

COMMITTEE ON SUBORDINATE
LEGISLATION

SIXTH REPORT
(SECOND LOK SABHA)

(Presented on the 9th September, 1959)



LOK SABHA SECRETARIAT
NEW DELHI

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (1959-60)**

1. Sardar Hukam Singh—*Chairman.*
2. Shri J. M. Mohamed Imam
3. Shri K. S. Ramaswamy
4. Shri Sinhasan Singh
5. Shri Bahadur Singh
6. Shri T. N. Viswanatha Reddy
7. Shri Aurobindo Ghosal
8. Shri Ghanshyamlal Oza
9. Shri Kanhaiyalal Bherulal Malviā
10. Shri T. C. N. Menon
11. Shri N. R. Ghosh
12. Dr. A. Krishnaswami
13. Shri Ajit Singh Sarhadi
14. Shri L. Achaw Singh
15. Shri Satyendra Narayan Sinha.

SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary.*

Shri A. L. Rai—*Under Secretary.*

I

INTRODUCTION

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

2. Subsequent to the presentation of the Fifth Report the Committee have held three sittings and considered 335 new 'Orders'. The Committee also considered the 'Orders' that were pending final disposal at the time of presentation of the Fifth Report. At the sitting held on the 4th September, 1959, the Committee considered and passed this Report.

3. Observations of the Committee on matters of special interests made during the course of their examination of the 'Orders', matters which required to be brought to the notice of the House as well as the recommendations of the Committee have been included in this Report.

II

AMENDMENT TO THE ALL INDIA INSTITUTE OF MEDICAL SCIENCES RULES, 1958 (G.S.R. 633 OF 1958)

4. Rule 7(2) of the All India Institute of Medical Sciences Rules, 1958, which were framed under Section 28 of the All India Institute of Medical Sciences Act, 1956, provided that appointments to all posts created by the Institute should be made on the recommendation of a Selection Committee constituted with the approval of the Central Government. This salutary provision was deleted from the rules by an amending G.S.R. 633 of 1958.

5. On a reference being made to the Ministry of Health as to why the said provision had been omitted, the Ministry stated that it has been represented on behalf of the Institute that it would be difficult to constitute a Selection Committee with the prior approval of the Government for appointment to all posts as these posts could include the lowest paid ones for which no Selection Committee was necessary.

6. The Ministry further stated that consultation with a Selection Committee in respect of Class III and IV posts would not be practicable in all cases. The appointing authority, may, however, constitute a Selection Committee or a Departmental Selection Committee whenever necessary in the case of these posts. The Ministry also stated that so far as appointments to Class I and II posts were con-

cerned the Institute had constituted a Standing Selection Committee for selecting candidates for such appointments.

The Committee note the Ministry's reply but feel that, as far as possible, appointments to Class III & IV posts should also be made on the recommendation of a Departmental Selection Committee.

III

THE MINERALS CONSERVATION AND DEVELOPMENT RULES, 1958 (G.S.R. 441 OF 1958)

Rule 22:

7. Rule 22 of the Minerals Conservation and Development Rules, 1958, provides that every owner, agent or manager of a mine shall permit students of mining and geological institutions, approved by the Government, to acquire practical training of the mines and plants operated by them and provide all necessary facilities for the training of such students. These rules have been framed under section 18 of the Mines and Minerals (Regulation and Development) Act, 1957, but this section does not empower the Central Government to provide for such matters in the rules.

8. The Ministry of Steel, Mines and Fuel, on being pointed out, have assured to omit the existing Rule 22 from the Minerals Conservation and Development Rules, 1958 and to incorporate the provisions thereof in the revised Mineral Concession Rules to be framed under Section 13 of the Act which confers necessary powers in this respect.

The Committee note the Ministry's assurance.

Rule 23:

9. Rule 23 conferred powers on the Director of Indian Bureau of Mines to issue directives for conservation and systematic development of minerals, but it did not lay down any procedure to ensure that the directives issued by the Director were duly brought to the notice of the owner, agent or the manager of a mine who were bound to carry out the provisions of such directives.

10. In view of the fact that non compliance with the directives made them liable to punishment with imprisonment or with fine or both, it was felt that specific procedure ought to have been laid down in the rules prescribing the method by which such directives would be brought to the notice of the persons concerned.

11. The Ministry assured to incorporate in Rule 23 specific procedure by which the order or directive would be brought to the notice of the owner, agent or manager of a mine.

The Committee note that this has since been done. (*Vide* G.S.R. 862 of 1959).

THE CENTRAL INFORMATION SERVICE RULES, 1959
(G.S.R. 217 OF 1959).

Rule 2(b) (i):

12. Rule 2(b) (i) of the Central Information Service Rules, 1959, which were made under proviso to Article 309 of the Constitution, provided that a person in the Ministry of Information and Broadcasting or any of its attached and subordinate offices, who was holding, or would have held but for his absence on deputation, a duty post on the 1st November, 1957, will be a departmental candidate and as per Rule 5 (1), he would be considered for appointment to the different grades at the initial constitution of the service.

13. It was felt that by fixing 1st November, 1957 instead of fixing the date on which the rules were published viz., 21st February, 1959, as the 'crucial date' for Central Information Service, many officers selected by U.P.S.C. after 1st November, 1957 for various posts in the Ministry might be left out from being considered for appointment to the service. Therefore, it would have been better to fix the latter date to ensure that the Selection Committee constituted under Rule 5(1) had the widest possible choice to select candidates for appointment to the service.

14. On a reference being made to them, the Ministry of Information and Broadcasting have stated that 1st November, 1957, had been taken as the 'crucial date' for the constitution of the Central Information Service in common with similar provision in certain other services. While constituting a service, by the absorption, to start with, of officers holding various categories of posts, a 'crucial date' is generally prescribed for determining the eligibility of departmental candidates and this date is ordinarily a date sufficiently removed from the date of promulgation of the Rules of the Service, to ensure that no unintended interests are created while steps are in progress for the constitution of the Service. In the present case, the date is also one on which the Minister of Information and Broadcasting finally approved the various details of the schemes for constitution of the Service.

15. In view of the clarification given by the Ministry, the Committee do not feel that any further action is necessary.

Rule 2(b) (ii):

16. Rule 2(b) (i) enumerated the categories of persons, who would constitute the 'departmental candidates' at the initial constitution of the service but rule 2(b)(ii) gave wide discretionary power to the Government to include a person who did not come within the provisions of Rule 2(b) (i).

17. The Committee, however, note with satisfaction that the Ministry of Information and Broadcasting, have, in their reply stated that the provisions of rule 2(b) (ii) will be invoked only with the concurrence of U.P.S.C.

V

AMENDMENT TO THE RULES FOR WAREHOUSING AND RETAINING OF GOODS PUBLISHED IN THE RAILWAY BOARD'S NOTIFICATION NO. TC. III/3036/58/NOTIFICATION, DATED THE 28TH AUGUST, 1958 (S.O. 2523 OF 1958).

18. The above amendment made under Section 47 of the Indian Railways Act, 1890, was published in the Gazette, dated the 6th December, 1958, but it was given retrospective effect from 1st December, 1958. This was not in accordance with the provisions of sub-section (3) of the said section which specifically laid down that the rules made under that section would not take effect until they were published in the Official Gazette. Further, the retro-action of the amendment adversely affected the interests of the colliery owners because it authorised the levy of additional charges from 1st December, 1958 where wagons were overloaded in excess of 15 per cent.

19. The Ministry of Railways, on a reference being made to them, have stated that the notification in question was to be published in the Gazette prior to 1st December, 1958 but unfortunately there was delay in the despatch of the notification to the Press which resulted in its late publication.

The Committee suggest taking of adequate precautions in future to avoid recurrence of such irregularities.

VI

AMENDMENT IN THE REVISED LEAVE RULES. 1933 (G.S.R. 1220 OF 1959).

20. The above amendment which has been made under proviso to Article 309 of the Constitution, substitutes the first proviso to Rule 7 of the Revised Leave Rules, 1933. It is expressed in a single sentence running into 177 words.

21. The Committee feel that the construction of the proviso is complex and it is not easy to follow. The Committee recommend that, as far as possible, unusually long sentences should be avoided while drafting the rules.

VII

AMENDMENT IN THE BYE-LAWS RENDERING NECESSARY LICENCES FOR THE USE OF PREMISES WITHIN THE SAUGOR CANTT. AS STABLES, CATTLESHEDS ETC. FOR PROFIT. (S.R.O. 119 OF 1959).

22. Bye-law 2 of the original bye-laws authorised the Cantonment Board to charge fees for licences issued thereunder. These bye-laws were framed under clause (37) of Section 282 of the Cantonments Act, 1924. This clause did not empower the Cantonment Board to levy fees.

23. Committee note that, on being pointed out, the Ministry of Defence have now amended bye-law 2 by omitting the provision relating to charging of fees.

VIII

AMBIGUITIES IN 'ORDERS'

(a)

24. G.S.R. 314 of 1959 did not cite in the preamble the specific sections of the Indian Post Office Act, 1898 under which it was made.

25. The Committee note that the Posts and Telegraphs Directorate whose attention was drawn to the recommendation of the Committee (Paras 75-76 of their Sixth Report, First Lok Sabha), that the exact Statutory authority giving power to make rules etc. should specifically be cited in the preamble to the rules for the purpose of enabling all concerned to know under what precise authority the rules were made, have expressed their regret for the omission and have intimated the specific authority under which the 'Order' was issued.

(b)

26. The Junior Field Officer (Technical) (Directorate-General of Supplies and Disposals) Recruitment Rules, 1959 (S.O. 1167 of 1959), and the Office of the Director-General of Commercial Intelligence and Statistics (Class II Non-gazetted posts) Recruitment Rules, 1959 (G.S.R. 420 of 1959), which were framed under proviso to Article 309 of the Constitution, provided that the recruitment under the rules would be made in accordance with the provisions contained in the Schedules to the respective rules. But no Schedules were appended to the rules as published in the Gazette.

27. The Committee note that the Ministries concerned whose attention was drawn to the lacunae have republished the rules along with the Schedules (*vide* S.O. 1395 and G.S.R. 860 of 1959 respectively).

IX**DELAY IN LAYING OF 'ORDERS' ON THE TABLE**

28. The Committee decided that the delay in laying the 'Orders' on the Table shown in Appendix I be reported to the House.

29. The Committee have noted with regret that some 'Orders' were laid on the Table after two years of their issue. The Committee recommend that whenever 'Orders' are laid on the Table after an inordinate delay, an explanatory note giving the reasons for such delay should be appended to the 'Orders' when so laid.

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

30. The Committee have considered the replies sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations of, and assurances given to, the Committee.

31. The recommendations which have been accepted and assurances implemented by the Government are given in Appendix II. Recommendations in respect of which the Government have given their own suggestions and such suggestions have been accepted by the Committee are given in Appendix III. The recommendations not wholly accepted by the Government but which are being pursued by the Committee are given in Appendix IV.

HUKAM SINGH,

Chairman,

NEW DELHI;

The 7th September, 1959.

Committee on Subordinate Legislation.

**SUMMARY OF RECOMMENDATIONS MADE IN THE SIXTH
REPORT OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (SECOND LOK SABHA).**

S. No.	Reference to para No. in the Report	Summary of Recommendations
1.	6	Appointments to class III & IV posts under the All India Institute of Medical Sciences should also be made, as far as possible, on the recommendation of a Departmental Selection Committee.
2.	19	Adequate precautions should be taken in future to avoid recurrence of such irregularities as involve violation of statutory provisions regarding publication of rules.
3.	21	While drafting rules unusually long sentences should, as far as possible, be avoided.
4.	29.	Whenever 'Orders' are laid on the Table after an inordinate delay, an explanatory note giving the reasons for such delay should be appended to the 'Orders' so laid.

APPENDICES TO THE REPORT

APPENDIX I

(See para 28)

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

Sl. No.	Name of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	*Delay Approximately			Name of the Ministry concerned
					Years	Months	Days	
1	2	3	4	5	6	7	8	9
1	S.O. 560 of 1959	Amendment to the Cotton Textiles (Control) Order, 1948.	14-3-59	14-4-59		1		
2	G.S.R. 353 of 1959.	Amendment to the Tea Rules, 1954.	28-3-59	18-4-59			20	}
								} Commerce & Industry.

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

1	2	3	4	5	6	7	8	9
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3	G.S.R. 1101 of 1958.	Amendment to the Life Insurance Corporation Rules, 1956.	22-11-58	9-2-59	..	2	17	
4	G.S.R. 1172 of 1958.	The Customs and Central Excise Duties Drawback (Duplicating Stencils) Rules, 1958.	13-12-58	9-2-59		1	26	
5	G.S.R. 1168 of 1958.	Amendment to the Central Excise Rules, 1944.	13-12-58	9-2-59		1	26	Finance
6	G.S.R. 1170 of 1958.	Amendment to the Central Excise Rules, 1944.	13-12-58	9-2-59		1	26	
7	G.S.R. 179 of 1959.	Amendment to the Foreign Exchange Regulation Rules, 1952.	14-2-59	22-4-59		2	8	
8	G.S.R. 520 of 1959.	Amendment to Customs Duties Drawback (Brand Rates) Rules, 1958.	2-5-59	5-8-59		3	2	
9	G.S.R. 1183 of 1958.	Amendment to the U. P. Food-grains (Export Control) Order, 1958.	13-12-58	16-2-59		2	2	

10	G.S.R. 220 of 1959.	The Punjab Sugarcane (Prohibition of Use for Manufacture of Gur) Order, 1959.	23-2-59	28-3-59	1	4	Food and Agriculture	
11	G.S.R. 532 of 1959.	Wheat (U.P.) Price Control Order, 1959.	2-5-59	4-8-59	3	2		
12	G.S.R. 533 of 1959.	Amendment to the Wheat (Regulation of Use in Roller Mills) Order, 1958.	5-5-59	4-8-59	3	..		
13	G.S.R. 534 of 1959.	Amendment to the Punjab Roller Mills (Regulation of Use of Wheat) Order, 1959.	5-5-59	4-8-59	3	..		
14	G.S.R. 1164 of 1958.	The Madhya Bharat Khadi and Village Industries Board Order, 1958.	13-12-58	9-2-59	1	26		Home Affairs
15	Notf. No. SUP/ITWG/23/1 of 1958.	Suppression of Immoral Traffic in Women and Girls (Andaman and Nicobar Islands) Rules, 1958.	2-7-58	12-2-59	4			
16	G.S.R. 200 of 1959.	The Bombay Village Industries Board (Re-constitution) Order, 1959.	13-2-59	18-3-59	1	4		
17	Notf. No. J/21/57 of 1958.	Manipur Suppression of Immoral Traffic in Women and Girls Rules, 1958.	8-12-58	23-3-59	3	14		

1 2 3 4 5 6 7 8 9

18	G.S.R. 300 of 1959	Laccadive, Minicoy and Aminidivi Island Suppression of Immoral Traffic in Women and Girls Rules, 1959.	14-3-59	16-4-59	..	1	2	
19	G.S.R. 367 of 1959.	The Bombay Khar Land Development Board (Re-constitution) Order, 1959.	26-3-59	29-4-59	..	1	3	
20	G.S.R. 374 of 1959.	The Bombay Trusts (Corporations) Order, 1959.	4-4-59	4-5-59	..	1	..	Home Affairs
21	G.S.R. 48 of 1959.	Amendment to the High Court Judges Travelling Allowances Rules, 1956.	17-1-59	9-5-59	..	3	..	
22	G.S.R. 42 of 1959.	Amendment to the Cinematograph (Censorship) Rules, 1958.	10-1-59	26-2-59	..	..	17	Information and Broadcasting
23	G.S.R. 164 of 1959.	Amendment to the Employees' Provident Funds Scheme, 1952.	7-2-59	8-5-59	..	3	..	
24	G.S.R. 400 of 1959.	Amendment to the Employees' Provident Funds Scheme, 1952.	4-4-59	8-5-59	..	1	4	Labour and Employment

25	G.S.R. 393 of 1959.	Amendment to the Displaced Persons (Compensation and Rehabilitation) Rules, 1955.	4-4-59	22-4-59	..	..	18	Rehabilitation.	
26	G.S.R. 387 of 1959	Amendment to Minerals Conservation and Development Rules, 1958.	4-4-59	5-8-59	..	4			
27	S.R.O. 197 of 1957.	Amendment to the Coal Mines (Conservation and Safety) Rules, 1954.	19-1-57	10-8-59	2	6	21		
28	S.R.O. 298 of 1957.	Amendment to the Coal Mines (Conservation and Safety) Rules, 1954.	26-1-57	10-8-59	2	6	14		
29	S.R.O. 2244 of 1957.	Amendment to the Coal Mines (Conservation and Safety) Rules, 1954.	6-7-57	10-8-59	2	1	24	Steel, Mines & Fuel.	5
30	S.R.O. 2245 of 1957.	Amendment to the Coal Mines (Conservation and Safety) Rules, 1954.	6-7-57	10-8-59	2	1	4		
31	S.R.O. 2551 of 1957.	Amendment to the Coal Mines (Conservation and Safety) Rules, 1954	10-8-57	10-8-59	2	..	..

APPENDIX II

(See para 31)

Recommendations of and assurances given to the Committee that have been accepted/implemented by Government.

Serial No.	Reference to para No. in the Report	Summary of recommendations/assurances	Gist of Government reply
1	2	3	4
1	SECOND REPORT (First L.S.) 30	Notification issued under the Coffee Market Expansion Act, 1942, relating to changes in the levy of duties should invariably be laid on the Table of the House and while doing so Government should specify the nature of change together with the reasons therefor so that the House may, if necessary, raise a discussion on it.	Accepted. [D.P.A. O.M. No. S(11)/LC/57- P.A., dated the 11th June, 1959]
2	SIXTH REPORT (First L.S.) 7	Rule 15 of the Coal Mines Conservation and Safety Rules, 1954 should lay down the procedure such as the institution of an enquiry or the giving of an opportunity of being heard, to be followed by the Chairman before taking any disciplinary action against any employee of the Coal Board. The rule should also provide for an appellate authority.	Accepted. [D.P.A. O.M. No. S(6)/IX(7)/L-57-P.A., dated the 8th July, 1959]

3 SIXTH
REPORT
(First L.S.)

11

The rules or principles regarding acquisition or disposal of lands and surface rights etc. should be laid down by the Central Government themselves, if necessary, in consultation with the Coal Board and Rule 41 of the Coal Mines and Conservation and Safety Rules, 1954 should be amended accordingly.

Accepted.

[D.P.A. O.M.No. S(6)IX(7)/L-57-P.A., dated the 8th July, 1959]

4 22

The Government may make provision for the nomination of an officer to a local body but in no case should officers be allowed to contest elections to such bodies. Rule 4 of the All India Services (Conduct) Rules, 1954 be amended accordingly.

This has since been done (GSR 958 of 1959).
[D.P.A. O.M. No. S(6)XIV(22)/L-57/P.A. dated the 15th June, 1959]

5 38-39

A new rule 51A introduced in the Mineral Concession Rules, 1949 empowering the State Governments to issue directions to the parties concerned with the Mineral Concessions is not in accordance with the parent Act (Mines and Minerals Regulation and Development Act, 1948) as under section 5 thereof only the Central Government are authorised to make provisions regarding the regulation of mining leases etc. The Committee note the assurance of the Ministry of Law that functions of the Central Government under these rules would be entrusted to the State Government by a formal delegation under Article 258(1) of the Constitution.

The Mines and Minerals (Regulation and Development) Act, 1948 has been superseded by the Mines and Minerals (Regulation and Development) Act, 1957. Under section 29 of the new Act the existing rules would be deemed to have been made under that Act. Therefore, in view of section 26(3) thereof, which expressly lays down that the State Government shall perform any duty which may be imposed on them by the rules made by the Central Government under that Act, the existing rule 51A of the Mineral Concession Rules, 1949 is now in order and does not require any further regularisation by delegation of power under Article 258(1) of the Constitution.

[D.P.A. O.M. No. S(6)YIC(39)/L-57/P.A. dated the 6th July 1959]

**SIXTH
REPORT
(First L.S.)**

6

44

The Committee note the assurance given by the Ministry of Health, that the rates of fees payable in respect of reports to be given by the Central Food Laboratory would be incorporated in Rule 4(6) of the Prevention of Food Adulteration Rules, 1955 as required by section 42(b) of the Prevention of Food Adulteration, Act, 1954 instead of prescribing the same outside the rules.

This has since been done.

[D.P.A. O.M. No. S(6)XV(44)/L-57-P.A., dated the 8th June, 1959]

7

58-59

The Committee note the assurance given by the Ministry of Finance that reasonable notice before withdrawing a draw back scheme would be given by subjecting the cancellation notification to the requirement of previous publication under section 21 of the General Clauses Act.

Since then the Ministry have discontinued only one scheme of draw back regarding "Roofing Felts" and in doing so the procedure of previous publication was followed.

[D.P.A. O.M. No. S(6)XVII/L-57/P.A. dated the 2nd June, 1959]

8

70

The Ministry of Labours would inform the Committee in the event of any complaint from the trade regarding imposition of time limit of one year under the rule 19 of the Coal Mines Rescue Rules, 1939, for preferring claims for refund of excise duty leviable under these rules.

No complaint has been received so far from the trade in this respect.

[D.P.A. O.M. No. S(1D)/LX/57-PA, dated the 11th June, 1959]

9 FIRST
REPORT
(Second L.S.)
72

Delhi (Control of Building Operations) Regulations, 1955 be suitably amended so as to omit regulations 5(2)(i) and 5(3)(i) providing for imposition of certain charges on the applicants before permission for the Development of land could be granted to them because the parent Act does not authorise for the same.

- (i) The levy of these charges was stopped with effect from 21st November, 1957.
- (ii) Since some of the regulations under the Delhi Development Act, 1957, which repealed the Delhi (Control of Building Operations) Act, 1955 having already been framed and others are being drafted in the Ministry of Health the Government do not consider it necessary to take any separate action for deletion of the clause in question.
- [D.P.A. O.M. No. 1(67-72)/CB/57 dated the 1st June, 1959]

10 FOURTH
REPORT
(Second L.S.)
21-25

The provision of Rule 88 of the Delhi Municipal Corporation (Election of Councillors) Rules, 1958, which prohibits the civil courts to question the legality of any action taken or of any decision given by the Commissioner, the Returning Officer or the Presiding Officer in connection with an election, ought to have been incorporated in the parent Act itself instead of the rules.

Rule 88 has since been deleted [22 Delhi Gazette Notification No. 22/2 59-Delhi 16-7-59 laid on the Table on 5-8-59].

11 30

The rule has since been deleted.

[D.P.A. O.M. No. SR IV(30)/58/CB dated the 2nd June, 1959]

The Committee note the assurance given by the Ministry of Works, Housing and Supply to Delete rule 4 of the Rules for Competitive Examinations for filling vacancies in Engineering Services.

APPENDIX III

(See Para 31)

Recommendations not accepted by the Government but replies in respect of which have been accepted by the Committee

Serial No.	Reference to para No. in the Report	Summary of recommendations	Gist of Government's reply.
1	2	3	4

I SECOND REPORT (Second L.S.) 61-62

All subsidiary orders issued under the Cotton Control Order, 1955, should also be laid before Parliament.

It is felt that there would be considerable practical and administrative difficulties in placing various orders issued under clause 14(b)(2) of the Cotton Control Order, 1955, before Parliament as their number sometimes runs into thousands. Apart from the question of numbers, most of these subsidiary orders are very often of an *ad hoc* character and no useful purpose will be served by formally laying them before the House. Besides, under Rule 369(1) of the Rules of Procedure and Conduct of Business in

Lok Sabha every paper or document to be laid on the Table is required to be duly authenticated by the member presenting it. The number of orders required to be laid in term of this recommendation was more than 4,000 in 1958. It has obviously increased since then. To authenticate all these orders, many of them unimportant and of a purely temporary nature, is a stupendous task and the time and labour involved does not appear to be commensurate with the results likely to be achieved. Therefore the recommendations may be dropped.

[D.P.A. U.O. No. SRII(62)CB/58, dated the 9th April, 1959]

APPENDIX IV

(See para 31)

Recommendations not wholly accepted by the Government but which are being pursued by the Committee.

Serial No.	Reference to para No. in the Report	Summary of recommendation	Gist of Government's reply	Comments of the Committee
1	2	3	4	5
1	FIFTH REPORT (Second L.S.) 34	<p>Ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. If no rules are framed within a reasonable period after the commencement of the Act the Committee will take up the matter with the Ministry</p>	<p>1. The rule-making power is an enabling provision and where it is not necessary or proposed to exercise it, there is no need to frame rules immediately after the commencement of an Act or within a specific time-limit.</p> <p>2. When in the nature of things rules are needed only after the actual working of the Act has</p>	<p>The Committee do not consider it necessary to modify the existing recommendation as in every case of delay clarification from the Ministry will be sought and thereafter if it is felt that there has been undue delay in framing</p>

concerned and report to the House the cases where it is felt that undue delay has occurred in framing the rules.

the rules the delay will be reported to the House.

made them necessary, it may not be necessary to frame them immediately.

An instance of the first type would be emblems and Names-Improper Use-Act 1950. An instance of the second type would be rules framed under the Displaced Persons (Rehabilitation and Compensation) Act, 1954, where rules may have to be framed from time to time to meet various new situations after the actual working of the compensation scheme. Some of the rules under this Act had to be framed long after the enactment of the statute.

It is presumed that the Committee would not insist on rules being framed in cases of the first type and would not insist on time-limit of six months in cases of the second type.

[D.P.A. U.O. No. SR-III(CB)/58,
dated the 31st July, 1959]

APPENDIX V

Minutes

EIGHTEENTH SITTING

Parliament House, New Delhi: Tuesday, the 11th August, 1959

The Committee met from 16.00 hours to 16.35 hours.

PRESENT

Sardar Hukam Singh—*Chairman*

2. Shri J. M. Mohamed Imam
3. Shri K. S. Ramaswamy
4. Shri Sinhasan Singh
5. Shri N. R. Ghosh
6. Dr. A. Krishnaswami
7. Shri Ajit Singh Sarhadi
8. Shri L. Achaw Singh.

SECRETARIAT

Shri A. L. Rai—*Under Secretary*.

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and 'Orders':—

- (1) Recommendations of the Committee on Subordinate Legislation—paras 61-62 of their Second Report (Second Lok Sabha) (Memorandum No. 127).
- (2) Amendment to the Indian Post Office Rules, 1933 (G.S.R. 314 of 1959) Citation of exact statutory authority in the preamble to the 'Order' (Memorandum No. 128).
- (3) Amendment to the All India Institute of Medical Sciences Rules, 1958 (G.S.R. 633 of 1958) (Memorandum No. 129).
- (4) The Rules relating to goods imported at and exported from the Port of Visakhapatnam—Giving of short title in the Rule (G.S.R. 237 of 1959) (Memorandum No. 130).
- (5) Amendment in the Bye-laws rendering necessary licences for the use of premises within the Saugor Cantt. as stables, cattle sheds etc., for profit (S.R.O. 119 of 1959) (Memorandum No. 131).
- (6) The Junior Field Officer (Technical) (Directorate General of Supplies and Disposals) Recruitment Rules, 1959 (Memorandum No. 132).
- (7) * * * *
- (8) The Minerals Conservation and Development Rules, 1958 (G.S.R. 441 of 1958) (Memorandum No. 134).

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

(9)

- (10) Action taken or proposed to be taken by Government on various recommendations of and assurances given to the Committee on Subordinate Legislation (Memorandum No. 136).

Amendment to the Indian Post Office Rules, 1933 (G.S.R. 314 of 1959)—Citation of Exact Statutory Authority in the Preamble to the Order.

3. The above 'Order' did not cite in the preamble the specific sections of the Indian Post Office Act, 1898 under which it was made.

4. The Committee noted that the Posts and Telegraphs Directorate whose attention was drawn to the recommendation of the Committee [paras 75-76 of their Sixth Report (First Lok Sabha)], that the statutory authority giving power to make rules etc. should specifically be cited in the preamble to the rules for the purposes of enabling all concerned to know under what precise authority the rules were made, had expressed their regret for the omission and had intimated the specific authority under which it was issued.

Amendment to the All India Institute of Medical Sciences Rules, 1958 (G.S.R. 633 of 1958).

G.S.R. 633 of 1958 while amending rule 7 of the All India Institute of Medical Sciences Rules, 1958 discarded a salutary requirement that appointments to all posts created by the Institute should be made on the recommendations of a Selection Committee constituted with the approval of the Central Government. These rules had been framed under Section 28 of the All India Institute of Medical Sciences Act, 1956.

6. On a reference being made to the Ministry of Health as to why that provision had been omitted, the Ministry stated that it had been represented on behalf of the Institute that it would be difficult to constitute a Selection Committee with the prior approval of the Government for appointment to all posts as these posts could include the lowest paid ones for which no Selection Committee was necessary.

7. The Ministry further stated that consultation with a Selection Committee in respect of Class III and IV posts would not be practicable in all cases. The appointing authority may, however, constitute a Selection Committee or a Departmental Selection Committee whenever necessary in the case of these posts. The Ministry also stated that so far as the appointments to Class I and II posts were concerned the Institute had constituted a Standing Selection Committee for selecting candidates for such appointments.

The Committee noted the reply given by the Ministry.

Delay in Framing Regulations:

8. The Committee also noted that the regulations required to be framed under section 29 of the All India Institute of Medical Sciences Act, 1956, which had been brought into force since the 15th November, 1956, had now been framed.

The Rules Relating to Goods Imported at, and Exported from, the Port of Vishakapatnam—Giving of Short Title in the Rules (G.S.R. 237 of 1959)

9. The Ministry of Finance did not give a short title to the above rules which had been framed under Section 9(c) of the Sea Customs Act, 1878. On being pointed out the Ministry stated that while every attempt would be made to indicate short titles in the rules, it might be appreciated that there might be real difficulty in complying with this requirement in some cases. The present case was one such case where the notification itself consisted only of a single rule made for an *ad hoc* purpose. It was accordingly difficult to find a title which would briefly show the purport of the rule. In the circumstances a short title was dispensed with.

10. In view of the clarification given by the Ministry, the Committee did not consider that any further action was necessary.

Amendment in the Bye-Laws rendering necessary Licences for the use of Premises within the Saugor Cantt. as Stables, Cattle Sheds etc. for Profit (S.R.O. 119 of 1959)

11. Bye-law 2 of the original bye-laws authorised the Cantonment Board to charge fees for licences issued thereunder.

These bye-laws were framed under clause (37) of section 282 of the Cantonments Act, 1924. It was pointed out to the Ministry of Defence that the said clause (37) did not empower the Cantonment Board to levy fees.

The Committee noted that the Ministry had amended by-law 2 by omitting the provision relating to charging of fees.

The Junior Field Officer (Technical) (Directorate-General of Supplies and Disposals) Recruitment Rules, 1959, (S.O. 1167 of 1959).

12. The above 'Order' which was framed under proviso to Article 309 of the Constitution, provided that the recruitment would be made in accordance with the provisions contained in the Schedule.

It was noticed that no Schedule had been appended to the said rules as mentioned therein.

13. The Committee noted that the Ministry of Works, Housing and Supply whose attention had been drawn to the omission, had expressed their regret and re-published the rules along with the Schedule (S.O. 1395 of 1959).

14.	*	*	*	*
15.	*	*	*	*
16.	*	*	*	*
17.	*	*	*	*
18.	*	*	*	*
19.	*	*	*	*
20.	*	*	*	*

The Minerals Conservation and Development Rules, 1958
(G.S.R. 441 of 1958).

Rule 22:

21. Rule 22 of the Minerals Conservation and Development Rules, 1958, provided that every owner, agent or manager of a mine should permit students of mining and geological institutions, approved by the Government, to acquire practical training of the mines and plants operated by them and provide all necessary facilities for the training of such students.

22. The above rules were framed under section 18 of the Mines and Minerals (Regulation and Development) Act, 1957, which does not empower the Central Government to provide for such matters in the rules.

23. The Ministry of Steel, Mines and Fuel to whom it was suggested that as the matters regarding facilities for training of students fell within the scope of Section 13(2) (h) of the Act, besides quoting section 18 in the preamble to the rules, Section 13 also ought to have been quoted.

24. The Ministry agreed and assured to omit Rule 22 from the Mineral Conservation and Development Rules, 1958 and to incorporate the provision of the rule in the revised Minerals Concession Rules to be framed under Section 13 of the Act.

The Committee noted the Ministry's assurance.

Rule 23:

25. Rule 23 pertaining to the powers of the Director of Indian Bureau of Mines to issue directives for conservation and systematic development of minerals, did not lay down any procedure to ensure that the directives so issued by the Director were duly brought to the notice of the owner, agent or the manager of a mine.

26. In view of the fact that non-compliance with the directives made a person liable to punishment with imprisonment or with fine or both, it was felt that specific procedure ought to have been laid down in the rules prescribing the method by which the directives would be brought to the notice of owner, agent or manager of a mine.

27. The Ministry agreed with the suggestion and assured to incorporate in rule 23 specific procedure by which the order or directive shall be brought to the notice of owner, agent or manager of a mine.

The Committee noted the Ministry's assurance.

28.	*	*	*	*
29.	*	*	*	*
30.	*	*	*	*
31.	*	*	*	*
32.	*	*	*	*

*Action Taken or Proposed to be taken by Government on various
Recommendations of and Assurances Given to the Committee
on Subordinate Legislation*

33. The Committee considered the replies sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations of, and assurances given to, the Committee.

34. The recommendations which were accepted and assurances implemented by the Government are given in Appendix II (See page 16 ante). Recommendations in respect of which the Government had given their own suggestions and such suggestions as were accepted by the Committee are given in Appendix III (See page 20 ante). The recommendations not wholly accepted by the Government but which are being pursued by the Committee are given in Appendix IV. (See page 22 ante).

35. The Committee then adjourned *sine die*.

II

NINETEENTH SITTING

Parliament House, New Delhi: Friday, the 28th August, 1959.

The Committee met from 15.30 hours to 15.50 hours.

PRESENT

Sardar Hukam Singh—*Chairman*

2. Shri K. S. Ramaswamy
3. Shri T. N. Viswanatha Reddy
4. Shri Aurobindo Ghosal
5. Shri Ghanshyamlal Oza
6. Shri N. R. Ghosh
7. Shri Ajit Singh Sarhadi
8. Shri Satyendra Narayan Sinha.

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and 'Orders':—

- (1) * * * *
- (2) Amendment to the Rules for Warehousing and Retaining of Goods published in the Railway Board's Notification No. TC. III/3036/58, Notification, dated the 28th August, 1958 (S.O. 2523 of 1958) (Memorandum No. 138).
- (3) Amendment in the Revised Leave Rules, 1933 (G.S.R. 1220 of 1959) (Memorandum No. 139).
- (4) * * * *
- (5) Office of the Director-General of Commercial Intelligence and Statistics (Class II Non-Gazetted Posts) Recruitment Rules, 1959 (G.S.R. 420 of 1959) (Memorandum No. 141).
- (6) Central Information Service Rules, 1959 (G.S.R. 217 of 1959) (Memorandum No. 142).
- (7) Delay in laying of 'Orders' on the Table (Memorandum No. 143).

3. * * *
4. * * *

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

Amendment to the Rules for Warehousing and retaining of goods published in the Railway Board's Notification No. TC. III/3036/58/Notification, dated the 28th August, 1958 (S.O. 2523 of 1958)

5. The above amendment made under Section 47 of the Indian Railways Act, 1890, was published in the Gazette, dated the 6th December, 1958, but it was given retrospective effect from 1st December, 1958. This was not in accordance with the provisions of sub-section (3) of the said section which specifically provided that the rules made under that section would not take effect until they were published in the Official Gazette. Further, the retroaction of the amendment adversely affected the interests of the colliery owners because it authorised the levy of additional charges from 1st December, 1958 where wagons were overloaded in excess of 15 per cent.

6. The Ministry of Railways on a reference being made to them stated that the notification in question was to be published in the Gazette prior to 1st December, 1958, but unfortunately there was delay in the despatch of the Notification to the Press which resulted in the notification appearing in the Gazette dated 6th December, 1958 instead of in an issue bearing a date earlier than 1st December, 1958.

The Committee recommended that such irregularities ought to be avoided.

Amendment in the Revised Leave Rules, 1933 (G.S.R. 1220 of 1959)

7. The above amendment which was made under proviso to Article 309 of the Constitution, substituted the first proviso to Rule 7 of the Revised Leave Rules, 1933. It was expressed in a single sentence running into 177 words.

8. The Committee felt that the construction of the proviso was complex and it was not easy to follow. The Committee recommended that, as far as possible, unusually long sentences should be avoided while drafting the rules.

9. * * *

Office of the Director-General of Commercial Intelligence and Statistics (Class II Non-Gazetted Posts) Recruitment Rules, 1959 (G.S.R. 420 of 1959)

10. Rules 3 and 4 of the Office of the Director-General of Commercial Intelligence and Statistics (Class II Non-Gazetted Posts) Recruitment Rules, 1959, which were made under proviso to Article 309 of the Constitution referred to a schedule to those Rules but no such schedule was appended to them as published in the Gazette of India, dated the 11th April, 1959, under G.S.R. 420 of 1959.

11. The committee noted that on being pointed out, the Ministry of Commerce and Industry had re-published the Rules with the Schedule in the Gazette of India, dated the 25th July, 1959 (G.S.R. 860 of 1959).

The Central Information Service Rules, 1959 (G.S.R. 217 of 1959)

Rule 2(b) (i):

12. Rule 2(b) (i) of the Central Information Service Rules, 1959, which were made under proviso to Article 309 of the Constitution, provided that a person in the Ministry of Information and Broadcasting or any of its attached and subordinate offices, who was holding, or would have held but for his absence on deputation, a duty post on the 1st November, 1957, will be a departmental candidate and as per Rule 5(1), he would be considered for appointment to the different grades at the initial constitution of the service.

13. It was felt that by fixing 1st November, 1957 instead of fixing the date on which the rules were published viz. 21st February, 1959, as the 'crucial date' for Central Information Service, many officers selected by U.P.S.C. after 1st November, 1957 for various posts in the Ministry might be left out from being considered for appointment to the service. It would have been better to fix the latter date to ensure that the Selection Committee constituted under Rule 5(1) had the widest possible choice to select candidates for appointment to the service.

14. On a reference being made to them, the Ministry of Information and Broadcasting stated that 1st November, 1957 had been taken as the 'crucial date' for the C.I.S. in common with similar provision in certain other services. While constituting a Service, by the absorption, to start with, of officers holding various categories of posts, a 'crucial date' was generally prescribed for determining the eligibility of departmental candidates and this date was ordinarily a date sufficiently removed from the date of promulgation of the Rules of the Service, to ensure that no unintended interests were created while steps were in progress for the constitution of the Service. In the present case, the date was also one on which the Ministry of Information and Broadcasting had finally approved the various details of the scheme for the constitution of the Service.

15. The definition of 'departmental candidates' had been so framed as to cover all officers holding duty posts, in an approved capacity, and it was also proposed to consider all officers who had been appointed to the included posts by virtue of their selection by the Union Public Service Commission subsequent to 1st November, 1957 as 'departmental candidates' under Rule 2(b) (ii).

The Committee considered the matter and decided that no further action was necessary.

Rule 2(b) (ii):

16. Rule 2(b) (i) enumerated the categories of persons, who would constitute the 'departmental candidates' at the initial constitution of the service but rule 2(b) (ii) gave discretionary power

to the Government to include a person who did not come within the provisions of Rule 2(b) (i).

17. In their reply, the Ministry of Information and Broadcasting stated that the provisions of rule 2(b) (ii) would be invoked only with the concurrence of U.P.S.C.

The Committee noted the Ministry's reply.

Delay in laying of 'Orders' on the Table

18. The Committee decided that the delay in laying the 'Orders' on the Table shown in Appendix I be reported to the House (See page 11 ante).

19. The Committee directed that in respect of S.R.Os. 197, 298, 2244, 2245 and 2551 of 1957, amending the Coal Mines (Conservation and Safety) Rules, 1954, which were laid on the Table after two years of their issue, the Ministry concerned might be asked to explain the reasons for laying the 'Orders' after such an inordinate delay.

20. The Committee recommended that whenever 'Orders' are laid on the Table after an inordinate delay, an explanatory note giving the reasons for such delay should be appended to the 'Orders' when so laid.

21. The Committee then adjourned *sine die*.

III

TWENTIETH SITTING

Parliament House, New Delhi: Friday, the 4th September, 1959.

The Committee met from 15.45 hours to 15.55 hours.

PRESENT

Sardar Hukam Singh—*Chairman.*

2. Shri K. S. Ramaswamy
3. Shri Ajit Singh Sarhadi
4. Shri L. Achaw Singh
5. Shri Satyendra Narayan Sinha.

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered the draft Sixth report and adopted the same with the following addition after para 6 thereof:—

“.....but feel that, as far as possible, appointments to Class III and IV Posts should also be made on the recommendation of a Departmental Selection Committee.”

3. The Committee authorised the Chairman and in his absence Shri Ajit Singh Sarhadi to present the Report to the House.

4. The Committee then adjourned *sine die.*
