

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(FIFTH LOK SABHA)

FOURTEENTH REPORT

(Presented on the 20th December, 1974)



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1974/Agrahayana, 1896 (Saka)

Price : Rs. 2.70 Paise

CORRIGENDA TO THE FOURTEENTH REPORT
OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (FIFTH LOK SABHA)

<u>Page</u>	<u>Line</u>	<u>for</u>	<u>read</u>
(ii)	14-15	(Allotment of ednces)	(Allotment of residences)
	17	3	1973
	18	11-E	191-E
15	25	a guessing	aguessing
42	18	109	100
44	10	therefor	therefore

-o-o-o-o-

CONTENTS

	PARA Nos.	PAGE No.
COMPOSITION OF THE COMMITTEE		(iv)
REPORT:]		I
I. Introduction	1—4	1
II. Incorporation of a provision in Acts for laying of Rules framed thereunder before Parliament		1
III. The Railway Protection Force (Amendment) Rules, 1973 (G.S.R. 448-E of 1973)	5—11 12—19	4
IV. The Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971 (G.S.R. 1033 of 1971)	20—29	10
V. The International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973 (S.O. 717-E of 1973)	30—40	16
VI. The Central Excise (Seventeenth Amendment) Rules, 1971 (G.S.R. 1780 of 1971)	41—45	20
VII. Disposal of Records (Wireless Planning and Coordination Wing of the Ministry of Communications) Rules, 1973 (G.S.R. 131 of 1973)	46—50	22
VIII. The Indian Museum Recruitment (Second Amendment) Rules, 1973 (G.S.R. 898 of 1973)	51—55	25
IX. The Council of Architecture Rules, 1973 (G.S.R. 67-E of 1973)	56—61	26
X. The Delhi Transport Corporation (Members) Rules, 1973 (S.O. 256-E of 1973)	62—65	28
XI. The Delhi Development Authority (Issue and Management of Bonds) Regulations, 1970 (S.O. 1135 of 1972)	66—71	29
XII. The Tyres and Tubes (Prices Control) Order, 1973 [S.O. 718 (E) I DRA/18(G)/73 dated 29-11-73]	72—78	31
XIII. The Fundamental (Second Amendment) Rules, 1971 (G.S.R. 178 of 1971)	79—81	33
XIV. The Indian Wireless Telegraph Rules, 1973 (G.S.R. 526 of 1973)	82—86	35
XV. The Export of Non-baled Coir Yarn (Inspection) Rules, 1972 (S.O. 1131 of 1972)	87—89	37
XVI. The Delhi Transport Corporation (Advisory Council) Rules, 1973 (S.O. 168 of 1973)	90—93	39
XVII. The Central Government Health Scheme (Kanpur) Rules, 1972 (S.O. 2642 of 1972)	94—97	39
XVIII. The Ministry of Finance (Department of Economic Affairs) Verifying Officer Recruitment Rules, 1971 (G.S.R. 603 of 1971)	98—100	42
XVIII. The Ministry of Finance (Department of Economic Affairs) Verifying Officer Recruitment Rules, 1971 (G.S.R. 603 of 1971)	98—100	42

**PERSONNEL OF THE COMMITTEE ON SUBORDINATE LEGIS-
LATION
(1974-75)**

1. Dr. Kailas—*Chairman*
2. Shri T. Balakrishnaiah
3. Shri K. Chikkalingaiah
4. Shrimati Premalabai Dajisaheb Chavan
5. Shri Khemchandbhai Chavda
6. Shri Md. Jamilurrahman
7. Shri Dinesh Joardar
8. Shri Kamala Prasad
9. Shri Zulfiquar Ali Khan
10. Shri Mohan Swarup
11. Shri Paokai Haokip
12. Shri M. S. Sanjeevi Rao
13. Shri Ebrahim Sulaiman Sait
14. Shri R. R. Sharma
15. Shri Tayyab Hussain

SECRETARIAT

Shri P. K. Patnaik—*Additional Secretary,*

Shri H. G. Paranjpe—*Chief Financial Committee Officer.*

REPORT

I

INTRODUCTION

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

2. The Committee have held five sittings on the 28th September, 14th October, 15th October, 5th and 17th December, 1974.

3. The Committee considered and adopted this Report at their sitting held on the 17th December, 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 II).

II

INCORPORATION OF A PROVISION IN ACTS FOR LAYING OF RULES FRAMED THEREUNDER BEFORE PARLIAMENT.

5. In paras 36-37 of their Third Report (First Lok Sabha) presented to Lok Sabha on the 3rd May, 1955, the Committee on Subordinate Legislation had recommended that in all future Bills which might seek to delegate power to make rules, regulations, etc. or which might seek to amend earlier Acts giving power to make rules, regulations, etc., suitable provisions regarding laying them on the Table should be included therein. This recommendation which was accepted by the Ministry of Law *vide* paras 78-79 of the Sixth Report of the Committee (First Lok Sabha) was reiterated in para 49 of their Ninth Report (Fifth Lok Sabha).

6. Although the current practice is to provide for laying of all Rules framed under various statutes before Parliament, it was noted during the course of examination of certain 'Orders' relating to 1973 and 1974 that the following Rules had not been laid on the Table as

the Acts under which they had been framed contained no provision for their laying before Parliament:

S. No.	Name and No. of Order	Name of the Act under which framed	Ministry/Department concerned.
1	2	3	4
1	(i) Indian Post Office (3rd Admt.) Rules 1973 (S.O. 1640 of 1973).	Indian Post Office Act, 1898.	Communications (P & T Board)
	(ii) Indian Post Office (4th Admt.) Rules, 1973 (S.O. 2233 of 1973).	Do.	Do.
	(iii) Indian Post Office (7th Admt.) Rules, 1973 (S.O. 2895 of 1973).	Indian Post Office Act, 1898.	Communications (P&T Board).
2	Khadi and other Handloom Industries Development (Exemption from payment of Additional Excise Duty on Rags of Cotton Rayon and Artificial Silk Fabrics) Rules, 1973 (S.O. 426 of 1973).	Khadi and Handloom Industries Development (Add. Excise Duty on Cloth) Act, 1953.	Commerce.
3	Employees' Provident Fund (Grant of Advances to Officers and Staff other than Commissioners for building/purchasing of Houses) Amendment Rules, 1973 (G.S.R. 1153 of 1973).	Employees Provident Fund and Family Pension Fund Act, 1952.	Labour.
4	Rajghat Samadhi (Amdt.) Rules, 1973 (G.S.R. 1176 of 1973).	Rajghat Samadhi Act, 1951.	Works and Housing.
5	(i) Military Lands and Cantonments Service (Class I and and Class II) 2nd Admt. Rules, 1973 (S.R.O. 228 of 1973).	Cantonment Act, 1924.	Defence.
	(ii) Belgaum Cantonment (Division into Wards) Amendment Rules, 1973.		
6	(i) Delhi Transport Corporation (Advisory Council) (Second Admt.) Rules, 1973 (S.O. 3168 of 1973).	Road Transport Corporations Act, 1950.	Shipping and Transport (Transport Wing).
	(ii) Delhi Transport Corporation (Members) (Amdt.) Rules, 1973 (S.O. 3402 of 1973).		
7	Motor Vehicles (Third Party Insurance) Admt. Rules, 1973 (S.O. 2811 of 1973).	Motor Vehicles Act, 1939	Shipping and Transport (Transport Wing).

1	2	3	4
8	(i) Bristles (Grading and Marking) Amdt. Rules, 1973 (S.O. 3484 of 1973). (ii) Sheekakai Powder Grading and Marking Rules, 1973 (S.O. 2716 of 1973). (iii) Saffron Grading and Marking Amendment Rules, 1973.	Agricultural Produce (Grading and Marking) Act, 1937.	Agriculture (Department of Agriculture).
9	Territorial Army (Second Amendment) Rules, 1973 (S.R.O. 265 of 1973).	Territorial Army Act, 1948.	Defence.
10	Harbour Craft Rules for the port of Madras (Amdt.) Rules, 1974 (G.S.R. 443 of 1974).	Indian Ports Act, 1908.	Shipping and Transport (Transport Wing).
11	The State Bank of India (Appointment of Employee Director) Rules, 1974.	State Bank of India Act, 1955.	Finance (Department of Banking).

7. It was also noticed that in certain cases although the Acts were amended more than once after 1956 (when the Committee's aforesaid recommendation was accepted provision for laying of rules in the above Acts was not made through amending Acts, e.g. Employees Provident Fund and Family Pension Fund Act, 1952 was amended six times by Acts 22 of 1958, 46 of 1960, 48 of 1962, 28 of 1963, 22 of 1965 and 16 of 1971. The Foreigners Act, 1946 was amended by Acts 11 of 1957 and 42 of 1962).

8. Attention of the Ministries concerned was drawn to the above quoted recommendation of the Committee and they were asked to state whether they had any objection to amend the Acts so to provide for laying of all rules framed thereunder before Parliament.

9. The Ministries/Departments of Communications (P & T Board), Commerce, Labour, Works and Housing, Defence, Shipping and Transport (Transport Wing) and Agriculture and Irrigation (Department of Agriculture) concerned with S. Nos. 1 to 7 and 9 of the above Statement have replied that they have no objection to incorporate a provision in the Acts for laying of rules framed thereunder. Final reply is awaited in the case of Harbour Crafts Rules for the port of Madras (Amendment) Rules, 1974 (S. No. 10 of above Statement). No replies have been received in the cases mentioned at S. Nos. 8 and 11 of the above Statement.

10. The Committee are distressed to note that large number of Acts still do not provide for laying of Rules on the Table. Besides the

Acts mentioned in para 6 certain other Acts might also not be having such a provision. It is incomprehensible that even 20 years after the Committee had made the aforesaid recommendation, Bills should not have been brought providing for laying of Rules before Parliament. It is hardly necessary for the Committee to emphasise the imperative need for incorporation of such a provision in Acts. As they observe, it is an important check exercised by Parliament—the delegating authority over subordinate legislation framed by the executive in exercise of the delegated powers.

They are surprised that their recommendation made in paras 36-37 of Third Report (First Lok Sabha) for incorporation of a provision in Acts for laying of rules framed thereunder before Parliament, though accepted by Government, has not been kept in view while bringing Amending Bills subsequent to the presentation of that Report to the House on the 3rd May, 1955.

11. The Committee earnestly desire all Ministries/Departments to undertake examination of all Acts with which they are administratively concerned in order to find out which of them do not contain a provision for laying of Rules before Parliament and to incorporate this provision in the Acts at their earliest.

III

THE RAILWAY PROTECTION FORCE (AMENDMENT) RULES, 1973 (G.S.R. 448-E of 1973)

12. Sub-rule (7) of rule 21 of the Railway Protection Force Rules, 1959, inserted by G.S.R. 448-E of 1973, provides as under:

“(7) The age limit, length of service and other matters relating to promotions and the procedure for determining the seniority on appointment or promotion shall be such as may be prescribed by regulations.”

Rule 32, *ibid.*, which empowers the Inspector-General to frame regulations, provides as follows:

“Powers of Inspector-General to frame regulations.—The Inspector-General may from time to time, for the proper administration of the Force frame and issue regulations with the approval of the Central Government and superior officers and members of the Force shall, as a condition of their service, be governed by such regulations in the discharge of their duties. Such regulations as are in force on the date of commencement of the Act shall continue to remain in force unless repealed or modified.”

13. The R.P.F. Act, 1957, under which the above rules have been framed, neither provides for the making of regulations by the Central Government, nor authorises them to further sub-delegate the power of legislation to any subordinate authority. Section 21 of the Act empowers the Central Government only to *make rules* for carrying out the purposes of this Act and lay them before Parliament.

14. The matter was taken up with the Ministry of Railways (Railway Board) and they were asked to state—

- (i) the authority in the parent Act under which the regulations were made by the Inspector-General of the Railway Protection Force which was tantamount to sub-delegation of legislative power; and
- (ii) whether the regulations made under rules 21(7) and 32 of the R.P.F. Rules, 1959, had ever been published in the Gazette of India and laid before Parliament, as was required and being done in the case of Rules made under section 21 of the principal Act. They were also asked to give the G.S.R. number and dates of their publication in the gazette and laying before Parliament.

15. In reply to the points raised above, the Ministry have stated as follows:

“With regard to item (i).....it actually seeks information on the following two points:

- (a) what is the authority in the parent Act under which the Regulations are made by the Inspector-General Railway Protection Force;
- (b) whether it is not tantamount to sub-delegation of legislative powers.

Regarding (a) there is no provision in the parent Act conferring the power on the Inspector General to frame Regulations. Attention is invited, however, to Rule 32 of the RPF Rules, 1959, made under the said RPF Act which provides that the Inspector General ‘may from time to time for the proper administration of the Force frame and issue Regulations with the approval of the Central Government and superior officers and members of the Force shall as a condition of their service be governed by such Regulations in the discharge of their duties’. Thus it would be seen that the Regulations are framed in exercise of the powers conferred by Rule 32.

Regarding (b), Rule 32 confers no new power on the Inspector General but it merely makes express what is implicit in Section 8* of the RPF Act, 1957. That the Rule is not tantamount to sub-delegation of legislative power has been explained in a recent judgment of the Jabalpur High Court (writ petition No. 623 of 1972—Mathura Prasad Yadava Vs. Inspector General RPF. The relevant observations of the court are as follows:

'when Rule 32 authorises the Inspector General to frame and issue regulations with the approval of the Central Government for the proper administration of the Force, it confers no new power on the Inspector General but it merely makes express what is implicit in Section 8 of the Act. The Rule correctly understood, does not sub-delegate any power of the Central Government of making rules as to the conditions of service; it merely recognises that power of administration of the Force subject to control of the Central Government is vested by section 8 of the Act in the Inspector General. The condition of service is laid by the rule itself that superior officers and members of the force shall, as a condition of their service, be governed by the regulations in discharge of their duties. Putting it differently, the rule serves a dual purpose. First, by authorising the Inspector General to frame and issue regulations with the approval of the Central Government for the proper administration of the Force it carries out the purpose of section 8 of the Act and makes express which is implicit in that provision, and secondly, it lays down a condition of service for the officers and members of the Force that they shall be governed by the regulations in the discharge of their duties. The rule does not in any way transfer to the Inspector General the rule making power of the Central Government on the subject of conditions of service of the officers and members of the Force and there is no sub-delegation of any rule making power. There is yet another reason for holding that there is no sub-delegation. The authority to make regulation conferred on the Inspector General by Rule 32 is accompanied with an important condition that it can be

*Section 8 (1), *ibid.*, provides as under :

"The superintendence of the Force shall vest in the Central Government, and subject thereto the administration of the Force shall vest in the Inspector-General and shall be carried on by him in accordance with the provisions of this Act and of any rule made thereunder."

exercised only with the approval of the Central Government. The power to approve preserved by the Central Government by the Rule will include a power to disapprove or to reject any regulation proposed by the Inspector General. It will even include a power to suggest modification or change in a proposed regulation. Thus, the control preserved by the Central Government is substantial and close enough to hold that the regulations made and issued by the Inspector General are in effect regulations made and issued by the Central Government. The reason of the rule against sub-delegation is that when Parliament entrusts a function to 'A' confidence being reposed in 'A', he alone must discharge that function. This reason is wanting in a case where the delegate preserving substantial control takes merely the assistance of some other person for discharging the function entrusted to him; the confidence reposed in the delegate by Parliament is then not betrayed and there is no real sub-delegation. We, therefore, reject the argument that Rule 32 suffers from the vice of sub-delegation and is invalid."

We will adopt these observations as our own and submit that there is no sub-delegation of powers.

Regarding item (ii), the Regulations have not been so far either published in the Gazette of India and/or laid before Parliament. There is no judicial authority which requires subsidiary orders issued under a Rule to be laid before Parliament when the enabling Act in terms only requires that the Rules made under the Act should be laid. The validity of the Regulations was also raised before the Calcutta High Court in 'Guru Prasad Mazumdar and others Vs. Railway Board etc.' The relevant observations of the Court are as follows:

"Nor in our view, it can be said that the Regulations framed by the Inspector General in exercise of the powers under Rule 32, must be laid before the Houses of Parliament and

if not so laid, the Regulations should be held to be invalid. There is nothing in the Act which requires such Regulations to be laid before the Houses of Parliament in the same manner, as the Rules framed by the Central Government."

Whether the Regulation would require to be laid before Parliament was also considered in the judgment of the Jabalpur High Court already cited. It has been held in that judgment, after a review of the relevant authorities, that the Regulations are not invalid for want of laying before Parliament.

Reading the publication of the Regulations in the Gazette of India, there is no statutory requirement to that effect.

In the end, the Ministry assures the Committee that they would abide by such directions as the Committee may be pleased to issue in this matter."

16. The Committee note that while on the one hand the Ministry of Railways (Railway Board) have conceded that there is no provision in the parent Act which confers power on the Inspector-General to frame regulations, on the other hand they have averred that rule 32 confers no new power on the Inspector-General but merely makes express what is implicit in Section 8 of the Railway Protection Force Act, 1957. The Committee can hardly accept this explanation. As they observe, Section 8, *ibid.*, simply requires the Inspector-General to carry on the administration of the Force in accordance with the provisions of the Act and the rules made thereunder. It nowhere confers any power upon the Inspector-General to frame regulations for the purpose. The rule-making power section in the Act, viz., Section 21, empowers the Central Government and not the Inspector General to make rules for carrying out the purposes of the Act. The Committee are, therefore, of the opinion that the authorisation of the Inspector-General to frame regulations under rule 32 is tantamount to sub-delegation of legislative power without due statutory authority.

17. The Committee note that in a similar case relating to the Central Industrial Security Force Rules, 1969, where sub-delegation of legislative power to the Inspector-General was not authorised by the parent Act, they had desired the Ministry of Home Affairs to delete the relevant rule (*vide* para 64 of Seventh Report—Fifth Lok Sabha).

The Committee desire that in this case also the Ministry of Railways should delete sub-rule (7) of rule 21 and rule 32 of the Railway Protection Force Rules, 1959, as the Parliament have not authorised them to further sub-delegate the power of legislation to the Inspector-General to make regulations. However, if the Ministry want to have the regulations (presently unauthorisedly framed under rule 32), they should take steps to amend the Railway Protection Force Act, so as to empower the Central Government/Inspector-General to make regulations, or, in the alternative, they should issue a separate set of rules, incorporating therein the said regulations, in exercise of the powers conferred by Section 21 of the parent Act. They should cite this authority in the preamble, in case they choose to follow the latter course.

18. The Committee are not at all convinced with the reply of the Ministry regarding non-publication of the regulations in the Gazette and their not being laid before Parliament. The Committee are of the opinion that the regulations made under rule 32 should not be considered on a separate footing than the rules in so far as their publication and laying is concerned. When the rules are required to be published and laid before Parliament, the regulations should also be subject to the same conditions as are laid down in the parent Act. The Committee note that in the case of regulations framed under the Rules made under the All-India Services Act, 1951, relying on the judgment of the Supreme Court in *Narendrakumar vs. Union of India, the Ministry of Law had advised the Ministry of Home Affairs that the regulations made by the Central Government should be taken to form an integral part of the rules made under section 3(1) of the All-India Services Act, and as such they were required to be laid before Parliament.

19. The Committee, therefore, recommend that till a separate set of rules incorporating therein the regulations now framed under rule 32, is issued, or in the alternative, the Railway Protection Force Act is amended suitably to have an express authority from Parliament to make regulations, the Ministry of Railways should take immediate steps to publish the regulations in the Gazette and lay them before Parliament as has been agreed to by them in the case of rules and regulations framed by them in exercise of the rule-making power under sections 22.47, 71-E and 84 of the Railways Act without waiting for statutory requirement to that effect being made in that Act—para 217 of Twelfth Report (Fifth Lok Sabha).

IV

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

(A)

20. According to the preamble of the above Rules they were framed under Section 67 of the Monopolies and Restrictive Trade Practices Act, 1971. But Section 67 of the Monopolies and Restrictive Trade Practices Act, 1969 did not appear to specifically authorise the Government to classify the goods.

21. The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) who were asked to state the specific clause of Section 67 under which above rules have been framed have stated as follows:—

“.....the power to make classification of goods for the purposes of the MRTP Act is derived from Explanation II below clause (d) of Section 2 of the Act which reads as follows:—

Explanation II—Where any goods of any description are the subject of different forms of production, supply distribution or control, every reference in this Act to such goods shall be construed as reference to any of those forms of production, supply distribution or control, whether taken separately or together or in such groups as may be prescribed.

The word “prescribed”, according to clause (k) of Section 2 means, prescribed by Rules made under the Act. The power to make rules is contained in section 67 of the Act. Sub-section (1) of section 67 empowers the Central Government to make rules to carry out the purposes of the Act and sub-section (2) enumerates certain specific matters in regard to which the Central Government may frame rules. It is thus clear that the Central Government can for carrying out the purpose of classification of goods, frame rules in that respect.

These rules were accordingly framed after consulting the administrative Ministries and the D.G.T.D.”

22. The Committee concede that in a remote way the power to frame the aforesaid rules is derived from Section 67. But it would

have been better if at least sub-section 2 of Section 67 had listed 'classification of goods' as one of the matters in regard to which Central Government may frame Rules. It cannot be denied that the direct authority for framing the rules in question is contained in Explanation II of clause (d) of Section 2. That being so, it would have been desirable if the preamble of the aforesaid rules referred to Section (2) of the Act for a better appreciation of the source of authority.

(B)

23. In this connection, a sample study of eight rules was made to see as to how many of those rules were relatable to the specific matters enumerated in "Rule-making power" section and how many rules were relatable to other sections in the Act. A statement showing the finding of study is given in Appendix II. It will be seen therefrom that while bulk of the rules were relatable to matters specified in sub-section (2) of the 'Rule-making power' section, some of the rules are relatable to other sections of the Acts.

24. The Scheme of the 'Rule-making power' section is usually that sub-section (1) thereof includes a general rule-making provision which empowers the executive to make rules for carrying out the provisions of the Act. Sub-section (2) enumerates the matters in respect of which rules may be made.

25. The Ministry of Law, Justice and Company Affairs (Legislative Department) who were requested to state (i) whether they have any objection to including under sub-section (2) of the rule-making power section all matters on which rules have to be framed under various sections of the statute; (ii) or in the alternative, whether there will be any objection to referring to in the preamble to rules not only the general rule-making power section of the Act but also other specific sections of the Act under which the rules are being framed, have stated as under:—

"...the rule making provision is included in Acts to empower the Central Government to provide for matters of procedure or detail necessary for the implementation of the provisions of the Act where it is not practicable to include them in the Act itself. One of the main reasons which has necessitated the delegation of legislative power, as pointed out in England by the Donoughmore-Scott Committee, is that it is impossible to foresee all the contingencies and local conditions for which provision must eventually be made. Thus, in a number of cases, it is also not possible for the Legislature to enunciate in the Act all the matters for which rules may be required.

To achieve the above object, the scheme, which is adopted in the Acts, is to include a general rule-making provision which will empower the executive to make rules for carrying out the provisions of the Act, and to enumerate in a separate sub-section, the matters in respect of which the rules may be made. Since the enumeration of the matters, in relation to which rules may be made, cannot be exhaustive a residuary clause is usually inserted in sub-section (2) empowering the Central Government to make rules with regard to matters which are required to be, or may be, prescribed. Sub-section (2) clearly specifies that it is without prejudice to the generality of the rule-making power contained in sub-section (1). This practice has been in vogue for many years.

The scope and effect of rule-making provisions came up for consideration in the highest courts in many cases. The law on the subject is already settled by a number of decisions. The leading case on the subject is the decision of the Privy Council in *Emperor v. Sibnath Banerji and others* (AIR P.C. 156). In that case, their Lordships held that it is sub-section (1) which confers the substantive power to make rules, and made the following observations, namely:—

'In the opinion of their Lordships, the function of sub-s. (2) is merely an illustrative one, the rule-making power is conferred by sub-s. (1) and the "rules" which are referred to in the opening sentence of sub-s. (2) are the rules which are authorised by, and made under, sub-s. (1); the provisions of sub-s. (2) are not restrictive of sub-s. (1) as indeed is expressly stated by the words "without prejudice to the generality of the powers conferred by sub-section (1)".' (Page 160).

The decision of the Privy Council in *Emperor v. Sibnath Banerji* was followed by the Supreme Court in *State of Kerala v. M. Appu Kutty* (AIR. 1963 SC 790) and the Supreme Court made the following observations at p. 790, namely:—

'As was said by the Privy Council in *Emperor v. Sibnath Banerji*, the rule-making power is conferred by sub-s. (1) of that section and the function of sub-s. (2) is merely illustrative and the rules which are referred to in sub-s. (2) are authorised by, and made under, sub-s. (1). The provisions of sub-s. (2) are not restrictive of

sub-s. (1) as expressly stated in the words "Without prejudice to the generality of the foregoing power" with which sub-s. (2) begins.'

While considering the validity of the bye-laws made by the Municipal Board of Tanda under the Uttar Pradesh Municipal Act, 1916, the Supreme Court made the following observations in *Afzal Ullah v. State of Uttar Pradesh* (AIR 1964 SC 264 at p. 268), namely:—

'It is now well settled that the specific provisions such as are contained in the several clauses of S. 298 (2) are merely illustrative and they cannot be read as restrictive of the generality of the powers prescribed by s. 298(1), vide *Emperor v. Sibnath Banerji* (AIR 1945 PC 156). If the powers specified by s. 298(1) are very wide and they take in within their scope bye-laws like the ones with which we are concerned in the present appeal. It cannot be said that the powers enumerated under s. 298(2) control the general words used by s. 298(1).

These latter clauses merely illustrate and do not exhaust all the powers conferred on the Board, so that any cases not falling within the powers specified by section 298(2) may well be protected by section 298(1), provided, of course, the impugned bye-laws can be justified by reference to the requirements of s. 298(1).'

Following the decision of the Privy Council in *Sibnath Banerji's case*, the Supreme Court held in *S. K. Singh v. V. V. Giri* (AIR 1970 SC 2097 at p. 2112) that it is well settled that when the expression "without prejudice to the generality of the provisions of sub-section (1)" is used, anything contained in the provisions allowing the said expression is not intended to cut down the generality of the meaning of the preceding provision.

Following the said decision, the Supreme Court also observed in *Om Prakash and others v. Union of India* (AIR 1971 SC 771 at pp. 773-74) that—

'It is a well established proposition of law that where a specific power is conferred without prejudice to the generality of the general powers already specified, the particular power is only illustrative and does not, in any way, restrict the general powers.'

It will be seen from the above-mentioned cases that, in the scheme of the rule-making section as adopted in the Acts,

sub-section (2) is only illustrative and the power to make rules is derived from sub-section (1). Sub-section (2) does not restrict or curtail the general power conferred by sub-section (1). In a changing society, an exhaustive enumeration of the matters with respect to which rules may be made is not possible and that is why usually a residuary clause is included in sub-section (2) of the rule-making section empowering the Government to make rules with regard to matters not enumerated in sub-section (2) but which would otherwise fall within sub-section (1). This practice also ensures some flexibility. It may, however, be pointed out that, as far as practicable, all matters, in respect of which rules are to be made, are specified in sub-section (2).

The practice adopted by the Legislatures in other countries has also been to provide for a general or residuary power of rule-making, e.g. section 119 of the U.K. Road Traffic Act, 1972; section 25 of the Australian Child Care Act, 1972 and section 34 of the Canadian Members of Parliament Retiring Allowances Act, 1969-70 (extracts enclosed)*.

From what has been stated above, it would be seen that inclusion of sub-section (2) in the rule-making section is intended to focus attention on the several matters in respect of which rules are clearly contemplated by the Act. It may be mentioned that there are certain enactments in which the rule-making section does not contain sub-section (2).

Just as provisions in Acts passed by Parliament may be related to more than one Legislative entry in the lists in the Seventh Schedule to the Constitution, a single rule may be related to more than one source of power. Nice questions may arise as to whether a particular rule is to be related to one or other source of power, though it may be quite clear that it would be covered by one of the two or three sources. Attempt to pinpoint the source of power and the laying of any rules in that behalf may well lead to a new line of litigation and interpretation. The truth is that rules of law and the facts of Life cannot always be put in neat pigeon-holes.

In view of the already settled law on the subject, it does not appear to be desirable to change the scheme of the rule-making section and to include in sub-section (2) an exhaustive list of matters with respect to which rules may be made. The long-standing practice is to invoke the general rule-making power, conferred by sub-section (1) and, if necessary, also to the specific power in sub-section (2), and *not* to make any reference to any specific power conferred by any section of the Statute. It does not appear to be desirable to change the existing practice."

26. While the Committee agree that it is not possible to enunciate in any Act all the matters for which rules may be required they are not convinced with the arguments advanced by the Ministry of Law, Justice and Company Affairs (Legislative Department) for not including in sub-section (2) of the rule-making power section at least all those matters on which rules have to be framed under various other sections of the statute, or in the alternative to referring to in the preamble to rules not only the general rule-making power section of the Act but also other specific sections of the Act under which the rules have been framed.

27. While examining various rules, the Committee have very often faced an uphill task of locating the section of the Act under which the particular rules have been framed. Where the section pertaining to rule-making power is only generally worded the Committee is absolutely left a guessing whether there is clear authority for the rule or not. Where in addition to generally worded sub-section (1), there is also a sub-section (2) enumerating matters on which the rules can be made it has sometimes been found that such enumeration has left out some of the matters mentioned in other sections of the same Act. On the other hand, on account of the fact that preamble of the rule ordinarily makes mention only of the general rule-making power, the preamble is also of no help in the examination of rules.

28. The Committee do appreciate that section (2) is not restrictive of sub-section (1) as indeed is expressly stated by the words "without prejudice to the generality of the powers conferred by sub-section (1)." But it is sound common sense that at least all those matters on which rules have to be framed under various sections of the same statute are enumerated in sub-section (2). This would be in conformity with the Ministry's own observation that "inclusion of sub-section (2) in the rule making section is intended to focus attention on the several matters in respect of which rules are clearly contemplated by the Act". The Committee also feel that such an

enumeration will not interfere with the flexibility of the rule-making power.

29. The Committee, therefore, recommend that (i) either subsection (2) of the rule-making power section should enumerate all matters on which rules have to be framed under various sections of a statute and quote the section to which that matter relates as has been done in section 27 of the Interest Tax Act, 1974 or (ii) in the alternative, the preamble to the rules should refer not only to the general rule-making power section of the Act but also other sections of the Act under which the rules have been framed.

V

THE INTERNATIONAL AIRPORTS AUTHORITY OF INDIA (CONDITIONS OF SERVICE OF THE CHAIRMAN AND OTHER WHOLE-TIME MEMBERS) RULES, 1973 (S. O. 717-E OF 1973)

(A)

30. The International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973, were published in the Gazette of India on 29-11-73, under S.O. 717-E of 1973, but were enforced retrospectively w.e.f. 1-2-1972. In the Explanatory Memorandum given at the end of the rules, it has been certified that no one is adversely affected by giving retrospective effect to the rules.

31. The International Airports Authority Act, 1971 (43 of 1971), under which the above rules have been made, does not empower the Central Government to give retrospective effect to the rules framed thereunder. In this connection, the attention of the Ministry of Tourism and Civil Aviation, was invited to para 49 of the Seventh Report of the Committee on Subordinate Legislation (Fourth Lok Sabha) wherein the Committee had noted the following observations of the Attorney-General on the above point:—

“The Legislature may make a law with retrospective effect.

A particular provision of a law made by the Legislature may operate retrospectively if the law expressly or by necessary intendment so enacts. A law made by the Legislature may itself further empower subordinate legislation to be operative retrospectively. Without such a law no subordinate legislation can have any retrospective effect.....”

32. The Ministry of Tourism and Civil Aviation were asked to state the authority in the parent Act under which retrospective

effect has been given to the above rules; and whether they have any objection to bringing the above rules into force with effect from the date of their publication in the Gazette, i.e. 29-11-73 inserted of 1-2-72.

33. In their reply, the Ministry have stated as under:

"Justification for giving retrospective effect to the rules with effect from 1-2-1972.

Section 36(1) of the International Airports Authority Act, 1971, reads as follows:—

'The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.'

Rules are normally framed with prospective dates of effect. However, in exceptional circumstances when it becomes necessary to give retrospective effect to the rules the Committee on Subordinate Legislation of 5th Lok Sabha have in their recommendation No. XV, paragraphs 101-103 contained in their 9th Report conceded this aspect and have suggested that in cases where it becomes necessary to give retrospective effect in view of any unavoidable circumstances an explanation to the effect that no one will be adversely affected, should be given. The Chairman of International Airports Authority of India was appointed w.e.f. 1-2-1972, and the whole-time Member w.e.f. 1-10-1972, As the Authority had just come into being it took some time to draft rules on various aspects, hold discussion with Law Ministry and finally issue them w.e.f. 29-11-73, Since the Act stipulates that the rules should be framed specifying the conditions of services of Chairman and whole-time Member the rules were given retrospective effect from 1st January, 1972 as the posts had to be filled up as soon as the authority came into being. As required necessary explanation to the effect that by giving retrospective effect to the rules no one is adversely affected has been incorporated in the notification. If the rules are given effect w.e.f. 29-11-72, i.e. the date of notification the period between the date of appointment of Chairman and whole-time Member and the date of issue of the notification will be left uncovered by these rules. This might contravene section 36 of the Act. It may be added that the instructions regarding giving retrospective effect to rules have been noted and will be complied with in future. In the circumstances, it is suggested that the retrospective effect given to the rules may be allowed to stand. If,

however, it is felt that the rules may not be given retrospective effect, we may be so informed."

34. The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to retrospective effect given to the International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973. The Committee are of the view that the Ministry are mistaken in quoting recommendations of the Committee made in paras 101-103 of their Ninth Report (Fifth Lok Sabha). These recommendations relate to the giving of retrospective effect to rules framed under the proviso to Article 309 of the Constitution whereas under the present case the rules have been framed under an Act of Parliament which do not expressly or by intendment authorise giving retrospective effect to rules. The Committee therefore desire the Ministry either to enforce the rules from the date of their publications in the Gazette or to amend the International Airports Authority Act, 1971 so that it expressly empowers the Government to give retrospective effect to this rule.

(B)

35. Rule 7 of the above rules provides as under:—

"Other allowances and conditions of service.—The other allowances and conditions of service of the Chairman and every other whole-time Member shall be such as may be determined by the Central Government at the time of their appointment:

Provided that as respects any matter which is not so specifically determined by the Central Government, the regulations applicable in that behalf to the highest category of officers in the whole-time employment of the Authority shall apply to the Chairman and every other whole-time Member".

36. It was noticed that Section 36(2) of the International Airports Authority Act, 1971 under which the aforesaid rules have been framed requires the Central Government to make rules which may provide for—

(a) the conditions of service of the Chairman and other members under section 5 including the salaries payable to the Chairman and to the members who are required to render whole-time service and the fees and allowances payable to the members who are required to render part-time service;

- (b) The period of notice required to terminate the appointment of any member, who is required to render part-time service and who is not a servant of the Government, under section 5, and the period of notice that may be given to the Central Government by a member before he resigns his office, under that section'.

37. It is clear from section 36(2) of the International Airports Authority Act, 1971 that other allowances and conditions of service of the Chairman and every other member are to be determined through the rules and not as determined by the Central Government at the time of the appointment.

38. The matter was taken up with the Ministry of Tourism and Civil Aviation and their attention was invited to paras 30-31 of Third Report and para 20 of Fourth Report (First Lok Sabha), wherein the Committee on Subordinate Legislation had observed that when the parent Act envisaged prescription of conditions of service by rules, they should be included in the rules rather than in individual appointment letters.

39. In reply, the Ministry of Tourism and Civil Aviation have stated as under:—

“The Chairman and the whole-time Member would normally be entitled to all the allowances, etc. admissible to the highest category of officers in the Authority. Government servants on deputation to the Authority would also be entitled to the allowances and concessions as admissible to corresponding category of employees of the undertakings *vide* Ministry of Finance O.M. No. FI(4)-E.III|B|65, dated the 10th March, 1966. Under section 37 of the Act the Authority is competent to frame regulations specifying the conditions of service and remuneration of the officers and employees of the Authority. Hence the proviso to Rule 7 has been framed to admit all such concessions, if any, being enjoyed by the Chairman and the whole-time Member.

There might be instances where officers might have been entitled to certain allowances and concessions while in their parent department which may not be admissible to the highest category of officers in the whole time employment of the Authority. In such cases, it might become necessary to protect their interests while on deputation to the

Authority as Chairman or whole-time Member. This will be done by *issue of administrative orders.*"

40. The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to the determination of allowances and conditions of service of the Chairman and every other whole-time Member by the Central Government through administrative orders. The International Airports Authority Act, 1971 does not empower the Central Government to determine allowances and conditions of service of the Chairman and other whole-time Members through administrative orders. Sub-section (2)(a) of section 36 of the Act clearly lays down that these will be determined through rules to be framed under the said Act. The Committee, therefore, desire the Ministry to amend rule 7 of the International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973 in order to lay down the allowances and conditions of services of the Chairman and other whole-time Members rather than to leave it to be determined through administrative orders.

VI

THE CENTRAL EXCISE (SEVENTEENTH AMENDMENT) RULES, 1971 (G.S.R. 1780 OF 1971)

41. Rule 12 of the Central Excise Rules, 1944, prior to its amendment read as follows:—

"Rebate of duty on goods exported.—The Central Government may, from time to time, by notification in the Official Gazette, grant rebate of duty paid on exisiable goods if exported outside India, to such extent, and subject to such safeguards, conditions and limitations as regards the class of goods, destination, mode of transport, and other allied matters as may be specified therein:

Provided that if the goods are not exported, or the proof of export is not furnished to the satisfaction of the Collector, in the manner and within the time laid down in any notification issued under this rule, the Collector may in his discretion disallow the whole or any part of the claim for such rebate."

42. Above amending rules substituted the following proviso in place of existing one:

"Provided that if the Collector is satisfied that the goods have in fact been exported, he may, in his discretion, allow the

whole or any part of the claim for such a claim rebate even if all or any of the conditions laid down in any notification issued under this rule have not been complied with."

43. The Ministry of Finance (Department of Revenue and Insurance) to whom the matter was referred for stating the genesis of above amendment have stated that the proviso to Rule 12 of the Central Excise Rules, 1944, has been amended *with a view to conferring in unambiguous terms discretion on Collectors of Central Excise to allow a refund claim either in whole or in part after they are satisfied that export of goods had in fact taken place even though any condition stipulated in the Notification issued under Rule 12 had not been observed.* In this connection, the Ministry have furnished a copy of the Circular No. 3/71-CX.6 dated 25th January, 1971 (*vide Appendix IV*).

44. The Ministry of Finance (Department of Revenue and Insurance) was further requested to state whether they had any objection to incorporating the guidelines mentioned in para 3 of the Ministry's above circular in the rules so as to give them a statutory form. The Ministry have informed as under:

"The discretion given to Collector under the aforesaid proviso is of *ex-gratia* nature and is intended to be exercised by him if he is satisfied that goods have been exported but conditions according to which goods had to be exported have not been fulfilled. The discretion is intended to be personally exercised by Collector, in mitigating any hardship to exporters where he is satisfied that even though exporters have not fulfilled the conditions under the notification, goods have nevertheless been exported and therefore the main purpose of the rule under which export rebate is granted is satisfied. All exporters are *expected* to export goods according to conditions laid down in notification issued under Rule 12. If the guidelines laid down in our letter dated 25th January, 1971 referred to by Lok Sabha Secretariat were to be incorporated in the notification itself, the tendency not to adhere to the prescribed procedure or conditions specified under Rule 12 would increase. This would naturally lead to administrative difficulties and also result in disputes with trade. It is, therefore, felt that it would be desirable not to include these guidelines in the notification itself."

45. The Committee are not convinced by the reply of the Ministry of Finance (Department of Revenue and Insurance). They are of the view that the original proviso to Rule 12 of the Central Excise Rules served as a check on the misuse of claim for rebate, as it was allowed on certain conditions being fulfilled. The new proviso to Rule 12 empowers the Collector to disallow in his discretion the whole or any part of the claim for rebate. The Committee, therefore, desire the Ministry of Finance (Department of Revenue and Insurance) to incorporate guidelines mentioned in para 3 of the Ministry's circular No. 3/71-CX.6 dated 25th January, 1971 in the rules so as to give them statutory form and to obviate any scope of discriminatory treatment to exporters.

VII

DISPOSAL OF RECORDS (WIRELESS PLANNING AND CO-ORDINATION WING OF THE MINISTRY OF COMMUNICATIONS) RULES, 1973 (G.S.R. 131 OF 1973).

46. The above rules were framed by the Wireless Planning and Coordination Wing of the Ministry of Communications in exercise of the powers conferred by Section 3 of the Destruction of Records Act, 1917.

Section 3 of the Act *ibid.* reads as under:

"3. (1) The authorities hereinafter specified may, from time to time, make rules for the disposal, by destruction or otherwise, of such documents as are, in the opinion of the authority making the rules, not of sufficient public value or justify their preservation.

(2) The authorities shall be—

- (a) in the case of documents in the possession or custody of a High Court or of the Courts of Civil or Criminal jurisdiction subordinate thereto,—the High Court;
- (b) in the case of documents in the possession or custody of Revenue Courts and Officers—the Chief Controlling Revenue-authority; and
- (c) in the case of documents in the possession or custody of any other public officer,—the Local Government or any officer specially authorised in that behalf by the Local Government."

47. With a view to find out whether similar rules had been framed under the above Act by all Ministries/Departments, the Department of Culture which is concerned with the administration of the Act was asked to:

- (i) submit a list showing rules framed by all the Ministries/Departments under the Destruction of Records Act, 1917;
- (ii) state how the destruction of records was being regulated in case such rules had not been framed.

48. In their reply, the Department of Culture has stated as under:

“...reproducing below the position stated by the Department of Personnel and Administrative Reforms (Administrative Reforms) to whom the matter was referred:—

‘The Law Ministry, who were consulted on the last occasion about the precise purpose and scope of the Destruction of Records Act, 1917, were of the opinion:—

- (a) that the Act applied only to *certain* (and not all) records in the possession or custody of the courts and other public officials;
- (b) that the executive power of the Central Government appeared to extend also to the disposal of its records (by destruction or otherwise), unless specific legal provisions to the contrary existed, and therefore, framing of rules under S. 3 of the Act, was not obligatory in all cases;
- (c) that in the exercise of this executive power the Central Government was competent to issue administrative instructions for drawing up retention schedules in respect of public records;
- (d) that on the expiry of the specified retention periods, records should be reviewed before they are actually destroyed; and
- (e) that title deeds and other documents conferring legal rights upon citizens should not normally be destroyed.’

All these points of view are adequately met by the provisions of the revised diglot edition of the Manual of Office Procedure according to which all departments are expected to:

- (a) issue retention schedules in respect of their operational records;
- (b) follow strictly those schedules as well as others issued by competent authorities in respect of common records;
- (c) not to destroy any files, other than those of a purely ephemeral nature, without first reviewing their contents; and
- (d) to preserve indefinitely papers containing evidence of rights or obligations of or against the Government e.g., title to property, claims for compensation not subject to time limit, former instruments such as awards, orders, sanctions.

The position so far as other Ministries/Departments of the Government of India are concerned is being ascertained and will be communicated to you on receipt."

49. According to the information received from the Department of culture (National Archives of India) out of 38 Ministries/Departments who were addressed by them to supply information as to the framing of Rules only the office of the Comptroller and Auditor General of India and the Department of Company Affairs (Office of the Registrar of Companies) had framed rules, under the Destruction of Records Act, 1917; others had not framed any rules under the Act. Instead, they were following executive instructions issued by the Department of Personnel and Administrative Reforms on record management.

50. The Committee are surprised to note that despite the existence of an Act of Parliament since 1917 to regulate the destruction of records, there is no uniformity in the procedure being followed by the various Ministries/Departments. Only two offices have framed rules under the Destruction of Records Act, 1917; others are following executive instructions issued in this regard by the Department of Personnel and Administrative Reforms. It is not known under what circumstances and when the need arose for issue of executive instructions by the Department of Personnel when an Act on the subject already existed. If the Act did not meet the situation fully it should have been suitably amended. The Committee desire the Department of Culture to take up the matter with the Department of Personnel and Administrative Reforms with a view to see that the management of record is done by Ministries/Departments in accordance with statutory rules and not on the basis of executive instructions.

VIII

THE INDIAN MUSEUM RECRUITMENT (SECOND AMENDMENT) RULES, 1973 (G.S.R. 898 OF 1973).

51. It is seen from the preamble of the above rules that they have been framed under sub-rule (3) of rule 5 of the Indian Museum Rules, 1970 and not under section 15A(2)(a) of the Indian Museum Act, 1910 which confers power on the Central Government to make rules for the recruitment and conditions of service of the officers and servants of the Museum.

Sub-rule (3) of rule 5 of the Indian Museum Rules reads as under:—

“For all posts in the Museum the Central Government shall make recruitment rules setting out the qualifications prescribed for each post, the method of recruitment and in the case of promotion the persons who shall be eligible for promotion and the percentage of vacancies reserved for recruitment by each of the methods specified in sub-rule (1) and all such recruitment rules shall be published in the Gazette of India.”

52. The Ministry of Education and Social Welfare were asked to state:—

- (a) the reasons for incorporating Rule 5(3) in the Indian Museum Rules, 1970 when Section 15A(2)(a) of the Act already authorised the Central Government to frame Rules relating to Recruitment; and
- (b) whether they had any objection to amend the preamble of the Recruitment Rules so as to refer therein Section 15A(2)(a) of the Act instead of Rule 5(3), as the authority for framing the Rules.

53. In their reply, the Ministry of Education and Social Welfare have stated as under:—

“...the matter has been examined in consultation with the Ministry of Law and to say as under:

- (i) As under Section 15A(2)(a) of the Indian Museum Act, 1910 and under Rule 5(3) of the Indian Museum Rules, 1970, the rule making authority is the Central Government, there is no objection to referring to Section 15A(2)(a) of the Indian Museum Act, 1910, in the preamble to the Indian Museum Recruitment Rules.

1970. This will be kept in view when any further amendment to the recruitment Rules is made.

- (ii) Section 15A(2)(a) of the Indian Museum Act, 1910 confers power on the Central Government to make rules for the recruitment and conditions of service of the Officers and servants of the Museum. The Indian Museum Rules, 1970, deal mainly with the conditions of service of the employees and certain other matters referred to in Rules 16 to 19. Since these Rules did not contain provisions setting out qualifications prescribed for each post, the persons eligible for promotion, etc., it was necessary to state that these would be provided separately by the recruitment rules. In case rule 5(3) is omitted, it will be necessary to provide in one set of rules all matters relating to recruitment and conditions of service. Otherwise rule 5(3) should be allowed to remain as such."

54. The Committee note with satisfaction that the Ministry of Education and Social Welfare have agreed to their suggestion for referring to Section 15A(2)(a) of the Indian Museum Act, 1910 in the preamble to the Indian Museum Recruitment Rules, 1970.

55. The Committee are not, however, convinced with the reply of the Ministry that if rule 5(3) of the Indian Museum Rules is deleted, it will be necessary to provide in one set of rules all matters relating to recruitment and conditions of service. The Committee are of the view that Section 15A(2)(a) of the Museum Act does not prevent the Government from framing more than one set of rules on two or more different matters. They desire the Ministry to delete rule 5(3) of the Indian Museum Rules, 1970.

IX

THE COUNCIL OF ARCHITECTURE RULES, 1973 (G.S.R. 67-E OF 1973)

(A)

56. Rules 7, 12(2) and 19(6) of the Council of Architecture Rules, 1973, provide that the decision of the Returning Officer would be final on the questions relating to—

- (a) right of persons to vote at or to stand for election (Rule 7);
- (b) validity of nomination papers [Rule 12(2)]; and

(c) scrutiny and counting of votes [Rule 19(6)].

Section 5(2) of the Architects Act, 1972, under which the above rules have been framed, provides as under:

'Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the Central Government by notification in the Official Gazette in this behalf, and the decision of the Tribunal shall be final.'

57. Rules 7, 12(2) and 19(6) of the above Rules as worded, give an impression that they sought to bar the jurisdiction of the Tribunal to be set up by the Central Government under the Architects Act. The attention of the Ministry of Education and Social Welfare (Department of Education) was invited to para 18 of the Fourth Report of the Committee on Subordinate Legislation (Third Lok Sabha), wherein they had stressed that the rules should not be worded in a manner which might give an impression that the jurisdiction of courts was being ousted. The Ministry were asked to state whether they had any objection to amending the rules in question so as not to convey the impression that the decision of the Returning Officer in such matters would be final.

58. The Committee note with satisfaction that on being pointed out the Ministry of Education and Social Welfare (Department of Education) have amended the Council of Architecture Rules, 1973 by omitting the words 'the decision shall be final' vide G.S.R. 1104 of 1973, dated the 6th October, 1973.

(B)

59. Rule 27 regarding 'Powers of Tribunal' and rule 36 regarding 'Procedure in any inquiry before the Disciplinary Committee' vests in them the powers of a civil court in respect of summoning and enforcing attendance of witnesses, examining them on oath, etc.

60. Section 44(2) of the Architects Act merely empowers the Central Government to frame rules to lay down the procedure to be followed by the Tribunal. The attention of the Ministry, in this connection, was invited to para 7 of the First Report (Third Lok Sabha), wherein the Committee on Subordinate Legislation had observed that the power to compel persons to give evidence on oath, etc., was a substantive power which ought to have been provided for in the parent Act instead of in the rules made thereunder.

61. The Committee note with satisfaction that on being pointed out the Ministry of Education and Social Welfare (Department of Education) have omitted rule 27 and sub-rule (3) of rule 36 of the

Council of Architecture Rules relating to power to compel persons to give evidence on oath etc.

X

THE DELHI TRANSPORT CORPORATION (MEMBERS) RULES, 1973 (S.O. 256-E OF 1973).

62. Rule 9 of the Delhi Transport Corporation (Members) Rules, 1973 provides as under:—

“Remuneration of persons associated with the Corporation—

(1) A person associated with the Corporation under section* 10 of the Act (hereinafter in this rule referred to as ‘the associated person’) may either work in an honorary capacity or be paid such remuneration, not exceeding one thousand rupees per mensem, or fifty rupees per diem, as the Corporation may, with the approval of the Central Government, determine.”

63. The Ministry of Shipping and Transport were requested to state whether they had any objection to specifying in the Rules—the remuneration payable to persons associated with the Corporation.

64. In their reply, the Ministry have stated as under:—

“...under clause (b) of sub-section (2) of section* 44 of the Road Transport Corporations Act, 1950, the State Government is empowered to make rules to provide for remuneration, allowances or fees to be paid to the members of a Road Transport Corporation or other persons associated with that Corporation under Section 10 of that Act. It is considered that prescribing of a maximum limit of Rs. 1,000 per mensem or Rs. 50 per day as also laying down the method of determination of payment of remuneration lower than the maximum limits, with the approval of the Central Government, can reasonably be regarded as a matter covered by the said section 44(2) (b). Presumably, the objection of the Committee on Subordinate Legislation is on the ground that in rule 9(1) of the Delhi Transport Corporation (Members) Rules, 1973, there has been an unauthorised delegation of powers in favour of the Delhi Transport Corporation. This conclusion does not, however, appear to be warranted in as much as it is open under the rules not only to fix uniform rates

of remuneration to be paid to the members of a Corporation or other persons associated with it under section 10, but also to lay down a general mode of determination of the remuneration of these persons, subject to any maximum limits in the matter.

In view of the position explained above, this Ministry is advised that it is not necessary to amend the said rule 9(1)."

65. The Committee are not satisfied with the reply of the Ministry of Shipping and Transport that under the Delhi Transport Corporation (Members) Rules, 1973, it is open to fix not only uniform rates of remuneration to the members of a Road Transport Corporation or other persons associated with the Corporation under section 10 of the Road Transport Corporations Act, 1950 but also to lay down a general mode of determination of the remuneration of these persons subject to any maximum limits in the matter. The Committee feel that rule 9 of the Delhi Transport Corporation (Members) Rules, which empowers the Corporation to fix the remuneration to be paid to associated persons within the prescribed limits is not authorised under the Road Transport Corporation Act, 1950. Under clause (b) of sub-section (2) of Section 44 of the said Act, it was the State Government (Central Government in case of Delhi) which is empowered to make rules regarding remuneration allowance, etc. As such there is unauthorised delegation of power by rule 9 *ibid*. The Committee desire the Ministry of Shipping and Transport either to delete rule 9(i) or make suitable amendment in the Act to empower the Corporation to determine the amount of remuneration.

XI

THE DELHI DEVELOPMENT AUTHORITY (ISSUE AND MANAGEMENT OF BONDS) REGULATIONS, 1970 (S.O. 1135 OF 1972).

66. The above regulations framed under the Delhi Development Act, 1957 were issued on 25th September 1970 but were published under S.O. No. 1135 in the Gazette of India dated the 20th May, 1972 after a delay of about 2 years. Delay in publication, according to the Ministry of Works and Housing, was partly because the regulations were notified in the Gazette only after the Lok Sabha/Rajya Sabha Secretariats pointed out that they could not be laid on the Table unless they were published in the Gazette.

67. It was noticed that while Section 58 of the Delhi Development Act, 1957 required all regulations issued thereunder to be laid before

each House of Parliament, there was no provision in the Act requiring their publication in the Gazette. There was also no indication in the above regulations as to the date from which they came into force—whether from the date of issue or from the date of publication in the Gazette.

68. The Ministry of Works and Housing with whom the above points were taken up have stated as under in their reply:—

“The matter has been examined in consultation with the Ministry of Law. The Delhi Development Authority (Issue & Management of Bonds) Regulations, 1970 framed under Section 57 of the Delhi Development Act was approved by the Lt. Governor on 2nd December 1970, as required under that Section. Hence, the Regulations themselves, came into force on the date when the Lt. Governor approved them.

The Ministry of Law have also stated that since there is no provision in the enactment that the Regulations should be published in the Gazette as such, such publication is only an administrative action and has no legal consequence as regards the commencement of the Regulations.....

this Ministry has no objection to making a provision in the Delhi Development Act requiring publication of the Regulations in the official Gazette, as in the case of Rules under Section 56 (i).”

69. The Committee note with satisfaction that the Ministry of Works and Housing have agreed to incorporate in the Delhi Development Act, 1957 a provision requiring publication of Regulations framed thereunder in the Official Gazette. They desire the Ministry to amend the Delhi Development Act, 1957 accordingly at an early date.

70. The Committee are surprised to note that the Ministry of Works and Housing are not aware of rule 319 of the Rules of Procedure and Conduct of Business in Lok Sabha under which each regulation, rule, sub-rule, bye-law, etc. framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority and which is required to be laid before the House is required to be numbered centrally and published in the Gazette immediately after it is promulgated. Had the Ministry been vigilant in this respect there would have been no delay in laying them on the table of the House.

71. The Committee further note that normally the Acts contain a provision regarding notification of regulations framed thereunder in the Gazette. It is not understood as to why it had not been done in the case of the Delhi Development Act, 1957. The Committee desire the Ministry of Law, Justice and Company Affairs (Legislative Department) to issue necessary instructions to all Ministries/Departments to be careful in this respect and make such provision wherever necessary by amending the Acts.

XII

THE TYRES AND TUBES (PRICES CONTROL) ORDER, 1973 (S.O. 718 (E) I DRA/18(G)/73 DATED 29TH NOVEMBER, 1973) (A)

72. Clause 3 of the Tyres and Tubes (Prices Control) *Order, 1973, provided as under:—

“Control of price:—No manufacturer shall, after the commencement of this Order, himself or by any person on his behalf, sell or offer to sell or otherwise transfer or dispose of any tyres or tubes to which this Order relates for a price exceeding the price in force on the 20th day of November, 1973.”

73. It was, however, seen that the price in force on 20th November, 1973 had not been mentioned in this order.

74. The Ministry of Industrial Development with whom the matter was taken up have stated as under:—

“The need for appending a Table to clause 3 of the Tyres and Tubes (Price Control) Order, 1973 indicating the prices of different tyres and tubes in force as on the 20th November, 1973 was considered by this Ministry even at the time of the issue of the said order. The manufacturers circulate periodical lists of prices of various categories and sizes of tyres, to all dealers. As such price lists are readily available with all dealers. The problem is, therefore, not that the dealer or consumer does not have precise information about the prices. For the same reasons, there is also no need for any apprehension that the order may be regarded as vague or indefinite. As the prices enforced by the order are the same as those already accepted by the manufacturers earlier, there is no difficulty in its implementation. In the circumstances stated above and in view of the urgency to issue the said order

*Rescinded vide S.O. 272(E) dt. 29-4-74.

in the context of the proposed increase in the prices indicated by the industry, it was not considered necessary to append a list to Clause 3 of the above order indicating the prices enforced."

75. The Committee are not convinced by the reply of the Ministry of Industrial Development for not giving the prices of tyres and tubes as on 20th November, 1973 in the Tyres and Tubes (Price Control) Order. They are of the view that the Order which has since been rescinded was vague. The purpose of the Order was to freeze the prices of tyres and tubes at the level of those existing on the 20th November, 1973. The consumer could know the controlled price only if it has been specified in the Order. In order to place the prices existing on a particular date on statutory footing, those should have been indicated in the Order. The Committee desire the Ministry to be careful about such matters in future.

(B)

76. Clause 4 of the Tyres and Tubes (Prices Control) order, 1973 required every manufacturer to furnish such returns and other information in such form and within such period, as may be required by the Central Government.

The Ministry of Industrial Development were requested to state whether they had any objection to specifying in the order itself the particulars of returns and other information required to be furnished by the manufacturer so as to avoid the possibility of discrimination being made between individual manufacturers in the supply of information by them.

77. In their reply, the Ministry of Industrial Development have stated as under:—

".....clause 4 of the Order is only an enabling clause permitting the Government to obtain such information as may be required by the Central Government. No returns in terms of this clause have been prescribed so far. The producers were also directed to notify all concerned of the prices of tyres and tubes as stipulated in the Order under intimation to this Ministry and this has been done by them."

78. The Committee are not satisfied with the reply of the Ministry of Industrial Development. They feel that particulars of returns and other information required to be furnished by the manufacturer as also the time limit within which such information is to be furnished should be incorporated in similar price Control orders to be issued

in future so that the possibility of discrimination being made between individual manufacturers in the supply of information is avoided.

XIII

THE FUNDAMENTAL (SECOND AMENDMENT) RULES, 1971 (G.S.R. 178 OF 1971)

79. The above rules substitute the word 'president' for the words 'Governor General in Council' in a number of amendment rules *viz* rule 8, sub-clause (b) of Clause (14) of rule 9, rule 30(1) & rule 114.

80. The Ministry of Finance who were requested to give their reasons for carrying out above amendment after a lapse of 23 years, have stated as under:—

“.....attempts have been made since 1950, to simplify the F.Rs and S.Rs and to delete the old expressions like 'Governor General in Council', 'Secretary of State in Council' etc. A brief back ground of the steps taken is given below:

- (i) A Codification Committee was set up by the Ministry of Finance in 1950 for the relationalisation and codification of the service rules in the light of the constitutional changes. This Committee was engaged in its labours from 1950—55 and prepared in place of the omnibus F.Rs and S.Rs, separate draft codes for pay, leave, compensatory allowance, travelling allowance etc. The work thereafter was taken over by the Ministry of Home Affairs in 1957 as it was felt that the rules should be simplified further. A Rules Revision Committee, which took up this work did not, however, pursue it, as Pay Commission had been set up in 1957 and that Commission was expected to recommend substantial changes in the conditions of service of Central Government employees. The Pay Commission's recommendations were considered by the Government in 1959-60. In 1961, another Codification Committee was set up. It was felt that apart from attempting a codification of the rules, efforts should be made to simplify them as far as possible by adopting a new approach to the problem. The Second Codification Committee went into the rules once again from 1961—64 and prepared the draft of the new rules which were to be further examined in the Ministry of Finance. Thereafter, not much progress was made on

this. It was perhaps thought that the setting up of Administrative Reforms Commission, which among other things, was expected to go into personnel problems, would make it necessary to have a fresh approach to this problem. One of the Working Groups set up by A.R.C. has examined various financial rules and made their recommendations. These recommendations were, however, of a general nature pointing out, the short-comings incongruities etc. of the existing rules and emphasising an urgent comprehensive review. Due to limitation in the scope of enquiry of Working Group, a rule by rule examination could not be made. They therefore recommended that a High Powered Codification Committee should be set up for a review of the rules. As it was likely to take some time, it was decided in 1970 to carry out a review for removing anachronisms, without waiting for the proposed thorough revision of the rules, and the amendment rules in question were issued.

- (ii) The above back ground will explain the steps taken by the Government from time to time to simplify and rationalize the F.Rs and S.Rs. It may be stated that during the intervening period no difficulty was experienced in actual interpretation and application of Fundamental Rules as by virtue of issue of Adaptation of Laws Order, 1950 (which *inter alia* substituted the word 'President' for the expression 'Governor General in Council') it was considered that the statutory rules like the Fundamental Rules should be deemed to have been amended in terms of the Adaptation Table in para 4 thereof.
- (iii) In this connection, it may also be stated that the work of codification of rules relating to leave and pension was taken up once again in 1970 and these rules have since been codified and published as Central Civil Services (Leave) Rules 1972 and Central Civil Services (Pension) Rules, 1972. in the Gazette of India Part II. Section 3(ii) vide S.O. 940 and 934 dated the 8th April 1972 and the 1st April 1972 respectively."

31. The Committee are not satisfied with the explanation given by the Ministry of Finance for the lapse of 23 years in substituting the word 'President' for the words 'Governor-General in Council', or 'the Secretary of State in Council'. They are of the view that this anachronism should have been removed soon after the country became a Republic in 1950 and Government need not have awaited the revision of rules for such a fundamental change.

XIV

THE INDIAN WIRELESS TELEGRAPH RULES, 1973 (G.S.R. 526
OF 1973)

82. Rule 3 of the Indian Wireless Telegraph Rules, 1973 framed under section 7 of the Indian Telegraph Act 1885 provides as follows:—

“Except as provides in the Convention or these rules or with the general or special permission in writing of the Central Government, no person shall work the transmitting apparatus of a wireless telegraph licensed under the Indian Telegraph Act, 1885, unless—

- (i) he is a citizen of India,
- (ii) he is 18 years of age or above, and
- (iii) he holds a ‘Certificate of Proficiency’ and ‘Licence’ of the class specified in the licence to establish, maintain and work wireless telegraph and is duly authorised by the licensee: ..

Provided that if the service of any ship or aircraft radio-telephone station is controlled by a person holding a ‘Certificate of Proficiency’ and ‘Licence’ any person not holding such Certificate of Proficiency and Licence may be permitted to use the radiotelephone equipment.”

83. Similar provision was made in Rules 4, 9 and 10 envisaging exceptions to be made in the Rules. These exceptions were not, however, spelled out under any of these Rules.

84. On a reference being made to the Ministry of Communications on the above point, they have stated as under:

“The I.W.T. Rules, 1973, regulate the conduct of wireless stations (other than broadcast receivers) licenced under the 1885 Act. The exceptions envisaged under Rules 3, 4, 9 and 10 of the 1973 Rules are as under:—

(a) Rule 3: *Right to work transmitting apparatus:*

Some of the national projects such as development of harbours, oil exploration, laying of oil pipelines, etc., are taken up in collaboration with foreign firms. Wireless stations are licenced to these projects for the purposes of meeting their operational communication requirements connected with

the projects. The operation of the licenced stations is at times taken up by foreign technical experts, in which case it becomes necessary to relax the rule by way of a special permission.

The age limit of 18 years for working a licenced transmitting apparatus is relaxed in case of radio amateurs and students engaged in radio research and experiments to encourage youngsters to take up scientific pursuits.

The stipulation in regard to operation of licenced stations by certified operators is temporarily relaxed in certain circumstances, in the national interest, where technical personnel of a project are otherwise not qualified to operate the transmitting apparatus and it will take some time before they can obtain requisite qualifications.

(b) Rule 4: *Observance of Convention, rules under the Indian Telegraph Act, 1885 and agreements:*

The exceptions entailed by the Rules pertain to deviation of procedure laid down in the International Radio Regulations for communication relating to safety of life at sea and in the air, i.e. for answering and sending urgency calls and urgency messages, safety calls and safety messages.

(c) Rule 9: *Restriction on sending of messages:*

The rule imposes certain restrictions on sending of messages by a ship while it is within Indian territorial waters. These restrictions are relaxed by way of special permission in case of research vessels engaged in oceanographic survey or those vessels which are engaged in off-shore drilling for oil explorations, etc. In these cases they are permitted to communicate with shore stations exclusively set up for the purpose.

(d) Rule 10: *Restrictions on working or using transmitting apparatus:*

The exceptions envisaged in the case relate to operational communication requirements of vessels engaged in dredging operations, hydrographic survey, development of dockyards, ports, etc., while the vessels are operating within Indian harbours. The operations of such vessels necessitate relaxations of the rule and each case for relaxation is considered on merits."

85. The Ministry were further asked to state whether they had any objection to incorporating the above exceptions in the Rules at appropriate places. In reply they have stated in their O.M. of 18-6-74 as under:—

“The exceptions envisaged under Rule 4 pertain to deviation of procedure laid down in the Radio Regulations annexed to the Convention for communication relating to safety of life at sea and in the air, *i.e.*, for answering and sending urgency calls and urgency messages, safety calls and safety messages. These exceptions are already spelt out in the Rules *vide* provisos to rules 9, 10 and 13 and as such their incorporation in Rule 4 is not considered necessary.

The Ministry . . . have no objection to incorporation of exceptions, envisaged under rules 3, 9 and 10 . . . at appropriate places in the Indian Wireless Telegraph Rules, 1973. Further action to amend the 1973 Rules will be taken on receipt of the recommendations of the Committee on Subordinate Legislation in this regards.”

86. The Committee note with satisfaction that on being pointed out the Ministry of Communications have agreed to incorporate in the rules the exceptions envisaged under rules 3, 9 and 10 of the Indian Wireless Telegraph Rules, 1973 so that the rules are self-contained. They desire the Ministry to issue the necessary amendment at an early date.

XV

THE EXPORT OF NON-BALED COIR YARN (INSPECTION) RULES, 1972 (S.O. 1131 OF 1972)

87. The Committee on Subordinate Legislation (1971-72) after examining the Export of Ceramic Products (Inspection) Rules, 1969 and the Export of Vinyl Film and Sheeting (Inspection) Rules, 1969, had recommended in para 28 of their Second Report (Fifth Lok Sabha) presented to Lok Sabha on the 10th December, 1971 that there should not only be a specific provision in the rules for inclusion of non-officials in the panel of experts but that they should comprise at least two-thirds of the total membership of the panel of experts so as to command the confidence of the aggrieved parties for its impartiality.

88. The Ministry of Commerce have taken action to implement the above recommendation of the Committee in so far as the rules relating to Ceramic Products, Vinyl Film and Sheeting and other commodities are concerned. While taking similar action in respect of rules relating to Non-baled Coir Yarn, they have experienced some difficulty in finding 2/3rd non-officials for inclusion in the panel of experts and have *inter alia* stated as under:—

“...in the case of pre-shipment inspection scheme for Non-baled Coir Yarn...the suggestion of the Committee to include 2/3rd non-officials in the panel of experts pertaining to the regions like Calcutta, Bombay, Delhi and Madras is not practicable, as there being hardly any trade in coir in these areas with the result that it is not feasible to secure the desired number (2/3rd) of non-official experts from these areas. However, this provision of 2/3rd non-officials has been made in the panel for Cochin region where there is a bulk of trade in coir, and non-official experts are available.

* * * * *

In view of the position explained above it would be appreciated if the concurrence of the Committee in the issuance of the enclosed *notification is communicated to this Ministry at an early date.

It is also requested that the decision of the Committee to waive the condition of providing 2/3rd of non-officials in the panel of experts where similar difficulties in securing non-official experts are faced, may also please be communicated to this Ministry.”

89. In view of the difficulty explained by the Ministry of Commerce in securing the desired number of non-official experts for the panel, the Committee concur with the suggestion to waive the condition of providing 2/3rd of non-officials in the panel of experts in the case of pre-shipment Inspection Scheme for non-baled coir yarn and approves the notification proposed to be published by Government in this regard. The Committee also concur to waive the condition of 2/3rd non-officials in the panel of experts in respect of other commodities where similar difficulties are faced.

*Not included in the Report.

XVI

THE DELHI TRANSPORT CORPORATION (ADVISORY COUNCIL) RULES, 1973 (S.O. 168 OF 1973).

90. Rule 19 of the Delhi Transport Corporation (Advisory Council) Rules, 1973 provides as under:—

“Adjourned Meeting for want of Quorum:

- (1) If, within half an hour from the time appointed for the meeting, the quorum is not present, the meeting shall be adjourned, to a date to be fixed by the Chairman.
- (2) If at the adjourned meeting, the quorum is not present within half an hour from the time appointed for that meeting, the members present shall proceed to transact the business before the Council notwithstanding the absence of the quorum.”

91. There is no indication in the Rule whether information about the date, time and place of an adjourned meeting is given to those members of the Council who were not present at the original meeting.

92. The Ministry of Shipping and Transport with whom the matter was taken have stated as under in their reply:—

“.....a proviso has already been added to rule 19(i) providing for intimation being given about an adjourned meeting to the members who were absent at the original meeting *vide* Delhi Transport Corporation (Advisory Council) (Amendment) Rules, 1973 (S.O. 1642 dated the 22nd May, 1973).”

93. The Committee note with satisfaction that a proviso has been added to rule 19(1) of the Delhi Transport Corporation (Advisory Council) Rules, 1973 providing for intimation being given about an adjourned meeting to the members who remain absent at the original meeting.

XVII

THE CENTRAL GOVERNMENT HEALTH SCHEME (KANPUR) RULES, 1972 (S.O. 2642 OF 1972)

94. Proviso to sub-rule (3) of rule 1 of the above rules empowers the Central Government to exclude, by order, any class or category of persons from the scope of the rules. Similarly, proviso to rule 2

ibid., empowers the Central Government to modify, by order, made in this behalf from time to time, the Scheme in so far as it is applicable to Kanpur.

95. The above provisions appeared to be in the nature of sub-delegation of legislative power for which there is no authority available in the proviso to Article 309 of the Constitution under which the Scheme has been framed.

96. The Ministry of Health and Family Planning (Department of Health) with whom the matter was taken up have stated in their reply as under:

“.....the proviso to sub-rule (3) of rule 1 and the proviso to rule 2 of the above mentioned Rules do not really involve any delegation of legislative power, much less, sub-delegation of legislative power.

The rules in question have been made under article 309 and clause (5) of article 148 of the Constitution by President. The power under the provisos aforementioned is exercisable by the Central Government. Though different expressions, namely, ‘President’ and ‘Central Government’ have been used in the notification, in substance, they mean one and the same thing.

In this connection, reference is invited to the definition of Central Government in section 3(8) of the General Clauses Act, 1897 which would apply to the present case if not *proprio vigore* at least by way of analogy. According to this definition, Central Government in relation to anything done or to be done after the commencement of the Constitution shall mean the President. In other words, all that the provisos say is that the Central Government or the President can modify the rules in question. Even if the provisos had not been there, under section 21 of the General Clauses Act, 1897 the President has the necessary powers to amend rules made by him under Article 309. The provisos seem to have been included more by way of abundant caution and for the practical purpose of avoiding the impression that the Central Government is committed fully to extending the C.G.H.S. facilities to all categories of employees. As at the time of framing of the rules, the Scheme was in an experimental stage and as it was not possible to visualize how far the Scheme would

be able to cope with the needs of all categories of Government employees in the particular locality, the provisos seem to have been included.

As a matter of actual fact, the provisos have not been invoked so far and no class or category of persons has been excluded from the scope of the rules under consideration

Incidentally, it may be mentioned that the proviso to article 309 of the Constitution enables the President to direct any other persons also to exercise the powers under that proviso in the case of services and posts in connection with the affairs of the Union as is clear from the opening words of the proviso which are quoted below:

'Provided that it shall be competent for the President or such persons as he may direct in the case of services and posts in connection with the affairs of the Union.'

In short, the proviso to article 309 does permit delegation by the President but the present case, as explained earlier, is not one of that type.

Lastly, it may be mentioned that the powers of the President under article 309 are plenary in nature. So long as the field is not occupied by Parliamentary law the powers of the President, are, in general, co-extensive with those of the Legislature (*State of Mysore*) v. Narayanappa, A.I.R. 1967 S.C. 1071). As already mentioned, it is not necessary to invoke this argument in the present case because there is, in substance, no delegation involved in the provisos mentioned in the O.M. of the Lok Sabha Secretariat."

97. The Committee are not satisfied with the reply of the Ministry of Health and Family Planning (Department of Health) that provisos to rule 1(3) and rule 2 of the Central Government Health Scheme (Kanpur) Rules, 1972 do not involve sub-delegation of legislative power. They feel that it is not necessary to incorporate above provisos in the rules as the President who has framed the health scheme under the proviso to Article 309 could also modify the scheme by issuing amendment to the rules. The Central Government should not have been empowered to modify the scheme by order. The Committee desire the Ministry of Health and Family Planning (Department of Health) to delete the above provisos from the rules.

XVIII

THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS) VERIFYING OFFICER RECRUITMENT RULES, 1973 (G.S.R. 603 OF 1973).

98. Rule 6 of the above rules relating to power to relax was substituted by the following rule through corrigendum issued under G.S.R. 1186 dated 3.11.1973 instead of through an amendment:

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

99. The rule as substituted provided for consultation with the U.P.S.C. before relaxing any of the provisions of the rules. Since this was a change of substantial character, the Ministry of Finance were asked to state whether they had any objection to carry out this change by issuing an amendment.

109. The Committee note with satisfaction that on being pointed out, the Ministry of Finance (Department of Economic Affairs) which had earlier issued corrigendum to the Verifying Officer Recruitment Rules to provide for consultation with the U.P.S.C. before relaxing any provisions, have now issued an amendment, vide notification No. A. 21075/1/72-Admn. II, dt. 19-6-1974, replacing the Corrigendum.

XIX

THE DIRECTORATE OF TECHNICAL DEVELOPMENT AND PRODUCTION (AIR) ORGANISATION CLASS III TECHNICAL, SCIENTIFIC AND OTHER NON-MINISTERIAL POSTS RECRUITMENT RULES, 1972 (S.R.O. 217 OF 1972).

101. Under column 13 ("If a DPC exists what is its composition") of the Schedule attached to the Directorate of Technical Development and Production (Air) Organisation Class III Technical Scientific and other non-Ministerial Posts Recruitment Rules, 1972 against various posts, the composition of the Departmental Promotions Committee has been shown as DPC II or DPC III. Similar connotations have been noticed from the Schedule to other rules also (vide Appendix VI).

102. The Ministry of Defence were requested to state the implication of the connotation DPC II or DPC III and whether it had been explained in some public document like rules, regulations, etc. as to what the composition of DPC II/DPC III was. Attention of the Ministry was also drawn to Defence Science Service (Amendment) Rules, 1973 (S.R.O. 48 of 1973) which incorporated the composition of Departmental Promotion Committees.

103. In their final reply, dated the 7th May, 1974, the Ministry have stated as under:—

“...DPC II and DPC III shown under col. 13 of the Schedule of SRO 217 of 72 have been constituted under specific Government orders issued *vide* Government of India, Ministry of Defence letters No. 97246/RD-22/1011/D(R&D) dated 8.2.65 as amended *vide* Corrigendum No. 97246/RD-22/10707/D(R&D) dated 15.10.65 and No. DTD&P (Air)/2950/ADMIN/2931/D(R&D) dated 24.3.66. These rules have not been explained in any public document.

As regards Defence Service (Amendment) Rules, 1973 (S.R.O. 48 of 1973) Rule 13 of which incorporates the composition of the Departmental Promotion Committee in respect of Class II and Class III posts it may be mentioned that Defence Science Service is a constituted service for Scientific/Technical Class I and Class II Officers under Department of Defence Production and its Rules have been published in S.R.O. 61 dated 25-1-67. S.R.O. 48 of 1973 showing composition of DPC is an amendment to those Rules. DPC Rules issued *vide* this Ministry letters referred to have govern Class III (non-gazetted) posts in DTC & P (Air) Organisation only. As such these have not been published in S.R.O.”

104. The Committee are unable to appreciate the reasons advanced for not publishing the composition of DPC II and III in the case of the Directorate of Technical Development and Production (Air) Organisation Class III Technical, Scientific and other non-Ministerial Posts Recruitment Rules, 1972 (S.R.O. 217 of 1972) viz. that these Rules govern Class III (non-gazetted posts) whereas the same have been published in the case of the Defence Service (Amendment) Rules, 1973 (S.R.O. 48 of 1973) because those relate to Class I and Class II officers.

105. As the very title of column 13 indicates the purpose of the column is to indicate the composition of whatever those DPC are Recruitment rules which lay down basic condition of recruitment and promotion are published so that all employees know their manner of recruitment, promotions etc. It is difficult to imagine that all employees know the composition of D.P.Cs by which they are concerned. The executive instructions which lay down the composition cannot be a substitute for the composition laid down in statutory Rules.

106. The Committee therefor desire that the composition of the Departmental Promotion Committees should be given in the Directorate of Technical Development and Production (Air) Organisation Class III Technical, Scientific and other non-Ministerial Posts Recruitment Rules, 1972 as has been done in the case of the Defence Science Service Rules.

107. They desire the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are a coordinating authority in regard to recruitment matters to issue necessary instructions to all Ministries/Departments not to use connotations like DPC I or DPC II in future and instead give exact composition of the DPC in the recruitment rules.

XX

- (i) THE CENTRAL ENGINEERING SERVICE CLASS I RECRUITMENT (AMENDMENT) RULES, 1973 (G.S.R. NOS. 346 AND 347 OF 1973).
- (ii) THE CENTRAL ELECTRICAL ENGINEERING SERVICE CLASS I RECRUITMENT (AMENDMENT) RULES, 1973 (G.S.R. NOS. 248 AND 249 OF 1973).

108. The two amendments viz. G.S.R. 246 and 247 of 1973 to the Central Engineering Service (Class I) Recruitment Rules were issued on the same day. Similarly, the amendments under G.S.Rs. 248 and 249 to the Central Electrical Engineering Service Class I Recruitment Rules were also issued on the same day.

109. The Committee found that one set of amendment through G.S.R. 246 and 248 in question related to an existing rule on promotion while the other set of amendment through G.S.R. 247 and 249 inserted a new rule relating to power to relax. They were of the

view that there could have been no confusion if two amendments had been issued together.

110. The Ministry of Works and Housing were requested to state the reasons for issuing separate amendments to the same set of Rules and not consolidating them in one amendment Order.

111. In their reply, the Ministry of Works and Housing have stated as under:

“...The Central Engineering Service and Central Electrical Engineering Service being two different services, governed by two different rules, the notifications relating to them had to be issued separately, in any case. The only question is whether two amendments relating to each rule, could not have been issued together in one notification, instead of being issued separately. The Ministry of Law have advised that the separate issue of the two amendments relating to same rules does not affect the legality of the amendments. However, the reason for issuing two amendments separately was that one amendment, laid down positively the quota for promotions from two different types of feeder posts and the second amendment related to the general power of relaxation not directly related to the first amendment; and it was felt that their juxtaposition together may, to casual readers give the impression that the two were directly relating to each other and that what had been laid down by one rule was sought to be taken away by another. This was just a decision of administrative expediency not affecting the merits of the case.”

112. The Committee are not convinced by the reasons advanced by the Ministry of Works and Housing for issuing two separate amendments to the same set of rules viz. that the juxtaposition together of the two amendments might give to casual readers an impression that the two are directly related to each other and what is laid down by one rule is being taken by another.

113. The Committee desire the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are a coordinating agency in regard to framing of recruitment rules etc. to issue necessary instructions to all Ministries/Departments for consolidating all amendments to the same set of rules if these are finalised and issued simultaneously.

THE MINISTRY OF FINANCE (DEPARTMENT OF EXPENDITURE—STAFF INSPECTION UNIT) RECRUITMENT AMENDMENT RULES, 1969 (S.O. 1040 OF 1970)

114. Recruitment rules for the post of Research-cum-Training Officer in the Staff Inspection Unit of the Ministry of Finance (Department of Expenditure) as inserted by the above Amendment Rules do not mention the age limit and educational qualifications for recruitment to the post. It is provided in the rules that these would be prescribed in consultation with the U.P.S.C. as and when the post is required to be filled by direct recruitment.

115. Normally, the Recruitment Rules themselves lay down the age limit, and educational qualifications for the various posts. The Ministry of Finance were therefore requested to state the reasons for not specifying them for the post of Research-cum-Training Officer.

116. In their reply, the Ministry of Finance have stated as under:—

“...the provisions regarding age limits and educational qualifications for the post of Research-cum-Training Officer in the S. I. Unit of this Department,..... were made on the lines of identical provisions for some of other posts in the S. I. Unit of this Department, which were made after discussions with the U.P.S.C. It may however, be mentioned that the post of Research-cum-Training Officer in this Department was kept in abeyance from the 18th November, 1968, and was not continued subsequently, and hence there has been no effective application of the Recruitment Rules for the post.”

117. Some of the other posts in the staff Inspection Unit were those of Senior and Junior Analysts. The Ministry of Finance were requested to state the consideration for not specifying the age limit and educational qualifications for the posts of Senior and Junior Analysts and Research-cum-Training Officer in the S. I. Unit and whether they had any objection to incorporating them by amending the rules.

118. In their further reply dt. 25th April, 1973, the Ministry have replied as under:—

“...the recruitment rules in question were finalised in consultation with the Ministry of Home Affairs (now Depart-

ment of Personnel and Administrative Reforms) and the U.P.S.C. During discussions with the U.P.S.C. at the time of formulation of the Rules, it was agreed that if and when it was decided to make direct recruitment to any of the posts of Senior Analyst/Junior Analyst, necessary qualifications will be prescribed at that time in consultation with the U.P.S.C. It was then expected that normally there will be no direct recruitment to these posts. In fact, direct recruitment has so far been made only once in the grade of Senior Analyst when the age-limit and educational qualifications were prescribed on that occasion only in consultation with the U.P.S.C.

The question of amending the rules on the lines suggested by the Lok Sabha Secretariat is now being taken up in consultation with the Department of Personnel and Administrative Reforms and the U.P.S.C.

The post of Research-cum-Training Officer is not now in existence. The rules will be amended to delete a reference to this post."

119. On further pursuing the matter the Ministry of Finance in their reply dated 28-5-1974, have stated as under:—

"...the question of prescribing age-limits and educational qualifications for direct recruitment to the posts of Senior Analyst and Junior Analyst in the Staff Inspection Unit of this Department has since been finalised. It has also been decided to omit reference in the recruitment rules to the post of Research-cum-Training Officer which is no longer in existence. A copy of the relevant Notification (English and Hindi versions) dated the 25th May, 1974 to suitably amend the recruitment Rules, viz., Ministry of Finance (Department of Expenditure—Staff Inspection Unit) Recruitment (Amendment) Rules, 1974, has been sent to the Government of India Press separately for publication in the Gazette of India."

120. The Committee note with satisfaction that on being pointed out, the Ministry of Finance (Department of Expenditure) have agreed to amend the Department of Expenditure Staff Inspection Unit Recruitment Rules, 1965 to prescribe the age-limits and educational qualifications for direct recruitment to the posts of Senior and Junior Analyst in the Staff Inspection Unit and to delete reference to the post of Research-cum-Training Officer. They desire the Ministry to amend the rules at an early date.

XXII

THE OVERSEAS COMMUNICATIONS SERVICE (ALLOTMENT OF RESIDENCES) RULES, 1971 (G.S.R. 1040 OF 1971)

(A)

121. S.R. 317—XXVI—AC 14 of the above rules reads as under:—

*“Consequences of breach of Rules and conditions—*If an officer to whom a residence has been allotted unauthorisedly sublets the residence or charges licence fee to the share at a rate which the Estate Manager considers excessive or erects any unauthorised structure in any part the residence or uses the residence or any portion thereof for any purpose other than that for which it is meant or tampers with the electric or water connection or commits any other breach of these rules or of the terms and conditions of the allotment or uses the residence or premises or permits or suffers the residence or premises to be used for any purpose which the Estate Manager considers to be improper or conducts himself in a manner which, in the opinion of the Estate Manager, it prejudicial to the maintenance or harmonious relation with his neighbours or has knowingly furnished incorrect information in any application or written statement with a view to securing the allotment the Estate Manager may, without prejudice to any other disciplinary action that may be taken against him, cancel allotment of the residence.

- (2) If the officer has failed to notify to the Estate Manager as provided for in these rules or while so notifying has in any application or statement suppressed any material fact, the Estate Manager may cancel the allotment with effect from the date he become ineligible for allotment of Government accommodation.
- (3) 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 licence fee not exceeding four times the standard licence fee under F.R. 45-A. The quantum of licence fee to be recovered in each case will be decided by the Estate Manager 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 Estate Manager.

- (4) Where action to cancel the allotment is taken on account of unauthorised subletting of the premises by the allottee, a period of 60 days shall be allowed to the allottee and any other person residing with him therein to vacate the premises. The allotment shall be cancelled with effect from the date of vacation of the premises or expiry of the said period of 60 days from the date of the orders for the cancellation of the allotment, whichever is earlier."

122. There is no provision in above rule for giving an opportunity of being heard to the aggrieved person before action is taken against him.

123. The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to amend S.R. 317-XXVI AC-14 of the Overseas Communications Service (Allotment of Residences) Rules, 1971 so as to give an opportunity of being heard to the allottee before action is taken against him. They desire the Ministry to issue the amendment at an early date.

(B)

124. S.R. 317-XXVI-AC-19 of the above rules reads as under:—

“Interpretation—If any question arises as to the interpretation of these rules, such question shall be referred to the Government and its decision thereon shall be final.”

The wording of above rule gives an impression that it seeks to oust the jurisdiction of courts.

125. The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to amend S.R. 317-XXVI-AC-19 of the Overseas Communications Service (Allotment of Residences) Rules, 1971 so that its wording do not give an impression that it seeks to oust the jurisdiction of Courts. They desire the Ministry to issue the amendment at an early date.

(C)

126. S.R. 317-XXVI-AC-20 of above rules reads as follows:—

“Delegation of powers—The Government may delegate all or any of the functions conferred upon it by these rules to any officer under its control subject to such conditions as it may deem fit to impose.”

127. The provision of above rule is tantamount to sub-delegation of legislative powers for which there is no authority in the Fundamental Rules under which above rules have been issued.

128. The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to delete S.R. 317-XXVI-AC-20 of the Overseas Communications Service (Allotment of Residences) Rules regarding delegation of powers. They desire the Ministry to issue the amendment at an early date.

XXIII

THE WILD LIFE (STOCK DECLARATION) CENTRAL RULES, 1973 (G.S.Rs. 29-E, 41-E, 43-E, 45-E, 64-E AND 191-E OF 1973)

129. Six sets of rules under the title 'the Wild Life (Stock Declaration) Central Rules, 1973,' have been enforced in six States, viz., Madhya Pralesh, Bihar, Gujarat, U.P., Haryana and Himachal Pradesh w.e.f. 25-1-73, 1-2-73, 1-2-73, 1-2-73, 12-3-73 and 2-4-73, respectively. All these rules have been made under the same short title, but issued under different G.S.R. numbers.

130. Since this was likely to cause confusion at the time of reference and tracing, the matter was taken up with the Ministry of Agriculture (Department of Agriculture). They were asked to state the reasons for issuing six separate sets of rules under the same short title for six States mentioned above and also whether they had any objection to replacing these six rules by one set of consolidated rules with an Annexure at the end showing the name of the State in one column and the dates on which the rules had been enforced in those States in the other column. In reply, the Ministry have stated as follows:

"Under sub-section (2) of section 44 of the Wild Life (Protection) Act, 1972, every manufacturer of, or dealer in, animal article, or every dealer in captive animals, trophies or uncured trophies, or every taxidermist shall, within fifteen days from the commencement of the Act, declare to the Chief Wild Life Warden his stocks of animal articles, captive animals, trophies and uncured trophies, as the case may be as on the date of such declaration and the Chief Wild Life Warden or the authorised Officer may place an identification mark on every animal article, captive animal, trophy or uncured trophy, as the case may be.

Section 63(1)(a) empowers the Central Government to make rules prescribing the form in which declaration shall be made under Section 44(2).

The Law Ministry has opined that the Act was not brought into force simultaneously in all the States, and Union Territories. As and when the Act was brought into force

in a particular State, the rules prescribing the declaration form were made simultaneously so as not to lose any time. Since the declaration has to be made within fifteen days from the commencement of the Act, the Wild Life (Stock Declaration) rules have become obsolete in these States after the 15 day period. Any amendment to these rules or the consolidation of the notification at this stage will be of no practical value.

The difficulty that the short title to the various rules made under Section 63(1)(a) is the same could have been avoided if in case the name of the State to which the rules applied had been added in the short title, such as 'These rules may be called Wild Life (Stock Declaration) Himachal Pradesh Rules, 1973', etc.

However, in future it is proposed to take steps to amend the short title of such future notifications as indicated by the Law Ministry."

131. The Committee are glad to note that on being pointed out the Ministry of Agriculture and Irrigation (Department of Agriculture) have agreed to give in the short title the name of the State to which Wild Life (Stock Declaration) Central Rules apply in order to distinguish them from similar rules applicable to other States. They note that in the notifications issued by the Ministry under G.S.R.s. 411-E, 412-E, 414-E, 415-E, 466-E, and 467E, the names of the States/Union Territories have been given in the short title of the rules accordingly.

XXIV

THE SLUM AREAS (IMPROVEMENT AND CLEARANCE) AMENDMENT RULES, 1973 (S.O. 1334 OF 1973).

132. Sub-rule (1) of rule 7A of the Slum Areas (Improvement and Clearance) Rules, 1957, as inserted by the above Amendment Rules of 1973, provides for issuing of a notice to the parties concerned, intimating the date of hearing for the purpose of giving them an opportunity of being heard. The manner of communication of such a notice has not been prescribed therein as has been done in the case of rent provisionally determined, *vide* rule 11, *ibid.*, *viz.*, 'by registered post under acknowledgement due'.

133. The Ministry of Works and Housing, to whom the above lacuna was pointed out, have stated in their reply that they have no objection to amend* rule 7A(1) so as to provide therein the manner of communication of notice to be issued thereunder.

*Rule 7A(1) has since been amended suitably, *vide* G.S.R. 1863 of 1974, dated 27-7-74.

134. The Committee note with satisfaction that on being pointed out, the Ministry of Works and Housing have amended rule 7A(1) of the Slum Areas (Improvement and Clearance) Amendment Rules, 1973 so as to provide therein the manner of communication of notice to be issued thereunder.

XXV

THE ALL INDIA RADIO (CLASS III POSTS) RECRUITMENT (FIFTH AMENDMENT) RULES, 1973 (G.S.R. 1398 OF 1973).

135. The above rules were published in the Gazette of India, Part II Section 3(i) dated the 22nd December, 1973 but were given retrospective effect from the 25th January, 1971 *vide* Rule 1(2) *ibid*. Explanatory note in regard to the retrospective effect, however, related to different rules viz. All India Radio (Class III Posts) Recruitment Rules, 1971.

136. The Ministry of Information and Broadcasting with whom the matter was taken up have replied as under:

“.....the explanatory Memorandum published along with the All India Radio (Class III Posts) Recruitment (Fifth Amendment) Rules, 1973 under G.S.R. 1398 in Part II, Section 3(i) of the Gazette of India on 22-12-1973 is being suitably modified in consultation with the Ministry of Law and Justice in the light of the observations made by the Committee on Subordinate Legislation communicated to this Ministry *vide* Lok Sabha Secretariat office Memorandum dated 10th April, 1974.”

137. The Committee note with satisfaction that, on being pointed out, the Ministry of Information and Broadcasting have agreed to suitably amend explanatory memorandum published along with the All India Radio (Class III Posts) Recruitment (Fifth Amendment) Rules, 1973. They desire the Ministry to issue the amendment at an early date. The Committee are, however, constrained to express surprise at the carelessness in publishing the above rules.

XXVI

NUMBERING OF AMENDMENTS TO 'ORDERS'

138. While examining the 'Orders' of 1973, it was noticed that amendments to certain rules (*vide* Appendix VII) did not carry distinctive serial No. of the amendment in their short title. For example, two amendments issued to the Export of Inorganic Chemicals (Inspection) Rules under S.O. Nos. 2789 and 2965 were both

shown as amendment rules in their short title. The later amendment should have been shown as the second amendment to the rules.

139. Attention of the Ministries concerned was invited to para 44 of Third Report of the Committee on Subordinate Legislation wherein the Committee had recommended that, for the facility of reference and easy recognisability, sets of amendments to any 'Order' issued from time to time in any year should be serially numbered and the short title to each amendment 'Order' should clearly show the relevant serial number.

140. Gist of the replies received from the Ministries has been shown in column 4 of the Appendix. No reply has been received from the Ministry of Home Affairs in respect of Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules, 1973 (S. No. 5 of Appendix VII).

141. The Committee note with satisfaction that except the Ministry of Labour, other Ministries concerned have agreed to issue corrigenda to give correct serial number of the amendment in respect of the rules shown at S. Nos. 1, 2, 4 & 6 of the Appendix VII. They desire the Ministries concerned to do the needful at an early date.

142. The Committee are not convinced by the reply of Ministry of Labour in respect of Vishakhapatnam Dock Workers (Regulation of Employment) Amendment Scheme, 1973 (S. No. 3 of Appendix VII), that amendment to the Scheme is not necessary after a lapse of one year and they desire the Ministry to issue necessary amendment to the rules shown at S. No. 3 at an early date.

143. The Ministry of Home Affairs on 31st May, 1974 were asked to state the reasons for not giving the distinctive amendment number to the Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules, 1973. No reply has been received so far in spite of two reminders issued on the 24th August and 18th September, 1974. The Committee take a serious note of the lapse on the part of the Ministry of Home Affairs for not sending reply in respect of the Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules (S. No. 5 of Appendix VII) and desire them to take necessary action in the matter without further delay.

XXVII

SEQUENCE OF AMENDMENTS ISSUED TO THE RULES, ETC.

144. While examining the 'Orders' of 1973, it was noticed that certain amendment Orders did not bear the Order No. in the same

sequence as assigned to the amendment. For example, while eighth amendment to the Indian Statistical Service Rules, 1969 was issued under G.S.R. 1276 of 1973, the Fourth amendment to the same Rules was issued under G.S.R. 1277. Besides these, other cases where similar mistakes occurred have been shown in the Appendix VIII.

145. Attention of the Ministries concerned was invited in April/August, 1974 to the recommendation of the Committee on Subordinate Legislation made in para 13 of their 12th Report (Second Lok Sabha) that amendments to the same rules should be published in the Gazette bearing the Order number in the same sequence as assigned to the amendments.

146. In their replies, the Ministries/Departments concerned have stated as under:

- (i) *Department of Personnel and Administrative Reforms in regard to amendments to the Indian Statistical Service Rules.*

“.....the position regarding the discrepancies between the GSR numbers assigned to the various amendments to the Indian Statistical Service Rules in 1973 and the sequence of the amendments has been examined. It has been found that there has been inordinate delay between the time the draft notification relating to the fourth Amendment, GSR 1277 was marked for being issued and the time the final notification duly signed by the officer was actually sent to the Press for publication. As a result of this procedural lapse some of the notifications which were marked for issue later than the date on which the draft notification regarding the fourth Amendment was marked were actually sent to the Press earlier. Thus the former notifications were assigned earlier GSR numbers. It is regretted that the discrepancy has taken place due to the above mentioned procedural lapse. I am to mention for the information of the Lok Sabha Secretariat that steps have been taken to avoid recurrence of such discrepancies in future. It may, however, be stated that general instructions have already been issued to ensure that the recommendations of the Committee on Subordinate Legislation in this regard are scrupulously followed.

There is no objection to amendment of the short title as proposed by the Lok Sabha Secretariat and necessary action is being taken to issue a corrigendum, a copy of which will be endorsed to the Lok Sabha Secretariat.”

(ii) *Ministry of Defence in regard to amendments to G.P.F. (Defence Services) Rules.*

“It was found on investigation that the discrepancies in Short Titles of the SROs in question have occurred either due to procedural difficulties, or due to administrative lapse in the Ministry, which we regret.

In one case, where both the SROs. 156 and 157 were allotted amendment No. 36th, the mistake had occurred in the Press.

Necessary remedial measures are being taken to avoid such mistakes in future. Meanwhile, the question of amending the Short Titles of the SROs in question has been examined in consultation with the Ministry of Law and five corrigenda Notifications dated 11th September, 1974 have been sent to the Press to be published in the Gazette of India dated the 21st September, 1974.”

(iii) *Ministry of Labour in regard to amendments to the Coal Mines Labour Welfare Fund Rules.*

“.....the Third Amendment to Coal Mines Labour Welfare Fund Rules, 1949, has since been issued *vide* this Ministry's Notification No. S. 20012|6|72-MII dated 17th October, 1973. Its publication in the Official Gazette is awaited. As soon as the relevant Gazette is available, copies of the G.S.R. in question would then be arranged to be laid on the Table of the Lok|Rajya Sabha, possibly during the Winter 1973 Session. The Second Amendment to Coal Mines Labour Welfare Fund Rules, 1949 is being issued under this Ministry's notification No. S.20012/7/72-MII.”

“...although all the four Amendments were numbered in the same sequence while referring the respective files to the Ministries of Law, Justice and Company Affairs, Steel and Mines, etc., the notifications have incidentally appeared on different dates in the Official Gazette and were not in the same order due to the fact that in the cases of two amendments, files had to be referred to these Ministries repeatedly before the issue could be sorted out. However, to avoid such a situation in future the numbers to the amendment Rules will be given only at the time of issue of final notification/publication.”

(iv) *The Ministry of Home Affairs in regard to amendments to the Central Reserve Police Force Rules.*

“.....the Ministry regrets rather illogical numbering of the notifications commented upon by the Committee on Subordinate Legislation. This happened because a number of amendments to the CRPF Rules were under consideration simultaneously in 1973 and these were published in the Gazette on different dates not bearing the same sequence of the dates on which these were issued. However, it is stated that amendments once made lose their separate identity and become part of the parent notification. As such, it would purely be of academic significance and of no importance to renumber them. The observations of the Committee have however been noted for future compliance. It is, therefore, requested that the Lok Sabha Secretariat may kindly reconsider the matter and agree to the views expressed above.”

147. The Committee in para 13 of their Twelfth Report (Second Lok Sabha) had recommended that amendments to the same rules should be published in the Gazette bearing the Order number in the same sequence as assigned to the amendments so that the person concerned would know that there are no intervening amendments published. While the Committee note that the Department of personnel and Administrative Reforms and the Ministry of Defence, on being pointed out, have agreed to issue amendments to the short titles of the rules mentioned at S. Nos. 1 and 2 of Appendix VIII. They desire the Ministries of Labour and Home Affairs also to issue necessary amendments to the rules mentioned at S. Nos. 3 and 4 of Appendix VIII.

148. The Committee desire that all Ministries/Departments should take steps to avoid such mistake in future and should assign amendment number in the short title of the rules at the time of the issue of final notifications.

XXVIII

(i) IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 78 OF SEVENTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING THE COIR RETTING (LICENSING) ORDER, 1968.

(ii) COCONUT HUSKS CONTROL ORDER, 1973 (S. O. 527-E OF 1973).

149. In para 78 of their Seventh Report (Fifth Lok Sabha) regarding the Coir Retting (Licensing) Order, 1968, presented to

Lok Sabha on 25th July, 1973, the Committee on Subordinate Legislation had recommended that in case the Bill on Coir retting proposed by the Kerala Government was not passed by the State Legislature, the Government while revising the Order, should make amendment in Clause 10 so as to specify therein the records and return to be maintained by the licence holder.

150. The Coconut Husks Control Order, 1973 was issued on 29th September, 1973 repealing the Coir Retting (Licensing) Order, 1968. It is seen that the new Order also does not specify the records and returns to be maintained by the licence holder. Clause 13 of the Order relating to maintenance of records reads as under:

“Maintenance of records.—The licensing Officer may, by general or special order, direct the holder of a licence or permission under this Order, to maintain such records of his business in such manner, and to submit to him such returns relating to their business as may be specified in the ‘Order’.”

151. The Ministry of Industrial Development were requested to state the reasons for not specifying the particulars of records and returns in clause 13 of the Order as recommended by the Committee. In their reply, the Ministry have stated as under:

“...as Lok Sabha Secretariat are aware a fresh Order viz., Coconut Husks Control Order, 1973 has since been issued on the 29th September, 1973, it will be seen from the revised Order that no form has been specified for returns. It has not been found desirable to specify any form for returns because under this Order the State Government have been made responsible to implement the scheme. The State Government functionary, in the determination of prices and implementation of the various controls, is the Licensing Officer viz., the Special Officer for Coir. The para under Section 13 of the Order is one for calling from the licensee such information/returns as may be found necessary in the course of implementation of the Order by the Licensing Officer. It is a general power for collecting details by the Licensing Officer from the holders of licences issued under the Order. There is sufficient safeguard for the licence holders as the Licensing Officer has to publish requisite notices/orders in the State Gazette or any other media which would reasonably reach the persons concerned. If a particular return is specified and a form prescribed, it will restrict the scope of action on the one

hand and impose unnecessary paper work where it might not be needed, on the other.

In view of the above it is felt that specification of records or return with order itself is not necessary. It is accordingly requested that the above facts may kindly be brought to the notice of the Committee on Subordinate Legislation at an appropriate time, under intimation to this Ministry."

152. The Committee are not satisfied with the reasons advanced by the Ministry of Industrial Development for not specifying in the Coconut Husks Control Order, 1973 the particulars of records and returns required to be submitted by the holder of a licence under Clause 13 of the Order. They are of the view that indication of above particulars in the order is necessary to obviate the possibility of discrimination being made between one licence holder and another.

153. The Ministry of Industrial Development have stated that there are sufficient safeguards for the licence holders as the licensing officer has to publish the notices/orders calling for information/returns from the licensee in the official Gazette or any other media which will reach the person concerned. The Committee note that there is nothing in Clause 13 that the order of the licensing officer will be published in the Gazette. The Committee, therefore, desire the Ministry of Industrial Department to issue necessary amendment to clause 13 of the Coconut Husks Control Order so as to specifically provide therein that special or general order to be issued by licensing officer would be published in the Gazette for the information of all concerned.

XXIX

DELAY IN LAYING 'ORDERS' ON THE TABLE OF LOK SABHA DURING THE TENTH SESSION, 1974

154. In their successive Reports, the Committee on Subordinate Legislation have recommended that all 'Orders' required to be laid on the Table should be laid within a period of 15 days after their publication in the Gazette, if the House was in Session. If the House was not then in Session, they should be laid within 15 days of the commencement of the next Session. In cases where the 'Orders' were laid on the Table of the House after the prescribed time limit of 15 days, they should be accompanied by a statement explaining the reasons for delays.

155. Total number of 'Orders' laid on the Table during the Tenth Session of Fifth Lok Sabha (from 19-2-74 to 10-5-74) was 157. Out

of these, 40 'Orders' (Vide Appendix IX) were laid after the prescribed time-limit of 15 days. A broad break-up of cases of delay is given below:

Period of delay	Total number of 'Order'
Over 3 years	1
Over 2 years	2
Over 1 year	7
Over 11 months	1
Over 3 months	5
Over 2 months	2
Over 1 month	15
Over 15 days	7
	<hr/>
Total	40
	<hr/>

156. In 25 cases (out of 40), statements showing reasons for delay were also laid on the Table alongwith the 'Orders'. These cover all the cases where the delay was of more than 2 months. According to these statements, 10 Orders' had been laid on the Table in pursuance of the observation made by the Committee on Subordinate Legislation in connection with non-compliance with the statutory requirement of laying Orders before Parliament *vide* para 13 of their Ninth Report (Fifth Lok Sabha). In other cases, the main reason was that there was delay in receiving G.S.R. number or printed copies of the Gazette Notification from the Government of India Press.

157. In 15 cases (*vide* Appendix X) in which statements showing reasons for delay had not been laid, the Ministries|Departments concerned were asked to state the reasons for delay in laying the 'Orders'. In their replies, most of the Ministries have stated that it was due to delay in getting the G.S.R. No./printed copies of the Gazette Notification from the Government of India Press. No replies have been received from the Ministries of Finance and Agriculture in regard to S. Nos. 3, 4 and 7 of Appendix X.

158. The Committee are not convinced by the reasons advanced by Ministries/Departments for delay in laying Orders on the Table within prescribed period. In para 35 of their Ninth Report (Fifth Lok Sabha) the Committee had drawn attention of the Ministries/Departments to the new procedure introduced by the Controller of Printing and Stationery for supply of G.S.R. number etc. *vide* his O.M. No. H. 11013/1/72-P dated 9-2-72 addressed to all Ministries/

Departments. The new procedure inter alia provides that the Ministries/Departments should not wait for supply of spare copies of the Notification by the Press for laying them on the Table of House. They should obtain the G.S.R. or S.O. Number of the Notification by making a request in writing in duplicate one day after the date of publication of the Notification in the case of extraordinary issues and on Mondays, in the case of Notifications published in the weekly Gazette. In para 143 of their Thirteenth Report (Fifth Lok Sabha), the Committee emphasised upon all Ministries/Departments the necessity of adhering to this new procedure. The Committee regret to note that this new procedure is not being followed by the Ministries/Departments of Government. They desire all Ministries/Departments to strictly follow this new procedure in order to avoid delay in getting the G.S.R. No./printed copies of Gazette notifications from Government of India Press.

159. The Committee are unhappy to note that in 15 cases out of 40, the Ministries/Departments concerned have not laid the statements showing reasons for delay alongwith the Order. They desire all Ministries/Departments to strictly comply with the recommendation of the Committee in this regard and statements showing reasons for delay should invariably be laid on the Table alongwith the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reason whatsoever.

160. The Committee take serious note of the lapse on the part of the Ministries of Finance and Agriculture for not sending replies in regard to Orders mentioned at S. Nos. 3, 4 and 7 of Appendix X.

XXX

DELAY IN RECEIPT OF REPLIES FROM MINISTRIES/DEPARTMENTS

161. Seven 'Orders' dealt with in this Report relate to the years 1969 to 1972. Barring one case the Committee could not report on these 'Orders' earlier due to inordinate delay in receipt of replies from the Ministries. In one case, reference was made to the Ministry of Finance (Department of Expenditure) on the 6th November, 1971 and their final reply was received on the 28th May, 1974—after a time lag of 2 years and 6 months. In other cases there was a time lag of about one year. In all these cases final replies were received only after the displeasure of the Committee had been conveyed to the Ministries and the matter was reported to the House through the Eleventh and Twelfth Reports. Even in this Report (para 9)

the Committee have pointed out that replies had not been received from the Ministries of Finance and Agriculture. The Committee are very unhappy over this. Such delays, they need hardly point out, not only hamper the work of the Committee but also result in unnecessary prolongation of infirmities in rules. The Committee desire that, save in exceptional circumstances, final replies to references made by the Committee should be given within a period of three months. In cases where it is not possible to adhere to this time-limit, the reasons for the inability of the Ministry to do so should be communicated to the Committee before the expiry of the said time-limit.

DR. KAILAS,
Chairman,
Committee on Subordinate Legislation.

NEW DELHI;
the 17th December, 1974.

APPENDICES

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.	10	<p>The Committee are distressed to note that a large number of Acts still do not provide for laying of Rules on the Table. Besides the Acts mentioned in para 6 of Report certain other Acts might also not be having such a provision. It is incomprehensible that even 20 years after the Committee had made the aforesaid recommendation, Bills should not have been brought providing for laying of Rules before Parliament. It is hardly necessary for the Committee to emphasise the imperative need for incorporation of such a provision in Acts. As they observe, it is an important check exercised by Parliament—the delegating authority—over subordinate legislation framed by the executive in exercise of the delegated powers.</p> <p>They are surprised that their recommendation made in paras 36-37 of Third Report (First Lok Sabha) for incorporation of a provision in Acts for laying of rules framed thereunder before Parliament, though accepted by Government has not been kept in view while bringing Amending Bills subsequent to the presentation of that Report to the House on the 3rd May, 1955.</p>
11		<p>The Committee earnestly desire all Ministries/Departments to undertake examination of all Acts with which they are administratively con-</p>

(1)

(2)

(3)

cerned in order to find out which of them do not contain a provision for laying of Rules before Parliament and to incorporate this provision in the Acts at their earliest.

2. 16

The Committee note that while on the one hand the Ministry of Railways (Railway Board) have conceded that there is no provision in the Railway Protection Force Act which confers powers on the Inspector-General to frame regulations, on the other hand they have averred that rule 32 confers no new power on the Inspector-General but merely makes express what is implicit in Section 8 of the Railway Protection Force Act, 1957. The Committee can hardly accept this explanation. As they observe, Section 8, *ibid.*, simply requires the Inspector-General to carry on the administration of the Force in accordance with the provisions of the Act and the rules made thereunder. It nowhere confers any power upon the Inspector-General to frame regulations for the purpose. The rule-making power section in the Act, *viz.*, Section 21, empowers the Central Government and not the Inspector-General to make rules for carrying out the purposes of the Act. The Committee are, therefore, of the opinion that the authorisation of the Inspector-General to frame regulations under rule 32 is tantamount to sub-delegation of legislative power without due statutory authority.

17

The Committee note that in a similar case relating to the Central Industrial Security Force Rules, 1969, where sub-delegation of legislative power to the Inspector-General was not authorised by the parent Act, they had desired the Ministry of Home Affairs to delete the relevant rule (*vide* para 64 of Seventh Report—Fifth Lok Sabha). The Committee desire that in this case also the Ministry of Railways should delete

(1)

(2)

(3)

sub-rule (7) of rule 21 and rule 32 of the Railway Protection Force Rules, 1959, as the Parliament have not authorised them to further sub-delegate the power of legislation to the Inspector-General to make regulations. However, if the Ministry want to have the regulations (presently unauthorisedly framed under rule 32), they should take steps to amend the Railway Protection Force Act, so as to empower the Central Government|Inspector-General to make regulations, or, in the alternative, they should issue a separate set of rules incorporating therein the said regulations, in exercise of the powers conferred by Section 21 of the parent Act. They should cite this authority in the preamble, in case they choose to follow the latter course.

18

The Committee are not at all convinced with the reply of the Ministry regarding non-publication of the regulations in the Gazette and their not being laid before Parliament. The Committee are of the opinion that the regulations made under rule 32 should not be considered on a separate footing than the rules in so far as their publication and laying is concerned. When the rules are required to be published and laid before Parliament, the regulations, should also be subject to the same conditions as are laid down in the parent Act. The Committee note that in the case of regulations framed under the Rules made under the All India Services Act, 1951, relying on the Judgment of the Supreme Court in **Narendrakumar vs. Union of India*, the Ministry of Law had advised the Ministry of Home Affairs that the regulations made by the Central Government should be taken to form an itegral part of the rules made under section 3(1) of the All India Services Act, and as such they were required to be laid before Parliament.

(1)

(2)

(3)

19 The Committee recommend that till a separate set of rules, incorporating therein the regulations now framed under rule 32, is issued, or in the alternative, the Railway Protection Force Act is amended suitably to have an express authority from Parliament to make regulations, the Ministry of Railways should take immediate steps to publish the regulations in the Gazette and lay them before Parliament as has been agreed to by them in the case of rules and regulations framed by them in exercise of the rule-making power under sections 22, 47, 71-E and 84 of the Railways Act without waiting for statutory requirement to that effect being made in that Act—para 217 of Twelfth Report (Fifth Lok Sabha).

3.

22

The Committee concede that in a remote way the power to frame the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971 is derived from Section 67. But it would have been better if at least sub-section 2 of Section 67 had listed 'classification of goods' as one of the matters in regard to which Central Government may frame Rules. It cannot be denied that the direct authority for framing the rules in question is contained in Explanation II of clause (d) of Section 2. That being so, it would have been desirable if the preamble of the aforesaid rules referred to Section 2 of the Act for a better appreciation of the source of authority.

26

The Committee agree that it is not possible to enunciate in any Act all the matters for which rules may be required but they are not convinced with the arguments advanced by the Ministry of Law, Justice and Company Affairs (Legislative Department) for not including in sub-section (2) of the rule-making power section at least all those matters on which rules have to be framed under various other sections

of the statute, or in the alternative to referring to in the preamble to rules not only the general rule-making power section of the Act but also other specific sections of the Act under which the rules have been framed.

27 While examining various rules, the Committee have very often faced an uphill task of locating the section of the Act under which the particular rules have been framed. Where the section pertaining to rule-making power is only generally worded the Committee is absolutely left a guessing whether there is clear authority for the rule or not. Where in addition to generally worded sub-section (1), there is also a sub-section (2) enumerating matters on which the rules can be made, it has sometimes been found that such enumeration has left out some of the matters mentioned in other sections of the same Act. On the other hand, on account of the fact that preamble of the rule ordinarily makes mention only of the general rule-making power, the preamble is also of no help in the examination of rules.

28 The Committee do appreciate that sub-section (2) is not restrictive of sub-section (1) as indeed is expressly stated by the words "without prejudice to the generality of the powers conferred by sub-section (1)". But it is sound common sense that at least all those matters on which rules have to be framed under various sections of the same statute are enumerated in sub-section (2). This would be in conformity with the Ministry's own observation that "inclusion of sub-section (2) in the rule making section is intended to focus attention on the several matters in respect of which rules are clearly contemplated by the Act." The Committee also feel that such an enumeration will not interfere with the flexibility of the rule-making power.

29 The Committee, therefore, recommend that (i) either sub-section (2) of the rule-making power section should enumerate all matters on which rules have to be framed under various sections of a statute and quote the section to which that matter relates as has been done in section 27 of the Interest Tax Act, 1974 or (ii) in the alternative, the preamble to the rules should refer not only to the general rule-making power section of the Act but also other sections of the Act under which the rules have been framed.

4 34 The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to retrospective effect given to the International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973. The Committee are of the view that the Ministry are mistaken in quoting recommendations of the Committee made in paras 101—103 of their Ninth Report (Fifth Lok Sabha). These recommendations relate to the giving of retrospective effect to rules framed under the proviso to Article 309 of the Constitution whereas under the present case the rules have been framed under an Act of Parliament which do not expressly or by intent authorise giving retrospective effect to rules. The Committee, therefore, desire the Ministry either to enforce the rules from the date of their publications in the Gazette or to amend the International Airports Authority Act, 1971 so that it expressly empowers the Government to give retrospective effect to this rule.

40 The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to the determination of allowances and conditions of service of the Chairman and every other whole-time member by the Central

Government through administrative orders. The International Airports Authority Act, 1971 does not empower the Central Government to determine allowances and conditions of service of the Chairman and other whole-time Members through administrative orders. Sub-Section (2) (a) of section 36 of the Act clearly lays down that these will be determined through rules to be framed under the said Act. The Committee, therefore, desire the Ministry to amend rule 7 of the International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973 in order to lay down the allowances and conditions of services of the Chairman and other whole-time Member rather than leave it to be determined through administrative orders.

5. 45

The Committee are not convinced by the reply of the Ministry of Finance (Department of Revenue and Insurance) that rule 12 of the Central Excise Rules, 1944 has been amended with a view to conferring in unambiguous terms discretion on collectors of Central Excise to allow a refund claim. They are of the view that the original proviso to Rule 12 of the Central Excise Rules served as a check on the misuse of claim for rebate, as it was allowed on certain conditions being fulfilled. The new proviso to Rule 12 empowers the Collector to disallow in his discretion the whole or any part of the claim for rebate. The Committee, therefore, desire the Ministry of Finance (Department of Revenue and Insurance) to incorporate guide-lines mentioned in para 3 of the Ministry's circular No. 3/71-CX. 6 dated 25-1-1971 in the rules so as to give them statutory form and to obviate any scope of discriminatory treatment to exporters.

6. 50

The Committee are surprised to note that despite the existence of an Act of Parliament

1

2

3

since 1917 to regulate the destruction of records, there is no uniformity in the procedure being followed by the various Ministries/Departments. Only two offices have framed rules under the Destruction of Records Act, 1917; others are following executive instructions issued in this regard by the Department of Personnel and Administrative Reforms. It is not known under what circumstances and when the need arose for issue of executive instructions by the Department of Personnel when an Act on the subject already existed. If the Act did not meet the situation fully it should have been suitably amended. The Committee desire the Department of Culture to take up the matter with the Department of Personnel and Administrative Reforms with a view to see that the management of record is done by Ministries/Departments in accordance with statutory rules and not on the basis of executive instructions.

7.

54

The Committee note with satisfaction that the Ministry of Education and Social Welfare have agreed to their suggestion for referring to Section 15A(2)(a) of the Indian Museum Act, 1910 in the preamble to the Indian Museum Recruitment Rules, 1970.

55

The Committee are not convinced with the reply of the Ministry that if rule 5(3) of the Indian Museum Rules is deleted, it will be necessary to provide in one set of rules all matters relating to recruitment and conditions of service. The Committee are of the view that Section 15A(2)(a) of the Museum Act does not prevent the Government from framing more than one set of rules on two or more different matters. They desire the Ministry to delete rule 5(3) of the Indian Museum Rules, 1970.

8.

58

The Committee note with satisfaction that on being pointed out the Ministry of Education and

1

2

3

Social Welfare (Department of Education) have amended the Council of Architecture Rules, 1973 by omitting the words 'the decision shall be final' vide G.S.R. 1104 of 1973, dated the 6th October, 1973.

61 The Committee note with satisfaction that on being pointed out the Ministry of Education and Social Welfare (Department of Education) have omitted rule 27 and sub-rule (3) of rule 36 of the Council of Architecture Rules relating to power to compel persons to give evidence on oath etc.

9. 65 The Committee are not satisfied with the reply of the Ministry of Shipping and Transport that under the Delhi Transport Corporation (Members) Rules, 1973, it is open to fix not only uniform rates of remuneration to the members of a Road Transport Corporation or other persons associated with the Corporation under Section 10 of the Road Transport Corporations Act, 1950 but also to lay down a general mode of determination of the remuneration of these persons subject to any maximum limits in the matter. The Committee feel that rule 9 of the Delhi Transport Corporation (Members) Rules, which empowers the Corporation to fix the remuneration to be paid to associated persons within the prescribed limits is not authorised under the Road Transport Corporation Act, 1950. Under clause (b) of sub-section (2) of Section 44 of the said Act, it was the State Government (Central Government in case of Delhi) which is empowered to make rules regarding remuneration allowance, etc. As such there is unauthorised delegation of power by rule 9 *ibid*. The Committee desire the Ministry of Shipping and Transport either to delete rule 9(i) or make suitable amendment in the Act to empower the Corporation to determine the amount of remuneration.

1	2	3
---	---	---

10. 69 The Committee note with satisfaction that the Ministry of Works and Housing have agreed to incorporate in the Delhi Development Act, 1957 a provision requiring publication of Regulations framed thereunder in the Official Gazette. They desire the Ministry to amend the Delhi Development Act, 1957 accordingly at an early date.
- 70 The Committee are surprised to note that the Ministry of Works and Housing are not aware of rule 319 of the Rules of Procedure and Conduct of Business in Lok Sabha under which each regulation, rule, sub-rule, bye-law, etc. framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority and which is required to be laid before the House is required to be numbered centrally and published in the Gazette immediately after it is promulgated. Had the Ministry been vigilant in this respect there would have been no delay in laying them on the Table of the House.
- 71 The Committee further note that normally the Acts contain a provision regarding notification of regulations framed thereunder in the Gazette. It is not understood as to why it had not been done in the case of the Delhi Development Act, 1957. The Committee desire the Ministry of Law, Justice and Company Affairs (Legislative Department) to issue necessary instructions to all Ministries/Departments to be careful in this respect and make such provision wherever necessary by amending the Acts.
11. 75 The Committee are not convinced by the reply of the Ministry of Industrial Development for not giving the prices of tyres and tubes as on 20th November, 1973 in the Tyres and Tubes (Prices Control) Order. They are of the view that
-

the Order which has since been rescinded was vague. The purpose of the Order was to freeze the prices of tyres and tubes at the level of those existing on the 20th November, 1973. The consumer could know the controlled price only if it has been specified in the Order. In order to place the prices existing on a particular date on statutory footing, these should have been indicated in the Order. The Committee desire the Ministry to be careful about such matters in future.

78 The Committee are not satisfied with the reply of the Ministry of Industrial Development. They feel that particulars of returns and other information required to be furnished by the manufacturer as also the time limit within which such information is to be furnished should be incorporated in similar price control orders to be issued in future so that the possibility of discrimination being made between individual manufacturers in the supply of information is avoided.

2. 81 The Committee are not satisfied with the explanation given by the Ministry of Finance for the lapse of 23 years in substituting the word 'President' for the words 'Governor-General in Council', or 'the Secretary of State in Council'. They are of the view that this anachronism should have been removed soon after the country became a Republic in 1950 and Government need not have awaited the revision of rules for such a fundamental change.

13. 86 The Committee note with satisfaction that on being pointed out the Ministry of Communications have agreed to incorporate in the rules the exceptions envisaged under rules 3, 9 and 10 of the Indian Wireless Telegraph Rules, 1973 so that the rules are self-contained. They desire the

Ministry to issue the necessary amendment at an early date.

14. 89. In view of the difficulty explained by the Ministry of Commerce in securing the desired number of non-official experts for the panel, the Committee concur with the suggestion to waive the condition of providing 2/3rd of non-officials in the panel of experts in the case of pre-shipment Inspection Scheme for non-baled coir yarn and approves the notification proposed to be published by Government in this regard. The Committee also concur to waive the condition of 2/3rd non-officials in the panel of experts in respect of other commodities where similar difficulties are faced.
15. 93. The Committee note with satisfaction that a proviso has been added to rule 19(1) of the Delhi Transport Corporation (Advisory Council) Rules, 1973 providing for intimation being given about an adjourned meeting to the members who remained absent at the original meeting.
16. 97. The Committee are not satisfied with the reply of the Ministry of Health and Family Planning (Department of Health) that provisos to rule 1(3) and rule 2 of the Central Government Health Scheme (Kanpur) Rules, 1972 do not involve sub-delegation of legislative power. They feel that it is not necessary to incorporate above provisos in the rules as the President who has framed the health scheme under the proviso to Article 309 could also modify the scheme by issuing amendment to the rules. The Central Government should not have been empowered to modify the scheme by order. The Committee desire the Ministry of Health and Family Planning (Department of Health) to delete the above provisos from the rules.
17. 100. The Committee note with satisfaction that on being pointed out, the Ministry of Finance Department of Economic Affairs) which had earlier

issued corrigendum to the Verifying Officer Recruitment Rules to provide for consultation with the U.P.S.C. before relaxing any provision, have now issued an amendment, vide notification No. A.21075|1|72-Admn.II, dated 19-6-1974, replacing the Corrigendum.

18. 104 The Committee are unable to appreciate the reasons advanced by the Ministry of Defence for not publishing the composition of DPC II and III in the case of the Directorate of Technical Development and Production (Air) Organisation Class III Technical, Scientific and non-Ministerial Posts Recruitment Rules, 1972 (S.R.O. 217 of 1972) viz that these Rules govern Class III (non-gazetted posts) whereas the same have been published in the case of the Defence Service (Amendment) Rules, 1973 (S. R.O. 48 of 1973) because these relate to Class I and Class II officers.
- 105 As the very title of column 13 indicates, the purpose of the column is to indicate the composition of whatever those DPC are. Recruitment rules which lay down basic condition of recruitment and promotion are published so that all employees know their manner of recruitment, promotions, etc. It is difficult to imagine that all employees know the composition of D.P.Cs. by which they are concerned. The executive instructions which lay down the composition cannot be a substitute for the composition laid down in statutory Rules.
- 106 The Committee desire that the composition of the Departmental Promotion Committees should be given in the Directorate of Technical Development and Production (Air) Organisation Class III Technical, Scientific and other non-Ministerial Posts Recruitment Rules, 1972 as has been done in the case of the Defence Science Service Rules.
-

1	2	3
107	<p>The Committee desire the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are a coordinating authority in regard to recruitment matters to issue necessary instructions to all Ministries/Departments not to use connotations like DPC I or DPC II in future and instead give exact composition of the DPC in the recruitment rules.</p>	
19.	112	<p>The Committee are not convinced by the reasons advanced by the Ministry of Works and Housing for issuing two separate amendments to the same set of rules viz., that the juxta-position together of the two amendments might give to casual readers an impression that the two are directly related to each other and what is laid down by one rule is being taken by another.</p>
	113	<p>The Committee desire the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are a coordinating agency in regard to framing of recruitment rules etc. to issue necessary instructions to all Ministries/Departments for consolidating all amendments to the same set of rules if these are finalised simultaneously.</p>
20.	120	<p>The Committee note with satisfaction that on being pointed out, the Ministry of Finance (Department of Expenditure) have agreed to amend the Department of Expenditure Staff Inspection Unit Recruitment Rules, 1965 to prescribe the age-limits and educational qualifications for direct recruitment to the posts of Senior and Junior Analysts in the Staff Inspection Unit and to delete reference to the post of Research-cum-Training Officer. They desire the Ministry to amend the rules at an early date.</p>
21.	123	<p>The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to amend S.R. 317-XXVI AC-14</p>

1	2	3
		of the Overseas Communications Service (Allotment of Residences) Rules, 1971 so as to give an opportunity of being heard to the allottee before action is taken against him. They desire the Ministry to issue the amendment at an early date.
125		The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to amend S.R. 317-XXVI-AC-19 of the Overseas Communications Service (Allotment of Residences) Rules, 1971 so that its wording do not give an impression that it seeks to oust the jurisdiction of Courts. They desire the Ministry to issue the amendment at an early date.
128		The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to delete S.R. 317-XXVI-AC-20 of the Overseas Communications Service (Allotment of Residences) Rules regarding delegation of powers. They desire the Ministry to issue the amendment at an early date.
22.	131	The Committee are glad to note that on being pointed out the Ministry of Agriculture and Irrigation (Department of Agriculture) have agreed to give in the short title the name of the state to which Wild Life (Stock Declaration) Central Rules apply in order to distinguish them from similar rules applicable to other States. They note that in the notifications issued by the Ministry under G.S.Rs. 411-E, 412-E, 414-E, 415-E, 466-E and 467-E, the names of the States/Union Territories have been given in the short title of the rules accordingly.
23.	134	The Committee note with satisfaction that on being pointed out, the Ministry of Works and Housing have amended rule 7A(1) of the Slum Areas (Improvement and Clearance) Amendment Rules, 1973 so as to provide therein the manner of communication of notice to be issued thereunder.

1	2	3
24.	137	<p>The Committee note with satisfaction that, on being pointed out, the Ministry of Information and Broadcasting have agreed to suitably amend explanatory memorandum published along with the All India Radio (Class III Posts) Recruitment (Fifth Amendment) Rules, 1973. They desire the Ministry to issue the amendment at an early date. The Committee are, however, constrained to express surprise at the carelessness in publishing the above rules.</p>
25.	141	<p>The Committee note with satisfaction that except the Ministry of Labour, other Ministries concerned have agreed to issue corrigenda to give correct serial number of the amendment in respect of the rules shown at S. Nos. 1, 2, 4 and 6 of the Appendix VII. They desire the Ministries concerned to do the needful at an early date.</p>
	142	<p>The Committee are not convinced by the reply of Ministry of Labour in respect of Vishakhapatnam Dock Workers (Regulation of Employment) Amendment Scheme, 1973 (S. No. 3 of Appendix VII), that amendment to the Scheme is not necessary after a lapse of one year and they desire the Ministry to issue necessary amendment to the rules shown at S. No. 3 at an early date.</p>
	148	<p>The Ministry of Home Affairs on 31st May, 1974 were asked to state the reasons for not giving the distinctive amendment number to the Delhi Sikh Gurdwara, Management Committee (Registration of Electors) Amendment Rules, 1973. No reply has been received so far inspite of two reminders issued on the 24th August, and 18th September, 1974. The Committee take a serious note of the lapse on the part of the Ministry of Home Affairs for not sending reply in respect of the Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules (S. No. 5 of Appendix VII)</p>

1

2

3

and desire them to take necessary action in the matter without further delay.

26. 147 The Committee in para 13 of their Twelfth Report (Second Lok Sabha) had recommended that amendments to the same rules should be published in the Gazette bearing the Order number in the same sequence as assigned to the amendments so that the persons concerned would know that there are no intervening amendments published. While the Committee note that the Department of Personnel and Administrative Reforms and the Ministry of Defence, on being pointed out, have agreed to issue amendments to the short titles of the rules mentioned at S. Nos. 1 and 2 of Appendix VIII. They desire the Ministries of Home Affairs and Labour also to issue necessary amendments to the rules mentioned at S. Nos. 3 and 4 of Appendix VIII.
- 148 The Committee desire that all Ministries/ Departments should take steps to avoid such mistake in future and should assign amendment number in the short title of the rules at the time of the issue of final notifications.
27. 152 The Committee are not satisfied with the reasons advanced by the Ministry of Industrial Development for not specifying in the Coconut Husks Control Order, 1973 the particulars of records and returns required to be submitted by the holder of a licence under Clause 13 of the Order. They are of the view that indication of above particulars in the order is necessary to obviate the possibility of discrimination being made between one licence holder and another.
- 153 The Ministry of Industrial Development have stated that there are sufficient safeguards for the licence holders as the licensing officer has to publish the notices/orders calling for information/returns from the licensee in official
-

1

2

3

copies of Gazette notifications from Government of India Press.

159

The Committee are unhappy to note that in 15 cases out of 40, the Ministries/Departments concerned have not laid the statements showing reasons for delay along with the Order. They desire all Ministries/Departments to strictly comply with the recommendation of the Committee in this regard and statements showing reasons for delay should invariably be laid on the Table along with the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reasons whatsoever.

160

The Committee take serious note of the lapse on the part of the Ministries of Finance and Agriculture for not sending replies in regard to Orders mentioned at S. Nos. 3, 4 and 7 of Appendix X.

29.

161

Seven 'Orders' dealt within this Report relate to the years 1969 to 1972. Barring one case the Committee could not report on these 'Orders' earlier due to inordinate delay in receipt of replies from the Ministries. In one case, reference was made to the Ministry of Finance (Department of Expenditure) on the 6th November, 1971 and their final reply was received on the 28th May, 1974—after a time-lag of 2 years and 6 months. In other cases, there was a time-lag of about one year. In all these cases, final replies were received only after the displeasure of the Committee had been conveyed to the Ministries and the matter was reported to the House through the Eleventh and Twelfth Reports. Even in this Report (para 9) the Committee have pointed out that replies had not been received from the Ministries of Finance and Agriculture. The Committee are very unhappy over this. Such delays, they need hardly

1**2****3**

point out, not only hamper the work of the Committee but also result in unnecessary prolongation of infirmities in rules. The Committee desire that, save in exceptional circumstances, final replies to references made by the Committee should be given within a period of three months. In cases where it is not possible to adhere to this time-limit, the reasons for the inability of the Ministry to do so should be communicated to the Committee before the expiry of the said time-limit.

APPENDIX—II

(Vide para 23 of the Report)

Statements showing the extent to which the rules framed under acts of Parliaments are relatable to specific matters enumerated in the sections relating to rule-making power

S. No.	Name of Rules	Name of the relevant Act	Particulars of the section relating to rule-making power	Total No. of Rules	No. of rules relatable to specific matters enumerated in the 'Rule-making power' Section	No. of rules relatable to sections in the Act	No. of rules relatable to other sections in the Act
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Food Corporations Rules, 1965.	Food Corporations Act, 1964.	Sec. 44	20	17	(1) Rule 18-Sec. 32 (2) Rule 17-Sec. 13(a) (c) (3) Rule 20-Sec. 32	3
2	Coir Industry Rules, 1954.	Coir Industry Act, 1953.	Sec. 26	27	23	(1) Rules 23 & 26-Sec. 9 (1) (2) Rule 25-Sec. 13(2) (3) Rule 27-Sec. 19(1)	4
3	ISI Standards Institution (Certification Marks) Rules, 1955.	ISI Standards Institution (Certification Marks) Act, 1952.	Sec. 20	15	14	Rule 9-Sec. 8(1)	1

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4	Copyright Rules, 1958.	Copyright Act, 1957.	Sec. 78	28	24	4
						(1) Rule 5-Sec. 21 (2) Rule 21-Sec. 52(J) (3) Rule 22-Sec. 53 (1) (4) Rule 23-Sec. 53 (2)
5	Tea Rules, 1954.	Tea Act, 1953.	Sec. 49	40	33	7.
						(1) Rules 19, 27-Sec. 9 (2) Rules, 12, 13, 13A, 14, 15-Sec. 9
6	Monopolies and Restrictive Trade Practices (Information) Rules, 1970.	Monopolies and Restrictive Trade Practices Act, 1969.	Sec. 67	² (1 rule is purely formal)		2
						Section 43
7	Textile (Production by Knitting, Embroidery, Lace-making and Printing Machines) Control Order, 1963.	Essential Commodities Act, 1955.	Sec. 3(2)	11	10	1
						Paragraph 11-Sec. 5 of the Order.
8	Air Corporations Rules, 1954.	Air Corporations Act, 1953.	Sec. 44	59	47	¹² (1) Rules 9&10-Sec. 15(3) (2) Rule 15-Sec. 37 (3) Rules 30-38-Sec. 41-42.

APPENDIX III

(Vide para 25 of the Report)

EXTRACTS OF U.K. ROAD TRAFFIC ACT, 1972; AUSTRALIAN CHILD CARE ACT, 1972 AND CANADIAN MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT, 1969-70

U. K. Road Traffic Act, 1972

* * * * *

119. (i) The Secretary of State may make regulations for the purpose of carrying the provisions of this Part of this Act into effect and, without prejudice to the generality of the foregoing, may—

Regulations for purposes of Part IV.

(a) to (k) * * * *

Australian Child Care Act, 1972

* * * * *

25. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

* * * * *

[NOTE: This appears to be the standard formula generally followed in Australian Acts.]

Canadian Members of Parliament Retiring Allowances Act, 1969-70

* * * * *

34. The Governor in Council may make regulations—

Regulations.

(a) prescribing for the purposes of sections 4 and 20 the rate of interest, the manner of calculating interest and the times at which interest shall be credited to the Account;

(b) to (i) * * *

(j) for any other purpose deemed necessary to give effect to this Act.

APPENDIX IV

(Vide para 43 of Report)

CIRCULAR LETTER NO. 3/71-CX. 6

F. No. 5/38/70-CS. 6

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE & INSURANCE)

NEW DELHI, THE 25TH JANUARY, 1971

To

All Collectors of Central Excise.

All Collectors of Customs.

Sir,

SUBJECTS:—Central Excise—Export of excisable goods under claim for a rebate of duty under Rule 12 of the Central Excise Rules, 1944—Settlement of claims for rebate.

I am directed to invite reference to this Ministry's letter F. No. 602/7/70-DBK(208) dated the 1st June, 1970, regarding settlement of claims for drawback against exports which are not made strictly under drawback procedure. A similar question has arisen in respect of claims for rebate of excise duty on exports of excisable goods in terms of rule 12 of the Central Excise Rules, 1944 and notifications issued thereunder.

2. In this connection, attention is invited to the proviso to rule 12 of the Central Excise Rules, 1944, which states that if the goods are not exported or the proof of export is not furnished to the satisfaction of the Collector in the manner and within the time laid down in any notification issued under the said rule, the Collector may at his discretion disallow the whole or any part of the claim for such rebate. The Ministry of Law, who were consulted in the matter, have advised that "since a discretion is given under the aforementioned proviso to the Collector to disallow the rebate it would follow that the Collector is also empowered not to disallow it even though the conditions laid down in the notification issued under the said rule, have strictly speaking, not been complied with." There would, therefore, be no objection to the Collector waiving the strict require-

ments of notification issued under Rule 12 which prescribes the manner and conditions subject to which the rebate would be given.

3. In view of the position stated above and the importance of grant of rebate of excise duty as an export promotion measure, as also in the interest of expeditious settlement of claims for rebate of excise duty, it has been decided that cases of claims for rebate of duty in respect of excisable goods exported, where the goods have actually been exported, but some of the prescribed conditions could not be strictly fulfilled, may be decided personally by the Collectors themselves applying the following considerations:—

- (1) There is conclusive evidence of duty having been paid on the goods for export and the export having taken place.
- (2) There is collateral evidence to establish the identity and all other materials particulars of the goods for rebate purposes.
- (3) There are extenuating circumstances to condone the party's failure in this regard.
- (4) The claim is otherwise in order.

A quarter by statement in the enclosed proforma showing the particulars of claims for rebate of excise duty allowed in the manner outlined above, may be submitted to this Ministry by 20th of January, April, July and October every year in respect of the claims allowed during the preceding quarter.

4. Receipt of this letter may please be acknowledged.

Sd/-

S. K. DHAR

UNDER SECRETARY TO THE GOVT. OF INDIA.

APPENDIX V

(vide para 62 & 64 of Report)

EXTRACTS FROM THE ROAD TRANSPORT CORPORATIONS ACT, 1950

SECTION 10:

(1) A corporation may associate with itself for any particular purpose in such manner as may be determined by regulations made under this Act any person whose assistance or advice it may desire.

Temporary association of persons with the Corporation for particular purposes.

(2) A person associated with it by the Corporation under sub-section (1) for any purpose shall have a right to take part in the discussions of the Corporation relevant to that purpose, but shall not have a right to vote at a meeting of the Corporation.

SECTION 44:

(1) The State Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

Power to make rule.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the conditions and manner of appointment of members of a Corporation, the representation in the Corporation of the Central and the State Government, and where shares are issued to other parties under sub-section (3) of section 23, of such shareholders, and generally all matters relating to the constitution of the Corporation;
- (b) remuneration, allowances or fees to be paid to the members of the Corporation or other persons associated with the Corporation under section 10;

- (c) the term of office of, the manner of filling casual vacancies among, members of the Corporation;
- (d) the number of members necessary to constitute a quorum at a meeting of the Corporation;
- (e) the conditions of appointment and service and the scales of pay of the Chief Executive Officer or General Manager and the Chief Accounts Officer of the Corporation;
- (f) the number and term of office of, the allowances to be paid to, the procedure to be followed by, and the manner of filling casual vacancies among, members of an Advisory Council;
- (g) the manner in which the shares of the Corporation shall be allotted, transferred or redeemed;
- (h) the manner in which the net profits of the Corporation shall be utilised;
- (i) the date by which, and the form in which, the budget shall be prepared and submitted in each year under sub-section (1) of section 32;
- (j) the form in which the annual statement of accounts shall be prepared;
- * * * * *
- (l) the form in which the returns, statistics or reports shall be submitted under section 35;
- (m) the procedure to be followed by an arbitral tribunal under section 40;
- (n) any other matter which has to be, or may be prescribed.

APPENDIX VI

(Vide para 101 of the Report)

List of Rules where connotations like DPC II, DPC III, etc. have been used

Sl. No.	Name of the rules	No. and date of notification	Ministry concerned
(1)	(2)	(3)	(4)
1.	India Government Mints (Class I and Class II Posts) Recruitment (Amendment) Rules, 1974.	G.S.R. 388 dt. 13-4-74	Finance (Depatt. of Economic Affairs).
2.	Election Commission (Recruitment of Staff) Rules, 1974.	G.S.R. 229 dt. 2-3-74	Law, Justice and Company Affairs (Legislative Department).
3.	U.P.S.C. (Class IV Posts) Recruitment Rules, 1974.	G.S.R. 280 dt. 23-3-74	Department of Personnel and Administrative Reforms.
4.	Kadan Vikas Nideshalaya (Directorate of Millets Development) Madras (Class III and Class IV posts) Recruitment Rules, 1974.	G.S.R. 289 dt. 23-3-74	Agriculture (Deptt. of Agriculture).
5.	C.G.H.S. (Class IV para-medical and general categories of posts) Recruitment Rules, 1974.	G.S.R. 300 dt. 23-3-74	Ministry of Health and Family Planning (Department of Health).
6.	C.G.H.S. (Class III para-medical and general categories of posts) Recruitment Rules, 1974.	G.S.R. 301 dt. 23-3-74	Do.
7.	Bureau of Police Research and Development (Central Forensic Science Laboratories Class I and Class II Posts) Recruitment Rules, 1974.	G.S.R. 359 dt. 6-4-74	Home Affairs.
8.	Geological Survey of India including Exploration Wing (Class I and Class II posts) Recruitment (Second Amdt.) Rules, 1974	G. S. R. 375 dt. 6-4-74	Steel and Mines (Deptt. of Mines).
9.	Anthropological Survey of India General Central Service (Class I and Class II Posts) Recruitment (Amendment) Rules, 1974.	G. S. R. 406 dt. 20-4-74	Department of Culture.
10.	Geological Survey of India (Class III Ministerial Post) Recruitment (Amendment) Rules, 1974.	G.S.R. 414 dt. 20-4-74	Steel & Mines (Deptt. of Mines).
11.	Directorate of Plant Protection Quarantine and Storage, Assistant Director (Plant Quarantine) Recruitment Rules, 1974.	G.S.R. 422 dt. 27-4-74	Agriculture (Deptt. of Agriculture)

APPENDIX VII

(vide paras 138, 140-143 of Report)

List of Orders which do not carry distinction Serial No. of amendment in their short titles

Sl. No.	Name and number of 'Order'	Ministry concerned	Gist of reply
1.	Export of Inorganic Chemicals (Inspection) Amendment Rules, 1973 (S.O. 2789 and 2965 of 1973).	Commerce	Serial No. of subsequent amendment not given due to oversight Corrigendum being issued.
2.	Contract Labour (Regulation and Abolition) Control (Amendment) Rules, 1973 (G.S.R. Nos. 200 and 598 of 1973).	Labour	Corrigendum is being issued.
3.	Vishakhapatnam Dock Workers (Regulation of Employment) Amendment Scheme, 1973 (S.O. Nos. 1209 and 1211 of 1973).	Labour	Numbering of amendments issued during the same year is being done. Correction of amendment number in the short titles of the two Notifications after a lapse of more than a year does not seem necessary.
4.	General Provident Fund (Defence Services) (36th Amtd.) Rules, 1972 (S.R.O. Nos. 156 and 157 of 1973).	Defence	Mistake occurred in the Press—Corrigendum issued.
5.	The Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules, 1973 (G.S.Rs. 671 and 991 of 1973).	Home Affairs	No reply has been received.
6.	The Delhi Motor Vehicles (Second Amendment) Rules, 1972. (Notification No. F.3 (28) 72/TPT dt.1-1-73.).	Shipping & Transport (Transport Wing).	Corrigendum is being issued.

APPENDIX VIII

(Vide paras 144 and 147 of Report)

List of 'Orders' which do not bear the Order No. in the same sequence as assigned to the amendment.

Sl. No.	Name of the Order	Ministry/Deptt.
1	(a) Indian Statistical Service (8th amendment) Rules, 1973, (G.S.R. 1276 of 1973).	Cabinet Sectt. Department of Personnel and Administrative Reforms.
	(b) Indian Statistical Service (Amendment) Rules, 1973, (G.S.R. 1277 of 1973).	Do.
2	(a) G.P.F. (Defence Services) 34th amendment Rules, 1973, (S.R.O. 163 of 1973).	Defence
	(b) C.P.F. (Defence Services) 35th amendment Rules, 1973, (S.R.O. 154 of 1973).	Do.
	(c) G.P.F. (Defence Services) 38th Amendment Rules, 1973, (S.R.O. 155 of 1973).	Do.
	(d) G.P.F. (Defence Services) 36th Amendment Rules, 1973, (S.R.O. 157 of 1973).	Do.
3	(a) Coal Mines Labour Welfare Fund (First Amendment) Rules, 1973 (G.S.R. 504 of 1973).	Labour
	(b) Coal Mines Labour Welfare Fund (4th amendment) Rules, 1973 (G.S.R. 621 of 1973).	Do.
4	(a) Central Reserve Police (4th Amendment) Rules, 1973 (G.S.R. 315 of 1973).	Home
	(b) Central Reserve Police (2nd amendment) Rules, 1973, (G.S.R. 316 of 1973).	Do.
	(c) Central Reserve Police (5th Amendment) Rules, 1973 (G.S.R. 438 of 1973).	Do.
	(d) Central Reserve Police (3rd amendment) Rules, 1973, (G.S.R. 439 of 1973).	Do.

APPENDIX-IX

(Vide para 155 of the Report)

Statement of 'ORDERS' in respect of which there has been delay of more than 15 days in laying them on the table of the house from 19th February to 10 th May, 1974.

S.No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	Approximate delay
(1)	(2)	(3)	(4)	(5)	(6)
*1	S.O.2811 of 1973.]	The Motor Vehicles (Third Party Insurance) Amendment Rules, 1973. (M/o Shipping and Transport).	29-9-73	25-2-74	7**Over 3 months
*2	G.S.R. 504(E) of 1973.	The Border Security Force (Assistant Commandants) Recruitment (Rupeeal) Rules, 1973 (M/o Home Affairs).	23-11-73	28-2-74	Over 3 months.
*3	G.S.R. 1273 of 1973.	The Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973. (M/o Labour).	24-11-73]	28-2-74	Over 3 months.
*4	G.S.R. 645 of 1970.	The Sugar (Packing and Marking Order, 1970.(M/o Agriculture-Deptt. of Food).	14-4-70	4-3-74	Over 3 years and 10 months.
*5	G.S.R.654 of 1971.	The Sugar (Packing and Marking) Order, 1971 (M/c Agriculture-Deptt. of Food).	27-4-71]	4-3-74	***Over 2 3/4 Yrs
*6	G.S.R.1418 of 1971.	The Sugar (Packing and Marking) Second Amendment Order, 1971, (M/o Agriculture -Deptt. of Food).	21-9-71	4-3-74	@Over 2 years and 3 months.
*7	G.S.R. 32(E) of 1972	The Sugar (Restrictions on Movement) Order, 1972 (M/o Agriculture-Deptt. of Food).	17-1-72	4-3-74	£About 2 years.

98	G.S.R.93(E) of 1972.	The Sugar (Restrictions on Movement) Second Amendment Order, 1972 (M/o Agriculture- Deptt. of Food).	2-3-72	4-3-74 & About 2 years.
99	GSR 244(E) of 1972.	The Sugar (Restrictions on Movement) Third Amendment Order, 1972, (M/o Agriculture-Deptt. of Food).	14-4-72	4-3-74 Over 1 year and 10 months.
10	GSR 289 (E) of 1972.	The Sugar (Restrictions on Movement) Fourth Amendment Order, 1972(M/o Agriculture- Deptt. of Food).	27-5-72	4-3-74 ££Over 1 year and 7 months.
11	GSR 312 (E) of 1972.	The Sugar (Restrictions on Movement) Fifth Amendment Order, 1972(M/o Agriculture-Deptt. of Food).	15-6-72	4-3-74 @@Over 1 year and 7 months.
12	GSR 386(E) of 1972.	The Sugar (Packaging and Marking) Amdt. Order, 1972 (M/o Agriculture-Deptt. of Food).	22-8-72	4-3-74 %Over 1 year and 3 months.
13	GSR 174(E) of 1973.	The Sugar Export Promotion Rules, 1973 (M/o Agriculture-Deptt. of Food).	21-3-73	4-3-74 Over 11 months.
14	GSR 1938 of 1971.	The Examination of Masters and mates (Amendment) Rules, 1971 (M/o Shipping and Transport).	18-12-71	4-3-74 §§Over 1 year and 11 months.

* A Statement, showing reasons for delay was also laid on the Table.
 ** Ninth Session commenced on 12-11-73 . Inter-session period from 29-9-73 to 11-11-73 has not been counted.
 *** The Second Session was commenced on 24-5-71 Inter-session period from 27-4-71 to 23-5-71 has not been counted.
 @ The Third Session. Commenced on 15-11-71. Inter-session period from 21-9-71 to 14-11-71 has not been counted.
 £ Fourth Session commenced on 13-3-72 Inter-session period from 17-1-72 to 12-3-72 has not been counted.
 & Fourth Session commenced on 13-3-72 Inter-session period from 2-3-72 to 12-3-72 has not been counted.
 ££ Fifth Session commenced on 31-7-72. Fourth Session period from 27-5-72 to 1-6-72 and inter-session period from 2-6-72 to 30-7-72 has not been counted.
 @@ Fifth Session commenced on 31-7-72. Inter session period from 15-6-72 to 30-7-72 has not been counted.
 % Ninth Session commenced on 12-11-73. Eight Session period from 28-8-72 to 4-9-72 and inter-session period from 5-9-72 to 12-11-72 has not been counted.
 §§ Fourth Session commenced on 13-3-72. Third session period from 18-12-71 to 22-12-71 and Inter-session period from 23-12-71 to 12-3-72 has not been counted.

(1)	(2)	(3)	(4)	(5)	(6)
*15	GSR 1223 of 1973.	The Coal Mines Family Pension (Third Amendment) Scheme, 1973. (M/o Labour)	10-11-73	7-3-74	**Over 3 months.
*16	GSR 511(E) of 1973.	The Sugar (Packing and Marking) Amendment Order, 1973 (M/o Agriculture-Deptt. of Food).	29-11-73	11-3-74	@Over 3 months.
17	GSR 218 of 1974.	The Indian Museum Recruitment (Amendment) Rules, 1974 (Deptt. of Culture).	23-2-74	18-3-74	Over 15 days.
18	GSR 203 of 1974.	The Prevention of Food Adulteration (Amendment) Rules, 1974 (M/o Health and Family Planning).	23-2-74	21-3-74	Over 15 days.
19	G.S.R. 75 of 1974.	The Adjudication Proceedings and Appeal Rules, 1974. (M/c Finance-Deptt. of Economic Affairs).	26-1-74	22-3-74	**Over 1 month
20	GSR 80 of 1974.	The Foreign Exchange Regulation Rules, 1974(Mo/ Finance).	26-1-74	22-3-74	**Over 1 month
21	GSR 248 of 1974.	The Merchant Shipping (Carriage of Grain) Rules, 1974. (M/o Shipping and Transport).	2,3-74	8-4-74	Over 1 month.
22	GSR 128 (E) of 1974.	The Sugar (Price Determination for 1973-74 Production) Second Amendment Order, 1974. (M/o Agriculture-Deptt. of Food).	13-3-74	8-4-74	Over 15 days.
23	GSR 2(E) of 1974.	The Wild Life (Stock Declaration) Tamil Nadu Rules, 1974. (M/o Agriculture—Deptt. of Agriculture).	1-1-74	8-4-74	**Over 1 month.
24	GSR 3(E) of 1974.	The Wild Life (Transactions and Taxidermy) Tamil Nadu Rules, 1974 (M.o Agriculture —Deptt. of Agriculture).	1-1-74	8-4-74	**Over 1 month.

25	GSR 259 of 1974.	The Indian Telegraph (First Amendment) Rules, 1974. (M/o Communications).	9-3-74	10-4-74	One month.
@26	GSR 355 of 1974.	The Central Excise (Second Amendment) Rules, 1974. (M/o Finance).	6-4-74	25-4-74	Over 15 days.
@27	SRO 37 of 1974.	The Navy (Discipline and Miscellaneous Provisions) Regulations, 1974.(M/o Defence).	26-1-74	25-4-74	**Over 2 months.
28	SRO 113 of 1974.	The Naval Ceremonial, Conditions of Service and Miscellaneous Provisions (Amendment) Regulations, 1974. (M/o Defence).	6-4-74	25-4-74	Over 15 days.
*29	GSR 265 of 1974.	The Aircraft (Amendment) Rules, 1974. (M/o Tourism and Civil Aviation).	9-3-74	26-4-74	Over 1 month.
30	GSR 295 of 1974	The Merchant Shipping (Cargo Ship Construction and Survey) Rules, 1974. (M/o Shipping and Transport).	23-3-74	9-4-74	Over 1 month.
31	GSR 114 (E) of 1974.	The Delimitation of Council Constituencies (Madras) Amendment Order, 1974. (M/o Law).	2-3-74	9-4-74	Over 1 month.
@32	GSR 339 of 1974.	The Life Boatmen's (Qualifications and Certificates) Amendment Rules, 1974. (M/o Shipping and Transport).	130-3-74	130-4-74	One month.
33	GSR 395 of 1974.	The Aircraft (2nd Amendment) Rules,1974. (M/o Tourism and Civil Aviation).	13-4-74	3-5-74	Over 15 days.

*A statement showing reasons for delay was also laid on the Table.

**Ninth Session commenced on 12-11-73. Inter-session period has not been counted.

@Tenth session commenced on 19-2-74. Inter-session period from 26-11-73 to 18-2-74 has not been counted.

†Tenth Session commenced on 19-2-74 Inter-Session period has not been counted.

@A Statement showing reasons for delay was also laid on the Table.

@A statement showing reasons for delay was not laid on 30-4-74. I was laid on 29-7-74.

(1)	(2)	(3)	(4)	(5)	(6)
34	GSR 374 of 1974.	The Merchant Shipping (Fire Appliances) Amendment Rules, 1974. (M/o Shipping and Transport).	6-4-74	3-5-74	Over 15 days.
*35	S.O. 464 of 1974.	The Synthetic Rubber (Price Control) 2nd Amendment Order, 1974 (M/o Petroleum and Chemicals).	16-2-74	10-5-74	**Over 2 months.
*36	S.O. 913 of 1974.	The Marine Products Export Development Authority (Second Amendment) Rules, 1974. (M/o Commerce).	6-4-74	10-5-74	Over 1 month.
37	S.O. 914 of 1974.	The Marine Products Export Development (Amendment) Rules, 1974. (M/o Commerce).	6-4-74	10-5-74	Over 1 month.
*38	GSR 305 of 1974.	The Employees' Provident Funds (Second Amendment) Scheme, 1974. (M/o Labour).	23-3-74	10-5-74	Over 1 month.
*39	GSR 341 of 1974.	The Employees' Provident Funds (Second Amendment) Scheme, 1974. (M/o Labour).	30-3-74	10-5-74	Over 1 month.
40	GSR 377 of 1974.	The Employees' Provident Funds (Third Amendment) Scheme, 1974. (M/o Labour).	6-4-74	10-5-74	Over 1 month.

*A statement showing reasons for delay was also laid on the Table.

**Tenth Session was commenced on 19-2-74. Inter-session period from 16-2-74 to 18-2-74 has been not counted.

APPENDIX—X

(Vide paras 157 and 160 of Report)

Statement of 'ORDERS' in respect of which statement showing reasons for delay were not laid during the tenth session of Fifth Lok Sabha (19th February to 10th May, 1974).

S.No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	Reasons for delay in laying
1	2	3	4	5	6
1	GSR 218 of 1974	The Indian Museum Recruitment (Amendment) Rules, 1974 (Deptt. of Culture).	23-2-74	18-3-74	Late receipt of Intimation regarding G.S.R. No. from the Press.
2	GSR 205 of 1974	The Prevention of Food Adulteration (Amendment) Rules, 1974 (M/o. Health & Family Planning).	23-2-74	21-3-74	Do.
3	GSR 75 of 1974	The Adjudication Proceedings and Appeal Rules, 1974 (M/o. Finance—Deptt. of Economic Affairs).	26-1-74	22-3-74	Reply not received from the Ministry.
4	GSR 80 of 1974	The Foreign Exchange Regulation Rules, 1974 (M/o. Finance—Deptt. of Economic Affairs).	26-1-74	22-3-74	Do.
5	GSR 248 of 1974	The Merchant Shipping (Carriage of Grain) Rules, 1974 (M/o. Shipping and Transport)	2-3-74	8-4-74	Do.
6	GSR 296 of 1974	The Merchant Shipping (Cargo Ship Construction and Survey) Rules, 1974 (M/o. Shipping and Transport).	23-3-74	29-4-74	Late receipt of Intimation regarding G.S.R. No. from the Press.
7	GSR 128(E) of 1974	The Sugar (Price Determination for 1973-74 Production) Second Amdt. Order, 1974 (M/o. Agriculture and Irrigation—Deptt. of Food).	13-3-74	8-4-74	Reply not received from the Ministry.

(1)	(2)	(3)	(4)	(5)	(6)
8	GSR 2(E) of 1974.	The Wild Life (Stock Declaration) Tamil Nadu Rules, 1974. (M/o Agriculture and Irrigation—Deptt. of Agriculture).	1-1-74	8-4-74	Oversight.
9	GSR 3(E) of 1974.	The Wild Life (Transactions and Taxidermy) Tamil Nadu Rules, 1974. (M/o Agriculture and Irrigation—Deptt. of Agriculture).	1-1-74	8-4-74	Do.
10	GSR 359 of 1974.	The Indian Telegraph (First Amdt.) Rules, 1974. (M/o Communications).	9-3-74	10-4-74	Delay in receipt of Intimation of G.S.R. No. from the Press.
11	SRO 113 of 1974.	The Naval Ceremonial, Conditions of Service and Miscellaneous Provisions (Amendment) Regulations, 1974. (M/o Defence).	6-4-74	25-4-74	Delay of only 4 days due to administrative reasons.
12	GSR 114 (E) of 1974.	The Delimitation of Council Constituencies (Madras) Amdt. Order, 1974. (M/o Law).	2-3-74	30-4-74	Delay in receipt of copies from the Press.
13	GSR 339 of 1974.	The Life Boatmen's (Qualifications and Certificates) Amdt. Rules, 1974. (M/o Shipping and Transport).	30-3-74	30-4-74	Delay in receipt of Intimation about G.S.R. No. from the Press.
14	GSR 395 of 1974.	The Aircraft (2nd Amdt.) Rules, 1974. (M/o Tourism & Civil Aviation).	13-4-74	3-5-74	Do.
15	GSR 374 of 1974.	The Merchant Shipping (Fire Appliances) Amdt. Rules, 1974. (M/o Shipping and Transport).	6-4-74	3-5-74	Do.

MINUTES

APPENDIX XI

LXIII

MINUTES OF THE SIXTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Saturday, the 28th September, 1974 from 11.00 to 12.30 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Smt. Premalabai Dajisaheb Chavan
3. Shri Khemchandbhai Chavda
4. Shri Md. Jamilurrahman
5. Shri Dinesh Joardar
6. Shri Kamala Prasad
7. Shri Mohan Swarup
8. Shri Paokai Haokip
9. Shri R. R. Sharma
10. Shri Tayyab Hussain

SECRETARIAT

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

2. The Committee considered Memoranda Nos. 243 to 245 and 249 to 260.

S. No.	Memo No.	Subject
(1)	(2)	(3)
1	243	Fundamental (Second Amendment) Rules, 1971 (G. S. R. 178 of 1971)
2	244	Delhi Development Authority (Issue and Management of Bonds) regulations, 1970 (S. O. 1135 of 1972).

(1)	(2)	(3)
3	245	The Central Excise (Seventeenth Amendment) Rules, 1971 (G. S. R-1780 of 1971).
4	249	** ** *
5	250	Central Government Health Scheme (Kanpur) Rules, 1972 (S. O. 264Z of 1972).
6	251	Delhi Transport Corporation (Advisory Council) Rules, 1973 (S. O-168 of 1973).
7	252	** ** *
8	253	Delhi Transport Corporation (Members) Rules, 1973 (S. O. 256-E of 1973).
9	254	Ministry of Finance (Department of Expenditure—Staff Inspection Unit) Recruitment Amendment Rules, 1969 (S. O. 1040 of 1970).
10	255	** ** *
11	256	Incorporation of a provision in Acts for laying of Rules framed there-under before Parliament.
12	257	Indian Museum Recruitment (Second Amendment) Rules, 1973 (G.S.R-898 of 1973).
13	258	(i) Central Engineering Service Class I Recruitment (Amendment) Rules, 1973 (G. S. R. Nos. 246 & 247 of 1973). (ii) Central Electrical Engineering Service Class I Recruitment (Amendment) Rules, 1973 (G. S. R. Nos. 248 and 249 of 1973).
14	259	Directorate of Technical Development and Production (Air) Organisation (Class III Technical Scientific and other non-Ministerial Posts) Recruitment Rules, 1972 (S. R. O. 217 of 1972).
15	260	Ministry of Finance (Department of Economic Affairs) Verifying Officer Recruitment Rules, 1973 (G. S. R. 603 of 1973).

(i) Fundamental (Second Amendment) Rules, 1971 (G.S.R. 178 of 1971)—(Memorandum No. 243)

(A)

3. The Committee considered the above Memorandum and were not satisfied with the explanation given by the Ministry of Finance for the lapse of 23 years in substituting the word 'President' for the words 'Governor-General in Council', or 'the Secretary of State in Council'. They felt that this anachronism should have been removed soon after the country became a Republic in 1950 and need not have awaited thorough revision of Rules.

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

4. **

**

**

(ii) Delhi Development Authority (Issue and Management of Bonds) Regulations, 1970 (S.O. 1135 of 1972)—(*Memorandum No. 244*)

5. The Committee considered the Memorandum and were satisfied to note that the Ministry of Works and Housing had agreed to incorporate a provision in the Delhi Development Act, 1957 requiring publication of Regulations framed thereunder in the Official Gazette. The Committee desired the Ministry to amend the Act accordingly at an early date.

(iii) The Central Excise (Seventeenth Amendment) Rules, 1971 (G.S.R. 1780 of 1971)— (*Memorandum No. 245*).

6. The Committee considered the above Memorandum and were not satisfied with the reply given by the Ministry of Finance. They felt that the original proviso to Rule 12 served as a check on the misuse of claim for rebate, as it was allowed on certain conditions being fulfilled. The new proviso empowered the Collector to disallow in his discretion the whole or any part of the claim for rebate. The Committee desired the Ministry of Finance (Department of Revenue and Insurance) to incorporate certain guidelines in the proviso for the Collector to exercise his discretion thereunder.

7. **

**

**

(v) The Central Government Health Scheme (Kanpur) Rules, 1972 (S.O. 2642 of 1972) —(*Memorandum No. 250*)

8. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Health and Family Planning regarding the provisos to Rule 1(3) and Rule 2 *ibid.* which empower the Central Government—

- (i) to exclude, *by order*, any class or category of persons from the scope of the rules under proviso to Rule 1(3); and

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

(ii) to modify, *by order*, the scheme in so far as it is applicable to Kanpur.

9. The Committee felt that it was not necessary to incorporate the above provisos in the Rules as the President who had framed the Scheme under the proviso to Article 309 could also modify the scheme by issuing amendment to the Rules. The Central Government should not have been empowered to modify the Scheme by order. The Committee desired the Ministry of Health and Family Planning to delete the above provisos from the Rules.

(vi) The Delhi Transport Corporation (Advisory Council) Rules, 1973 (S.O. 168 of 1973) (*Memorandum No. 251*).

10. The Committee considered the above Memorandum and noted that a proviso had already been added to Rule 19 (1) providing for intimation being given about an adjourned meeting to the members who were absent at the original meeting *vide* S.O. No. 1642 dated the 22nd May, 1973. The Committee were also satisfied with the reply of the Ministry of Shipping and Transport that the provision contained in sub-rule (2) of Rule 19 had been added to facilitate smooth functioning of the Council by enabling transaction of business at the adjourned meeting without the limitation of quorum and such a provision was found in other enactments/Rules also.

11. **

**

**

(viii) The Delhi Transport Corporation (Members) Rules, 1973 (S.O. 256-E of 1973)—(*Memorandum No. 253*)

12. The Committee considered the above memorandum and were not satisfied with the reply of the Ministry of Shipping and Transport that it was open under the Rules not only to fix uniform rates of remuneration to the members of a Corporation or other persons associated with it under Section 10 of the Act but also to lay down a general mode of determination of the remuneration of these persons subject to any maximum limits in the matter. The Committee felt that Rule 9 which empowered the Corporation to fix the remuneration to be paid to associated persons within the prescribed limits was not authorised under the Road Transport Corporation Act, 1950. Under clause (d) of sub-section (2) of Section 44 of the Act, it was the State Government (Central Government in case of Delhi) which was empowered to make rules regarding remuneration allow-

** Omitted portions of the min t

ances etc. As such there was unauthorised delegation of power by Rule 9 *ibid.* The Committee desired the Ministry either to delete Rule 9 (1) or make suitable amendment in the Act to empower the Corporation to determine the amount of remuneration.

(ix) The Ministry of Finance (Department of Expenditure—Staff Inspection Unit) Recruitment Amendment Rules, 1969 (S.O. 1040 of 1970),—(*Memorandum No. 254*)

13. The Committee considered the above Memorandum and were satisfied to note that on being pointed out, the Ministry of Finance had agreed to amend the Rules *ibid.* to prescribe the age-limits and educational qualifications for direct recruitment to the posts of Senior and Junior Analysts in the staff Insection Unit. The Committee desired the Ministry to amend the Rules at an early date.

14. **

**

**

(xi) Incorporation of a provision in Acts for laying of Rules framed thereunder before Parliament—(*Memorandum No. 256*).

15. The Committee considered the above Memorandum and noted with surprise that their recommendation made in paras 78-79 of Sixth Report (First Lok Sabha) for incorporation of a provision in Acts for laying of Rules framed thereunder before Parliament had not been kept in view while bringing Amending Bills subsequent to the presentation of the Report. They further noted that the Acts mentioned in Annexure I did not contain any provision for laying of Rules. As it was possible that besides the Acts mentioned in the Annexure, some other Acts also might not contain the provision for laying of Rules, the Committee desired all Ministries| Departments to undertake examination of all Acts with which they were administratively concerned to find out which of them did not contain provision for laying of Rules and to incorporate this provision in the Acts at their earliest.

(xii) The Indian Museum Recruitment (Second Amendment) Rules, 1973 (G.S.R. 898 of 1973)—(*Memorandum No. 257*).

16. The Committee considered the above Memorandum and noted with satisfaction that the Ministry of Education and Social Welfare had agreed to their suggestion for referring to Section 15A (2) (a) of the Indian Museum Act, 1970 in the preamble to the Indian Museum Recruitment Rules, 1970. The Committee were, however,

not satisfied with the reply of the Ministry in regard to their suggestion for dropping Rule 5(3) of the Indian Museum Rules which empowers the Central Government to make recruitment for all posts in the Museum. The Committee were of the view that Section 15A (2) (a) of the Act *ibid.* did not prevent the Government from framing more than one set of Rules, on two or more different matters. One set of Rules could be relating to conditions of service of the employees and the other relating mainly to Recruitment matters. The Committee desired the Ministry to delete Rule 5(3) of the Indian Museum Rules.

(xiii) (i) Central Engineering Service Class I Recruitment (Amendment) Rules, 1973. (G.S.R. 246 and 247 of 1973).

(ii) Central Electrical Engineering Service Class I Recruitment (Amendment) Rules, 1973 (G.S.R. Nos. 248 and 249 of 1973)—(*Memorandum No. 258*).

17. The Committee considered the above Memorandum and were not satisfied with the reasons advanced by the Ministry of Works and Housing for issuing two separate amendments to the same Rules that the juxtaposition together of the two amendments might have given to casual readers the impression that the two were directly related to each other and what was laid down by one rule was sought to be taken by another. One amendment related to an existing rule while another amendment inserted a new Rule relating to the power to relax. As such there could have been no confusion if the two amendments had been issued together. The Committee desired the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are the coordinating agency in regard to framing of Recruitment Rules, etc. to issue necessary instructions to all Ministries/Departments for consolidating all amendments to the same set of Rules if they are finalised simultaneously.

(xiv) Directorate of Technical Development and Production (Air) Organisation (Class III Technical, Scientific and other non-Ministerial Posts) Recruitment Rules, 1972 (S.R.O. 217 of 1972)—(*Memorandum No. 259*)

18. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Defence for using the connotations DPC II and DPC III etc. in the Schedule to the Rules for recruitment to Class III posts in the Directorate of Technical Development and Production (Air) when these had been constituted through executive orders not published in the Gazette. As such the composition of the Departmental Promotion Committees did not

come to the notice of the general public. The Committee felt that as in the case of the Defence Science Service Rules, the composition of the Departmental Promotion Committees should be given in the Rules, The Committee noted that similar connotations had been used in other Rules also (*vide* Annexure II). They desired the Ministries|Departments concerned with the Rules to issue amendments to them so as to give exact composition of the Departmental Promotion Committees.

19. The Committee also desired the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are the Coordinating authority in regard to recruitment matters to issue necessary instructions to all Ministries|Departments not to use connotations like DPC I or II etc. and instead give exact composition of the D.P.C. in the Recruitment Rules.

(xv) Ministry of Finance (Department of Economic Affairs) Verifying Officer Recruitment Rules, 1973 (G.S.R. 603 of 1973)—(*Memo-randum No. 260.*)

20. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out, the Ministry of Finance which had earlier issued corrigendum to the above Rules to provide for consultation with the Union Public Service Commission before relaxing any provision, had now carried out the change by issue of an amendment as the change was of a substantial character.

The Committee adjourned to meet again on 30th September, 1974 at 15.00 hours.

ANNEXURE I

(*vide* para 15 of the Minutes)

S. No.	Name and No. of Order	Name of the Act under which framed	Ministry/Department concerned
(1)	(2)	(3)	(4)
I	(i) Indian Post Office (3rd Amdt.) Rules, 1973 (S.O. 1640 of 1973).	Indian Post Office Act, 1898.	Communications (P & T Board)
	(ii) Indian Post Office (4th Amdt.) Rules, 1973 (S.O. 2233 of 1973).	Do.	Do.
	(iii) Indian Post Office (7th Amdt.) Rules, 1973 (S.O. 2895 of 1973).	Do.	Do.

(1)	(2)	(3)	(4)
2	Khadi and other Handloom Industries' Development (Exemption from payment of Additional Excise Duty on Rags of Cotton, Rayon and Artificial Silk Fabrics) Rules, 1973 (S. O. 426 of 1973).	Khadi and Handloom Industries Development (Addl. Excise Duty on Cloth) Act, 1953.	Commence.
3	Employees Provident Fund (Grant of Advances to Officers and staff other than Commissioners for building/purchasing of Houses) Amendment Rules, 1973 (G. S. R. 1153 of 1973).	Employees' Provident Fund and Family Pension Fund Act, 1952.	Labour.
4	Rajghat Samadhi (Amendment) Rules, 1973 (G. S. R. 1176 of 1973).	Rajghat Samadhi Act, 1951.	Works and Housing.
5	(i) Military Lands and cantonments Service (Class I and Class II) 2nd Amdt. Rules, 1973 (S.R. O. 228 of 1973). (ii) Belgaum Cantonment (Division into wards) Amendment Rules, 1973	Cantonment Act, 1924.	Defence
6	(i) Delhi Transport Corporation (Advisory Council) (Second Amdt.) Rules, 1973 (S.O. 3168 of 1973). (ii) Delhi Transport Corporation (Members) (Amdt.) Rules, 1973 (S.O. 3402 of 1973).	Road Transport Corporations Act, 1950.	Shipping & Transport (Transport Wing)
7	Motor Vehicles (Third Party Insurance) Amdt. Rules, 1973 (S. O. 2811 of 1973).	Motor Vehicles Act, 1939	Do.
8	(i) Bristles (Grading and Marking) Amdt. Rules, 1973 (S.O. 3484 of 1973) (ii) Sheekakai powder Grading and Marking Rules 1973 (S.O. 2716 of 1973) (iii) Saffron Grading and Marking Amendment Rules, 1973.	Agricultural Produce (Grading and Marking) Act, 1973	Agriculture (Deptt. of Agriculture).
9	Territorial Army (Second Amdt.) Rules, 1973 (S. R. O. 265 of 1973).	Territorial Army Act, 1948.	Defence.
10	Harbour Craft Rules for the port of Madras (Amdt.) Rules, 1974 (G.S.R. 443 of 1974)	Indian Ports Act, 1908	Shipping & Transport (Transport Wing).
11	The State Bank of India (Appointment of Employee Director) Rules, 1974.	State Bank of India Act, 1955.	Finance (Deptt. of Banking).

ANNEXURE II

(vide para 18 of the Minutes)

List of Rules where connotations like DPC II, DPC III, etc. have been used

Sl. No.	Name of the Rules	No. and date of notification	Ministry concerned
(1)	(2)	(3)	(4)
1	Indian Government Mints (Class I and Class II posts) Recruitment (Amendment) Rules, 1974.	G. S. R. 388 dt. 13-4-74	Finance (Deptt. of Economic Affairs).
2	Election Commission (Recruitment of Staff) Rules, 1974.	G. S. R. 229 dt. 2-3-74	Law, Justice and Company Affairs (Legislative Department).
3	U.P.S.C. (Class IV posts) Recruitment Rules, 1974.	G. S. R. 280 dt. 23-3-74	Deptt. of Personnel and A.R.
4	Kadan Vikas Nideshalaya (Directorate of Millets Development) Madras (Class III and Class IV posts) Recruitment Rules, 1974.	G. S. R. 289 dt. 23-3-74	Agriculture (Deptt. of Agriculture)
5	C. G. S. H. (Class IV para-medical and general categories of posts) Recruitment Rules, 1974.	G. S. R. 300 dt. 23-3-74	Miny. of Health and F.P. (Deptt. of Health).
6	C.G.H.S. ((Class III para-medical and general categories of posts) Recruitment Rules, 1974	G. S. R. 301 dt. 23-3-74	Do.
7	Bureau of Police Research and Development (Central Forensic Science Laboratories Class I and Class II posts) Recruitment Rules, 1974.	G. S. R. 359 dt. 6-4-74	Home Affairs
8	Geological Survey of India including Exploration Wing (Class I and Class II Posts) Recruitment (Second Amendment) Rules, 1974.	G.S.R. 375 dt. 6-4-74.	Steel and Mines (Deptt. of Mines).
9	Anthropological Survey of India General Central Service (Class I and Class II Posts) Recruitment (Amendment) Rules, 1974.	G.S.R. 375 dt. 6-4-74	Department of Culture
10	Geological Survey of India (Class III Ministerial Posts) Recruitment (Amendment) Rules, 1974.	G.S.R. 414 dt. 20-4-74	Steel and Mines (Department of Mines).
11	Directorate of Plant Protection Quarantine and Storage, Assistant Director (Plant Quarantine) Recruitment Rules, 1974.	G.S.R. 422 dt. 27-4-74	Agriculture (Deptt. of Agriculture.)

MINUTES

MINUTES OF THE SIXTY-FIFTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1974-75).

The Committee met on Monday, the 14th October, 1974 from 15.00 to 16.00 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Smt. Pramalabai Dajisaheb Chavan
3. Shri Khemchanbhai Chavda
4. Shri Md. Jamilurrahman
5. Shri Dinesh Joardar
6. Shri Kamala Prasad
7. Shri Mohan Swarup
8. Shri Paokai Haokip
9. Shri M. S. Sanjeevi Rao
10. Shri R. R. Sharma
11. Shri Tayyab Hussain

SECRETARIAT

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

2. The Committee considered Memoranda Nos. 261 to 270 on the following subjects:—

S. No.	Memo No.	Subject
(1)	(2)	(3)
1	261	The Railway Protection Force (Amendment) Rules, 1973. (G.S.R. 448-E of 1973.)
2	262	The Tyres and Tubes (Price Control) Order, 1973 [S.O.718(E)/1/DRA 18G/73 dt.29-11-73].
3	263	The Indian Wireless Telegraph Rules, 1973 (G.S.R. 526 of 1973).
4	264	" " " "

*Omitted portions of this minutes are not covered by this Report.

(1)	(2)	(3)
5	265	The International Airports Authority of India (Conditions of Service of the Chairman and other Whole-time Members) Rules, 1973 (S.O. 717-E of 1973.)
6,	266	The Export of non-baled Coir Yarn (Inspection) Rules, 1972 (S.O. 1131 of 1972).
7	267	" " " "
	268	The Council of Architecture Rules, 1973 (G.S.R. 67-E of 1973).
9	269	The Wild Life (Stock Declaration) Central Rules, 1973 (G.S. R. 29-E, 41-E, 43-E, 64-E and 191-E of 1973).
10	270	The Slum Areas (Improvement and Clearance) Amendment Rules 1973 (S.O. 1334 of 1973).

(i) The Railway Protection Force (Amendment) Rules, 1973 (G.S.R. 448-E of 1973)—(*Memorandum No. 261*).

3. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Railways that Rule 32 of the Railway Protection Force Rules, 1959 which empowers the Inspector General to frame and issue regulations for the proper administration of the Force, merely made express what was implicit in Section 8 of the Railway Protection Force Act, 1957. Section 8 simply required the Inspector General to carry on the administration of the Force in accordance with the provisions of the Act and the rules made thereunder by the Central Government. It nowhere conferred any power upon the Inspector General to frame Regulations himself for that purpose. The Committee felt that rule 32 was tantamount to sub-delegation of legislative power without statutory authority and desired the Ministry of Railways to either delete it from the Railway Protection Force Rules or to amend the RPF Act, 1957 so as to empower the Central Government|Inspector General to make regulations.

4. The Committee were also not convinced with the arguments advanced by the Ministry that the Regulations had not been published in the Gazette and/or laid before Parliament as there was no judicial authority which required subsidiary orders issued under a Rule to be laid before Parliament. The Committee felt that the Regulations made under Rule 32 should not be considered on a separate footing than the Rules themselves. When the rules were required to be pub-

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

Aviation in regard to retrospective effect given to the above Rules. The Ministry had quoted recommendations of the Committee made in paras 101—103 of their Ninth Report (Fifth Lok Sabha). These recommendations related to the giving of retrospective effect to Rules framed under the proviso to Article 309 of the Constitution whereas under the present case the rules had been framed under an Act of Parliament which did not expressly or by necessary intention authorise giving retrospective effect to Rules. The Committee, therefore, desired the Ministry either to enforce the Rules from the date of their publication in the Gazette or to amend the International Airports Authority Act, 1971 so that it expressly empowers Government to give retrospective effect to the Rules.

(B)

10. The Committee were not satisfied with the reply of the Ministry in regard to the determination of allowances and conditions of service of the Chairman and every other wholetime member by the Central Government. The parent Act did not empower the Central Government to determine allowances and conditions of service of the Chairman and other whole-time members through administrative orders. Sub-section (2) (a) of Section 36 of the Act laid down that these would be determined through rules to be framed thereunder. The Committee desired the Ministry to amend Rule 7 accordingly.

(vi) The Export of Non-baled Coir Yarn (Inspection) Rules, 1972 (S.O. 1131 of 1972) (*Memorandum No. 266*).

11. The Committee considered the above Memorandum and in view of the difficulty of Government in securing the desired number of non-official experts decided to waive the conditions of providing 2/3rd of non-officials in the panel of experts in case of pre-shipment Inspection Scheme for non-baled Coir Yarn and approved the notification proposed to be published by Government in this regard. The Committee also decided to waive the condition of 2/3rd non-officials in the panel of experts in respect of other commodities where similar difficulties were faced.

12. * * * *

(viii) The Council of Architecture Rules, 1973 (G.S.R. 67-E of 1973) (*Memorandum No. 268*).

(A)

13. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out the Ministry of Educa-

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

tion and Social Welfare (Department of Education) had amended the Council of Architecture Rules, 1973 by omitting the words 'the decision shall be final'.

(B)

14. The Committee considered the Memorandum and noted with satisfaction that on being pointed out the Ministry of Education and Social Welfare (Department of Social Welfare) had omitted rule 27 and sub-rule (3) of Rule 36 of the Council of Architecture Rules relating to power to compel persons to give evidence on oath etc. which was a substantive power and should have been provided for in the parent Act.

(ix) The Wild Life (Stock Declaration) Central Rules, 1973 (G.S.R. 29-E, 41-E, 43-E, 45-E, 64-E and 191-E of 1973) (*Memorandum No. 269*).

15. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out, the Ministry of Agriculture (Department of Agriculture) had agreed to give in the short title the name of the State to which Wild Life (Stock Declaration) Central Rules applied in order to distinguish them from similar rules applicable to other States.

(x) The Slum Areas (Improvement and Clearance) (Amendment) Rules, 1973 (S.O. 1334 of 1973) (*Memorandum No. 270*).

16. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out, the Ministry of Works and Housing had agreed to amend Rule 7A (1) of the Slum Areas (Improvement and Clearance) Amendment Rules, 1973 so as to provide therein the manner of communication of notice to be issued thereunder.

The Committee then adjourned to meet again on Tuesday, the 15th October, 1974 at 15.00 hours.

LXVI

**MINUTES OF THE SIXTY-SIXTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1974-75)**

The Committee met on Tuesday, the 15th October, 1974 from 15.00 to 16.00 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Smt. Premalabai Dajisaheb Chavan
3. Shri Md. Jamilurrahman

4. Shri Kamala Prasad
5. Shri Paokai Haokip
6. Shri M. S. Sanjeevi Rao
7. Shri P. R. Sharma
8. Shri Tayyab Hussain

2. The Committee considered Memorandum Nos. 271 to 281 on the following subjects:

S. No.	Memorandum	Subject
(1)	(2)	(3)
1	271	Numbering of amendments to 'Orders'.
2	272	Sequence of amendments issued to the Rules, etc.
3	273	All India Radio (Class III posts Recruitment) (Fifth Amendment) Rules, 1973 (G.S.R. 1398 of 1973).
4	274	(i) Implementation of recommendation contained in para 78 of Seventh Report Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Coir Rating (Licensing) Order, 968. (ii) Coconut Husks Control Order, 1973 (S.O. 527-E 1973).
5	275	Disposal of Records (Wireless Planning and Coordination Wing. of the Ministry of Communications Rules, 1973 (G.S.R. 131 of 1973).
6	276	The Overseas Communications Service (Allotment of Residences Rules, 1971 (G.S.R. 1040 of 1971).
	277 to 281	* * * * *

(i) Numbering of amendments to 'Orders' (*Memorandum No. 271*).

3. The Committee considered the Memorandum and noted with satisfaction that except the Ministry of Labour, other Ministries concerned had agreed to issue corrigenda to give serial number of the amendment in respect of the Rules shown at S. Nos. 1, 2, 4 and 6 of the ANNEXURE. I. The Committee asked the Ministry of Labour also to issue necessary amendment to the Rules shown at S. Nos. 3 of the Annexure. They further desired that their displeasure might be conveyed to the Ministry of Home Affairs who had not sent any reply in respect of the Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules, 1973 (G.S.R. 671 and 991 of 1973).

(ii) Sequence of amendment to the Rules, etc (*Memorandum No. 272*).

4. The Committee considered the above Memorandum and noted that the Department of Personnel and Administrative Reforms and

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

the Ministry of Defence had issued amendments in the Short Titles of the Rules mentioned at S. Nos. 1 and 2 of the Annexure II. So that the Order number was in the same sequence as assigned to the amendments. The Committee asked the Ministry of Labour also to issue necessary amendments in the Short Titles of Rules mentioned at S. No. 3 of the Annexure. The Committee desired all Ministries/ Departments to take steps to avoid such a situation in future and assign the amendment number in the short title of the Rules at the time of issue of the final notification. The Committee further desired that their displeasure might be conveyed to the Ministry of Home Affairs who had not sent any reply in respect of Rules mentioned at S. No. 4 of the ANNEXURE.

- (iii) All India Radio (Class III posts) Recruitment (Fifth Amendment) Rules, 1973 (G.S.R. 1938 of 1973). (*Memorandum No. 273*).

5. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out, the Ministry of Information and Broadcasting had agreed to suitably amend the explanatory Memorandum published alongwith the above Rules.

- (iv) (a) Implementation of recommendation contained in para 78 of Seventh Report of Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Coir Retting (Licensing) Order, 1968.
- (b) Coconut Husks Control Order, 1973 (S.O. 527-E of 1973). (*Memorandum No. 274*).

6. The Committee considered the above Memorandum and were not satisfied with the reasons given by the Ministry of Industrial Development for not specifying in the Coconut Husks Control Order, 1973 the particulars of records and returns required to be submitted by the holder of a licence under clause 13 of the Order. The Ministry had stated that there was sufficient safeguard for the licence holders as the Licensing Officer had to publish the requisite notice/order in the Official Gazette or any other media which could reasonably reach the persons concerned. The Committee noted that there was no indication in Clause 13 for the Order of the Licensing Officer to be published in the Gazette. They desired the Ministry to issue necessary amendment to Clause 13 of the Order so as to specifically provide therein that the special or general order to be issued thereunder by the Licensing Officer would be published in the Gazette.

- (v) Disposal of Records (Wireless Planning and Coordination Wing of the Ministry of Communications) Rules, 1973 (G.S.R. 131 of 1973). (*Memorandum No. 275*).

7. The Committee considered the above Memorandum and were surprised to note that despite the existence of an Act of Parliament viz. the Destruction of Records Act, 1917 to regulate the destruction of records, there was no uniformity in the procedure being followed by various Ministries. While a few offices had framed Rules under the Act, others were following executive instructions issued in this regard by the Department of Personnel and Administrative Reforms. The Committee requested the Department of Culture to take up the matter with the Department of Personnel and Administrative Reforms with a view to see that the management of record was done by Ministries/Departments in accordance with statutory rules and not on the basis of executive instructions.

- (vi) The Overseas Communications Service (Allotment of Residences) Rules, 1971 (G.S.R. 1040 of 1971). (*Memorandum No. 276*).

(A)

8. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out, the Ministry of Communications had agreed to amend the above Rules so as to give an opportunity of being heard to the allottee before action was taken against him under S. R. 217-XXVI-AC-14. The Committee desired the Ministry to issue the proposed amendment at an early date.

(B)

9. The Committee noted with satisfaction that the Ministry of Communications had agreed to amend S.R. 317-XXVI-AC-19 regarding interpretation so that its wording did not give an impression that it sought to oust the jurisdiction of Courts. The Committee desired the Ministry to issue the amendment at an early date.

(C)

10. The Committee considered the Memorandum and noted with satisfaction that on being pointed out the Ministry of Communications had, agreed to delete S.R. 317-XXVI-AC-20 regarding delegation of powers. The Committee desired the Ministry to issue the amendment at an early date.

11 to 19 ** ** ** **

The Committee then adjourned to meet again on the 6th November, 1974.

ANNEXURE—I

(vide para 3 of the Minutes)

S. No.	Name and Number of 'Order'	Ministry concerned	Gist of reply
1	Export of Inorganic Chemicals (Inspection) Amendment Rules, 1973 (S.O. 2789 and 2965 of 1973).	Commerce	Serial Number of subsequent amendment not given due to oversight, Corrigendum being issued.
2	Contract Labour (Regulations Abolition) Central (Amendm Rules, 1973 (G.S.R. Nos. 200 and 598 of 1973).	Labour	Corrigendum is being issued.
3	Vishakhapatnam Dock Workers (Regulation of Employment) Amendment Scheme, 1973 (S.O. Nos. 1209 and 1211 of 1973).	Labour	Numbering of amendment issued during the same year is being done. Correction of amendment number in the short titles of the two Notifications after a lapse of more than a year does not seem necessary.
4	General Provident Fund (De Services) (36th amendment) R 1972 (S.R.O. Nos. 147 and 15 1973).	Defence	M occurred in the Corrigendum
5	The Delhi Sikh Gurdwara Management Committee (Registration of Electors) Amendment Rules, 1973 (G.S. Rs. 671 and 991 of 1973).	Home Affairs	No reply has been received.
6	The Delhi Motor Vehicles (Second Amendment) Rules, 1972 (Notification No F 4.3 (28)8/72 TPT dated 1- -73).	Shipping and Transport (Transport Wing)	Corrigendum is being issued.

ANNEXURE—II

(vide para 4 of the Minutes)

S. No.	Name of the 'Order'	No. of 'Order' in the Gazette
1.(a)	Indian Statistical Service (8th Amdt.)	G. S. R. 1276 of 1973.
(b)	Indian Statistical Service (Amendment) Rules, 1973.	G. S. R. 1277 of 1973.
2. (a)	G.P.F. (Defence Services) 34th Amdt. Rules, 1973.	S. R. O. 163 of 1973.

Sl. No.	Name of the order	No. of Order in the Gazette
(b)	G.P.F. (Defence Services) 35th Amdt. Rules, 1973.	S.R.O. 154 of 1973.
(c)	G.P.F. (Defence Services) 38th Amdt. Rules, 1973.	S. R. O. 155 of 1973.
(d)	G.P.F. (Defence Services) 36th Amdt. Rules, 1973.	S.R.O. 157 of 1973.
3. (a)	Coal Mines Labour Welfare Fund (Amdt.) Rules, 1973	G. S.R. 504 of 1973.
(b)	Coal Mines Labour Welfare Fund (4th Amdt.) Rules , 1973.	G. S. R. 621 of 1973.
4. (a)	Central Reserve Police (4th Amdt.) Rules, 1973.	G. S. R. 315 of 1973.
(b)	Central Reserve Police (2nd Amdt.) Rules, 1973.	G. S. R. 316 of 1973.
(c)	Central Reserve Police (5th Amdt.) Rules, 1973.	G.S.R. 438 of 1973.
(d)	Central Reserve Police (3rd Amdt.) Rules, 1973.	G. S. R. 439 of 1973.

LXVIII

MINUTES OF THE SIXTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75).

The Committee met on Thursday, the 5th December, 1974 from 10.00 to 10.45 hours.

PRESENT

Dr. Kailash—Chairman

MEMBERS

2. Shrimati Premalabai Dajisaheb Chavan
3. Shri Md. Jamilurrahman
4. Shri Dinesh Joardar
5. Shri R. R. Sharma

SECRETARIAT

Shri H. G. PARANJPE—Chief Financial Committee Officer.

2. The Committee considered Memoranda Nos. 282 to 287 and 294.

S. No.	Memo. No.	Subject
1 to 5	282 to 286	** ** *
6.	287	Delay in laying 'Orders' on the Table of Lok Sabha during the Tenth Session, 1974.
7.	294	The Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971 (G.S.R. 1033 of 1971).
3 to 11	** ** *	** ** *

(vi) Delay in laying 'Orders' on the Table of Lok Sabha during the Tenth Session, 1974. (*Memorandum No. 287*).

12. The Committee considered above memorandum and were not convinced by the reasons advanced by the Ministries/Departments concerned for delay in laying 'Orders' on the Table within prescribed period. They regret to note that the new procedure introduced by the Controller of Printing and Stationery for supply of G.S.R. number, etc. *vide* his O.M. No. H. 11013|1|72-P dated 9-2-72 addressed to all Ministries/Departments was not being followed strictly. The Committee further noted that in 15 cases out of 40, the Ministries|Departments concerned had not laid statements showing reasons for delay along with the 'Order'. They desired that statements showing reasons for delay should invariably be laid on the Table along with the 'Orders' in all cases when it had not been possible to adhere to the time-limit of 15 days.

13. The Committee took serious note of the lapse on the part of the Ministries of Finance and Agriculture for not sending replies in regard to the following 'Orders':

- (i) The Adjudication Proceedings and Appeal Rules, 1974 (G.S.R. 75 of 1974)—(Ministry of Finance—Department of Economic Affairs).
- (ii) The Foreign Exchange Regulation Rules, 1974 (G.S.R. 80 of 1974)—(Ministry of Finance—Department of Economic Affairs).

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

- (iii) The Sugar (Price Determination for 1973-74 Production) Second Amendment Order, 1974 (G.S.R. 128-E of 1974).— (Ministry of Agriculture and Irrigation—Department of Food).
- (vi) The Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971 (G.S.R. 1033 of 1971). (*Memo-randum No. 294*).

14. The Committee considered above memorandum and were of the view that it would have been better if preamble of the aforesaid rules referred to section 2 of the Monopolies and Restrictive Trade Practices Act for a better appreciation of the source of authority of above rules.

15. The Committee were not convinced by the arguments advanced by the Ministry of Law (Legislative Department) for not including in sub-section (2) of the rule-making power sections all those matters on which rules had to be framed. They desired the Ministry of Law, Justice and Company Affairs (Legislative Department) that (i) either the rule-making power section should enumerate all matters on which rules had to be framed under various sections of the statute and quote the section to which that related or (ii) the preamble to the rule should refer not only the general rule making power sections of the parent Act but also other specific sections of the Act under which the rules had been framed.

16. *The Committee then adjourned to meet again on the 17th December, 1974 at 15.30 hours to consider their Draft Fourteenth Report.*

LXIX

MINUTES OF THE SIXTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Tuesday, the 17th December, 1974 from 15.30 to 16.00 hours.

PRESENT

Dr. Kailash—*Chairman*

MEMBERS

2. Shri Khemchandbhai Chavda
3. Shri Kamala Prasad

4. Shri M. S. Sanjeevi Rao
5. Shri Tayyab Hussain

SECRETARIAT

Shri H. G. Paranjpe—*Chief Financial Committee Officer.*

2. The Committee considered their draft Fourteenth Report and adopted it.

3. The Committee authorised the Chairman and in his absence Shri Kamala Prasad, to present the Fourteenth Report to the House on their behalf on the 20th December, 1974.

The Committee then adjourned to meet again on the 27th and 28th January, 1975.
