 17 issued in 1971, clarifications from the concerned Ministries/Departments were still awaited despite O.M. and D.O. reminders from time to time (*vide* Appendix III). The Committee took serious note of the delay on the part of the Ministries/Departments for not sending final replies to the communications sent by the Committee and desired that their displeasure be communicated to the Ministries/Departments concerned.

154. After the displeasure was communicated, final replies in respect of 9 Orders (S. Nos. 2, 10 to 12, 14, 15, 17, 18 & 19 of Appendix III) have been received. But in 10 other cases final replies are still awaited.

155. The Committee take a serious view of the lapse on the part of the concerned Ministries/Departments. They need hardly mention that unless information is furnished to them in time, they cannot express their views on the various Rules/Regulations scrutinized by them and submit their report to the House. They would like the defaulting Ministries/Departments to send replies within 3 months of the presentation of this Report.

### XXIX

#### ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDA- TIONS MADE BY, AND ASSURANCE GIVEN TO, THE COM- MITTEE ON SUBORDINATE LEGISLATION.

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

VIKRAM MAHAJAN,  
Chairman,

NEW DELHI;  
The 7th May, 1974.

Committee on Subordinate Legislation.

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## **APPENDICES**

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## APPENDIX I

(Vide para 4 of the Report)

### Summary of main Recommendations|Observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1	11-12	<p>In view of the acceptance of recommendation of the Committee on Public Undertaking about payment of interest on the unpaid claims in L.I.C. and this Committee's recommendation regarding payment of interest on any amount deposited in the account of deceased depositor by Government, the Committee are not convinced by the arguments given by the Ministry of Finance (Department of Revenue and Insurance) for not paying interest on unpaid payments under the Emergency Risks (Goods) Insurance Scheme. If the Life Insurance Corporation can pay simple interest at the rate of 3 per cent since 3rd March, 1966, on all claims which remain unsettled for more than 3 months except the cases of death claims where investigation is necessary or where the delay is on account of operation of Exchange Control Regulations or where the delay is due to circumstances beyond the control of the Corporation, the Committee cannot understand why under the Emergency Risks (Goods) Insurance Scheme also interest cannot be paid on unpaid payments.</p> <p>Taking into account the peculiar features of the Emergency Risks (Goods) Insurance, the Committee recommend that in cases where the payment is delayed even after the completion of formalities, Government should pay interest to</p>

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the policy holders on the unpaid claims. They also desire the Ministry of Finance (Department of Revenue and Insurance) to fix certain maximum time limit within which the claims should be settled.

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19-22

The Committee note that, according to the opinion [Appendix I of the First Report of the Committee on Subordinate Legislation (Second Lok Sabha)] given by the Attorney-General, no fee can be imposed under a rule unless there is an express authorisation therefor in the parent Act. Even though there is no express provision for the levy of a fee for supply of copies of proceedings of courts of inquiry, the Ministry of Defence thought that they could levy such a fee under the Air Force Act Rules because of the wording of Section 191 of the Act which provides that the rules framed under the Act, on their publication in the Gazette, shall have effect, as if enacted in the Air Force Act. The Committee also note that provisions similar to the provision of Section 191 of the Air Force Act, 1950 exist in some other Acts also. [(i) Section 76(2) of the Stamp Act, 1898; (ii) section 38 of the Central Excises and Salt Act, 1944; (iii) section 31(4) of Mines Act, 1923 (4 of 1923) and section 59(5) of the Mines Act, 1952; and (iv) section 19(5) of the Madras General Sales Tax Act, 1939 (9 of 1939).]

The Committee, however, note from the reply furnished by the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that according to the ruling of the Supreme Court in the State of Kerala vs. K. M. Charia (Supreme Court Reporter—1965, p. 601) no additional sanctity attaches to the rules made under section 19(5) of the Madras General Sales Tax Act, 1939—which is similar to the provision contained in Section 191 of the Air Force Act,

(1)

(2)

(3)

1950. According to the Supreme Court, if in making a rule, the State transcends its authority, the rule will be invalid, for statutory rules made in exercise of delegated authority are valid and binding only if made within the limits of authority conferred. Validity of a rule whether it is declared to have effect as if enacted in the Act or otherwise is always open to challenge on the ground that it is unauthorised.

The Committee like the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) to examine, in the light of the above ruling of the Supreme Court, whether in framing any rule under the afore-mentioned four Central Acts, the Central Government has transcended its authority.

The Committee also desire the Ministry of Defence to make an express provision in the Indian Air Force Act, 1950 providing for charging of fee for supply of copies of the proceedings of the court of inquiry.

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The Committee note the opinion of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that item No. 15 of the Schedule to the Union Public Service Commission (Exemption from Consultations) Regulations, 1958 do not include the posts in the Asian Institute of Educational Planning and Administration. The Committee are of the view that the Ministry of Education had definitely erred in treating the posts of Coordinator of Studies, Economist, Statician and Documentalists as exempt from the purview of Union Public Service Commission. They desire the Cabinet Secretariat (Department of Personnel) to issue necessary instructions to all Ministries/Departments to ensure that Union Public Service Commission is invariably consulted while relaxing any of the rules relating to Gazetted posts unless

- | (1) | (2) | (3)  |
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|     |     | a post is specifically covered by the Union Public Service Commission (Exemption from Consultations) Regulations, 1958.  |
| 4   | 34  | The Committee note with satisfaction that the Ministry of Health and Family Planning (Department of Health) have agreed to amend the Drugs and Cosmetics Act so as to prohibit the manufacture of a drug considered unsafe for use. The Committee desire the Ministry of Health and Family Planning (Department of Health) to amend the Act at an early date.  |
| 5   | 37  | The Committee are satisfied with the explanation given for retrospective effect being given to the Ministry of Labour, Employment and Rehabilitation (Department of Rehabilitation) Settlement Organisation (Non-Gazetted Staff) Recruitment Rules. They are, however, surprised to note that no recruitment Rules were framed till 1969 by the Ministry of Labour and Rehabilitation (Department of Rehabilitation) for various types of posts which were created in the Settlement Organisation in 1952. It appears incredible that a period of 17 years should have elapsed without the recruitment Rules having been framed. The Committee are of the view that it is a regrettable case of undue delay. |
| 6   | 40  | The Committee are not satisfied with the indirect availability of the right of appeal against the classification of goods under section 55 of the Monopolies and Restriction Trade Practices Act. They are of the view that there should be a specific provision in the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971 for affording an opportunity against classification. They desire the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) to amend above Rules suitably.  |

(1)	(2)	(3)
7	49	In the normal circumstances, for the post of Administrative Officer, Government Hospitality Organisation which is a Gazetted post, relaxation of rules should have been done with the consultation of Union Public Service Commission. However, in view of the reason explained by the Ministry of External Affairs, the Committee are inclined to agree that in this case, the Relaxation Clause was justifiably differently worded.
8	52	The Committee note with satisfaction that on being pointed out the Ministry of External Affairs have amended the Administrative Officer, Government Hospitality Organisation of the Ministry of External Affairs Recruitment Rules suitably by providing 'Saving Clause' regarding reservation and other concessions for the Scheduled Castes/Tribes.
9	58	The Committee note that on being pointed out the Ministry of External Affairs have agreed to amend proviso to Rule 6 of the Passport Rules, 1967 to indicate that for seeking exemption from financial guarantee, the applicant abroad has to furnish to the pass port authority documentary evidence to establish that he has sufficient means to maintain himself abroad. The Committee desire the Ministry of External Affairs to take early steps to amend above Rules accordingly.
10	62	The Committee note with satisfaction that the Ministry of Railways on being pointed out have amended the 'Third Amendment' of 1970 to the Railway Red Tariff Rules as 'Second Amendment' and 'Second Amendment' of 1971 as the 'First Amendment' of 1971 so that there is no confusion in referencing and tracing the Rules.
11	67-68	The Committee are not convinced by the opinion of the Ministry of Law that corrigendum to correct the year in short title will not be the

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(1)	(2)	(3)
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proper thing. They are of the view that in order to avoid confusion in referencing and tracing by all concerned, the year in the short title should be amended. The Committee desire the Ministry of Health and Family Planning (Department of Health) to take necessary action in the matter at an early date.

The Committee are satisfied to note from the reply of the Ministry of Health and Family Planning (Department of Health) that explanatory memorandum to the effect that no body will be adversely affected by the retrospective effect given to the Rules, which was not published previously, is now being published. They desire the Ministry of Health and Family Planning (Department of Health) to take necessary action in the matter at an early date.

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The Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 and the C.V.C. (Stenographer) Recruitment Rules, 1971 have a special provision for making temporary arrangements for 3 months in case suitable persons are not available. The Committee have noticed that generally Recruitment Rules do not contain such a provision (*vide* illustrative list in Appendix II). They, therefore, desire the Cabinet Secretariat (Department of personnel and Administrative Reforms) to issue necessary instructions to all Ministries/Departments that a uniform pattern should be followed in framing Recruitment Rules.

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The Committee agree that in the circumstances explained by the Ministry of Science and Technology they had no other option but to give retrospective effect to the Survey of India (Recruitment from the corps of Engineer Officers) Amendment Rules, 1971. They, however, strongly deprecate the delay of 12 years on the part of the Ministry of Science and Technology in finalising the amendments to the Rules.

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(1)	(2)	(3)
14	79	<p>The Committee note with satisfaction that on being pointed out the Ministry of Railways (Railway Board) have amended Rule 5 of the Railway Service Commission (Chairman, Member-Secretaries, Assistant Secretaries) Recruitment (Amendment) Rules, 1971 in order to provide same tenure for the office of the Chairman selected either by direct recruitment or through transfer on deputation in order to eliminate the scope of discrimination.</p>
15	83	<p>The Committee are not satisfied with the proposed Rule 4-A of the Tourist Baggage Rules, 1958 as the substitution of words "if the proper officer is satisfied" for the words "at the discretion of the proper officer" did not eliminate the possibility of discriminatory treatment. They desire the Ministry of Finance (Department of Revenue and Insurance) to delete the words "the proper officer is satisfied that" from the proposed Rule 4A.</p>
16	87	<p>In view of the position explained by the Ministry of Defence, the Committee are of the view that the provision regarding Scheduled Castes/Tribes which has been inserted by the Union Public Service Commission themselves in the (i) Armed Forces Headquarters Civil Service Superintendents' Grade (Appointment by Competitive Examination) Regulations, 1970; (ii) Armed Forces Headquarters Civil Service Assistants' Grade (Appointment by Competitive Examination) Regulations, 1970; and (iii) Armed Forces Headquarters Stenographers Service (Appointment by Competitive Examination) Regulations, 1970 needs no further modification and should be allowed to stand in its present form.</p>
17	91	<p>The Committee are not satisfied with the reasons given by the Ministry of Home Affairs for not giving the reasons in the explanatory note regarding retrospective effect given to the</p>

(1)	(2)	(3)
		<p>Delhi and Andaman and Nicobar Islands Civil Service [Police Service Rules, 1971. They feel that retrospective effect in the case of G.S.R.'s 1628 and 1629 may have affected some persons adversely as they provide for the increase of Selection Grade posts from 10 per cent to 20 per cent in the Civil Service and 6.4 per cent to 13 per cent in the Police Service and also reduced the minimum service from 12 years to 8 years for promotion to selection grade. The Committee therefore, reiterate their earlier recommendation made in para 10 of their Second Report (Fourth Lok Sabha) in regard to giving explanatory note in all cases where retrospective effect is given to 'Orders'.</p>
18	94	<p>The Committee note with satisfaction the assurance of the Ministry of Defence that in future no Rule on 'application' will be included in the Recruitment Rules which relate to one post.</p>
19	98	<p>The Committee note with satisfaction the assurance of the Ministry of Information and Broadcasting that revised recruitment Rules for the post of Supervisor, which are under consideration, would on finalisation be notified as an amendment to the Directorate of Advertising and Visual Publicity (Class II posts) Recruitment Rules, 1971. They desire the Ministry of Information and Broadcasting to take necessary action at an early date.</p>
20	103-104	<p>The Committee are not convinced by the reply of the Ministry of Health and Family Planning (Department of Health) that it is open to the allottee to represent against the action taken against him/her under S.R. 317-AA 11(4) &amp; (5) and S.R. 317A-12 of the Port Health Organisation, Kandla (Allotment of Residence) Rules, 1969, the Ministry of Tourism and Civil Aviation with whom the matter was taken up, agreed to</p>

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|     |     | amend the Rules for affording a reasonable opportunity of being heard before action is taken under the Rules.   |
|     |     | The Committee desire the Ministry of Health and Family Planning to amend the above Rules on the lines of the Indian Meteorological Department (Allotment of Residences) Rules, 1969.  |
| 21  | 108 | The Committee note with satisfaction that on being pointed out the Ministry of Tourism and Civil Aviation have agreed to amend the rule 135-C of the Aircraft Rules, 1937 so that its wording does not give an impression on the minds of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desire the Ministry of Tourism and Civil Aviation to amend above Rules at an early date.  |
| 22  | 111 | The Committee note with satisfaction that on being pointed out the Ministry of Labour (Department of Labour and Employment) have agreed to amend Rule 30 of the Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971, so that it does not give an impression on the minds of the persons concerned that the jurisdiction of Courts of Law is being ousted. The Committee desire the Ministry of Labour (Department of Labour and Employment) to issue the necessary amendment at an early date. |
| 23  | 115 | The Committee note with satisfaction that the Ministries concerned have agreed to amend the 'Orders' mentioned in para 112 of this Report so as to indicate therein the minimum rank of persons to be authorised by the Government to conduct search/seizure. The Committee desire the Ministries concerned to amend the Orders at an early date.   |
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| 24  | 119 | <p>The Committee are not convinced by the arguments given by the Ministry of Steel and Mines (Department of Mines) for having the information regarding geology and mineral resources of the area covered by licensee confidentially under the Mineral Concession Rules, 1960. The Committee note that there is no provision in the Rules to ensure that the licensee will keep the information confidential. They desire the Ministry of Steel and Mines (Department of Mines) to re-examine the need for retaining the above stipulation in Rule 16 of the Mineral Concession Rules, 1960.</p>   |
| 25  | 123 | <p>The Committee note with satisfaction that on being pointed out the Department of Atomic Energy have agreed to amend Rule 1(3) of the Radiation Protection Rules, 1971, so as to make it clear that they came into force from the date of their publication in the Gazette. The Committee desire the Department of Atomic Energy to amend above Rules at an early date.</p>  |
| 26  | 126 | <p>The Committee deprecate the delay of 9 years on the part of the Department of Atomic Energy in framing the Rules under the Atomic Energy Act. They would like the Department of Atomic Energy to be more careful in future. In this connection, the Committee reiterate their earlier recommendation made in para 34 of their Fifth Report (Second Lok Sabha) that ordinarily Rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. They would like the Department of Parliamentary Affairs to bring this recommendation to the notice of all Ministries/Departments for compliance.</p> |
| 27  | 129 | <p>The Committee note with satisfaction that on being pointed out the Ministry of Defence have amended the Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970,</p>   |
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		by indicating (a) the date of Gazette in which draft Bye-law were published (b) the date on which the Gazette copies containing the draft Bye-laws were made available to the public; and (c) the last date fixed for the receipt of public comments thereon.
28	133	The Committee note with satisfaction that on being pointed out to them, the Ministry of Defence have amended Bye-laws 7 and 10 of the Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970 by laying down specific distances, etc. to be maintained in constructing the building or premises of Mills.
29	137	The Committee note with satisfaction that on being pointed out the Ministry of Defence have amended Bye-law 14 of the Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970 by providing therein an opportunity of being heard to a licensee before cancellation of licence.
30	140	The Committee note with satisfaction that on being pointed out the Ministry of Finance (Deptt. of Revenue and Insurance) have agreed to amend Rule 96 ZO(3) of the Central Excise Rules to give discretionary powers to the Collectors of Central Excise to relax where deem fit, the period of preclusion, after considering the merits of each case on the lines of discretion vested in Rule 96ZO(4). The Committee desire the Ministry of Finance (Deptt. of Revenue and Insurance) to take early steps to amend above Rules.
31	144	The Committee note with satisfaction that on being pointed out the Ministry of Defence have amended bye-law 3 of the Jullundur Cantonment (Regulation and Control of use of Loud-Speakers) Bye-laws, 1970, to indicate the condi-

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(1)	(2)	(3)
		tions subject to which a person can make use of the loud-speaker in the Jullundur Cantonment.
32	148	The Committee note with satisfaction that on being pointed out the Ministry of Defence have amended bye-law 5 of the Jullundur Cantonment (Regulations and Control of use of Loud-Speakers) Bye-laws, 1970 to substitute the term "National Emergency" for "Emergency".
33	152	The Committee note that on being pointed out the Ministry of Finance (Department of Banking) have deleted Rule 6 of the Ministry of Finance (Deptt. of Banking) Staff Car Driver Recruitment Rules, 1971, as it was vaguely worded.
34	155	The Committee take a serious view of the lapse on the part of the concerned Ministries/ Department in not sending final replies to the Communications sent by the Committee. They need hardly mention that unless information is furnished to them in time, they cannot express their views on the various Rules/Regulations scrutinized by them and submit their report to the House. They would like the defaulting Ministries/Departments to send replies within 3 months of the presentation of this Report.
35	156	The Committee note with satisfaction the action taken by Government on their earlier recommendations, as indicated in Appendix IV.

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## APPENDIX II

(Vide para 71 of the Report)

*List of Rules in which there is no special provision regarding temporary arrangements.*

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S.No.	Description of Rule
1.	The Ministry of Home Affairs (Recruitment to the post of Assistant Supervisor, Hindi Teaching Scheme) Rules, 1958.
2.	The Ministry of Home Affairs Investigator Recruitment Rules, 1959.
3.	Comandant (Class I Gazetted) Central Emergency Relief Training Institute (Nagpur) Rules, 1959.
4.	Andaman Nicobar Islands [Recruitment to the Post of Research Assistant (Chemical)] Rules, 1960.
5.	National Police Academy (Gazetted Staff) Recruitment Rules, 1959.
6.	The National Fire Service College (Class I and II Posts Recruitment Rules, 1961.
7.	Delhi Special Police Establishment Prosecuting and Executive Staff, Class III and Class IV Recruitment Rules, 1960.
8.	Research Officer (Ministry of Home Affairs) Recruitment Rules, 1965.
9.	Administrative Offices (Office of the Commissioner for Scheduled Castes and Scheduled Tribes) Recruitment Rules, 1964.
10.	Librarian (Ministry of Home Affairs) Recruitment Rules, 1963.
11.	Delhi Special Police Establishment (Assistant Public Prosecutors) Recruitment Rules, 1961.
12.	Statistical Assistants (Office of the Registrar-General and ex-officio Census Commissioner) Recruitment Rules, 1960.

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S.No.	Description of Rule
13.	<b>Special Police Establishment (Technical) Recruitment Rules, 1960.</b>
14.	<b>Research Officer (Ministry of Home Affairs) Recruitment Rules, 1968.</b>
15.	<b>Research Officer (Training Division, Ministry of Home Affairs) Recruitment Rules, 1969.</b>
16.	<b>Research Officer (Career Management) (Ministry of Home Affairs) Recruitment Rules, 1970.</b>
17.	<b>Senior Research Officer (Research and Policy Division) Ministry of Home Affairs Recruitment Rules, 1971.</b>
18.	<b>Research Assistant (Research and Policy Division) Ministry of Home Affairs Recruitment Rules, 1971.</b>
19.	<b>Commissioner for Linguistic Minorities, Allahabad (Administrative Officer) Recruitment Rules, 1972.</b>
20.	<b>Central Forensic Science Laboratory (Scientific Assistant-Photography) Recruitment Rules, 1972.</b>

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### APPENDIX III

(vide para 153 & 154 of the Report)

List of 'Orders' in which there is delay in sending final replies by the Ministries/Departments

S.No.	Description of 'Order'	(2)	(3)	(4)	(5)	(6)	Remarks
(1)							
1.	Ministry of Finance (Deptt. of Expenditure Staff Inspection Unit) Recruitment Amendment Rules, 1969 (S.O. 1040 of 1970)		5-11-71	16-3-72 18-5-72 17-4-73	29-6-73 17-1-74		Only interim reply received.
2.	National Savings Certificate (IV Issue) Rules, 1970 (G.S.R. 319 of 1970)		3-7-71	2-9-71 5-10-71 22-11-71 19-2-72 2-5-72 13-11-72 19-10-73 17-12-73	5-3-73		Do.
3.	The Civil Aviation Department (Co-pilot) Recruitment Rules, 1970 (G.S.R. 575 of 1971).		19-4-73	26-5-73	14-9-73 20-10-73 31-12-73		Do.
4.	The Tea Board (Recr. and Conditions of Service of Officers appointed by Government) (G.S.R. 1023 of 1971).		25-6-73	26-10-73	18-12-73		Do.

(1)	(2)	(3)	(4)	(5)	(6)
5.	The Customs & Central Excise Duties Drawback Rules, 1971 (G.S.R. 1219 of 1971).	16-7-73	16-11-73	21-1-74	only Interim replies received.
6.	The Laccadive, Minicoy and Amindivi Islands Administration (Poultry and Animal Husbandry Officer) Recruitment Rules, 1971 (G.S.R. 1015 of 1971).	21-6-73	14-9-73	19-10-73 21-12-73	Interim replies received.
7.	The Posts and Telegraphs Telecom Factories Organisation (Class I Posts) Recruitment Rules, 1971 (G.S.R. 277 of 1972).	29-9-72	10-11-72 2-4-73 3-5-73 11-9-73	18-10-73 19-12-73	Do.
8.	(i) The Coal Mines (Amendment) Regulations, 1971 (G.S.R. 268 of 1971) (ii) The Draft Coal Mines (Amendment) Regulations, 1972 (G.S.R. 1148 of 1972).	1-5-73	11-9-73	20-10-73 21-12-73	Do.
9.	The Overseas Communications Service (Allotment of Residences) Rules, 1971 (G.S.R. 1040 of 1971).	20-6-73	14-9-73	20-10-73 21-12-73	Do.
10.	The Railway Service Commission's (Chairman, Member-Secretaries, Assistant Secretaries) Recruitment (Amendment) Rules, 1971 (G.S.R. 1657 of 1971).	3-8-73	14-9-73	20-10-73 21-12-73	Do.
11.	The Central Excise (Seventeenth Amendment) Rules, 1971 (G.S.R. 1780 of 1971).	3-8-73	14-9-73 1-11-73	31-12-73	Do. Do.
12.	The Jullundur Cantonment (Regulation and Control of use of Loud-Speakers) Bye-Laws, 1970 (S.R.O. 136 of 1971).	21-5-73	11-9-73	19-10-73 31-12-73	Do.
13.	The Railway Board Secretariat Stenographers Service Grade III (Competitive Examination) Regulations, 1971 (G.S.R. 716 of 1971).	21-6-73	14-9-73 9-11-73	2-1-74	Do.
14.	The Deputy Fire Adviser Recruitment Rules, 1971 (G.S.R. 502 of 1971).	20-6-73	14-9-73	20-10-73 2-1-74	Do.

15.	The Passport (Fifth Amendment) Rules, 1971 (G.S.R. 1962 of 1971).	5-9-73 14-11-73	..	2-1-74	Do.
16.	The I.A.S./I.P.S. (Recruitment) Second Amendment Rules, 1971 (G.S.R. 586 and 587 of 1971).	19-4-73	11-9-73	20-10-73 2-1-74	Do.
17.	The Emergency Risks (Undertakings) Insurance Scheme, 1971 (S.O. 5486 of 1971).	3-9-73 30-11-73	4-10-73	9-11-73 3-1-74	Do.
18.	The Central Excise (Twelfth Amendment) Rules, 1971 (G.S.R. 1087 of 1971).	21-6-73	14-9-73 1-11-73	31-12-73	Do. Do.
19.	The Ministry of Finance (Department of Banking) Staff Car Driver Recruitment Rules, 1971 (G.S.R. 1639 of 1971).	3-9-73	4-10-73	21-12-73	Do.

## APPENDIX IV

(Vide para 156 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 Government's reply
(1)	(2)	(3)	(4)
1	First Report (5 L S) 21-22	The Committee have repeatedly stressed the need for indication of the minimum rank of the persons to be authorised by the Government to conduct searches/seizures. The underlying idea is that each and every Government officer may not be authorised to exercise the power of searches/seizures. The fact that any of the State Governments/Union Territories have vested this power only in responsible officers does not take away the need for a built-in safeguard repeatedly recommended by the Committee.	This has since been done (see G.S.R. 397-E of 1973, dt. 22-8-1973).
		The Committee also note that under the Northern Rice Zone (Movement Control) Order, 1968, as worded, not only the Head Constable and the persons authorised by the Central/State Governments have been empowered to carry out searches/seizures but they have been further empowered to authorise 'any person' to exercise these powers. The Committee are of the view that the provision for such further authorisation is as much against the spirit of the aforesaid recommendation of the Committee as non-indication of the minimum ranks of the persons initially authorised	

(1)	(2)	(3)	(4)
		<p>to exercise these powers. The Committee, therefore, desire that not only the minimum ranks of officers to be authorised by Central/State Governments to conduct searches/seizures should be specifically given in the Rules but the provision for further authorisation omitted therefrom.</p>	
<p>2 Second Report (5 LS) 18</p>	<p>The Committee are not convinced by the arguments given by the Ministry of Finance for non-payment of interest on any amount deposited in the account of a deceased depositor subsequent to his death or of any interest after the end of the month in which the notice is issued. The Committee note in this regard that the account of a deceased depositor in a bank continues to earn interest until the balance is paid to the legal heir, either in cash or by transfer to a new account opened in his name. The Committee desire that, in the interest of both equity and thrift, the practice obtaining in the banks in this regard should also be followed in case of deposits in the Post Office Savings Bank Accounts, and the Post Office Savings Banks Rules, 1965 suitably amended to this end.</p>	<p>The Rules have since been amended suitably (<i>see</i> H.S.R. 118 of 1973, dt. 10-2-1973).</p>	
<p>3 Fourth Report (5 LS) 32</p>	<p>In para 31 of the Sixth Report (First Lok Sabha), the Committee on Subordinate Legislation had stressed 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 that a period not less than 20 clear days, exclusive of the time taken in publishing the draft rules in the Gazette and despatching the Gazette</p>	<p>(i) Noted for future guidance so as to give sufficient margin to cover up the delay in the Press in publication of notifications (<i>vide</i> Ministry of Agriculture O.M. No. 16-1/71-A.M., dt. 20-2-1973).</p> <p>(ii) Necessary instructions issued to all concerned [<i>vide</i> Ministry of Defence O.M. No. 10/51/71/2314-C/D (Q &amp; C), dt. 11-10-72].</p> <p>(iii) This has been circulated to all Ministries/Departments for strict compliance [<i>vide</i> D.P.A. O.M. No. F. 32(39)/72-R &amp; C, dt. 28-5-1973].</p>	

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to various parts of the country, should be given to the public to send their comments on such draft rules. The Committee however, regret to observe that in quite a number of cases, the above recommendation of the Committee has not been complied with, and the period allowed to the general public to send their comments/suggestions on the draft rules was well below the minimum period of 30 days recommended by the Committee. The Committee will like to reimpress upon Ministries/Departments of Government the need for strict compliance with their afore-mentioned recommendation.

- 4 Fourth Report (5 LS) 36 In the opinion of the Committee, the case underscores the need for utmost care in printing of rules, regulations, etc. which are nothing but law in force. They also feel that the responsibility of a Ministry/Department should not cease with the sending of a notification to the Press. After the rules, regulations, etc. have been published in the Gazette the Ministries/Departments concerned should take immediate steps to examine whether the same have been correctly printed, and, if necessary, to issue a corrigendum therein.
- (i) This has been circulated to all Ministries/Departments for strict compliance in future [vide (i) D.P.A. O.M. No. F.32-40/72 R&C. dt.28-2/9-3-1973 and (ii) Cabinet Secretariat (Department of Personnel & A.R.) O.-M.No.2/101/72- att.(D).dt.18-4-73]
- (ii) Corrigendum to the D.M.S. (Personnel Officer) Recruitment Rules, 1972, issued (see G.S.R. 179 of 1974. dt. 16-2-74). Such lapses would not arise in future (vide Ministry of Agriculture (Department of Agriculture) O.M.No.A-12018/12/72-EEII, dt.25-3-74).
- 5 Fifth Report (5 L.C) 14-17 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 be-
- (i) Ministry of Shipping and Transport (Transport Wing) have since cancelled S.O. 599 of 1972 and republished the Motor Vehicles (Third Party Insurance) Amendment Rules, 1973. Vehicles (Third after giving 30 days period for objections suggestions to the public (see S.O. 2811 of 1973 dt.29-9-73). The Ministry have also noted the observations of the Committee

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fore the Gazette copies were made available to the public. 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.

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 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.

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 along with 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.

( Fifth Report  
(5 LS)  
27-28

The Committee regret to note that 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 re-impress upon Ministries/Departments of the Government the need for indication of correct year in the short title.

made in para 17 (*vide* their O. M. No. 41-TAG(1)/70 dt. 28-2-73).

(ii) The Directorate of Printing has issued necessary instructions to streamline the procedure for printing and circulation of rules, etc., in the Gazette, to all Ministries/Departments, *vide* their Memo. No. O-17034/1/72-P, dt. 30-4-73 (Miny. of Works & Housing O.M. No. H-11017/45 (1)/73-Coord., dt. 2-4-74).

(iii) D.P.A. have circulated the recommendations/observations of the Committee to all Ministries/Departments for compliance and have requested them to bring these to the notice of their attached and subordinate offices (*vide* their O.M. No. F.32(6)/73-R & C dated 6-3-73]

\* (i) The matter has been taken up with the Chief Controller of Printing and Stationery to make consequential changes in the short title of the rules with regard to the year in which the rule is made and the number of the amending rules (*vide* Ministry of Law, Justice and Company Affairs) (Legislative Department. D.O. No. F.4/10/72-L.I. dt. 25-1-73 to Chief Controller of Printing and Stationery and O.M. No. F.4/10/72. L.I., dt. 11-10-73).

\*No reply received from the Ministry of Health and Family Planning (Dept. Health) till the presentation of the Report.

- 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.
- (ii) The Ministry of Works & housing have forwarded— a copy of circular issued by the Directorate of Printing to all Ministries/Departments [vide their O.M. No. H-11017/45(1)/73-Coord., dt. 2-4-74].
- (iii) Brought to the notice of all officers and Sections to ensure that such mistakes do not occur in future [vide Ministry of Shipping and Transport (Transport Wing) O.M. No. 5-C(7)/73, dt. 22-6-1973].
- (iv) Circulated to all Sections for necessary action and guidance [vide Ministry of Defence O.M. No. F.3/1/73/D (Parl.), dt. 11/14-6-73].
- (v) Circulated to the concerned Sections for guidance and suitable necessary action (vide P & T Deptt. OM. No. H-11013/6/72-Parl., dt. 6-6-73).
- (vi) Circulated to all Sections and offices for information and guidance [vide Ministry of Home Affairs O.M. No. H-11013/1/73-Parl., dt. 21-2-74].
- (vii) Brought to the notice of all Sections/Offices for information and guidance [vide Deptt. of Personnel and A.R. O.M. No. H-11013/1/73-Parl., dt. 2-2-74].
- (viii) Circulated to all Sections for information and guidance [vide Ministry of Industrial Development O.M. No. 10(1)/73-Parl., dt. 23-6-73].
- (ix) Circulated to all Under Secretaries/Sections for information, guidance and necessary action [vide Miny. of Agriculture (Deptt. of Agriculture) O.M. No. 1-52/72-Genl. Coord., dt. 11-6-73].
- (x) Noted by the Ministry of Irrigation and Power vide their O.M. No. 3/8/67-Adm. II (Vol. III), dt. 18-1-73.



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- (xi) Noted and brought to the notice of Branches concerned for future guidance, *vide* Planning Commission O.M. No. F. 6/1/71-Parl., dated 8-1-73.
- (xii) Circulated to all Officers and Sections to avoid such lapses at all cost [*vide* Ministry of Petroleum and Chemicals O.M. No. H-11013(1)/73-Parl., dt. 29-1-73].
- (xiii) Brought to the notice of all Media Units and Administrative Sections to guard against such incongruities and for giving suitable instructions to the Government of India Press in this behalf (*vide* Ministry of Information and Broad casting O.M. No. H-11019/2/72-Parl., dt. 31-5-73).
7. Fifth Report (5 LS) 40-43
- 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 all 'Order' 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
- \* (i) Circulated to all sections and Officers for their information and guidance (*vide* Miny. of Home Affairs O.M. No. H 11013/1/73-Parl., dt. 21-2-74)
- (ii) Brought to the notice of all concerned for information and guidance in future (*vide* Miny. of Education and Social Welfare O.M. No. H-11013/2/72-P.U., dt. 11-6-73).
- (iii) The Directorate of Printing has issued necessary instructions to streamline the procedure for printing and circulation to rules, etc., in the Gazette to all Ministries/Departments, *vide* their Memo No. O-17034/1/72-P. dt. 30-4-73 (Miny. of Works and Housing O.M. No. H-11017/45(1)/73-Coord., dt. 2-4-74).
- (iv) The Deptt. of Parliamentary Affairs have circulated the observations/recommendations of the Committee to all Ministries/Deptts. with the request to bring these to the

\*No reply has been received from the Miny. of Health and Family Planning (Deptt. of Health) till the presentation of the Report.

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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.

notice of all concerned including their attached and Subordinate Offices for information and strict Compliance in future so that 'Orders' are laid on the Table promptly [vide D.P.A O.M. No. F. 32(9)/73-R & C dt. 24-3-73.]

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 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 along with the 'Order'. The Committee would henceforth take serious note of this omission.

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.

(v) Circulated for information and guidance [Vide Ministry of Shipping and Transport (Transport wing). O.M. No. 5-C(7)/73, dt. 22-6-73].

(vi) Circulated to all officers [Vide Miny. of D.F.nos O.M. No. F. 3/1/73/D (Parl dt.) 11/14-6-73].

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

(vii) Circulated to all concerned for guidance and Suitable necessary action [Vide P&T Deptt. O.M. No. H-11013 6/72-Parl., dt. 6-6-1973]

(viii) Brought to the notice of all concerned for information and necessary action (vide Deptt. of Personnel & A.R. O.M. No. H-11013/1/73-Parl., dt. 1-12-73).

(ix) Circulated to all Sections for information and guidance

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	<p>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.</p>		<p>[<i>vide</i> Miny. of Industrial Development O.M. No. 10 (1)/73-Parl., dt. 23-6-73].</p> <p>(x) Circulated to all Under Secretaries/Sections for compliance [<i>vide</i> Miny. of Agriculture (Deptt. of Agriculture) O.M. No. 1-52/72 Genl. Coord. dt. 11-6-73].</p> <p>(xi) Circulated to all officers and Branches with the request that the observations of the Committee should be borne in mind while laying 'Order' on the Table and the new procedure introduced by the Government of India Press should be followed strictly (<i>vide</i> Miny. of Railways endorsement No. 73/Parl.21, dt. 13-2-73).</p> <p>(xii) Necessary instructions issued to all concerned for strict compliance (<i>vide</i> Miny. of External Affairs O.M. No. Q-125/20/Parl. 73, dt. 31-5-73)</p> <p>(xiii) Brought to the notice of all concerned (<i>vide</i> Miny. of Finance (Deptt. of Economic Affairs) O.M. No. F. 2(35). NS/70/Pt., dt. 15-10-73).</p> <p>(xiv) Circulated to all officers and Branches for information and guidance (<i>vide</i> Deptt. of Company Affairs O.M. No. 3/3/73-CL. V., dt. 7-2-73).</p> <p>(xv) Circulated to all Sections with the request to carefully note the observations/recommendations of the Committee and take all possible steps to lay 'Orders' on the Table as soon as published in the Gazette (<i>vide</i> Miny. of Foreign Trade O.M. No. H-11013/2/73-Parl., dt. 7-2-73).</p> <p>(xvi) Brought to the notice of all concerned for compliance [<i>vide</i> Ministry of Labour &amp; Rehabilitation (Deptt. of Labour and Employment) O.M. No. H-11013/2/73-P.U., date: 16-4-73].</p>

(1)	(2)	(3)	(4)
8. Fifth Report (5LS) 46	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 there of indicated that these were to be filled on the basis of an examination. In their opinion, this was 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..	(i) Second proviso to rule 4 <i>ibid</i> has since been omitted [vide Miny. of Irrigation and Power O.M. No. 3/8/67/Adm. II (Vol. II), dt. 18-1-1973].	(ii)The mistake had crept in the rules in question on account of a misunderstanding of the advice recorded by the Legislative Counsel concerned. This misunderstanding could have been avoided if the file were shown to this Ministry before the rules were finally issued. But unfortunately that was not done. However, every Legislative Counsel has been advised to be more careful about the language in which the advice is tendered by him so that there may not be any scope for misunderstanding [vide Miny. of Law, Justice Company Affairs (Legislative Dept.) U.O. No. F.4 (10)/72-Leg., I, dt. 26-11 73].
9. Fifth Report (5 LS) 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 delegation 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.	The needful has since been done (see G.S.R. 1681 1970, dt. 26-8-70).	
10. Fifth Report (5 LS) 90	The Committee note with satisfaction that the Ministry of Works and Housing have agreed to amend rule 7 of	Rule 7, <i>ibid.</i> , has since been omitted (see G.S.R. 168 of 1974 dt. 9-2-74).	

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the Department of Works  
Housing and Urban Deve-  
lopment Arbitrator's Re-  
cruitment Rules,  
1970, as follows :—

“If any question arises  
as to the interpreta-  
tion of these rules,  
the same shall be  
decided by the Cen-  
tral Government.”

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

11 Fifth Report  
(5 LS)  
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 ex-  
pressing regret over the undue  
delay in their finalisation.

The observations of the Com-  
mittee have been brought to  
the notice of the concerned  
Unit (*vide* Miny. of Education  
and Social Welfare O.M.  
No. H-11013/2/72-P.U., dt.  
11-6-73).

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**MINUTES**

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## APPENDIX V

### XLIV

#### MINUTES OF THE FORTY-FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Thursday, the 24th January, 1974 from 15.00 to 17.00 hours.

#### PRESENT

Shri Vikram Mahajan—*Chairman*

#### MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavli
4. Shri Samar Guha
5. Shri S. A. Kader
6. Shri K. Lakkappa
7. Shri S. N. Misra
8. Shri Mohan Swarup
9. Shri Tulmohan Ram

#### SECRETARIAT

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

2. The Committee considered Memoranda Nos. 156 to 158, 171 and 173 to 175 on the following subjects:

Sl. No.	Memo No.	Subject
(1)	(2)	(3)
1.	156	The Ministry of Labour, Employment and Rehabilitation (Department of Rehabilitation) Settlement Organisation (Non-Gazetted Staff) Recruitment Rules, 1969 (G.S.R. 1674 of 1969).
2.	157	The Asian Institute of Educational Planning and Administration (Class I and II posts) Recruitment, Rules, 1969 (G.S.R. 835 of 1969).

1	2	3
3.	158	The Administrative Officer Government Hospitality Organisation of the Ministry of External Affairs (Recruitment) Rules, 1969 (G.S.R. 395 of 1970).
4.	171	** ** *
5.	173	** ** *
6.	174	(i) The Railways Red Tariff (Third Amendment) Rules, 1970 (G.S.R. 1021 of 1970). (ii) The Safdarjang Hospital and the Willingdon Hospital and Nursing Home (Non-Medical Gazetted Posts) Recruitment (Amendment) Rules, 1971 (G.S.R. 335 of 1971).
7.	175	The Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 (G.S.R. 1352 of 1971).

(i) *The Ministry of Labour, Employment and Rehabilitation (Department of Rehabilitation) Settlement Organisation (Non-Gazetted Staff) Recruitment Rules, 1969 (G.S.R. 1674 of 1969) — (Memo No. 156).*

3. The Committee considered the above Memorandum and regretted the delay of about 17 years in framing Recruitment Rules for various posts in the Settlement Organisation which came into existence in 1962.

(ii) *The Asian Institute of Educational Planning and Administration (Class I and II posts) Recruitment Rules, 1969 (G.S.R. 835 of 1969) — (Memo. No. 157).*

4. The Committee considered the above Memorandum and noted the opinion of the Ministry of Law that item No. 15 of the Schedule to the UPSC (Exemption from Consultation) Regulations did not include the Asian Institute of Educational Planning and Administration. In the light of this opinion, the Ministry of Education should not have treated the posts of Coordinator of India, Economist, Statistician and Documentalist as exempt from the purview of U.P.S.C. The Committee urged upon the Department of Personnel to issue necessary instructions to all Ministries/Departments about the necessity of consulting the U.P.S.C. while relaxing any of the Rules relating to Gazetted Posts unless the post was covered by the U.P.S.C. (Exemption from Consultation) Regulations.

\*\*Omitted portions of the minutes are not including in the Eleventh Report.



(iii) *The Administrative Officer, Government Hospitality Organisation of the Ministry of External Affairs (Recruitment) Rules, 1969 (G.S.R. 395 of 1970)—(Memo. No. 158).*

## (A)

5. The Committee considered the above Memorandum and noted with satisfaction the reply of the Ministry of External Affairs that the posts in the Government Hospitality Organisation of the Ministry of External Affairs had been exempted from the purview of the U.P.S.C. for the following reasons:

- (i) Appointments to the posts were made on the personal recommendation of the P.M. | P.M.'s Secretariat etc.; and
- (ii) As these posts are already enjoying exemption from the purview of the U.P.S.C., continued exemption will not tend to dilute the authority of the Commission in any ways.

## (B)

6. The Committee noted with satisfaction that, on being pointed out the Ministry of External Affairs had amended the above Rules by adding the following saving clause which is normally provided in all recruitment rules:—

“Savings:—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.”

7. to 16.

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(vi) (1) *The Railways Red Tariff (Third Amendment) Rules, 1970 (G.S.R. 1021 of 1970).*

(2) *The Safdarjang Hospital and the Willingdon Hospital and Nursing Home (Non-Medical Gazetted Posts) Recruitment (Amendment Rules, 1971 (G.S.R. 335 of 1972)—(Memo. No. 174).*

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\*\*Omitted portions of the minutes are not included in the Eleventh Report.

## (A)

17. The Committee considered the above Memorandum and noted that on being pointed out, the Ministry of Railways had amended the 'Third Amendment' of 1970 to the Railways Red Tariff as 'Second Amendment' and the Second Amendment of 1971 as the First Amendment so that there was no confusion in referencing and tracing the Rules.

## (B)

18. The Committee considered the above Memorandum and desired the Ministry of Health and Family Planning (Department of Health) to correct the year in short title of Safdarjang Hospital and the Willingdon Hospital and Nursing Home (Non-Medical Gazetted Posts) Recruitment (Amendment) Rules, from 1971 to 1972 as the Rules had been published in 1972. This was necessary to avoid confusion in referencing and tracing of the Rules.

- (vii) (1) *The Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 (G.S.R. 1352 of 1971).*
- (2) *The Central Vigilance Commission (Stenographer) Recruitment Rules, 1972— (Memo. No. 175).*

19. The Committee considered the above Memorandum and noted the reply of the Cabinet Secretariat (Department of Personnel and Administrative Reforms) that following the precedent of Regulation 7 of the U.P.S.C. (Staff) Regulation, Rule 9 had been incorporated in the C.V.C. (Staff) Rules, 1964 providing for temporary arrangements for a period not exceeding 3 months. As a corollary to this, similar Rule had been incorporated in Recruitment Rules for the posts of Research Assistant and Stenographers.

The Committee, however, noticed that generally Recruitment Rules did not contain a provision providing for making temporary arrangements for a period not exceeding 3 months in case suitable persons are not available (*vide* illustrative list in Annexure\*). The Committee desired the Department of Personnel and Administrative Reforms to issue necessary instructions to all Ministries/Departments that a uniform pattern should be followed by them in framing Recruitment Rules.

*The Committee then adjourned to meet again on the 25th January, 1974.*

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\*See Appendix II of the Report.

MINUTES OF THE FORTY-FIFTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)  
(1973-74)

The Committee met on Friday, the 25th January, 1974 from 15.00 to 17.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavitt
4. Shri Samar Guha
5. Shri S. A. Kader
6. Shri K. Lakkappa
7. Shri S. N. Misra
8. Shri Mohan Swarup

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee considered Memoranda Nos. 159, 164, 166, 168-169, 172, 176 to 181, 193 and 194 on the following subjects:—

S. No.	Memo No.	Subject
(1)	(2)	(3)
1.	159	(i) Armed forces Headquarters Civil Service Superintendent's Grade (Appointment by Competitive Examination) Regulations, 1970 (S.R.O. 252 of 1970). (ii) Armed Forces Headquarters Civil Service Assistants' Grade (Appointment by Competitive Examination) Regulations, 1970 (S.R.O. 253 of 1970). (iii) Armed Forces Headquarters Stenographers' Service (Appointment by Competitive Examination) Regulations, 1970 (S.R.O. 254 of 1970).
2.	164	** ** ** ** ** **

\*\*Omitted portions of the minutes are not included in the Eleventh Report.

1)	(2)	(3)
3 to 7	166, 168, 169 172 & 176 .	
	..	..
8	177	(i) The Delhi and Andaman and Nicobar Islands Civil Service (Second Amendment) Rules, 1971 (G.S.R. 1627 of 1971) (ii) The Delhi and Andaman and Nicobar Islands Civil Service (Third Amendment) Rules, 1971 (G.S.R. 1628 of 1971). (iii) The Delhi and Andaman and Nicobar Islands Police Service (Second Amendment) Rules, 1971 (G.S.R. 1629 of 1971).
9	178	The Tourist Baggage (Amendment) Rules, 1971 (G.S.R. 483 of 1971).
10	179	(i) The Army Ordinance Corps (Puncher/Verifier) Recruitment Rules, 1971 (S.R.O. 29 of 1971). (ii) The Indian Air Force (Civilian Gazetted Officers) Recruitment Rules, 1971 (S.R.O. 70 of 1971).
11	180	The Directorate of Advertising and Visual Publicity (Class II Posts) Recruitment Rules, 1971 (G.S.R. 790 of 1971).
12	181	The Fort Health Organisation, Kandla (Allotment of Residential Quarters) Rules , 1971 (G.S.R. 510 of 1971).
13 & 14	193 & 194	
	..	..

(i) **Armed Forces Headquarters Civil Service Superintendents' Grade (Appointment by Competitive Examination) Regulations, 1970 (SRO 252 of 1970).**

(ii) **Armed Forces Headquarters Civil Service Assistants' Grade (Appointment by Competitive Examination) Regulations, 1970 (SRO 253 of 1970).**

(iii) **Armed Forces Headquarters Stenographers' Service (Appointment by Competitive Examination) Regulations, 1970 (SRO 254 of 1970)—(Memo. No. 159).**

3. The Committee considered the above Memorandum and were satisfied with the reply of the Ministry of Defence that the proviso

\*\*Omitted portions of the minutes are not included in the Eleventh Report.

to sub-regulation (5) of Regulation 8 of S.R.O. Nos. 252 and 253 which empowered the Government to determine the manner in which unfilled vacancies shall be filled, had been retained in the Regulations at the instance of U.P.S.C. Similar proviso had been incorporated in sub-regulation (5) of Regulation 8 of the A.F. HQ. Stenographers' Service Grade II (Appointment by Competitive Examination) Regulations, 1973.

4 to 9.

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- (viii) (1) *The Delhi and Andaman and Nicobar Islands Civil Service (Second Amendment) Rules, 1971 (G.S.R. 1627 of 1971).*
- (2) *The Delhi and Andaman and Nicobar Islands Civil Service (Third Amendment) Rules, 1971 (G.S.R. 1268 of 1971).*
- (3) *The Delhi and Andaman and Nicobar Islands Police Service (Second Amendment) Rules, 1971 (G.S.R. 1629 of 1971) (Memo No. 177).*

10. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Home Affairs for not giving an explanatory note regarding retrospective effect given to the above Rules. The Committee felt that retrospective effect in the case of the latter two Rules could have affected some persons adversely as they provided for increase of Selection Grade posts from 10 per cent to 20 per cent in the Civil Service and 6.4 per cent to 13 per cent in the Police Service and also reduction of minimum service from 12 years to 8 years for promotion to Selection Grade. The Committee therefore reiterated their earlier Recommendation made in para 10 of Second Report (Fourth Lok Sabha) in regard to giving explanatory note in all cases where retrospective effect was given to 'Orders'.

- (ix) *The Tourist Baggage (Amendment) Rules, 1971 (G.S.R. 483 of 1971)—(Memo. No. 178).*

11. The Committee considered the above Memorandum and were not satisfied with the proposed amendment to Rule 4(a) of the Tourist Baggage Rules, 1958. The Committee desired the Ministry

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\*\*Omitted portions of the minutes are not included in the Eleventh Report.

to delete the words 'the proper officer is satisfied that' from the Rules as proposed to be amended by them.

(x) (1) *The Army Ordnance Corps (Puncher|Verifier) Recruitment Rules, 1971 (SRO 29 of 1971).*

(2) *The Indian Air Force (Civilian Gazetted Officers) Recruitment Rules, 1971 (S.R.O. 70 of 1971)—(Memo. No. 179).*

12. The Committee considered the above Memorandum and noted with satisfaction the reply of the Ministry of Defence that the rule on 'Application' in the above Rules was in accordance with a set format for Recruitment Rules in the Ministry and if it was deleted from the above Rules, all Rules pertaining to one post would have to be amended which would be a huge task and the advantage would not be commensurate with the efforts involved. The Committee further noted the assurance of the Ministry that in future no rule on 'application' would be included in the Recruitment Rules which relate to only one post.

(xi) *The Directorate of Advertising and Visual Publicity (Class II posts) Recruitment Rules, 1971 (G.S.R. 790 of 1971)—(Memo. No. 180).*

13. The Committee considered the above Memorandum and were satisfied with the reply of the Ministry of Information and Broadcasting giving reasons for excluding the post of Supervisor from the purview of the above Rules. The Committee further noted with satisfaction that the revised Recruitment Rules for the post of Supervisor which were under consideration would on finalisation be notified as amendment to the above Rules.

(xii) *The Port Health Organisation, Kandla (Allotment of Residential Quarters) Rules, 1971 (G.S.R. 510 of 1971)—(Memo. No. 181).*

14. The Committee considered the above Memorandum and were not satisfied with the reply given by the Ministry of Health and Family Planning (Department of Health) that it would be open to the allottee to represent against the action taken against him|her under S.R. 317-AA—11(4) and (5) and S.R. 317-AA—12 of the Port Health Organisation, Kandla (Allotment of Residential Quarters) Rules, 1971. The Committee noted that in a similar case regarding

the India Meteorological Department (Allotment of Residences) Rules, 1969, the Ministry of Tourism and Civil Aviation, on being pointed out to them, had agreed to amend the Rules for affording a reasonable opportunity of being heard before action was taken under the Rule. The Committee desired the Ministry of Health and Family Planning to amend the above Rules on the lines of the India Meteorological Department (Allotment of Residences) Rules, 1969.

15 and 16.

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*The Committee then adjourned to meet again on the 28th January, 1974 at 14.30 hours.*

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**\*\*Omitted portions of the minutes are not included in the Eleventh Report.**





(1)	(2)	(3)
		(ii) The Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971 (G.S.R. 1602 of 1971).
10& 11	190 & 191	** ** *
12	192	Specifying the Minimum Bank of persons authorised to Conduct Search (Seizure with a view to secure the compliance of the 'Orders'.
13& 14	193 A & 195	** ** *
3+05	**	** ** *

(ii) *The Emergency Risks (Goods) Insurance Scheme, 1971 (S. O. 5483 of 1971)*

(Memorandum No 182)

6. The Committee considered the above Memorandum and were not satisfied with the reply given by the Ministry of Finance regarding the reasons for not paying interest on unpaid dues under the above Scheme. The Committee noted that the Life Insurance Corporation had decided to allow simple interest at the rate of 3 per cent on all claims which remained unsettled for more than three months. Taking into account the peculiar features of the Emergency Risks Insurance, the Committee recommended that in cases where the payment was delayed even after completion of formalities. Government should pay interest to the policy holders on the unpaid claims. They also desired the Government to fix certain maximum time within which the claims should be settled.

(iii) *The Survey of India (Recruitment from the Corps of Engineer Officers) Amendment Rules, 1971 (G.S.R. 1014 of 1971)*

(Memorandum No. 183)

7. The Committee considered the above Memorandum and deprecated the delay of 12 years on the part of the Ministry of Science and Technology in finalising the above Amendment Rules.

8 to 17.                      \*\*                      \*\*                      \*\*

\*\*Omitted portions of the minutes are not included in the Eleventh Report.

(ix) (a) *The Aircraft (Second Amendment) Rules, 1972* (G.S.R. 324 of 1972).

(b) *The Employees Provident Fund Staff (Classification, Control and Appeal) Rules, 1971* (G.S.R. 1602 of 1971)—

(Memorandum No. 189)

## I

18. The Committee noted with satisfaction that on being pointed out, the Ministry of Tourism and Civil Aviation have agreed to amend Rules 135-C of the Aircraft Rules, 1937 so that its wording does not give an impression on the mind of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desired the Ministry to amend the Rules at an early date:

## II

19. The Committee noted with satisfaction that on being pointed out, the Ministry of Labour and Employment have agreed to amend Rule 30 of the Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971 so that it does not give an impression on the minds of the persons concerned that the jurisdiction of the courts of law is being ousted. The Committee desired the Ministry to issue the amendment at an early date.

20 & 21.

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(xii) *Specifying the Minimum Rank of Persons Authorised to conduct search/seizure with a view to secure the compliance of the 'Orders'.—*

(Memorandum No. 192)

22. The Committee considered the above Memorandum and noted with satisfaction that the Ministries|Departments concerned have agreed to amend the following 'Orders' so as to indicate therein the minimum rank of persons to be authorised by Government to conduct search/seizure:

(1) *The Cotton Textiles (Control) Fourth Amendment Order, 1971* (S. O. 3807 of 1971).

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\*Omitted portions of the Minutes are not included in the Eleventh Report.

- (2) The Copper (Prohibition of use in the manufacture of Electrical Cables and Wires) Order, 1970 (S. O. 4092 of 1970).
- (3) The Electrical Cables and Wires Control Order, 1970 (S. O. 4092 of 1970).
- (4) The Paraffin Wax (Supply, Distribution and Price Fixation Order, 1972 (G.S.R. 71-E of 1972).
- (5) The Tractors (Distribution and Sale) Control Order, 1971 (S. O. 3258 of 1971).

The Committee desired the Ministries|Departments concerned to amend the 'Orders' at an early date.

23 & 24.

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*The committee then adjourned to meet again on Tuesday, the 29th January, 1974 at 14.30 hours.*

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\*Omitted portions of the Minutes are not included in the Eleventh Report.

XLVII

MINUTES OF THE FORTY-SEVENTH SITTING OF COMMITTEE  
ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)  
(1973-74)

The Committee met on Tuesday, the 29th January 1974 from  
14.30 to 16.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavit
5. Shri S. A. Kader
6. Shri K. Lakkappa
7. Shri S. N. Misra
8. Shri Mohan Swarup
9. Shri Tulmohan Ram

SECRETARIAT

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

2. The Committee considered Memorandum Nos. 196 to 209 and  
216 on the following subjects:—

S. No.	Memo No.	Subject
(1)	(2)	(3)
1 to 8.	196 to 203	.. .. .
9.	204	The Draft Drugs & Cosmetics (Amendment) Rules, 1971 (S.O. 2361 of 1971).

\*Omitted portions of the Minutes are not included in the Eleventh Report.

(1)	(2)	(3)
1.	205	The Mineral Concession (Second Amendment) Rules, 1971 (G.S.R. 158c of 1971).
11.	206	The Radiation Protection Rules, 1971 (G.S.R. 1601 of 1971)
12.	107	The Monopolies and Restrictive Trade Practices (Classification of goods) Rules, 1971 (G.S.R. 1033 of 1971).
13.	208	The Indian Air Force Act (Amendment) Rules, 1970 (S.R.O. 396 of 1970).
14.	209	The Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970 (S.R. 206 of 1970).
15.	216	Delay in sending final replies by Ministeries Departments to references made by the Committee on Subordinate Legislation.
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3 to 10.	**	**

(ix) *The Draft Drugs and Cosmetics (Amendment) Rules, 1971*  
(S. O. 2361 of 1971) . (Memo. No. 204)

11. The Committee considered the above Memorandum and noted with satisfaction that the Ministry of Health and Family Planning (Department of Health) had agreed to amend the Drugs and Cosmetics Act so as to make an express provision therein empowering the Government to prohibit the manufacture of a drug considered unsafe for use. The Committee desired the Ministry to amend the Act at an early date.

(x) *The Mineral Concession (Second Amendment) Rules, 1971*  
G.S.R. 1580 of 1971) - (Memo. No. 205).

12. The Committee considered the above Memorandum and were not satisfied with the reasons given by the Ministry of Steel and Mines (Department of Mines) for having the information from the licence confidentially. The Committee desired the Ministry to delete the word 'confidentially' from Rule 16 of the Mineral Concession Rules, 1960 as the Ministry had failed to satisfy as to how the licensee could be penalized if he failed to keep the information confidential.

(xi) *The Radiation Protection Rules, 1971* (G.S.R. 1601 of 1971)  
(Memo No. 206)

\*Omitted portions of the Minutes are not included in the Eleventh Report.

## I

13. The Committee noted with satisfaction that the Department of Atomic Energy had proposed to amend Rule 1(3) of the Radiation Protection Rules, 1971 so as to make it clear that they came into force from the date of their publication in the Gazette. The Committee desired the Department to amend the Rules at an early date.

## II

14. The Committee considered the above Memorandum and deprecated the delay of 9 years in framing Rules under the Atomic Energy Act, 1962.

(xii) *The Monopolies and Restrictive Trade Practices (Classification of goods) Rules, 1971 (G.S.R. 1033 of 1971)—(Memo. No. 207)*

15. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) that since all orders made by Central Government under Section 21 and Section 26(3) are appealable to the Supreme Court under Section 55 of the Monopolies and Restrictive Trade Practices Act, the right of appeal against the classification of goods was indirectly available. The Committee felt that there should be a specific provision in the Rules for affording an opportunity of representation to an aggrieved party against the classification and desired the Ministry to amend the rules accordingly.

(xiii) *The Indian Air Force Act (Amendment) Rules, 1970 (S.R.O. 396 of 1970) - (Memo. No. 208)*

16. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Defence and desired them to make an express provision in the Indian Air Force Act, 1950 vesting powers for charging of fees for the supply of copies of the proceedings of court of enquiry.

(xiv) *The Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970 (S.R.O. 206 of 1970) - (Memo. No. 209)*

## I

17. The Committee noted with satisfaction that on being pointed out, the Ministry of Defence had issued amendment to the above Bye-laws indicating in the preamble (a) the date of the Gazette in which the draft bye-laws were published; (b) the date on which the Gazette copies containing the draft bye-laws were made available to the public; and (c) the last date fixed for the receipt of public comments thereon.

## II

18. The Committee noted with satisfaction that on being pointed out, the Ministry of Defence have amended the above bye-laws laying down specific distances, etc. to be maintained in constructing the building or premises of Mills.

## III

19. The Committee noted with satisfaction that the Ministry of Defence have amended Bye-law 14 *ibid* providing an opportunity of being heard to a licensee before cancellation of licence.

(xv) *Delay in sending final replies by Ministries|Departments to references made by the Committee on Subordinate Legislation-*  
(Memo. No. 216)

20. The Committee expressed its displeasure at the delay on the part of certain Ministries|Departments in sending final replies to the communications of the Committee in respect of 'Orders' given in the †ANNEXURE. The Committee decided to hear oral evidence of the representatives of the Ministry of Finance in regard to 1969 and 1970 'Orders' mentioned at S. Nos. 1 and 2 of the †ANNEXURE. With regard to the remaining 'Orders' the Committee desired its displeasure to be communicated to the Ministries|Departments concerned.

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*The Committee then adjourned to meet again on the 11th and 12th February, 1974.*

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†Please see Appendix III of the Report.

\*Omitted portions of the Minutes are not included in the Eleventh Report.

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MINUTES OF THE FIFTIETH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)  
(1973-74).

The Committee met on Thursday, the 28th March, 1974 from 16.00 to 17.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*.

MEMBERS

2. Shri T. H. Gavit
3. Shri Samar Guha
4. Shri Y. S. Mahajan
5. Shri S. N. Misra

SECRETARIAT

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

2&3.                    \*\*                    \*\*                    \*\*

4. The Committee considered Memoranda Nos. 210, 212, 213, 214, 224, 225, 228 to 232 and 235 to 237 on the following subjects and 'Orders':—

S. No.	Memo No.	Subject
(1)	(2)	(3)
1 to 6,	210, 212-214, 224, 225	**                    **                    **
7,	228	The Passports (Fifth Amendment) Rules, 1971 (G.S.R. 1962 of 1971).

\*Omitted portions of the Minutes are not included in the Eleventh Report.



1	2	3
8.	229	The Central Excise (Twelfth Amendment) Rules, 1971 (G.S.R. 1087 of 1971).
9.	230	The Jullundur Cantonment (Regulation and Control of use of Loud-Speakers) Bye-laws, 1970 (S.R.O. 136 of 1971).
10.	231	The Railway Service Commission (Chairman, Member-Secretaries, Assistant Secretaries) Recruitment (Amendment) Rules, 1971 (G.S.R. 1657 of 1971).
11.	232	The Ministry of Finance (Department of Banking) Staff Car Driver Recruitment Rules, 1971 (G.S.R. 1639 of 1971).
12 to 14.	235 to 237	** ** *
5 to 10.	**	** ** *

(vii) *The Passports (Fifth Amendment) Rules, 1971 (G.S.R. 1962 of 1971),—(Memorandum No. 228)*

11. The Committee considered above memorandum and noted with satisfaction that the Ministry of External Affairs on being pointed out to them, had agreed to amend proviso to Rule 8 of the Passport Rules to indicate that for seeking exemption from financial guarantee, the applicant abroad had to furnish to the passport authority documentary evidence to establish that he had sufficient means to maintain himself abroad. The Committee desired the Ministry to issue amendment at an early date.

(viii) *The Central Excise (Twelfth Amendment) Rules, 1971 G.S.R. 1087 of 1971).—(Memorandum No. 229).*

12. The Committee considered above memorandum and noted with satisfaction that the Ministry of Finance (Department of Revenue and Insurance) on being pointed out, had agreed to amend Rule 96 ZO(3) of the Central Excise Rules to give discretionary powers to the Collectors of Central Excise to relax where deemed fit, the period of preclusion after considering the merits of each case on the lines of discretion vested in Rule 96 ZO(4). The Committee desired the Ministry to issue amendment at an early date.

(ix) *The Jullundur Cantonment (Regulation and Control of use of Loud-Speakers) Bye-laws, 1970 (S.R.O. 136 of 1971).—(Memo. No. 230.*

\*Omitted portions of the Minutes are not included in the Eleventh Report.

13. The Committee considered above memorandum and noted with satisfaction that the Ministry of Defence on being pointed out to them had amended the Bye-law 3 to indicate the conditions subject to which a person can make use of the loud-speaker in the Julundur Cantonment and Bye-law 5 to substitute the term 'National Emergency' for 'Emergency'.

(x) *The Railway Service Commission (Chairman, Members- Secretaries, Assistant-Secretaries) Recruitment (Amendment) Rules, 1971 (G.S.R. 1657 of 1971).—(Memorandum No. 231) .*

14. The Committee considered above memorandum and noted with satisfaction that the Ministry of Railways (Railway Board) on being pointed out, had amended Rule 5 in order to provide same tenure for the office of the Chairman selected either by direct recruitment or through transfer on deputation in order to eliminate scope of discrimination.

(xi) *The Ministry of Finance (Department of Banking) Staff Car Driver Recruitment Rules, 1971 (G.S.R. 1639 of 1971).—(Memorandum No. 232)*

15. The Committee considered above memorandum and noted that the Ministry of Finance (Department of Banking) on being pointed out had deleted Rule 6 relating to repeal and saving as it was vaguely worded.

16 to 22.

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23. The Committee then adjourned to meet again at 15.00 hours on Tuesday, the 30th April, 1974.

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\*Omitted portions of the Minutes are not included in the Eleventh Report.

