

# COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

**EIGHTEENTH REPORT**

**(Action Taken by Government on Outstanding  
Recommendations of the Committee)**

*(Presented on 9 May, 1989)*



**LOK SABHA SECRETARIAT  
NEW DELHI**

*May, 1983/Vaisakha, 1905 (Saka)*

LOK SABHA SECRETARIAT

CORRIGENDA TO THE EIGHTEENTH REPORT OF THE  
COMMITTEE ON SUBORDINATE LEGISLATION  
(SEVENTH LOK SABHA)

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# COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(1982-83)

1. Shri Mool Chand Daga—*Chairman*
2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
- \*4. Shri N. E. Horo
5. Shri Ashfaq Hussain
6. Shri Dalbir Singh (Madhya Pradesh)
7. Shri B. Devarajan
8. Shri C. D. Patel
9. Shri Chandrabhan Athare Patil
10. Shri M. Ramanna Rai
11. Shri T. Damodar Reddy
- \*\*12. Shri Ebrahim Sulaiman Sait
13. Shri M. S. K. Sathiyendran
14. Shri Satish Prasad Singh
15. Shri R. S. Sparrow

## SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

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\*Nominated *w.e.f.* 12-7-1982.

\*\*Nominated *w.e.f.* 13-10-1982.

# REPORT

## I

### INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this Eighteenth Report on implementation of recommendations remaining outstanding.

2. Though the recommendations of all Parliamentary Committees are recommendatory in nature and not mandatory, by convention, and because a Parliamentary Committee is a microcosm of the House, the recommendations are generally accepted by Government and implemented. Under Direction 108(1) the Ministries are required to intimate to the Committee on Subordinate Legislation, the action taken on the recommendations and the same is reported by the Committee to the House through their reports. Ministries have been, from time to time, intimating to the Committee the action taken on various recommendations and the Committee have also been reporting to the House the satisfactory implementation of such recommendations. Where Ministries gave cogent reasons for non-implementation, the Committee have reconsidered all such cases and, through their reports, either reiterated the recommendation or agreed with the Ministries and not pursued the recommendation further. The Committee have often given opportunity to the Ministries to explain once again through evidence before them why it was not possible to implement and after considering all aspects reported their final observations to the House.

3. During the scrutiny of such implementation cases this year (1982-83), the Committee came across a large number of recommendations which had remained unimplemented for several years or if implemented, no intimation to that effect had been sent. The Committee, therefore decided at their sitting held on 2-12-1982, to examine in detail the recommendations outstanding for a period of more than one year. The scrutiny revealed that some of the cases related to as old a period as eight years. The Committee were not only seized of the delay aspect but also tried to take into consideration the difficulties and view points, if any, put forth by Government.



The analysis revealed that the replies could be grouped under the following 5 categories:—

- (i) Cases of recommendations where Government have failed to send intimation of action taken to the Committee.
- (ii) Cases of recommendations where only interim replies have been received.
- (iii) Cases of recommendations pending introduction of Comprehensive Bills for amendment of relevant Acts.
- (iv) Cases of recommendations where Government have expressed their inability to implement.
- (v) Cases of recommendations to which replies have been considered unsatisfactory by the Committee.

4. This is not to belittle the fact that a large number of recommendations have been satisfactorily implemented. The Committee have already reported on them in their Tenth and Nineteenth Reports (Fifth Lok Sabha), Eighth Report (Sixth Lok Sabha) and Second Fourth, Ninth, Tenth, Twelfth, Fifteenth, Sixteenth and Seventeenth Reports of Seventh Lok Sabha and some have been included in this Report also. But the Committee do like to observe that even in such cases, there has been avoidable delay in implementation in most of the cases.

5. As it was not possible to cover all outstanding cases in one Report, the Committee decided to present three Reports.

6. In this special report on implementation, the Committee have dealt with cases falling under categories at (i), (ii) and (iii) mentioned above. The Committee have also dealt with the failure of the Ministries to provide for 'Laying of orders on the Table of the House' in certain Bills. Besides, this Report has also dealt with cases of recommendations which have been fully and satisfactorily implemented or assurance to that effect has been given by Government.

7. The matters covered in this Report were considered by the Committee on Subordinate Legislation (1982-83) at their sittings held on 17 and 31 March, 1983.

8. The Committee considered and adopted this Report at their sitting held on 5 May, 1983.

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

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

## CHAPTER II

### CASES OF RECOMMENDATIONS WHERE GOVERNMENT HAVE FAILED TO SEND INTIMATION OF ACTION TAKEN TO THE COMMITTEE

11. Under Direction 108(1) of the Directions by the Speaker, Ministries are required to furnish from time to time to Lok Sabha Secretariat, statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports and on the assurances given by the Ministries in the course of their correspondence with the Committee.

12. After the Report of the Committee on Subordinate Legislation is presented to the House, a copy thereof is forwarded to the Ministry/Department concerned for the implementation of the recommendations made by the Committee in their Report. While forwarding copies of the Report of the Committee to Ministries/Departments concerned, they are, invariably, requested as under:—

“It is, therefore, requested that the action taken or proposed to be taken by the Ministry of—on paras—of the Report may kindly be intimated to this Secretariat at an early date for the information of the Committee on Subordinate Legislation of Lok Sabha.”

13. In spite of the above request, in the following cases though the recommendations of the Committee had been implemented by the concerned Ministries/Departments yet they had failed to intimate to the Committee about the action taken by them:—

(i) *The Requisitioning and Acquisition of Immovable Property Act, 1952.*

14. In paragraphs 34 and 35 of their Sixth Report (Sixth Lok Sabha), presented to the House on 17-3-1978 the Committee on Subordinate Legislation recommended amendment of Sub-section (3) of Section 22 of the aforesaid Act in relation to the laying of rules before Parliament. The Report of the Committee was forwarded to the Ministry of Works and Housing on 18-3-1978 and the Ministry was requested to intimate the action taken at an early date for the information of the Committee. Thereafter, reminders were issued

on 3-8-1979 and 28-2-1980 requesting the Ministry to expedite their action taken note.

15. The Ministry amended the Act to implement the Committee's recommendation *vide* Act No. 35 of 1980 which received the President's assent on 5-4-1980.

16. On finding that no reply from the Ministry to our two reminders had been received, the matter was taken up on a personal level and a d.o. reminder dated 10-4-1981 was issued to the Joint Secretary of the Ministry. In reply to the said D.O., the Ministry informed *vide* their letter dated 30-4-1981, about the amendment already made in the Act.

17. The Committee note that the Ministry of Works and Housing in implementation of their recommendation had brought forward a Bill seeking amendment to the Requisitioning and Acquisition of Immovable Property Act, 1952 which was passed by Lok Sabha on 19-3-1980 and by Rajya Sabha on 26-3-1980. The Committee are, however, unhappy to note that even after issue of the second reminder on 28-2-1980, the Ministry did not care to intimate the action already taken by them in regard to implementation of their recommendation.

(ii) *The Interest-tax Rules 1974 (S.O. 740-E of 1974)*

18. Note 2 below Form 5 (Form of Memorandum of Cross objections to the Appellate Tribunal) given in the Appendix to the Interest-tax Rules, 1974 (S.O. 740-E of 1974) provided that Memorandum of cross objections should be written in English. The Note, as worded, appeared to prohibit the use of Hindi for the Memorandum and thus went against the spirit of the provisions of the Constitution relating to the National Language. After considering the reply of the Ministry of Finance to a reference made to them in that regard, the Committee in paragraph 43 of their Sixth Report (Sixth Lok Sabha), presented to the House on 18-3-1978, recommended amendment of the Interest-tax Rules, 1974.

19. The Report was originally forwarded to the Ministry of Law, Justice and Company Affairs on 18-3-1978 and subsequently on the suggestion of that Ministry, it was sent to the Ministry of Finance on 4-4-1978 for implementation of Committee's recommendation.

20. The Ministry of Finance was reminded on 3-8-1979 to expedite the action taken note on implementation of Committee's recommendation. In their reply dated 16-8-1979, the Ministry informed that it

had been decided with the approval of the Finance Minister, to make the necessary amendment in Note 2 below Form No. 5.

21. On getting no further communication, the Ministry of Finance was reminded on 26-2-1980, 10-4-1981 and 20-8-1982, to furnish the final action taken by them in the matter. In reply to the last communication sent on 20-8-1982 to the Secretary, Ministry of Finance, the Ministry in their letter dated 27-8-1982, informed that keeping in view the recommendation made by the Committee, Note 2 below Form No. 5 was substituted by the Interest-tax (Amendment) Rules 1979, with effect from 29-10-1979.

22. The Committee note that although the Ministry of Finance had implemented their recommendation made in Paragraph 43 of their Sixth Report (Sixth Lok Sabha) as far back as 29-10-1979, the Ministry did not intimate this fact to the Committee in spite of the Ministry having been asked in this regard on 26-2-1980 and 10-4-1981. The Committee further note that it was only when the matter was taken up at the level of the Secretary of the Ministry through a D.O. letter dated 27-8-1982 that the Ministry intimated the action since taken by them. The Committee are constrained to observe that the Ministry not only failed to intimate to the Committee the action taken by them on their recommendation but also failed to take notice of the two communications sent to them. The Committee, however, note that, in this connection, the displeasure of the Chairman of the Committee over the scant regard shown to the communications sent by them, had been conveyed to the Secretary of the Ministry on 14-10-1982.

(iii) *The Central Excise (Nineteenth Amendment) Rules, 1977*  
(G.S.R. 554-E of 1977)

23. Sub-rule (2) of Rule 11 of the Central Excise Rules 1944, as substituted by G.S.R. 554-E of 1977, empowered the Assistant Collector of Central Excise to make an Order for refund of duty. As maximum time-limit within which claims for refund of duty should be disposed of, had not been laid down in the Rule, the Ministry of Finance, on a reference made to them in that regard, informed that a period of three months had been fixed within which refund/rebate claims should be sanctioned by issuing executive instructions in the matter. The Committee, after considering the Ministry's reply, in paragraph 28 of their Eleventh Report (Sixth Lok Sabha) presented to the House on 24-8-1978, recommended that the executive instructions stipulating a period of three months within which

refund/rebate claims under sub-rule (2) of Rule 11 of the Central Excise Rules should be sanctioned, be brought on a statutory footing and the rules amended at an early date.

24. The Report of the Committee was forwarded to the Ministry of Finance on 24-8-1978 with the request that the action taken or proposed to be taken in the matter by the Ministry be intimated at an early date for the information of the Committee.

25. The Ministry of Finance, in their reply dated 19-12-1978, informed that fixing of a statutory time-limit for settling of Central Excise refund claims was being examined by the Estimates Committee also and that further action would be taken on receipt of the recommendation of that Committee.

26. The Estimates Committee, in their Twenty-eighth Report (Sixth Lok Sabha), presented to the House on 27-3-1979, recommended, inter alia fixation of a statutory time/limit for sanction of refunds/rebates.

27. The Ministry was reminded on 24-4-1979 to expedite the action taken note on the above recommendation of the Committee. In their reply dated 15-11-1979, the Ministry informed as under:—

“This isues with the approval of the Finance Minister who has observed that as these are important recommendations which will require legislation if they are found to be ultimately acceptable to the Government a final decision in the matter will have to be deferred till a new Government takes over after the elections take place.”

28. When reminded again on 6-3-1980, the Ministry, in their reply dated 18-3-1980, informed that the papers had already been submitted to higher authorities for taking a final decision in the matter.

29. In reply to another reminder sent on 2-4-1981, the Ministry intimated on 26-5-1981 that the matter was still under consideration.

30. The matter was then taken up with the Secretary, Ministry of Finance through a D. O. letter dated 24-8-1982. The Additional Secretary, Ministry of Finance, in his reply dated 31-8-1982 informed:—

“the recommendation of the Estimates Committee in this regard was placed before the present Government. The Government at the level of Finance Minister did not find it possible to accept the Estimates Committee's recommendation.

Incidentally, it may be mentioned that Rule 11 is no longer a part of the Central Excise Rules, 1944, having been omitted with effect from 17-11-1980, when the provisions of Section 11 B of the Central Excise and Salt Act, 1944 relating to claims for refund of duty came into force."

31. The Committee note that the recommendation made by them in paragraph 28 of their Eleventh Report (Sixth Lok Sabha) became infructuous when the Ministry of Finance (Department of Revenue) intimated to them vide their O.M. dated 31-8-1982 that Rule 11 of the Central Excise Rules, 1944 which had been commented upon by them, had been deleted with effect from 17-11-1980. The Committee are pained to observe that the Ministry which should have informed them suo moto about this position soon after the Rule in question was omitted did not do so. The Committee, however, observe that, in this connection, the displeasure of the Chairman of the Committee over the indifferent manner in which the implementation of their recommendation was reported by the Ministry, had been conveyed to the Secretary of the Ministry vide letter dated 24-9-1982. The Committee, therefore, do not desire to pursue the matter further.

- (iv) (a) *The Posts and Telegraphs Department Technician (Higher Grade) and Technician (Telephone, Telegraphs, Carrier and Wireless) Recruitment Rules, 1975 (G.S.R. 2689 of 1975): and*
- (b) *The Posts and Telegraphs (Wireless Recruitment) (Amendment) Rules, 1975 (G. S. R. 591 of 1975).*

32. Rule 5 of the Posts and Telegraphs Department Technician (Higher Grade) and Technical (Telephone, Telegraph, Carrier and Wireless) Recruitment Rules, 1975 (G. S. R. 2689 of 1975) and Rule 9 of the Posts and Telegraphs (Wiremen) Recruitment Rules, 1968, as inserted by the Amendment Rules (G. S. R. 591 of 1975), left the period of training and form of the bond to be specified by the Director General, Posts and Telegraphs.

33. The Committee, after considering the reply of the Ministry of Communications (Posts and Telegraphs Department) in that regard, recommended in paragraphs 33 to 37 of their Tenth Report (Sixth Lok Sabha) presented to the House on 25-7-1978 that a definite period of training was necessary to obviate any scope of

discriminatory treatment between different batches of candidates of the same category and if it became necessary for the Ministry to extend or reduce the specified period of training to meet certain exigencies, it should be done for reasons to be recorded in writing and that too in respect of a class or category of trainees and not individuals. The Committee also recommended that though it was not necessary to include the form in the recruitment rules but essential requirements of the bond should be incorporated in the rules to serve as guidelines. The Committee, therefore, desired the Ministry to amend the rules accordingly.

34. The Report of the Committee was forwarded to the Ministry on 25-7-1978 with the request that action taken or proposed to be taken by the Ministry be intimated at an early date for the information of the Committee.

35. The Ministry was reminded in the matter on 6-3-1980 and 30-9-1980 to expedite their Action Taken Note but no reply was received thereto. The matter was then taken up with the Secretary of the Ministry through D. O. letter dated 8-11-1982 to expedite the Note in the matter. However, the Office of the Director-General, Posts and Telegraphs, in their reply dated 15-12-1982, informed that the relevant Rules had been amended on 13-10-1980 and 30-1-1982.

36. The Committee note with concern that, although the Ministry of Communications had amended the Rules in question as desired by them as far back as October, 1980 and January, 1982, they had failed to intimate to the Committee the action taken by them. The Committee further note that even the reminders issued on 6 March, 1980 and 30 September 1980 for pursuing implementation of their recommendation did not evoke the Ministry's response. The Committee have a feeling that there are no satisfactory arrangements in the Ministry to attend to the communications sent by a Parliamentary Committee.

(v) *The Khadi and Village Industries Commission (Amendment) Regulations, 1976, (G.S.R. 1307 of 1976).*

37. Regulation 5(3)(d) of the Khadi and Village Industries Commission Regulations, 1958, as substituted by the amending Regulations of 1976, provided that if the Commission was of the opinion that it was in public interest to do so, it shall have the absolute right to retire any employee after he had attained a



particular age by giving him notice of not less than 3 months in writing or 3 months' pay and allowances in lieu of such notice.

38. The Committee on Subordinate Legislation, after considering the reply of the Ministry of Industry in that regard, recommended, *vide* paragraph 42 of their Nineteenth Report (Sixth Lok Sabha), presented to the House on 25-4-1979, that the Regulations be amended to provide for sufficient safeguards against the misuse of powers given under Regulation 5(3) (d). The Report of the Committee was forwarded to the Ministry of Industry on 25-4-1979, with the request that action taken be intimated at an early date.

39. The Ministry was reminded in the matter on 17-3-1980 to expedite their action taken note but no reply was received. The matter was then taken up with the Secretary of the Ministry. The Secretary, in his D. O. reply dated 3 September, 1982, informed that a notification providing safeguards against the misuse of powers delegated to the Khadi and Village Industries Commission under Regulation 5(3) (d), as desired by the Committee on Subordinate Legislation, was issued on 21-8-1979.

40. The Committee note with satisfaction that the Ministry of Industry have implemented their recommendation made in paragraph 42 of their Nineteenth Report (Sixth Lok Sabha) within six months of its presentation. The Committee are, however, compelled to remark that, due to the failure of the Ministry to intimate to the Committee the action taken by them, the Committee could not take note of the prompt action otherwise taken by the Ministry. The Committee feel that the omission on the part of the Ministry in replying to the Communications sent to them by the Committee in that regard had devalued the commendable work done by them by implementing the Committee's recommendation well in time.

(vi) *The Central Vigilance Commission (Staff) Amendment Rules, 1976 (G. S. R. 1385 of 1976)*

41. Rule 3 of the Central Vigilance Commission (Staff) Rules, 1964, as substituted by the Central Vigilance Commission (Staff) Amendment Rules, 1976 did not indicate the nomenclature and the number of posts covered by the Rules. This was left to be determined by the President of India. The Committee, after considering the reply received from the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) in that regard, recommended in paragraph 52 of their Nineteenth Report (Sixth Lok Sabha) presented to the House on 25-4-1979, for the amendment of the above Rules. The Committee had also desired the Department of Personnel and Administrative Reforms to issue

necessary instructions to all Ministries|Departments in that regard for compliance.

42. The Report was forwarded to the Department on 25-4-1979 with the request that action taken be intimated at an early date for being placed before the Committee. The Department in their communication dated 18-3-1980 informed that the necessary instructions had been issued to all Ministries|Departments and it had also been decided to amend the rules as desired by the Committee. In their further communications dated 1-4-1980 and 4-9-1980, the Department informed of the progress being made for the amendment of the Rule. Thereafter no further intimation was received from them. The matter was then taken up with the Secretary of the Department. In their reply dated 18-9-1982, the Department informed that the necessary amendment to the Central Vigilance Commission (Staff) Rules, 1964 had already been made vide Notification dated 25-10-1980.

43. The Committee note that while the Department of Personnel and Administrative Reforms vide their communication dated 18-3-1980 had intimated to them regarding implementation of one of their recommendations made in paragraph 52 of their Nineteenth Report (Sixth Lok Sabha) by issuing necessary instructions to all Ministries/Departments for compliance on 22-5-1979 i.e. within one month of the presentation of their Report, the Department did not inform the Committee the fact of implementation of their other recommendation which related to amendment of rule 3 of the Central Vigilance Commission (Staff) Rules, 1964. About this part of the recommendation, the Department simply kept the Committee informed of the progress being made in the amendment of the rules. The Committee find that the last letter of the Department received in the matter is dated 4-9-1980. The Committee observe that it was only after the matter was taken up with the Secretary of the Department that the Committee came to know through their letter dated 18-9-1982 that the requisite amendment had been made vide notification dated 25-10-1980. While appreciating the prompt implementation of one of their recommendations and its timely intimation to them, the Committee are forced to deplore the failure on the part of the Department to intimate the fact of the implementation of the other part of their recommendation as far back as 25-10-1980, immediately thereafter.

(vii) *The Assam Wild Life (Transactions and Taxidermy) Rules, 1977 (G. S. R. 35-E of 1977)*.

44. Rules 4(1) of the Assam Wild Life (Transactions and Taxidermy) Rules, 1977 provided that every licensee to whom permis-

sion has been granted under sub-rule (3) of Rule 3 shall submit, to the officer who had granted the said permission a report regarding the stocks of specified animal or animal article, trophy, uncurred trophy or meat, referred to in sub-rule (1) of rule 3, in Form III within a period of seven days of the acquisition, receipt or keeping of the same in his control, custody or possession. It was observed that there was no provision in the rules for condoning the delay in submission of the Report by the licensee if it was due to reasons beyond his control. The matter was accordingly taken up with the Ministry of Agriculture and Irrigation (Department of Agriculture) on 26 August, 1977.

45. In their reply dated 16 May, 1978, the Ministry *inter alia* stated that although there was no specific provision to condone the delay in submission of reports, but discretion lies with the officer authorised by the State Government under section 54 of the Wild Life (Protection) Act, 1972 (powers to compound offences).

46. Not being convinced with the above reply of the Ministry, the Committee in paragraph 14 of their Sixteenth Report (Sixth Lok Sabha) presented to the House on 28 February, 1979 *inter alia* observed/recommended as under:—

“...The Committee are of the view that Section 54 of the Act is not germane to the point raised. It relates to the power to compound offences. The question of compounding arises after an offence has been committed. The provision in the rules of the extenuating circumstances is an altogether different proposition. The Committee, therefore, desire the Ministry to make a provision in the Wild Life (Transactions and Taxidermy) Rules, 1977, setting out the circumstances in which delay in the submission of Report by the licensee may be condoned by the officer concerned in order to eliminate any scope of discrimination.”

47. In their action taken reply dated 28 August, 1980, the Ministry stated as under:—

“...case was submitted to Minister for specifying conditions for condoning delay in submission of report by licensee in Rule 4 of the Assam Wild Life (Transaction and Taxidermy) Rules, 1977 (G.S.R. 25-E of 1977).

The Minister is of the view that relaxation by way of exemption for special reasons would not be proper as it would introduce a loophole in the administration of this

provision. Instead, he favoured increase in the period for submission of report from seven days to 30 days, and desired that the rule may be amended accordingly."

48. After considering the aforesaid reply of the Ministry, the Committee *vide* paragraph 81 of their Fifth Report (Seventh Lok Sabha) presented to the House on 19 March, 1981, approved the amendment to sub-rule (1) of Rule 4 of the rules in question as suggested by the Minister of Agriculture and desired the Ministry to notify the same at an early date.

49. The Ministry, however, have not intimated so far whether the requisite amendment has since been notified or not, whereas the fact is that it has been done.

50. The Committee note that in pursuance of their recommendation the Ministry of Agriculture (Department of Agriculture) had notified the requisite amendment to sub-rule (1) of Rule 4 of the Wild Life (Transactions and Taxidermy) Rules, 1977 in the Gazette *vide* G.S.R. 401-E dated 22-6-1981. The Committee, however, observe that the Ministry had not intimated this fact to the Committee which is most deplorable. The Committee would, therefore, impress upon the Ministry the need to invariably intimate to the Committee as and when any rules are amended in compliance with the Committee's recommendation.

(viii) *The Law Officers (Conditions of Service) Amendment Rules 1977 (G.S.R. 1319 of 1977)*

51. Rule 9 of the Law Officers (Conditions of Service) Rules, 1972 as inserted by the aforesaid Amendment Rules of 1977 relating to 'power to relax' provided that when the Central Government was of the opinion that it was necessary or expedient so to do, it may, by order, relax any of the provisions of these rules.

52. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) were asked to state if they had any objection to amend the rules so as to provide therein for recording of reasons in writing before relaxing any provision of the rules in any case. In their reply dated 13 September, 1978 the Ministry stated that there was no difficulty in providing for recording of reasons before granting any relaxation under this rule. In fact the reasons were recorded in the file before any provision of the rules was relaxed.

53. Being satisfied with the reply of the Ministry, the Committee in paragraph 11 of their First Report (Seventh Lok Sabha)

presented to the House on 15 July, 1980 observed as under:

"The Committee note that the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) have no difficulty in providing for recording of reasons before granting any relaxation under Rule 9 of the Law Officers (Conditions of Service) Rules, 1972 as inserted by the Law Officers (Conditions of Service) Amendment Rules, 1977 relating to 'Power to relax'. The Committee, therefore, desire the Ministry to amend the aforesaid Rule so as to provide therein for recording of reasons in writing before relaxing any provision of the rules in any case."

54. In their action taken reply dated 3 June, 1981 on the aforesaid observation, recommendation of the Committee which was forwarded to them on 15 July, 1980 stated as under:—

"...a decision has now been taken at the appropriate level to amend rule 9 of the Law Officers (Conditions of Service) Rule 1972 as recommended by the Committee on Subordinate Legislation in para 11 of its first report. Action is now being taken to prepare a draft notification will be sent to the Lok Sabha Secretariat in due course."

55. Thereafter no further communication in the matter was received from the Ministry. However, it was observed that Rule 9 of the Law Officers (Conditions of Service) Rule 1972 has since been amended as desired by the Committee *vide* G. S. R. 1108 dated 29-12-1981.

56. The Committee note that, although the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) have since amended Rule 9 of the Law Officers (Conditions of Service) Rules, 1972 as desired by them *vide* GSR 1108 dated 29-12-1981, the Ministry have not intimated this fact to the Committee so far. The Committee, therefore, cannot help exhorting the Ministry that, in future, after an amendment to a rule in pursuance of the Committee's recommendation is notified, the Ministry should forthwith intimate the fact to the Committee without awaiting a reminder from them.

(ix) *The Seamen's Provident Fund (Amendment) Scheme, 1977 (G. S. R. 1591 of 1977).*

57. Paragraph 58(E) of the Seamen's Provident Fund Scheme, 1966 as inserted by the Seamen's Provident Fund (Amendment)

Scheme, 1977 reads as under:—

“58(E) (4) If the Commissioner is satisfied that the withdrawal granted under this paragraph has been utilised for a purpose other than that for which it was granted, or that the conditions of non-refundable withdrawal have not been fulfilled within a reasonable time, the Commissioner shall forthwith take steps to recover the amount due with interest at the rate not exceeding 7 per cent per annum thereon, from the wages of the member in such number of instalments as the Commissioner may direct the employer, for subsequent service, or the Shipping Master, to deduct each such instalment from the wages of the member and on the receipt of such direction the employer or the Shipping Master, as the case may be, shall deduct accordingly. The amount so deducted shall be remitted by the employer or the Shipping Master, as the case may be, to the Commissioner within such time and in such manner as may be specified in this behalf by the Commissioner, for being credited to the member's account.”

58. The Ministry of Shipping and Transport who were asked to state if they had any objection to provide for giving a reasonable opportunity of being heard to the member concerned before action to recover the amount under the aforesaid Paragraph of the Scheme was taken against him, in their reply dated 21 August, 1978 *inter alia* stated that reasonable opportunity was always expected to be given under the General Administration Law and the Constitutional Law to the Seamen concerned to show sufficient cause why the non-refundable withdrawal sanctioned/paid to them under Paragraph 58-E of the Scheme, for meeting the expenses in connection with the marriage of member or their families should not be recovered together with interest. Action as envisaged under paragraph 58 (E) (4) would be initiated only after the seamen concerned failed to satisfy the Commissioner with regard to the bonafide use of the amount sanctioned/paid to them as non-refundable withdrawal.

59. The Committee, after considering the above reply of the Ministry, in paragraphs 45 and 46 of their Seventeenth Report (Sixth Lok Sabha) presented to the House on 22-3-1979 *inter alia* observed that in a similar case, on a suggestion made by them, the Ministry of Industry (Department of Industrial Development) had agreed to amend sub-rule (2) of rule 14-B of the Central Silk

**Board Contributory Provident Fund Rules, 1955** so as to provide therein for issue of a show cause notice to a subscriber before ordering recovery of the amount withdrawn or such part thereof as had not been applied for the purpose for which it was withdrawn *vide* paragraphs 35 to 38 of the Committee's Fifteenth Report (Sixth Lok Sabha). The Committee, therefore, desired the Ministry of Shipping and Transport (Transport Wing) also to amend paragraph 58(E)(4) of the Seamen's Provident Fund Scheme, 1966 on the same lines.

60. The Ministry of Shipping and Transport (Transport Wing) to whom the aforesaid recommendation of the Committee was forwarded on 22 March, 1979, in their reply, dated 17 March, 1980 stated as under:—

"...it was decided to have the views of the Board of Trustees of the Seamen's Provident Fund before sending a reply to the Lok Sabha Secretariat. The matter has been taken up with the Commissioner, Seamen's Provident Fund Organisation. In his reply, Commissioner, has intimated that the views of the Board would be obtained in the matter in their next meeting. As soon as the views of the Board are received the matter would be examined and further communication will be sent to the Lok Sabha Secretariat."

61. On being enquired on 25 April, 1980 to find out the progress, if any, made in the matter, the Ministry in their O. M. dated 13 May, 1980 stated as under:—

"...this Ministry have no objection to accept the recommendations contained in paras 45 and 46 of the 17th Report of the Committee on Subordinate Legislation 6th Lok Sabha regarding the Seamen's Provident Fund (Amendment) Scheme, 1977 (GSR 1591 of 1977). In view of this, necessary action is being taken to amend paragraph 58-E(4) of the Seamen's Provident Fund Scheme, 1966 to provide for giving a reasonable opportunity of being heard to the seamen concerned before action to recover the non refundable withdrawal granted under this paragraph is initiated for not having utilised the same for the purpose for which it was granted. A copy of the notification in this regard will be sent to the Lok Sabha Secretariat in due course."

62. No reply thereafter was, however, received in this regard.

63. The Committee note that as desired by them in paragraphs 45 and 46 of their Seventeenth Report (Sixth Lok Sabha), the Ministry

of Shipping and Transport (Transport Wing) have since amended Paragraph 58-E(4) of the Seamen's Provident Fund Scheme, 1966 vide G.S.R. 881 dated 23-8-1980. The Committee, however, observe that the Ministry after their O.M. of 13-5-1980, had not even the courtesy to intimate the fact of the amendment having been carried out by them nor did the Ministry send a copy of the notification containing the said amendment. The Committee express their displeasure over the failure on the part of the Ministry in that regard and would like such lapses not to recur in future.

(x) *Indication of incorrect entry in Col. 13 of the Schedule appended to Recruitment Rules regarding circumstances in which Union Public Service Commission is to be consulted in making recruitment.*

64. Normally the Schedule appended to all Recruitment Rules contains a column regarding circumstances in which U. P. S. C. is to be consulted in making recruitment. On examination of various Recruitment Rules, the Committee noticed that Ministries/Departments concerned were indicating the expression 'as required under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958' under this column. It was observed that this entry did not appear to be appropriate as these Regulations enumerated only those matters in regard to which Government were exempted from consulting the U. P. S. C.

65. In this connection, the Committee in paragraph 13 of their Seventeenth Report (Fifth Lok Sabha) presented to the House on 7th January, 1976 had recommended as under:—

"The Committee noted that the Ministry of Law have seen the validity of the objection raised by the Committee that the expression 'as required under the Union Public Service Commission (Exemption from Consultation) Regulation, 1958' in Column 13 of the Schedule is not an accurate one in that the said Regulation does not require consultation with the Commission. On the contrary, it provides for cases where consultation with the Commission is not necessary. Even so, the Ministry of Law have pleaded for the retention of this expression in Column 13 of the Schedule, as there is no other regulation which positively specifies the cases in which the Commission is to be consulted. The Committee can hardly accept this explanation. They feel that it should not be difficult for the Department of Personnel and Administrative Reforms to devise, in consultation with the Ministry of Law



and the U. P. S. C., some formula to precisely indicate the cases in which the U. P. S. C. is to be consulted. The Committee will like the Department of Personnel and Administrative Reforms to take early action in the matter as the expression objected to in this case occurs in a large number of Recruitment Rules”.

66. The Committee found that even after presentation of the above Report the expression ‘as required under the Union Public Service Commission (Exemption from Consultation) Regulations’ which was objected to by the Committee still continued to occur in a large number of Recruitment Rules. The Ministries|Departments concerned to whom the matter was referred, had either amended/agreed to amend to indicate the circumstances under which the U. P. S. C. would be consulted. One such Recruitment Rule was the Mica Mines Labour Welfare Fund Organisation (Class I and II Posts) Recruitment Rules, 1976 for which the Ministry concerned viz. the Ministry of Labour had stated that they had no objection to amending the Schedule of the Rules.

67. The Committee, after considering the replies received from various Ministries|Departments concerned (including the Ministry of Labour) with the Recruitment Rules, in paragraph 71 of their Twenty-first Report (Sixth Lok Sabha) presented to the House on 17 May, 1979 had recommended as under:—

“The Committee note with satisfaction that, on being pointed out, the Ministries|Departments concerned have either amended or have agreed to amend the entry under Column 13 of the recruitment rules indicating the circumstances under which U. P. S. C. will be consulted. The Committee desire the Ministries|Departments who have not issued the amendment so far to do so expeditiously. The Committee also desire the Department of Personnel and Administrative Reforms to issue necessary instructions to all Ministries|Departments in this connection so that this infirmity of the rules may not continue any more.”

68. The aforesaid Report of the Committee was forwarded to the Ministry of Labour on 18 May, 1979 for amending the Recruitment Rules concerning them, as desired by the Committee.

69. Having not received any reply from the Ministry, a reminder was issued on 24 April, 1980. No reply was however, received

till February, 1983. It was only when a D. O. reminder was issued on 29 January, 1983, that the Ministry sent their reply *vide* their D.O. dated 25 February 1983 intimating that the Mica Mines Labour Welfare Fund Organisation (Class I and Class II Posts) Recruitment Rules, 1976 were amended in 1978. These were further amended in 1979 *vide* Labour Welfare Organisation, Ministry of Labour (Group 'A' and 'B' Posts) Recruitment Rules, 1979 which were published in the Gazette of India, Part II Section III dated 20th January, 1979 *vide* G. S. R. 108.

70. The Committee note that, although in compliance with their recommendation contained in paragraph 71 of their Twenty-First Report (Sixth Lok Sabha) the Ministry of Labour had amended the Mica Mines Labour Welfare Fund Organisation (Class I and Class II Posts) Recruitment Rules, 1976 *vide* GSR 108 dated 20-11-1979 to read as Labour Welfare Organisation, Ministry of Labour (Group 'A' and 'B' Posts) Recruitment Rules, 1979, the Ministry had not intimated this fact until a D.O. reminder was issued to them in January, 1983 in that connection. The Committee observe with distress that such neglect on the part of the Ministry reflects the casual manner in which the Ministry treat the recommendations of the Committee, which is most deplorable.

71. The cases spelt out above show the indifferent attitude of the Ministries/Departments to the recommendations of the Committee as would be revealed from the following table:—

S. No.	Name of Act/Rule	Date of presentation of the Report	When the Act/Rule was amended	Date of intimation
1	2	3	4	5
(i)	The Requisitioning and Acquisition of Immovable Property Act, 1952	17-3-1978	19-3-1980 (Lok Sabha) 26-3-1980 (Rajya Sabha)	30-4-1981
(ii)	The Interest-tax Rules, 1974.	18-3-1978	19-10-1979	27-8-1982
(iii)	The Central Excise (Nineteenth Amendment) Rules, 1977.	24-8-1978	17-11-1980	31-8-1982
(iv)	(a) The Posts and Telegraphs Department Technician (Higher Grade) and Technician (Telephone, Telegraphs, Carrier and Wireless) Recruitment Rules, 1975 (G.S.R. 2689 of 1975); and	25-7-1978	13-10-1980	15-12-1982
	(b) The Posts and Telegraphs (Wireless) Recruitment (Amendment) Rules, 1975 (G.S.R. 591 of 1975).	-do-	30-1-1982	-do-

1	2	3	4	5
(v)	The Khadi & Village Industries Commission (Amendment) Regulations, 1976.	25-4-1979	21-8-1979	3-9-1982
(vi)	The Central Vigilance Commission (Staff) Amendment Rules, 1976.	25-4-1979	25-10-1980	18-9-1982
(vii)	The Assam Wild Life (Transaction & Taxidermy) Rules, 1977.	19-3-1981	22-6-1981	—
(viii)	The Law Officers (conditions of service) Amendment Rules, 1977.	15-7-1980	29-12-1981	—
(ix)	The Seamen's Provident Fund (Amendment) Scheme, 1977.	22-3-1979	23-8-1980	—
(x)	Indication of Incorrect entry in Column 13 of the Schedule appended to Recruitment Rules regarding circumstances in which UPSC is to be consulted in making recruitment.	17-5-1979	20-1-1979	25-2-1983

72. Under Direction 108(1) of the Directions by the Speaker, Ministries are required to furnish from time to time to Lok Sabha Secretariat, statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports and on the assurances given by the Ministries in the course of their correspondence with the Committee.

73. Although the Committee note that, in all the above cases Government have taken action as desired by the Committee, the Committee are distressed to observe that the fact that these recommendations originated from the Committee had been relegated to the background as Government were not courteous enough to acknowledge the same while implementing them. This reflects an contempt and indifference by the Ministries towards the Committee's recommendations. The Committee further observe that when, it was at their instance that the relevant rules/acts were amended by the Ministries/Departments concerned, it was their primary duty to inform the Committee immediately after the recommendations were implemented. The Committee, therefore, urge upon the Department of Parliamentary Affairs to strictly enjoin on all Ministries/Departments of the Government of India that, in future they should keep the Secretariat of the Committee informed simultaneously with the action taken by them to implement their recommendations and not await till the Ministry's attention was drawn to that aspect. The Committee are compelled to deplore this state of affairs in the Ministries and hope that this would not recur in future and that a healthy, binding convention is developed so that Government intimated forthwith the action taken by them in implementing the Committee's recommendations, and the matter is not pursued further by the Committee for ascertaining the latest position.

## CHAPTER III

### CASES OF RECOMMENDATIONS WHERE ONLY INTERIM REPLIES HAVE BEEN RECEIVED

74. The implementation of recommendations made by the Committee on Subordinate Legislation in its various Reports is pursued with the Ministries till these have been actually implemented by them. In a number of cases though the Ministries concerned accept, in principle, the recommendations made by the Committee yet in actual practice such recommendations remain unimplemented on one pretext or the other. The Committee feel that it would be better to report such cases to Lok Sabha rather than keep them under correspondence indefinitely.

75. In this connection, unimplemented recommendations which are old and in respect of which only interim replies have been received from the Ministries/Departments, are given below.

- (i) *The General Insurance (Rationalisation and Revision of pay Scales and other conditions of Service of Supervisory, clerical and subordinate staff) Third Amendment Scheme, 1978 (S. O. 1410 of 1978).*

76. Sub-clause (2) of clause 1 of the General Insurance (Rationalisation and Revision of Pay scales and other conditions of service of Supervisory, Clerical and subordinate staff) Third Amendment Scheme, 1978 provided that the amending scheme would come into force on the date of its publication in the Gazette, i.e. 20 May, 1978 whereas clause 2 of the scheme, aimed at giving retrospective operation to certain provisions of the parent Scheme of 1974 involving financial implications.

77. In this connection, while inviting attention of the Ministry of Finance (Department of Economic Affairs) to the recommendation of the Committee made in paragraph 10 of their Second Report (Fourth Lok Sabha) that all rules should be published before the date of their coming into force or they should be enforced from the date of their publication and, if in any particular case, the rules had to be given retrospective effect a clarification should be given either by way of an explanation in the rules or

in the form of a foot note to the relevant rules to the effect that no one would be adversely affected as a result of retrospective effect, they were asked to furnish information on the following points:—

- (i) express authority for giving retrospective effect to the Scheme under the parent Act; and
- (ii) the reasons for not appending the explanatory memorandum to the above mentioned Scheme that no body would be adversely affected because of the retrospective effect given to the Scheme.

78. In their reply dated 17 July, 1979, the Ministry stated as under:—

“...the first schedule of the General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme 1974 (as amended by Notification No. S. O. 472 (E) dated the 5th September, 1975) provides for payment of ‘Qualification Pay’ in item IV thereof. Sub-para (5) of item IV provides for payment of Qualification Pay to a confirmed employee, who qualifies in an examination or has qualified in an examination mentioned therein with effect from the date of publication of the results of the examination or 27th May, 1974 (i.e. the date from which the original Scheme came into force), whichever is later. The General Insurance Business was nationalised with effect from 1st January, 1973 and although the above scheme came into force with effect from 27th May, 1974, the rationalised pay scales and allowances etc. were brought into force with effect from First January, 1973. The General Insurance Corporation had represented that the enforcement of the provision pertaining to qualification pay was causing hardship to those employees who qualified in any of the Insurance examination (for which the qualification pay was admissible) between the period from 1st January, 1973 to 27th May, 1974. In order to remove the hardship it was decided that this benefit may be allowed with effect from 1st January, 1973. It will, therefore, be appreciated that the

employees were given these benefits from the retrospective date to remove hardship and no one would be adversely affected as a result of retrospective effect being given to the amendment in question.

The observations of the Lok Sabha Secretariat that the reasons for giving retrospective effect in the form of an explanatory Memo should be appended to the amending scheme have been noted for strict compliance."

79. After considering the aforesaid reply of the Ministry, the Committee in paragraphs 35 to 39 of their Fourth Report (Seventh Lok Sabha) presented to the House on 10 December, 1980 recommended|observed as under:—

- "35. The Committee note with concern that despite a categorical reference by the Committee, the Ministry of Finance (Department of Economic Affairs) did not indicate anything about the express authority in the parent Act viz., the General Insurance Business (Nationalisation) Act, 1972 empowering them to give retrospective effect to the General Insurance (Rationalisation and Revision of Pay Scales and other conditions of Service of Supervisory Clerical and Subordinate staff) Third Amendment Scheme, 1978. In this connection, the Committee note the opinion of the Attorney-General as also the ruling of the Supreme Court in *Hukam Chand Vs. Union of India* (AIR, 1972 Supreme Court, 2427) that no subordinate legislation can be given retrospective effect unless the law under which it is made authorises Government to give such retrospective effect. As the reply of the Ministry is silent on this point, the Committee cannot but infer that the retrospective effect given to the Scheme is without due legal sanction.
36. The Committee apprehend that the benefits accruing from the Scheme must have already been passed on to its beneficiaries as enough time has since elapsed and it will be rather a difficult and embarrassing exercise to withdraw the benefits already drawn both administratively as well as legally. In the opinion of the Committee, it will be yet

another case of acting beyond powers delegated by the Act, if the Ministry decide to annul the amending notification with retrospective effect in the absence of express authorisation therefor in the parent Act. In these circumstances, the only course left open to the Ministry is to approach Parliament for incorporating a provision in the enabling Act for validating the rules already made and given retrospective effect.

37. The Committee observe that a duty is also cast upon the Ministry of Law at the time of vetting to point out to the administrative Ministry if any statutory order aims at giving retrospective effect to any of its provisions without the legal authority in the enabling Act.
38. The Committee further observe that the amendment in question contains in all two clauses and both are contradictory to each other. The first clause stated that the Scheme shall come into force on the date of its publication in the Official Gazette, i.e. the 20th May, 1978 whereas the other clause provides for retrospective effect to some of the provisions in the original scheme from the 1st January, 1973. In the opinion of the Committee, such incongruity in an amending 'Order' consisting of only two clauses betrays lack of proper attention on the part of the Ministry in vital matters of legislation.
39. The Committee, however, note the assurance of the Ministry for appending the requisite explanatory memorandum indicating the reasons for giving retrospective effect in respect of all statutory orders in future. In view of the fact that a long time has elapsed the Committee do not, as an exception, insist on the publication of the explanatory memorandum in respect of the Scheme under reference at this late stage."
80. After the said Report was presented to the House, a copy thereof was sent to the Ministry on the same day i. e. 10 December, 1980 requesting them to furnish their action taken reply in the matter.
81. On 19 May, 1981, the Ministry *vide* their O. M. No. 103(8)-Ins IV/81 intimated that the recommendations|views of the Committee contained in paras 35 to 39 of the Report had been noted.

82. The perusal of the reply showed that the Ministry had not said anything about paragraph 36 of the recommendation in which the Committee had desired the Ministry to approach Parliament for incorporating a provision in the enabling Act for validating the rules already made and given retrospective effect. The matter was, therefore, again taken up with the Ministry on 27 May, 1981 enquiring whether the Ministry had since taken action for incorporating a provision in the enabling Act viz. The General Insurance Business (Nationalisation) Act, 1972 for the purpose.

83. Having not received any reply to the above reference dated 27 May, 1981, a d.o. reminder was sent on 15 October, 1982 followed by another d.o. dated 22 January, 1983 to the Secretary, Ministry of Finance (Department of Economic Affairs). In response to the latter d.o., the Ministry *vide* their reply dated 16 February, 1983 stated as under:—

“The Central Government has, in exercise of the powers conferred on it u/s 16 of the General Insurance Business (Nationalisation) Act, framed the following schemes relating to the terms and conditions of the employees| officers:—

- (i) General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1976 dated 27-5-1974.
- (ii) General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Officers) Scheme, 1975 dated 17th September, 1975.
- (iii) General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 dated 29th April, 1976.
- (iv) General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976 dated 21st September, 1976.

All the above schemes have been amended from time to time and most often with retrospective effect in order to give additional benefits to the employees.

The employees of the General Insurance industry challenged the powers of the Central Government to amend the schemes in various High Courts and the Supreme Court.



In view of this position, it is considered desirable to await the judgment of the Supreme Court before undertaking any amendment to the Act at this juncture. Further, although the writ petitions have been before the Supreme Court for more than 2 years and they have been listed on a day-to-day basis, for a long time, they have not yet been taken up for regular hearing. However, it is now expected that the cases might be heard shortly and a judgement of the Court available so that if necessary a comprehensive amendment is made to the Act."

84. To ascertain the grounds on which the employees of the Insurance Industry had challenged the powers of the Central Government in the various High Courts and the Supreme Court, the Ministry were asked on 22 February, 1983 to intimate, for the information of the Committee, *inter alia* whether any of the grounds related to the objection of giving retrospective effect to the Rules. In reply, the Ministry *vide* their D.O. dated 18 March, 1983 forwarded a copy of the petition filed in the Supreme Court by the employees' association. The main grounds on which the powers of the Central Government had been challenged related to the issuance of a notification dated 30 September, 1980 (Appendix II) in exercise of powers conferred under section 16(6) of the General Insurance Business (Nationalisation) Act, 1972 for amending the General Insurance (Rationalisation and revision of pay scales and other conditions of service of supervisory, clerical and subordinate staff) Scheme, 1974. By the amendment Scheme of 1980 the petitioners felt that the Government had sought to effect the service conditions of the employees in a way that it took away the existing benefits and it sought to freeze the entire salary structure of the employees working in the nationalised General Insurance Companies and if the New Scheme was allowed to be enforced, about 24,000 employees working in the various organisations of the Industry would be affected.

85. The Committee note that it is now more than two years ago since the Committee had made recommendations in paragraphs 35 to 39 of their Fourth Report (Seventh Lok Sabha) presented to the House on 10 December, 1980. The Committee further note that while the Ministry *vide* their O.M. dated 19 May, 1981 had intimated that they had noted the recommendations/views of the Committee contained in these paragraphs, the Ministry had not stated anything about the specific recommendation made by them in paragraph 36 thereof. It was only when the matter was taken up with the Secretary of the Ministry that the Ministry *inter alia* stated that the Employees of the General Insurance Industry had challenged the

powers of the Central Government to amend the Schemes in various High Courts and the Supreme Court. It was further stated that, after the judgement of the Court was available, if necessary, a comprehensive amendment would be made to the Act, viz. the General Insurance Business (Nationalisation) Act, 1972. The Committee, however, observe that the appeal of the Employees lying in the Supreme Court has nothing to do with the recommendation of the Committee. The Committee, therefore, desire that the Ministry of Finance should ensure introduction of an amendment Bill in Parliament for incorporating a provision in the said Act for validating the Rules already made and given retrospective effect. In the Committee's view such an amendment to the Act will not be affected by the fact that the Amendment Order issued in 1983 is sub judice.

- (ii) (a) The Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Amendment Rules, 1978 (GSR 646 of 1978); and
- (b) The Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Amendment Rules, 1978 (GSR 647 of 1978)

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86. Proviso to sub-rule (i) of Rule 11 of the Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 as substituted by the Amendment Rules of 1978 (GSR 646 of 1978) reads as under:—

“Provided that the Government may, in appropriate cases curtail or extended the period of probation:

Provided further that, save in exceptional circumstances, the period of probation shall not be extended by more than a year at a time and no officer shall be kept on probation for more than double the normal period of probation:

Provided also that in cases where it is proposed to extend the period of probation, the Government shall give notice in writing of its intention to do so to the officer concerned within 8 weeks of the expiry of the initial or the extended probationary period.”

87. Similar amendment was effected in proviso to sub-rule (1) of rule 23 of the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 through the Amendment Rules, 1978 (G. S. R. 647 to 1978).

88. It was felt that in the matter of curtailing or extending the period of probation, the competent authority must record in writing the reasons therefor.

89. The Ministry of Shipping and Transport (Transport Wing) to whom the matter was referred in their reply dated 27 July, 1979 stated that since it was already done so it was not considered necessary to amend the rules for the purpose.

90. After considering the reply of the Ministry, the Committee in paragraph 48 of their Fourth Report (Seventh Lok Sabha) presented to the House on 10 December, 1980 observed as under:—

“The Committee note from the reply of the Ministry of Shipping and Transport (Transport Wing) that the practice of recording reasons in writing by the concerned authorities for curtailment or extending the period of probation is already being adopted. The Committee, therefore, feel that the Ministry should have no objection in placing the same on a statutory footing by amending the rules suitably. The Committee would also like to emphasise that wherever the rules make allowancē for ‘exceptional circumstances’ as provided for in the second proviso to sub-rules under reference, suitable guidelines defining such ‘exceptional circumstances’ should be laid down with a view to obviating any scope of discrimination in that regard. The Committee desire the Ministry to amend the Rules in question to the necessary effect at an early date.”

91. The Ministry of Shipping and Transport to whom a copy of the Report was forwarded the same day i. e. 10 December, 1980, in their reply dated 14 April, 1981, stated that since the Central Engineering Service (Roads) Group ‘A’ and Central Engineering Pool Group ‘A’ Service of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 were framed in consultation with the Department of Personnel and Administrative Reforms and the UPSC, the matter was taken up with them. The Department of Personnel and Administrative Reforms had furnished their views and the UPSC was being requested to give the views in the matter and that a further communication would follow on receipt of their reply.

92. Having not heard further from the Ministry, a reminder was issued on 15 June, 1981. On 22 June, 1981, the Ministry addressed a

communication to the Secretary, UPSC, and copy endorsed to this Secretariat, requesting him to get the approval of the Commission to the amendments proposed to the Recruitment Rules and conveyed to them at an early date.

93. Again on 16 July, 1981, the Ministry addressed a communication to their Coordination Section (Transport Wing) and endorsed a copy to this Secretariat intimating that a reply has been received from the UPSC stating that the matter was under consideration.

94. Thereafter, as no further reply was received, a reminder was again issued on 5 October, 1982. In reply thereto, the Ministry again endorsed a copy of their O. M. dated 18 October, 1982 addressed to the Department of Personnel and A. R. asking them to expedite the disposal and return of the file relating to the Rules in question.

95. Since, again no further communication was received, a D. O. to the Secretary of the Ministry was issued on 2 February, 1983. In reply thereto the Ministry *vide* their D. O. dated 8 February, 1983, intimated as under:—

“...Our file on the subject was referred to the Department of Personnel and A.R., as desired by them and its return is still awaited in spite of reminders. A further reminder is being sent to that Ministry to return the file immediately to enable us to send a final reply to the Lok Sabha Secretariat as soon as possible.”

96. The Committee note that although a period of more than 2 years has elapsed since a copy of the Fourth Report (Seventh Lok Sabha) was forwarded to the Ministry of Shipping and Transport for implementation of their recommendation contained in paragraph 48 thereof, the Ministry have not been able to finalise the requisite amendment so far. The Committee observe that it was on the Ministry stating that the reasons for curtailning or extending the period of probation by the concerned authority were being recorded in writing that the Committee had recommended placing the same on a statutory footing by amending the rules. The Committee further observe that except for their first reply in the matter dated 14 April, 1981 other replies received from them were only after the issue of reminders at each stage which is not a happy state of affairs. The Committee, however, now desire the Ministry

to finalise the amendment without any further delay and to notify the same in accordance with their recommendation.

(iii) *The Aircraft (Fourth Amendment) Rules, 1976 (GSR 1202 of 1976)*.

97. Sub-rule (10) of Rule 133-B and sub-rule (9) of Rule 155-A of the Aircraft Rules, 1937, as inserted by the Aircraft (Fourth Amendment) Rules, 1976, read as under:—

“133-B(10) Without prejudice to the provisions of any rule, the Director General may, cancel, suspend or endorse any authorisation or approval or take *any other action* as provided under this rule against an organisation or a person when he is satisfied that:—

- (a) the conditions stipulated by the Director General under this rule or under the civil airworthiness requirement, are not being complied with;
- (b) a person or organisation has performed work, or granted certificate in respect of the work which has not been performed in a careful or competent manner or has performed work beyond the scope of his or its approval or failed to make proper entries and certification thereof or for any other reason considered by the Director General as sufficient to cancel, suspend or endorse an authorisation or approval granted under this rule.

\* \* \* \* \*

155-A(9) without prejudice to the provisions of any rule, the Director General may, after such enquiry as he may deem fit, cancel, suspend or endorse any approval or authorisation or take *any other action* as provided under this rule against an operator or any other person when he is satisfied that—

- (a) the conditions specified by the Director General under this rule or under the civil airworthiness requirement, are not being complied with; and
- (b) operator or any other person has performed work or granted a certificate in respect of the work which has not been performed in a careful or desired manner or

has performed work beyond the scope of its or his approval or failed to make proper entries and certification thereof or for any other reason considered by the Director General to be or take any other action as provided under this rule against or authorisation granted under this rule."

98. The Ministry of Tourism and Civil Aviation were asked to state whether they had any objection to provide for issue of show-cause notice before taking any action against the organisation or a person under Rules 133-B(10) and 155-A(9) and also to elucidate the words 'take any other action' occurring in both the sub-rules.

99. Being not satisfied with the reply of the Ministry, the Committee in paragraph 82 of their Eleventh Report (Sixth Lok Sabha) recommended as under:—

"The Committee are not convinced with the reply of the Ministry of Tourism and Civil Aviation that Rules 133-B(10) and 155-A(9) of the Aircraft Rules, 1937, as inserted by the Aircraft (Fourth Amendment) Rules, 1976, provide that the Director General would taken action thereunder after enquiry which would presuppose that an opportunity would be given to the person against whom action is to be taken and as such provision for show-cause notice is not necessary. The Committee feel that an express provision is necessary in the Rules for issue of a show-cause notice to the person or organisation before action is taken for cancellation or approval granted to him. The Committee, therefore, desire the Ministry to amend the rules so as to provide for an express provision for giving a show-cause notice to the party against whom action is to be taken under the Rules. The Committee further desire that instead of using the expression 'any other action' in the rules, the Ministry should specify therein the precise nature of other action proposed to be taken such as warning, admonition or further checks etc. in proficiency and amendment to this effect should be issued at an early date."

100. In their action taken note dated 21 May, 1979, on the above recommendation of the Committee, the Ministry intimated that they proposed to amend the said rules as under:—

"133-B (10) Without prejudice to the provisions of any rule, the Director General may, *after giving a show-cause notice*

to an organisation or a person and other making such enquiry as he may deem fit, cancel, suspend or endorse any authorisation or approval or issue a warning or an admonition to the organisation or the person, where he is satisfied that—

- (a) the conditions stipulated by the Director General under this rule or under the civil airworthiness requirements, are not being complied with;
- (b) the organisation or the person has performed work or granted a certificate in respect of the work which has not been performed in a careful or competent manner or has performed work beyond the scope of its or his approval or failed to make proper entries and certification thereof or for any other reason considered by the Director General as sufficient to cancel, suspend or endorse an authorisation or approval granted under this rule, or to issue a warning or an admonition."

155-A(9) without prejudice to the provision of any rule, the Director General, may, after giving a show-cause notice to an operator or a person and after making such enquiry as he may deem fit, cancel, suspend or endorse any authorisation or approval or issue warning or admonition to the operator or the person, where he is satisfied that—

- (a) the conditions specified by the Director General under this rule and the civil airworthiness requirements are not being complied with; and
- (b) the operator or the person has performed work or granted a certificate in respect of the work which has not been performed in a careful or competent "manner or has performed work beyond the scope of its or his approval or failed to make proper entries and certification thereof or for any other reason considered by the Director General to be sufficient to cancel, suspend or endorse an authorisation or approval granted under this rule, or to issue a warning or an admonition."

101. After persuing the amendments proposed to be made by the Ministry, the Committee in paragraph 69 of their Fifth Report (Seventh Lok Sabha) presented to the House on 19 March, 1981 approved the proposed amendments to sub-rule (10) of Rule 133-B

and sub-rule (9) of Rule 155-A of the Aircraft Rules, 1937 and desired the Ministry to notify them in the Gazette at an early date. A copy of the Report was accordingly forwarded to the Ministry for necessary action on 23 March, 1981.

102. In their reply dated 22 April, 1981, the Ministry stated that action was being initiated to notify the proposed amendment to the Aircraft Rules, in the Official Gazette and that a further communication would follow.

103. Since the further communication as stated earlier was not received from the Ministry, a D.O. reminder was issued on 15 October, 1982 followed by a D.O. to the Secretary of the Ministry on 2 February, 1983. In reply thereto; the Ministry *vide* their O.M. dated 9 March, 1983 stated as under:—

“... subsequent to informing Lok Sabha Secretariat in April, 1981 (*Vide* our O.M. No. 10-A/10-70 dated 22-4-1981) that action was being initiated, we had published the proposed amendment of Rules in the gazette of India dated 13-6-1981 for inviting objections/suggestions from the public. Thereafter the proposal was sent to Ministry of Law for vetting the final notification. Ministry of Law had sought further discussions with this Ministry to process the case. This discussion took place in September, 1982 when the Ministry of Law advised that since more than a year had elapsed from the date of prepublication of the draft Rules i.e. 13-6-1981, the final publication may not be possible and the draft rules will have to be prepublished again. Accordingly action has been taken to prepublish the draft rules once again for inviting objections/suggestions from the public *vide* this Ministry's letter of even No. dated 19-2-1983.....

Further action in the matter will be taken in due course. The above may kindly be brought to the notice of the Committee on Subordinate Legislation for interim information.”

104. The Committee note with distress that even though the Ministry of Tourism and Civil Aviation had *vide* their O.M. dated 22 April, 1981 intimated that the necessary action was being initiated to notify the proposed amendments to the Rules in question as approved by the Committee in paragraph 69 of their Fifth Report (Seventh Lok Sabha), it has not yet been done.



105. From their latest reply dated 9 March, 1983, the Committee observe that the Ministry obviously did not send the proposal to the Ministry of Law for vetting the final notification immediately after receiving the objections/suggestions from the public on the draft rules which resulted in re-publication thereof. The Committee cannot help expressing their unhappiness over the delay in implementing their recommendation so far. The Committee would now like the Ministry to amend the rules without any further delay and to intimate the same to the Committee at an early date.

(iv) *The Seaward Artillery Practice Rules, 1978 (S.R.O. 26 of 1978)*

106. Preamble to the Seaward Artillery Practice Rules, 1978 (S.R.O. 26 of 1978) reads as under:—

“In exercise of the powers conferred by Section 9 of the Seaward Artillery Practice Act, 1949 (8 of 1949), and in supersession of all the previous rules on the subject, the Central Government hereby makes the following rules, namely:—”

107. The Ministry of Defence were requested to state if they had any objection to mention in the Preamble the names of previous rules which had been superseded by the aforesaid rules. In their reply dated 23 September, 1978, the Ministry stated as under:—

“...this Ministry have no objection to the mentioning of the previous rules which are superseded, in the Preamble.

In exercise of the powers conferred by Section 9 of the Seaward Artillery Practice Act, 1949 rules were framed by the then Coastal States of Andaman and Nicobar Islands, Madras, West Bengal and Bombay. Other Maritime States may or may not have framed such rules under the above Act. The details are not available in this Ministry, and it is not possible to specify the rules so superseded in the present S.R.O. No rules were framed by the Ministry of Defence under the said Act, earlier.”

108. As the Ministry were not in possession of the full facts, they were requested to collect the information from the remaining Maritime states also so that full facts could be available to the Committee. In their reply dated 5 March, 1980, the Ministry stated as follows:—

“...the requisite information has not been received from all the Maritime States. According to information already

received, rules had been framed by the Coastal States of Bombay, Madras, West Bengal and Andaman and Nicobar Islands. No information is as yet available regarding framing of Rules by other States.

In this context it may please be noted that even a mention of the rules framed by Bombay, Madras, West Bengal and Andaman and Nicobar Islands is likely to make the Preamble to the Seaward Artillery Practice Rules, 1978 somewhat clumsy and long winded. We are, therefore, of the view that while we have no objection to mentioning the superseded rules in the Preamble, such specific mention may not be necessary and may be avoided."

109. At their sitting held on 22 September, 1980, the Committee considered the matter and decided to hear oral evidence of the representatives of the Ministry of Defence over the delay of about five years in framing the Seaward Artillery Practice Rules, 1978 after the coming into force of the enabling Act as also for not enumerating in the Preamble to the Rules the previous rules that had been superseded.

110. Accordingly, at their sitting held on 13 October, 1980, the Committee examined the representatives of the Ministry of Defence.

111. As regards the arrangements existed in the Ministry of Defence to attend to the communications sent by the Secretariat, the representatives of the Ministry stated that there was no separate section for the purpose excepting the Cell for co-ordinating Parliamentary Questions. Explaining the reasons for delay in sending replies to the references in the instant cases, the representatives stated that they had to collect the requisite information from as many as 13 maritime States. The Ministry initiated the matter in November, 1978 and subsequently followed by reminders. Four or five States furnished the information and next sought clarifications. In this connection, the representatives admitted that it would have been quite appropriate if they had approached the Committee for extension of time for furnishing their final comments. The representatives promised to furnish copies of the communications addressed by them to the different maritime States to elicit the information.

112. On their attention being drawn to the fact that the Committee made their first reference in August, 1978 and the Ministry of Defence wrote to the State Governments in November, 1978 after a delay of three months, the representatives explained that first of all an attempt was made by the Ministry to find out the necessary information from the existing records. Naval Headquarters were also consulted. As the information was not available, circular letter was then issued to the State Governments in November, 1978. 1

113. When asked about the reasons for the inordinate delay of nearly 5 years in framing of the Rules in 1978 when the Seaward Artillery Practice (Amendment) Act was enacted in 1973, and how the matters were regulated during the intervening period, i.e., between 1973 and 1978, the representatives of the Ministry explained that resort had been made to the provisions of the Defence of India Rules, 1971. The representatives further contended that the provisions of—the Defence of India Rules were even better than those envisaged in the Seaward Artillery Practice Act. They further clarified that the 1973 Act had been brought into force with effect from 21 January, 1978.

114. When suggested that for the sake of clarification, a footnote should have been added to the Rules indicating that 1973 Act had come into force from 21 January, 1978, the representatives stated that necessary action would be taken after consulting the Ministry of Law, Justice and Company Affairs (Legislative Department).

115. On 24 October, 1980, the Ministry of Defence furnished copies of the letters sent by them to various Maritime States for collecting the necessary information regarding the Seaward Artillery Practice Rules, together with a written note on the points raised during the evidence. The note reads as under:—

“ . . . Regarding delay in framing the rules, it was submitted that there was no delay whatsoever in making the Seaward Artillery Practice Rules, 1978. Although the amending Act was passed in the year 1973, it was decided not to bring the amending Act into force so long as the Provisions of Rule 61 of the Defence and Internal Security of India Rules, 1971 were available. With this in view,

it was provided in section 1(2) of the Seaward Artillery Practice (Amendment) Act, 1973, that the said Act shall come into force on such date as the Central Government may by notification in the official gazette appoint. As per SRO 25, the Seaward Artillery Practice (Amendment) Act, 1973 came into force with effect from 21 January, 1978 and as per SRO 26, the Seaward Artillery Practice Rules, 1978, also came into force on the same date, i.e., 21 January, 1978 and as such there was no delay at all.

The position explained above could not, unfortunately, be clarified to the Committee earlier, as it was for the first time that the Committee had raised the question of delay in making the rules in their Office Memorandum dated 23 September, 1980.....

... The Committee on Subordinate Legislation had desired to know whether the Ministry of Defence had any objection to mentioning in the preamble the names of the previous rules which had been superseded by the present rules. Soon after the receipt of the said Office Memorandum, the Committee was informed by the Ministry of Defence... that the Ministry had no objection to mentioning the previous rules which had been superseded....

As the details of the rules framed by the various Coastal States were not available, the Ministry of Defence had been repeatedly writing to the Coastal States seeking the necessary information.

... the Ministry of Defence had sought information from all the Coastal States as to the particulars of rules which had been notified by them separately and deemed to have been superseded by the 1978 rules. The Ministry of Defence got clear replies from some States while others raised queries or sought clarifications. Some of the States stated that they did not have the 1949 Act in their Libraries or that they did not have the particular SRO with them and so on. Only some of them were able to say a final 'yes' or 'no'. Some of the replies received from the Government of Orissa, Pondicherry, Tamil Nadu, West Bengal and Gujarat were narrated before the Committee on 13 October, 1980.

Finding that the required information had not been sent by all the maritime States, the Ministry of Defence issued the... reminders to the State Governments to expedite

the required information.... Rules had been framed under Section 9 of the 1949 Act by the States of Bombay, Madras, West Bengal and Union Territory of Andaman and Nicobar Islands, but no rules had been framed by the State of Kerala and the Union Territories of Goa, Daman and Diu, Lakshadweep and Pondicherry. The remaining maritime State and Union Territories sent no intimation at all to the Ministry of Defence about framing of rules under the 1949 Act. In spite of the best of efforts made by the Ministry of Defence, full details could not be obtained from all the maritime States and it was, therefore, not possible to specify the rules so superseded even though the Ministry had no objection to the proposal of the Committee.

The Ministry of Defence, therefore, felt that it might not be advisable to make a mention of the superseding rules partly known, at the risk of omission of the rules not known to the Ministry.

In the circumstances, it was not possible to recite the superseded rules made by the different States in this behalf in the Preamble of the 1978 rules, which came into force in January, 1978 and extend to all the maritime States and Union Territories."

116. After considering the above note of the Ministry, the Committee in paragraphs 17 to 19 of their Sixth Report (Seventh Lok Sabha) presented to the House on 21 April, 1981, observed/recommended as under:—

"17. The Committee are happy to note that there was virtually no time-lag between the framing of the Seaward Artillery Practice Rules, 1978 and the coming into force of the provisions of the enabling Act of 1973. The Seaward Artillery Practice (Amendment) Act, 1973 as well as the Seaward Artillery Practice Rules, 1978 came into force on the same day. i.e. 21 January, 1978. The Committee however, desire the Ministry of Defence to examine the feasibility of inserting a footnote to the Rules by way of clarification that the 1973 Act came into force from 21 January, 1978, for the convenience of the general public.

18. The Committee note with satisfaction that the Ministry have no objection to mentioning in the Preamble the pre-

vious rules which have been superseded by the Seaward Artillery Practice Rules, 1978. If the number of superseded rules is large enough to render the Preamble clumsy and long-winded, the Committee do not see any objection to listing out such rules in the form of an Annexure.

19. The Committee, however, regret to observe that the administrative Ministry, who have framed the Rules, are not in possession of the full facts about the rules which stand superseded by issue of the Central Rules. The Committee note that even after protracted correspondence prolonging over two years between the Ministry and the Coastal States, the Ministry have not received any information from a number of maritime States and Union Territories. The Committee feel that in case the requisite information is not forthcoming for so long a period, the Ministry should not be content with the routine correspondence and instead they should take up the matter at the highest level through the Minister concerned."

117. The Ministry of Defence in their action taken note dated 19 June, 1981 on the above recommendations of the Committee, stated as under:—

**"Paras: 17-18:** The Ministry of Defence agree with the recommendation to insert a note to the Rules by way of clarification that the 1973 Act came into force from the 21st January, 1978 and an Annexure to the Rules listing out the previous Rules which have been superseded by the Seaward Artillery Practice Rules, 1978. Necessary action in this regard has been completed and a S.R.O. No. 88 has been published in the Gazette of India in this connection.

**Para 19:** Necessary information from all Maritime States have been received by this Ministry and the case has been referred to Ministry of Law for the approval of a S.R.O. in this regard, Lok Sabha Secretariat, will be intimated in this regard in due course."

118. On an enquiry on 24 November, 1982 whether the Law Ministry to whom the matter (Para 19) had been referred, had given their approval, the Ministry of Defence in their O.M. dated 27 November, 1982 intimated that the matter was under consideration with the Ministry of Law.

119. The Committee note that in regard to the recommendations contained in paragraphs 17 and 18 of their Sixth Report (Seventh Lok Sabha), the Ministry of Defence have taken satisfactory action\* to implement the recommendations.

120. As regards the recommendation contained in paragraph 10 thereof, the Committee note that, although the Ministry have received necessary information from all Maritime States the matter is stated to be still under consideration of the Ministry of Law for approval of a S.R.O. in that regard. The Committee, while deploring the inordinate delay in implementing their recommendation, desire the Ministry to reduce such delays to the minimum in future. As regards the present case, the Committee would like the Ministry to finalise the matter at an early date by issue of a requisite S.R.O. under intimation to the Committee.

(v) *The Oil Industry Development Employees' (General Conditions of Service) Rules, 1978 (GSR 428 of 1978).*

(A) *Sub-rule (2), (3) and (4) of Rule 3.*

121. Sub-rules (2), (3) & (4) of Rule 3 of the Oil Industry Development Board Employees' (General Conditions of Service) Rules, 1978 *inter alia* provided that subject to the rules framed by the Board in regard to certain service conditions governing the officers and employees of the Board, the Fundamental Rules and the Supplementary Rules of the Government of India shall apply to officers and other employees in the service of the Board.

122. These provisions being in the nature of 'reference by Legislation' and not self-contained, the then Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) with whom the matter was taken up, in their reply dated 16 October, 1980 stated as under:—

"As regards the suggestion to amend Rule 3(2), (3), (4) of the OI DB Employees' (General Conditions of Service Rules), it is submitted that the general guidelines of the Board were to follow the Central Government rates/pattern in most of the matters such as pay scales, D.A. CCA, Children Education Allowance, T.A., Leave Salary/Leave, etc. While following the Central Government rates, the Board also decided to follow the Central Government Rules for a very small establishment comprising of about 9 officers/officials. This Department is of

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\*Since included in Sixteenth Report (Seventh Lok Sabha) presented to the House on 3 March, 1983.

the view that self-contained Rules, if necessary, can be framed at a later stage when the staff strength is established and the position becomes clear."

123. After considering the aforesaid reply of the Ministry, the Committee in paragraph 17 of their Seventh Report (Seventh Lok Sabha) presented to the House on 8 September, 1981 recommended as under:—

"The Committee are not convinced with the arguments advanced by the Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) for not framing separate set of Rules. The Committee have time and again emphasised that the Rules should, as far as possible, be self-contained and self-explanatory and 'legislation by reference' should be scrupulously avoided. The Committee, therefore, desire the Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) to frame a compact set of Rules governing the conditions of service of the employees of the Oil Industry Development Board at an early date."

124. The Ministry to whom the aforesaid recommendation of the Committee was forwarded for necessary action, in their Action Taken Note dated 25 January, 1982 stated that before the actual rules could be framed, it would be necessary to examine the provisions of the following service rules so that the rules framed for the employees of the Board were compact and complete in all respects and that this was likely to take a considerably long time and it might not be possible to complete the work within the time limit available for implementing the recommendations of the Committee. The Ministry had also requested to extend the time limit for the present upto the end of September, 1982:—

1. Rules regarding pay and allowances.
2. Dearness Allowance and other allowances.
3. Additions to Salaries and Deputations.
4. Acting Allowances.
5. Travelling Allowance and Daily Allowance.
6. Leave and Leave Salary entitlement.
7. Grant of House Building Advance and other Advances to the employees
8. Employees Insurance Scheme and Gratuity Scheme etc.
9. Recruitment Rules and Special Representation in Recruitment Matters.



## 10. Conduct Rules and Disciplinary Matters.

## 11. General Conditions of Service|appointment etc.

125. In their further communication dated 20 April, 1982, the Ministry stated that the work of framing of a compact set of rules governing the conditions of service of the employees of the Board had already been taken in hand. When the relevant rules were finalised, the existing rules 'Oil Industry Development Board Employees' (General Conditions of Service) Rules, 1978 would also undergo a complete change. •

126. On being enquired on 17 May, 1982 the exact time by which the Ministry expected of frame the rules, in their reply dated 1 May, 1982 received with their O.M. dated 31 May, 1982, stated as under:—

“... the work relating to framing of self-contained Rules Governing the service conditions of the employees of the Oil Industry Development Board has already been taken in hand. The question of completion of this work was also re-examined. As intimated earlier, quite a large number of similar rules have to be examined which is time consuming. These Rules will also require to be vetted by the various Ministries such as Finance, Home, Law etc. and thereafter translated into Hindi. It is felt that it may be possible to complete the work by February, 1983. All efforts will, however, be made to complete the work as early as possible.”

127. The Chairman, before whom the matter was accordingly placed on 8 June, 1982, granted extension of time to the Ministry to complete the work of framing of rules by February, 1983.

128. Now the Ministry of Energy (Department of Petroleum) have again requested for extension of further time limit for completion of the work till the end of August, 1983 *vide* their O.M. dated 19 February, 1983 explaining the position as under:—

“... the self contained rules governing the conditions of services of the employees of the Oil Industry Development Board have already been drafted and sent to the concerned Ministries for obtaining their comments which are still awaited. After these comments are received and incorporated in the draft rules these will require to be vetted by the Legislative Department in the Ministry of Law, Justice and Company Affairs and translated in Hindi. These will be thereafter formally adopted by the

Oil Industry Development Board. As the draft rules are quite lengthy their scrutiny, vetting, translation, etc. is likely to take some more time . . . .”

129. On receipt of the above communication, the Ministry were asked to complete the job by the end of March, 1983 *vide* this Secretariat O.M. dated 23 February, 1983.

130. In reply to the aforesaid O.M., the Ministry of Energy (Department of Petroleum) *vide* their O.M. dated 30 March, 1983 have further stated as under:—

“ . . . as pointed out earlier, the volume of work involved such as scrutiny of about 100 pages of the draft Rules by four Ministries/Departments (such as Finance, Home Affairs, Works & Housing and Labour), legal vetting of the draft Rules by the Legislative Department, their translation into Hindi by the Official Language Wing of the Ministry of Law, adoption of the Rules by the Oil Industry Development Board and finally their publication in the Gazette of India, is heavy and is likely to take another six months. In spite of best efforts, it is impossible to complete the work within the extended time. i.e. upto end—March, 1983. In these circumstances, the Lok Sabha Secretariat is requested again to bring the above position to the notice of the Committee on Subordinate Legislation and request them for extension of the time limit for completion of the work upto end of August, 1983.”

131. Observing that the work relating to framing of a compact set of rules is a time-consuming job and the fact that the Department of Petroleum are making sincere efforts in completing the job as early as possible which is evident from their various communications received from time to time intimating the progress made at each stage in the matter, the Committee agree to give further extension of time for completing the work by the end of August, 1983, as requested by the Department. The Committee, however, hope and trust that there would be no occasion for seeking further extension of time.

(B) *Sub-rule (2) of Rule 4*

132. Sub-rule (2) of Rule 4 of the Rules *ibid* did not provide for publication of rules framed by the Board governing the Contributory Provident Fund in the official Gazette.

133. On being taken up the matter with the Ministry, in their reply dated 16 October, 1980 stated that the rules relating to the Provident Fund were published in the Gazette of India (Extraordinary) on 28 October, 1978 and a copy thereof was also laid on the Table of the House. The Committee, therefore, after perusing the reply of the Ministry, in paragraph 21 of the aforesaid Report viz. Seventh Report (7th LS), observed as under:—

“The Committee note that Contributory Provident Fund Rules made by the Board have been published in the Gazette of India as also laid on the Table of the House. The Committee, however, observe that as the practice of publishing of Rules in the official Gazette and laying them on the Table of the House is already followed, the Ministry of Petroleum and Chemicals (Department of Petroleum) should have no objection to giving it a statutory footing by incorporating a suitable provision in the Oil Industry Development Board Employees’ (General Conditions of Service) Rules, 1978.”

134. After the Report was presented to the House, a copy thereof was sent to the Ministry for furnishing their action taken reply at an early date. The Ministry vide their O.M. dated 15 September, 1981 stated that a further communication would follow in the matter.

135. In their further communication dated 25 January, 1982 the Ministry in regard to this recommendation stated as under:

“sub-section (1) of Section 31 of the Oil Industry (Development) Act 1974 (No. 47 of 1974) empowers the Central Government to make Rules by Notification in the Official Gazette. Sub-section (3) of Section 31 further provides that every rule made by the Central Government shall be laid before each House of Parliament as soon as after it is made. Thus there is already a statutory requirement that any Rules made under the provisions of the Oil Industry (Development) Act have to be laid before each House of Parliament. It may not, therefore, be necessary to incorporate any provision in the Oil Industry Development Board Employees’ (General Conditions of Service) Rules 1978, to this effect.”

136. In view of the specific reply of the Department of Petroleum that sub-section (3) of Section 31 of the Oil Industry (Development) Act, 1974 provides that every rule made by the Central Government

should be laid before Parliament as soon as it is made, the Committee on reconsideration would not like to pursue their earlier recommendation made in paragraph 21 of their Seventh report (Seventh Lok Sabha) whereby the Committee had desired the Department to incorporate a suitable provision in the Oil Industry Development Board Employees' (General Conditions of Service) Rules, 1978.

(vi) *The Indian Civil Accounts Service (Group 'A') Recruitment Rules, 1977*

137. Rule 22(2) (a) of the Indian Civil Accounts Service (Group 'A') Recruitment Rules, 1977 provided that the inter-seniority of the persons falling under clauses (a) and (b) of sub-rule (1) of Rule 6 appointed to the Service after the initial constitution shall be determined in accordance with the general orders regulating seniority of Government employees issued by Government from time to time. It was felt that principles of determining seniority being basic ingredient of recruitment rules should be laid down in the rules. In this connection, while drawing attention of the Ministry of Finance (Department of Expenditure) to the observation of the Committee made in paragraph 64 of their Second Report (Sixth Lok Sabha) they were asked to state whether they had any objection to incorporate the principles of determining seniority in the rules *ibid*.

138. In their reply dated 10 January, 1978, the Ministry stated as under:

"Incorporation of principles for determining the seniority in the Recruitment Rules. The Cadre authorities have, generally the option either to follow the general principles for seniority laid down by the Department of Personnel and Administrative Reforms or to evolve their own seniority principles to suit the requirements of the individual service. Wherever the cadre authorities formulate their own principles of seniority as the example quoted, these principles are spelt out in the service rules. Wherever the cadre authorities follow the general principles of seniority laid down by the Department of Personnel, it is not customary to lay down these principles in the Service Rules. In fact the vast majority of Recruitment Rules do not spell out the principles of seniority because they follow the general principles laid down by the Department of Personnel and Administrative Reforms."

139. After considering the matter, the Committee in paragraphs 49-51 of their Eleventh Report (Sixth Lok Sabha) presented to the House on 24 August, 1978, reiterated their earlier recommendation made in paragraph 64 of their Second Report (Sixth Lok Sabha) wherein the Committee had recommended that the criteria for determining seniority being a basic ingredient of the recruitment rules, should be incorporated in the rules and not left to be determined through executive instructions.

140. In their action taken note dated 15 December, 1978, the Ministry stated as under:—

“Paragraphs 49-51:—The criteria for determining the seniority decide only the list to be considered by the DPC for Promotion and does not materially affect important ingredients of recruitment i.e. method of recruitment, various feeder groups from which the posts are to be filled up, the educational qualifications and the experience required, the zone of consideration, the composition of the DPC etc. Incorporating the criteria for determining seniority in the Recruitment Rules would encumber these Rules with a large number of details. The general principles of seniority laid down by the Department of Personnel run to seven pages and would make the Recruitment Rules cumbersome. These factors have already been placed before the Committee on Subordinate Legislation of Rajya Sabha by the Jt. Secretary (E) D.P.A.R. on 17-4-78. It is, therefore, considered that it may not be desirable to include the principles of seniority in the recruitment rules.”

141. The Committee, after considering the above action taken note of the Ministry at their sitting held on 5 January, 1981 decided to hear oral evidence of the representatives of the Department of Personnel and Administrative Reforms. Accordingly, the Committee heard evidence of the Department on 4 August, 1981. After hearing the evidence of the Department and considering the reply of the Ministry of Finance, the Committee in paragraph 61 of their Seventh Report (Seventh Lok Sabha) presented to the House on 8 September, 1981 recommended as under:—

“The Committee are not convinced with the reply of the Ministry of Finance, (Department of Expenditure) and the arguments advanced by the representatives of the Department of Personnel and Administrative Reforms

during their evidence before the Committee for not incorporating in the Indian Civil Accounts Service (Group A) Recruitment Rules, 1977, the principles of determining seniority of persons appointed to that service. The Committee feel that it should not be difficult for the Ministry of Finance (Department of Expenditure) to give the details regarding determination of seniority in concise form as an Annexure to the recruitment Rules. The Committee, therefore, reiterate their earlier recommendation that all statutory orders should be self-contained and no matter be governed by executive instructions and desire the Ministry of Finance (Department of Expenditure) to amend the Indian Civil Accounts (Group A) Recruitment Rules, 1977 by incorporating therein the principles of determining seniority of persons appointed to that service."

142. The Ministry of Finance (Department of Expenditure) to whom a copy of the aforesaid Report was sent on 10 September, 1981, in their reply dated 19 April, 1982 stated as under:—

"Since the principles of seniority will now have to be incorporated in the Recruitment Rules of all Grade 'A' services, the DP&AR to whom a reference was made have intimated that they are actively considering issue of standard provisions to be incorporated in all the Recruitment Rules. We will be in constant touch with the DP & AR. Necessary action to incorporate the principles of seniority in the Recruitment Rules of the Indian Civil Accounts Service (Group 'A') would be taken after receiving final reply from D.P.A.R."

143. Having not heard anything further in the matter, the Ministry were asked on 15 October, 1982 to intimate the progress made in the matter for the information of the Committee, the Ministry vide their D.O. dated 10 December, 1982 intimated as under:

"It is understood from D.P.A.R. that they have framed draft Seniority Rules and Draft Confirmation Rules and Draft Promotion Rules are also being drawn up. An Inter-departmental Steering Committee for review and simplification of service Rules has held a few meetings and has discussed the Draft Seniority Rules and Draft Confirmation Rules. It is understood that as soon as the Draft Promotion Rules are also similarly discussed and finalised

a composite body of Rules covering Seniority, Promotion and Confirmation is to be drawn up for further processing in consultation with the Comptroller and Auditor General of India, Ministry of Law and Union Public Service Commission. As soon as the Rules are finalised, further action will be taken to carry out such amendments in the ICAS Recruitment Rules as are necessary."

144. The Committee deprecate strongly the inordinate delay in implementing their recommendation which was first made in paragraphs 49 to 51 of their Eleventh Report (Sixth Lok Sabha) and was reiterated in paragraph 61 of their Seventh Report. (Seventh Lok Sabha) presented to the House on 8 September, 1981 i.e. more than one and a half years hence.

145. However, in view of the latest reply dated 10 December, 1982 received from the Ministry, the Committee hope that the matter would now be finalised soon in consultation with the Department of Personnel and Administrative Reforms and the Ministry would issue the necessary amendments to the ICAS (Group 'A') Recruitment Rules to the desired effect. The Committee also hope that the standard provision laying down principles of seniority would now be incorporated in all Recruitment Rules by the Department of Personnel and Administrative Reforms as intimated by the Ministry of Finance (Department of Expenditure) in their earlier reply dated 19 April, 1982.

(vii) *The Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 (S.O. 2125 of 1977)*

146. Rule 317-J-20(1) of the Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 *inter alia* provided that the Director may, without prejudice to any other disciplinary action that may be taken against an officer, cancel the allotment of the residence. In this connection, the then Ministry of Agriculture and Irrigation (Department of Agricultural Research and Education) who were asked to state whether they had any objection to provide for giving an opportunity of being heard to the employee before action was taken against him under the aforesaid rules, in their reply dated 13 February, 1978 stated as under:—

"S.R. 317—20(Sub-Rule (1) regarding consequences of breach of rules and conditions.

The above sub-rule corresponds to Sub-rule (i) of Rule S.R. 317-B-21 of the Allotment of Government Residences

(General Pool in Delhi) Rules, 1963. In actual practice, however, before the extreme step of cancellation of allotment of residences is taken, due opportunity is given to the employee to present his case."

147. After considering the above reply of the Ministry, the Committee, in paragraph 38 of their Eighth Report (Seventh Lok Sabha) presented to the House on 18 September, 1981, while inviting attention of the Ministry to the following amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residence Rules, 1976 (S.O. 214 of 1977) through GSR 157 dated 9 February, 1980 by inserting sub-rule (IA) to S.R. 317-AN-20, had desired the Ministry of Agriculture to amend rule, SR 317-J-20(1) on those lines:—

"(IA) An Officer against whom action is taken by the Allotting Authority under sub-rule (1) shall have a right of appeal against the orders of the Allotting Authority cancelling the allotment of residence, to the Head of the Department, within a period of two months from the date of issue of orders by the Allotting Authority and the Head of the Department may, after hearing the appellant and calling such further information from the Allotting Authority as he may consider necessary, pass such order on the appeal as he may think proper."

148. After presentation of the Report a copy thereof was sent to the Ministry the same day i.e. 18 September, 1981 for implementation of Committee's recommendation.

149. As the Ministry had not intimated anything in the matter, a reminder was issued on 4 November, 1982 followed by a D.O. reminder dated 29 January, 1983 to the Secretary of the Ministry. In Reply thereto, the Indian Council of Agricultural Research *vide* their D.O. dated 18 February, 1983, stated as under:—

"The IARI (Allotment of Residences) Rules, 1977 cover the residences constructed before the date when the administrative control of IARI was transferred from the Department of Agriculture to the ICAR Society. We have since issued Allotment Rules covering both the residences constructed before 1-4-1965 when the administrative control of I.A.R.I. was handed over to the I.C.A.R. Society and also those residences constructed after that date. In these Rules, we are taking necessary action to include a provision on the basis of the recommendation of the Committee on Subordinate Legislation."



150. The Committee note that the Ministry of Agriculture have not yet amended the IARI (Allotment of Residences) Rules, 1977 as desired by them in paragraph 38 of their Eighth Report (Seventh Lok Sabha) which was presented on 18 September, 1981. Further it was only after the issue of reminders on 4 November, 1982 and 29 January, 1983 that the Ministry (Indian Council of Agricultural Research) furnished their reply in the matter vide their O.M. dated 18 February, 1983 and that too an interim one. The Committee would stress that instead of waiting for the reminders from the Committee, the Ministry should have acted suo moto in furnishing their reply. However, in view of the Ministry's reply dated 18 February, 1983, the Committee hope that the requisite amendment would now be issued with the least possible delay as desired by them.

(viii) *The Indian Boiler (First Amendment) Regulations, 1978*  
(G.S.R. 192 of 1978)

151. Note below Appendix 'J' to the Indian Boiler Regulations, 1950, as amended by G.S.R. 192 of 1978, read as under:—

"If and when relaxation in respect of inspection is granted by the Inspecting Authority to the manufacturers, the same shall be intimated to the Central Boilers Board."

152. It was felt that the reasons for granting relaxation should be recorded in writing by the Inspecting Authority to deviate any possibility of discrimination.

153. The Ministry of Industry (Department of Industrial Development), with whom the matter was taken up, stated in their reply dated 25 July, 1980 as under:—

"...the Central Boiler Board agreed with the recommendations of the Committee on Subordinate Legislation and referred the matter to its coordination and Standing Sub-Committee for preparation of a suitable draft amendment to Appendix 'J' of the Indian Boiler Regulations, 1950. In accordance with the decision of the Central Boiler Board a suitable draft amendment to Appendix 'J' of the Indian Boiler Regulations, 1950, has been prepared by its Coordination and Standing Sub-Committee, which met in Delhi early this month, and the draft \*amendment is now being processed for pre-publication in the Gazette of India as required under the Indian Boilers Act, 1923 . . ."

\*The amendment was published in the Gazette of India, Part II, Section 3(i) dated 7 March, 1981 under GSR 251.

154. The Committee in paragraphs 9 and 10 of their Seventh Report (Seventh Lok Sabha) presented to the House on 8 September, 1981 recommended/observed as under:—

“The Committee note that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have amended the Note below Appendix ‘J’ to the Indian Boiler Regulations, 1950 (*Vide* GSR 251 of 1981) to provide for recording of reasons in writing for granting relaxation in inspection by the Inspecting Authority. However, the Committee are of the view that suitable guidelines should also be laid down for granting such relaxation in order to make the Regulations self-contained.

The Committee are not happy over the unusually long time of more than 2 years taken by the Ministry in processing a routine amendment and desire them to streamline the procedure in this regard to obviate recurrence of such avoidable delays.”

155. The Ministry of Industry (Department of Industrial Development) to whom a copy of the aforesaid Report of the Committee was forwarded on 10 September, 1981, in their reply dated 15 October, 1981 stated that the recommendations of the Committee contained in paragraph 9 regarding laying down suitable guidelines will be placed before the Central Boiler Board at its next meeting for consideration and thereafter the decision of the Board would be intimated to the Secretariat.

156. As regards recommendation contained in paragraph 10 of the Report, the Ministry stated as under:

“...it may be mentioned that in this particular case out of two years taken by the Central Boilers Board for making amendment to the note below Appendix ‘J’ of the Indian Boiler Regulations, 1950, about one year was taken for the reconstitution of the Central Boilers Board. In this connection, this Department’s O.M. No. BL-9(12)/68-EEI(TAB), dated 4th August, 1969 may please be referred.

Keeping in view the unavoidable long time required for obtaining nominations from the State Governments and recommendations from various Ministries/Organisations, this Department proposes to take necessary steps for the reconstitution of the Board at least six months before the expiry of its term.

**In order to streamline the procedure to avoid delay in processing the amendment to the said Regulations, following steps have already been taken by this Department:**

- (i) Previously certain information, namely, GSR No., Page No. of the Gazette was made available to the public, which are required to be incorporated in the final notifications for promulgation of the amendments, were obtained from the Government of India Press. It takes long time for getting the information from the Controller of Publications, Government of India regarding the date on which the particular gazettee was made available to the public. Steps have now been taken to supply one copy of the Gazette of India to the Boiler Section of this Department, so that instead of writing and waiting for the information mentioned above from the Government of India Press this information can be obtained direct from the Copy of the Gazette of India supplied to the Boiler Section.
- (ii) It has been decided to reduce the period of three months, which is normally stipulated for inviting objections/suggestions on the draft regulations, to forty five days wherever deemed to be appropriate.
- (iii) Recently, Law Ministry instructed this Department to issue consolidated Notifications for pre-publication of the amendments to the Regulations three or four times in a year instead of issuing separate notification in respect of each case. This procedure is now being followed and it is anticipated that this will reduce some delay arising out of issue of separate notification for each amendment.
- (iv) In order to avoid delay in submission of cases, instructions have been given to all concerned to put up cases relating to promulgation of the amendment to the Regulations on a priority basis. Besides, instructions have also been issued to the dealing Assistant concerned to visit the Office of the Controller of Publications, Government of India to collect necessary information personally if this information is not received from that office within 14 days from the date of the issue of the letter from this Department."

157. In their further communication dated 26 April, 1982, the Ministry stated that the suggestions of the Committee for laying down suitable guidelines for granting relaxation in stage inspections by the Inspecting Authority have been considered by the Central Boilers Board at its last meeting. The Board has decided that its Water Tube Boilers Sub-Committee and Shell Type Boilers Sub-Committee should review all stages of inspection of Water Tube and Shell Type Boiler prescribed in Appendix 'J' of the Indian Boilers Regulations, 1950. The Board has also decided that the Sub-Committees should take special note of the Committee's suggestions while reviewing the provisions relating to stage inspections. It was also stated that further necessary action was now being taken in accordance with the abovementioned decision of the Central Boilers Board.

158. On being asked the progress made in the matter vide O.M. dated 21-10-1982, the Ministry in their reply dated November, 1982 stated as under:—

“...the Water Tube Boilers Sub-Committee and Shell Type Boilers Sub-Committee of the Central Boilers Board have reviewed all stages of inspection of Water Tube Boilers and Shell Type Boilers prescribed in Appendix 'J' of the Indian Boiler Regulations, 1950, taking special note of the suggestions of the Committee on Subordinate Legislation. The term of the Central Boilers Board has expired on 13th October, 1982 and it is now being reconstituted. The recommendations of the above mentioned technical Sub-Committees of the Central Boilers Board will be placed before the Central Boilers Board after it is reconstituted. Thereafter the decision of the Central Boilers Board will be intimated to the Lok Sabha Secretariat.”

159. There being no further response in the matter, a D.O. was issued on 22-1-1983. In reply hereto the Ministry in their D. O., dated 7 February, 1983 stated that the Central Boilers Board had now been reconstituted and necessary steps were being taken to convene the meeting of the reconstituted Board some time in March, 1983. As intimated earlier the recommendation of the Water Tube Boiler and Shell Type Boiler Sub-Committee will be placed before the Central Boilers Board at its forthcoming meeting. Thereafter, a final reply in the matter will be communicated to the Lok Sabha Secretariat.

160. The Committee note that in compliance with their recommendation made in paragraph 10 of their Seventh Report (Seventh Lok Sabha), the Ministry of Industry (Department of Industrial Development) have since taken certain steps in order to streamline the procedure to avoid delay in processing the amendment to the Indian Boiler Regulations, 1950.

161. As regards their recommendation contained in paragraph 9 of their aforesaid Report regarding laying down of suitable guidelines, the Committee note that, although a period of more than a year and a half has elapsed since the Report of the Committee was presented to the House and a copy thereof was sent to the Ministry for necessary action, the recommendation is yet to be implemented. The Committee however, hope that the Ministry by now would have placed the matter before the Central Boilers Board at its meeting which was expected to be held sometime in the month of March, 1983 and would get the Regulations amended so as to provide therein suitable guidelines as suggested by the Committee earlier.

(ix) *The Aircraft (Amendment) Rules, 1976 (G.S.R. 69 of 1976)*

162. Rule 78C as sought to be inserted in the Aircraft Rules, 1937 through the Aircraft (Amendment) Rules, 1976 (G.S.R. 69 of 1976) reads as under:

"78C. Parking of vehicles at an aerodrome—

- (1) No person shall park any vehicle at any Government aerodrome, other than an aerodrome to which the International Airports Authority Act, 1971 (43 of 1971) applies or is made applicable except in a place provided for the parking thereof and except on a payment of such fees as may be specified by the Director General from time to time for such parking, to the officer-in-charge of the aerodrome or to any other person as may be specified in this behalf by the Director General by general or special order.
- (2) Notwithstanding anything contained in sub-rule (1),—
  - (a) the Director General may, by general or special order, for good and sufficient reason, exempt any vehicles or class of vehicles from the payment of fees referred to in sub-rule (1);
  - (b) the Director General or the Officer in-charge of aerodrome or any other person specified in this behalf by the Director General, by general or

special order may if he is satisfied that it is necessary or expedient so to do for the maintenance of proper order or discipline, refuse admission of any vehicle into such aerodrome or require the same to be taken out of it.

- (3) The fees collected under sub-rule (1) shall be paid to the Central Government in such manner as may be specified in this behalf by the Director General by general or special order."

163. The Committee on Subordinate Legislation (1976-77) examined the above rules at their sitting held on 17 May, 1976 and desired the Ministry of Tourism and Civil Aviation to furnish *inter alia* comments on the following points:

\* \* \* \* \*

- (ii) Rules 78C(1) as inserted:

The rule empowers the Director General to specify the parking fee. Instead of authorising the Director General to specify the Parking fee, it should be laid down in the rules in order to make them self-contained.

- (iii) Rule 78C(2):

The rule empowers the Director General to exempt any vehicle from the Parking fee. The Director General should be required to record his reasons in writing before exempting any vehicle from the Parking fee.

- (iv) Rule 78C(3)

The rule empowers the Director General to specify the manner in which the Parking fees collected shall be paid to the Central Government. The manner of payment should be laid down in the rules to make them self-contained.

164. In their reply dated 29 November, 1976, the Ministry stated as under:

"The recommendations made by the Committee on Subordinate Legislation of the Lok Sabha have been examined in consultation with the Director General of Civil Aviation and the Ministry of Law, Justice and Company

**Affairs.** To meet the various observations made by the Committee on Subordinate Legislation of the Lok Sabha, the following amendments to rule 78-C of the Aircraft Rules, 1937 are proposed to be made:—

- (i) to amend sub-rule (1) to provide that a fee not exceeding Rs. 3.00 per vehicle per hour shall be payable according to the importance of classification, if any, of the aerodrome;
- (ii) to amend sub-rule (2) to provide that the following vehicles shall be exempted from the payment of the parking fee by issue of a general or special order in writing from the DGCA:—
  - (a) Government vehicles; and
  - (b) vehicles belonging to any person who is engaged on a regular duty at an aerodrome;
- (iii) to amend sub-rule (3) to provide that the fee shall be paid in cash to the Aerodrome Officer or to any other person authorised by him in this behalf, for which a receipt shall be issued forthwith.

This Ministry would be grateful to know if the above proposed amendments would meet the requirements of the Committee on Subordinate Legislation of the Lok Sabha. Necessary action to amend the rules in this regard will be taken on receipt of confirmation from the Lok Sabha Secretariat."

165. The Committee, after considering the aforesaid reply of the Ministry, in paragraphs 102 to 104 of their Seventh Report (Sixth Lok Sabha) presented to the House on 4 April, 1978 observed as under:—

"102. The Committee note with satisfaction that, on being pointed out the Ministry of Tourism and Civil Aviation having suggested the following amendments to Rule 73-C of the Aircraft Rules 1937;

- (i) to amend sub-rule (1) to provide that a fee not exceeding Rs. 3.00 per vehicle per hour shall be payable according to the importance or classification, if any, of the aerodrome;

(ii) to amend sub-rule (2) to provide that the following vehicles shall be exempted from the payment of the parking fee by issue of a general or special order in writing from the Director General of Civil Aviation:—

(a) Government vehicles; and

(b) vehicles belonging to any person who is engaged on a regular duty at an aerodrome; and

(iii) to amend sub-rule (3) to provide that the fee shall be paid in cash to the Aerodrome Officer or to any other person authorised by him in this behalf, for which a receipt shall be issued forthwith.

103. The Committee agree to the above amendments and desire the Minister to give effect to them at an early date.

\* \* \* \*

166. In their action taken note dated 7 December, 1979 on the above observation/recommendation of the Committee, the Ministry of Tourism and Civil Aviation stated as under:—

“...while action to implement the recommendations of the Committee on Subordinate Legislation of Lok Sabha, as contained in paras 102—104 of their Seventh Report was being taken, Director General of Civil Aviation has once again examined the question of grant of exemption to various categories of vehicles from payment of parking charges at aerodromes in greater detail, and he is of the view and this Ministry also agree with him, that apart from the two categories of vehicles (i) Government vehicles, and (ii) vehicles belonging to any person who is engaged on a regular duty at an aerodrome, Director General of Civil Aviation should be authorised to exempt any other vehicle from payment of parking charges as it will enable Director General of Civil Aviation to overcome administrative difficulties/problems that may arise from time to time.

It is not always possible to visualise all contingencies. There may be cars bringing VIPs or associated with their visits. A definition for VIP is not contained in the aircraft rules. Also there may be relief operations or Red Cross consignments which may in some cases require exemption. In other words, the categories of vehicles



requiring exemption may have to be added to list from time to time based on experience gained and it is not always possible to take recourse to amending notifications. There is also the question of giving exemption to:

- (i) Cars/taxis and other vehicles bringing passengers/visitors and leaving the aerodrome area immediately after the passengers have got down;
- (ii) Vehicles owned and operated by regular aircraft operators;
- (iii) Vehicles used by various licencees at the aerodromes such as catering contractors, TR stall contractors, shop owners etc. for bringing stores etc. provided the vehicles are not parked for more than half an hour for loading/unloading purposes; and
- (iv) All types of Government vehicles either belonging to the State Government or to the Central Government.

According to the recommendations made by the Committee on Subordinate Legislation of the Lok Sabha as contained in paras 102—104 of their Seventh Report, only two categories of vehicles (i) Government vehicles, and (ii) vehicles belonging to any person who is engaged on a regular duty at an aerodrome, are proposed to be exempted from payment of parking charges.

In case, the recommendations of the Committee on Subordinate Legislation are made effective, then cars/taxis and other vehicles bringing passengers/visitors and leaving the aerodrome area immediately after the passengers/visitors have got down will have to pay parking fee since these cases will not be covered by the exemption. This will create discontentment in the public and there might be criticism from the concerned persons. Also since airlines operators are mainly dealing with the civil aviation activities, it is felt that their vehicles should continue to get the exemption from payment of car parking charges. Similarly, vehicles used by various licensees at the aerodrome should continue to get the exemption from payment of car parking charges as they are also connected with passengers' amenities."

167. The Committee, after considering the above action taken note of the Ministry, in paragraphs 50 to 52 of their Eighth Report (Seventh Lok Sabha) presented to the House on 18 September, 1981, observed/recommended as under:

“50. The Committee observe that in paragraph 103 of their Seventh Report (Sixth Lok Sabha), the Committee had conveyed their acceptance to certain amendments, proposed by the Ministry of Tourism and Civil Aviation themselves, to Rule 78-C of the Aircraft Rules. However, the Ministry have now on reconsideration pleaded for retaining the original provisions in sub-rule (2) of Rule 78-C *ibid.* Obviously, the Ministry had not considered the matter, when it was referred to them by the Committee, with the seriousness it deserved. Had the Ministry examined the various aspects of the matter initially with due care, there could not probably have arisen an opportunity of altering what they had stated earlier. The Committee need hardly emphasize that the matters referred to by a Parliamentary Committee should be scrutinised thoroughly at the highest level in the Ministry in consultation with any other agency, if so necessary, before submitting the same to the Committee. Hurriedly disposed of matters like the one, not only deprive the Committee of examining the matter in proper perspective but also result in prolonging infirmities in the rules.

51. The Committee had raised the limited point that the Director General should record reasons in writing before granting exemption to any vehicle from the parking fee as a safeguard against any arbitrary use of the powers conferred by sub-rule (2) of Rule 78-C without in any way questioning the propriety of vesting such powers in the Director General. In view of the position now stated by the Ministry, the Committee see no objection to amending sub-rule (2) of Rule 78-C so as to include all those categories of vehicles as require exemption, and/or retaining the residual powers for further exemption of vehicles if considered expedient to do so by the Director General from time to time with the stipulated safeguard of recording reasons in writing for such exemptions.

52. The Committee further observed that their recommendations were forwarded to the Ministry for purposes of

implementing them, immediately on presentation of their Report in this regard to the House in April, 1978. However, it was only in December, 1979 that the Ministry came out with a reply in respect of amendments to sub-rule (2) whereas nothing has been stated about the action taken by them in respect of the amendments stipulated in sub-rules (1) and (3) of Rule 78-C of the Aircraft Rules. The Committee have time and again emphasized that their recommendations should be implemented as early as possible and in any case within a period of six months failing which the Ministry should seek specific extension of time from the Committee stating the reasons therefor. The Committee desire the Department of Parliamentary Affairs to issue instructions to all Ministries to follow this procedure scrupulously to avoid inordinate delays in implementing their recommendations in future. The Committee trust that the Ministry of Tourism and Civil Aviation will take immediate steps to amend the Aircraft Rules to the necessary effect."

168. The Ministry of Tourism and Civil Aviation to whom the aforesaid observations/recommendations of the Committee were forwarded for implementation, vide their communication dated 25 September, 1981 addressed to the Director General of Civil Aviation and a copy endorsed to this Secretariat for interim information, stated as under:—

"...A copy of the extract of paragraphs 50—52 of the Eighth Report of Committee on Subordinate Legislation (Seventh Lok Sabha), wherein the Committee has conveyed its decision in the matter...

It will be observed from the enclosed extracts that the Committee has agreed to the Government's views accordingly. DGCA may kindly furnish a draft notification to be published in the Gazette of India for inviting public comments etc.

Since the procedure of amendment of the rule has to be completed within a period of six months positively, the draft notification may be furnished to this Ministry by 3rd October, 1981, positively."

169. Having not heard further in the matter, a reminder was issued on 18 November, 1982 followed by a d.o. letter dated 2 February, 1983 to the Secretary of the Ministry. No reply has however, been received.

170. So far as the Department of Parliamentary Affairs are concerned, they have since circulated to all Ministries/Departments of the Government of India for their information and guidance vide their O.M. No. F. 32(12)|81-R&C dated 6 February, 1982, the recommendations of the Committee contained in paragraph 52 of the aforesaid Report. The action taken reply of the Department has already been included at S. No. 52 of Appendix VII of Committee's Twelfth Report (Seventh Lok Sabha), presented on 28 July, 1982.

171. The Committee note that, except for an interim information received in September, 1981 the Ministry of Tourism and Civil Aviation have not conveyed anything further in the matter even after issue of a reminder in November, 1982 and a d.o. letter to the Secretary of the Ministry in February, 1983. The Committee deplore this indifferent attitude of the Ministry.

172. As a period of more than one and a half years has already elapsed since the Committee had made their recommendations in paragraphs 50 to 52 of their Eighth Report (Seventh Lok Sabha), the Committee desire that the Ministry should fix responsibility for this lapse. The Committee also expect the Ministry to issue the requisite amendment without any further delay as recommended by them earlier in this regard.

173. The Committee, however, note with satisfaction that as desired by them in paragraph 52 of their aforesaid Report, the Department of Parliamentary Affairs have since circulated their recommendations/observations to all Ministries/Departments of the Government of India for their information ad guidance vide their O.M. dated 6 February, 1982.

(x) *The Allotment of Residence (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 (S.R.O. 308 of 1978)*

174. Rule 17 (1) of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 (S.R.O. 308 of 1978) provided that the Allotting Authority may, without prejudice to any other disciplinary action that may be taken against an officer, cancel the allotment of the residence. In this connection, the Ministry of Defence who were asked to state whether they had any objection to provide for giving an opportunity of being heard to the employee before action was taken against

him under the aforesaid rule, in their reply dated 21 February, 1980 stated as under:—

“...the matter has been examined in consultation with the Ministry of Works and Housing (Dte. of Estates) who have observed as under:—

- (i) The rules were framed on the lines of the Central Pool in Delhi, the allotment rules in question were framed/ notified by them and it is for the Ministry of Defence to examine the comments and suggestions of the Lok Sabha Secretariat....

...The position in relation to Rule 17 will also be as indicated by the Dte. of Estates. It is not considered necessary to make any amendments especially as no such amendments to the rules on which the S.R.O. is based have been found necessary.”

175. After considering the reply of the Ministry, the Committee, in paragraph 42 of their Eighth Report (Seventh Lok Sabha) presented to the House on 18 September, 1981, while inviting attention of the Ministry to the following amendment made by the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residence Rules, 1976 (S.O. 214 of 1977) through GSR 157 dated 9 February, 1980 by inserting sub-rule (1A) to SR 317-AN-20 had desired the Ministry of Defence to amend rule 17(1) on these lines:—

“(1A) An officer against whom action is taken by the allotting authority under sub-rule (1) shall have a right of appeal against the orders of the Allotting Authority cancelling the allotment of residence, to the Head of the Department, within a period of two months from the date of issue of orders by the Allotting Authority and the Head of the Department may, after hearing the appellant and calling such further information from the Allotting Authority as he may consider necessary, pass such order on the appeal as he may think proper.”

176. After presentation of the Report a copy thereof was sent to the Ministry the same day i.e. on 18 September, 1981 for implementation of Committee's recommendation.

177. The Ministry of Defence vide their communication dated 10 October, 1981 addressed to JS(P&W) of the Ministry and copy endorsed to this Secretariat for information, stated as under:—

“2. It is requested that the recommendations/observations of the Committee contained in paras 39—42 of the above

Report may kindly be examined and suitable action taken/proposed to be taken thereon may be intimated to Lok Sabha Secretariat (Committee Branch-II) direct under intimation to Section D (Parl).

3. Additional Secretary has directed that the recommendations of the Committee may be implemented within the requisite time limit of six months, after careful examination, and where necessary in consultation with the Service Headquarters and with orders of higher authorities including RRM."

178. As no further information was received, a reminder was issued on 10 November, 1982. In reply thereto, the Ministry vide their O.M. dated 6 December, 1982 stated as under:—

".....the Ministry of Defence has agreed with the recommendations contained in paragraph 42 of 8th Report of the Committee on Subordinate Legislation and have accordingly proposed that an officer against whom action is taken under sub-rules 1—5 of Rule 17 of the Allotment Rules shall be given a right to appeal to the next higher formation commander within a period of 2 months from the date of issue of orders by the allotting authority. In this connection, the Ministry of Works and Housing (Directorate of Estates) and the Ministry of Finance (Defence) have been consulted.

The Ministry of Law (Legislative Department) were requested to vet the draft Gazette Notification vide our U.O. No. 6122/D(Q&C) dated 22-9-1982. The Ministry of Law (Legislative Department) have recently intimated that they would like to discuss the case. As soon as the Ministry of Law vet the draft Gazette Notification, further necessary action will be taken for publishing the same."

179. To find out whether the Law Ministry had since vetted the requisite draft notification and the precise time by which the amendment was expected to be issued, a d.o. letter to the Secretary of the Ministry was sent. The reply is, however, awaited.

180. While noting that the Ministry of Defence have agreed with the recommendation of the Committee contained in paragraph 42 of their Eighth Report (Seventh Lok Sabha), the Committee deplore that though a period of more than a year and a half has already elapsed since the Committee had made their aforesaid recommendation, the Rules in question have not been amended so

far. The Committee would, therefore expect the Ministry to issue the necessary amendment to the desired effect without any further delay whatsoever.

(xi) *The University Grants Commission (Terms and Conditions of Service of Employees) Amendment Rules, 1972 (G.S.R. 1070 of 1972)*

181. Rule 4(3) of the University Grants Commission (Terms and Conditions of Service of Employees) Rules, 1958 as substituted by the above Amendment Rules provided for a saving clause in respect of Scheduled Castes, Scheduled Tribes and other special categories in the rules relating to recruitment and not the rules relating to terms and conditions of service.

182. After considering the comments of the Ministry of Education and Social Welfare (Department of Education) to whom the matter had been referred, the Committee in paragraph 74 of their Twelfth Report (Fifth Lok Sabha) presented to the House on 10 May, 1974 recommended as under:—

“The Committee are not satisfied with the clarification given by the Ministry of Education and Social Welfare for incorporating the saving clause in respect of Scheduled Castes, Scheduled Tribes and other special categories of persons in the Rules relating to terms and conditions of service of the employees of the University Grants Commission. The Committee are of the opinion that the Rules regulating recruitment of various posts in the University Grants Commission should not be mixed up with other terms and conditions of service of the Employees. Recruitment Rules should be laid down separately by publication in the Gazette of India and the statutory authority under which they are framed should be cited in the preamble. The Committee desire the Ministry of Education and Social Welfare to take necessary action in this regard without any delay.”

183. The Ministry of Education and Social Welfare accepted the above recommendation of the Committee *vide* their O.M. No. 9-49/73-U. 2 dated 8 August, 1974 and stated that necessary action to implement the same was being taken in consultation with the University Grants Commission.

184. In their further O.M. dated 8 April, 1975, the Ministry of Education and Social Welfare (Department of Education) stated as under:—

“The University Grants Commission have informed this Ministry that in order to enable them to consider and finalise the cadre

and recruitment rules for classes II, III and IV employees in the light of the recommendations of the Third Pay Commission, as accepted by the Government of India, and to separate the service rules from the cadre and recruitment rules, they would require another four months time. After the draft rules have been finalised by the Commission and forwarded to this Ministry, the same will have to be examined in consultation with the Department of Personnel, Ministry of Finance etc. before notifying in the Gazette. It is, therefore, considered that another two months time may be required for examination and notification of the rules by this Ministry.

In the circumstances stated above, it is requested that the Committee on Subordinate Legislation may kindly agree to grant extension of time for six months i.e. upto the end of September, 1975 for implementation of the assurance given in this Ministry's O.M. under reference."

185. After considering the above request of the Ministry, the Committee, in paragraphs 92—94 of their Sixteenth Report (Fifth Lok Sabha) presented to the House on 9 May, 1975, observed as follows :—

"The Committee note that the recommendation contained in para 74 of their 12th Report (Fifth Lok Sabha) presented to the House on the 10th May, 1974 was accepted by the Ministry of Education and Social Welfare (Department of Education) in August, 1974. The Committee fail to understand what action was taken by the Ministry to implement the recommendation after that. The Ministry have already taken about a year which is unduly long time for implementing the recommendation.

With a view to ensure speedy implementation of their recommendations, the Committee fix a time-limit of six months within which the Ministries|Departments of Government of India should implement their recommendations. If in any particular case it is not possible for a Ministry|Department to adhere to this time-limit. They should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendation within the prescribed time-limit.

As an exceptional case the Committee grant extension of time to the Ministry of Education and Social Welfare (Department of Education) upto the end of September, 1975 for implementing the recommendation contained in para 74 of their 12th Report (Fifth Lok Sabha)."

186. The Ministry to whom the aforesaid recommendation of the Committee was sent for implementation, *vide* their O.M. dated 24-1-1976



*inter alia* stated that the Commission had since submitted the material to them and that the rules were to be examined in consultation with the Ministries of Finance, Law and the Department of Personnel. In view of that the Ministry requested for further extension of time for implementation of the recommendation by the end of March, 1976. Intimating further the Ministry requested for extension of time by the end of June, 1976, December, 1976 and then upto 30 June, 1977.

187. Not hearing further, the Ministry was reminded on 26 March, and 29 April, 1980. In reply thereto, the Ministry *vide* their O.M. dated 26 May, 1980 while regretting stated that despite best efforts, the relevant file was not traceable.

188. On being pursued thereafter, the Ministry intimated the progress made further at various stages *vide* their replies dated 23 June, and 13 October, 1980 and 23 January and 3 October, 1981.

189. Thereafter *vide* their communication dated 12 October, 1981, the Ministry of Education and Social Welfare (Department of Education) stated as follows:—

“...drafts of the Recruitment Rules and terms and conditions of service of employees Rules in respect of University Grants Commission have since been finalised in consultation with the Department of Personnel and Administrative Reforms, Ministry of Law, Justice and Company Affairs and the Integrated Finance Division of the Ministry. As desired by the Ministry of Law, the draft Rules have again been sent to that Ministry for final vetting, after which the Rules will be got translated into Hindi and published in the Gazette of India.”

190. As no further intimation was received from the Ministry, a D.O. letter to the Secretary of the Ministry was issued on 29 January, 1983. In reply thereto, the Ministry in their D.O. reply dated 7 February, 1983 intimated as under:—

“On our part, we had finalised the two sets of Rules for the UGC employees regarding their recruitment and terms and conditions of their service. Before notifying the Rules, we had thought it proper to discuss it with the Chairman, UGC who is to operate these rules. We are taking action to expedite her and finalise the matter as early as possible. It will be appreciated that some time will also be taken in getting the rules translated into Hindi after they are ready for notification.”

191. The Committee note that the recommendation made by them in paragraph 74 of their Twelfth Report (Fifth Lok Sabha) was re-iterated in paragraphs 92 to 94 of their Sixteenth Report (Fifth Lok Sabha) presented to the House as far as back as on 9 May 1975. The Committee in this connection, further note that the Committee had granted extension of time to the Ministry to implement their recommendations only upto the end of September, 1975. The Committee, however, observe that, as on 30-3-1983, the Ministry of Education are yet to issue the revised rules. Thus, in spite of the lapse of more than 7 years, the Ministry had been seeking extension of time off and on. The Committee further observe that, although the Ministry have accepted their recommendation, yet in actual practise the Ministry do not appear to be willing to implement them quickly. Therefore, the Committee in the normal course would have expected the Ministry to go into each stage of delay at the end of the Ministry as well as the University Grants Commission and fix responsibility for the lapse. However, in view of the latest reply of the Ministry the Committee hope and trust that there would be no further delay in notifying the requisite Rules.

(xii) *The Explosives (Amendment) Rules, 1971 (G.S.R. 1077 of 1971)*

192. Rule 93 of the Explosives Rules, 1940 as amended by the explosives (Amendment) Rules, 1971 provided as under:—

“...before suspending or cancelling the licence, the licensing authority shall give to the licence-holder an opportunity of being heard. However, no such opportunity shall be given in cases:—

- (i) where the licence is being suspended for violation of any of the provisions or the rules, or of any condition contained in such licence and in the opinion of the licensing authority, such violation is likely to cause danger to the public; or
- (ii) where the licence is suspended or cancelled by the Central Government, if that Government considered that in the public interest or in the interests of the security of the State, such opportunity should not be given.”

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193. The Committee on Subordinate Legislation which considered the above rules had observed in paragraph 51 of their Fourth Report (Fifth Lok Sabha) presented on 30 April, 1972, as follows:—

“.....the Committee feel that while the authority concerned

might not give an opportunity of being heard to a licence holder...in case of suspension a reasonable opportunity of being heard must be given to a licencer-holder before his licence is cancelled. They also feel that the maximum period for which a licence could be suspended by the competent authority should also be laid down in the Rules."

194. In their Action Taken Note, the then Ministry of Industrial Development stated as under:—

".....As the amended rule 93 now stands, the Central Government may exercise powers given thereunder to suspend a licence when it has good and sufficient reasons to suspend that continuance of the licence is objectionable. If it has conclusive evidence to the effect that continuance of any licence is objectionable, it will be a case of cancellation and not suspension and therefore the question of confirming the suspension order will not arise. Thus suspension of a licence by the Central Government will be an 'interim measure' (and not a confirmed order) to enable it to investigate the matter further and come to a positive decision regarding continuance/discontinuance of the licence. It should satisfy the Committee on Subordinate Legislation if Rule 93 is further amended to prescribe the maximum duration of a suspension order and to ensure that suspension does not deprive the licensee of his right to have the licence renewed. In the case of suspension by a licencing authority without giving the licensee an opportunity of being heard, the order of suspension should be confirmed after giving such an opportunity.

As regards cancellation of a licence, the Committee on Subordinate Legislation want that a reasonable opportunity of being heard must be given by the Central Government to a licence holder before his licence is cancelled.

It will be seen from the remarks in the preceding paragraph that the Central Government will be required to cancel a licence only when it has conclusive evidence to the effect that continuance of the licence is objectionable in public interest or in the interest of the security of the State. In such circumstance, the offender will be able to continue his objectionable activities for some more time, if he is to be given an opportunity of being heard before his licence is cancelled. The Committee

may be requested to please reconsider their recommendation in the light of the position stated above."

195. After considering the above Note of the Ministry, the Committee in paragraphs 74-75 of their Sixth Report (Fifth Lok Sabha) presented to the House on 7 May, 1973, recommended as follows:—

"The Committee, after having considered the matter carefully, are not convinced by the Ministry of Industrial Development that the Central Government will be required to cancel a licence under the explosive Rules, 1940, only when it has 'conclusive evidence to the effect that continuance of the licence is objectionable in public interest or in the interest of the security of the State and in such circumstances, the offender will be able to continue his objectionable activities for some more time, if he is to be given an opportunity of being heard before his licence is cancelled. The Committee are firmly of the view that if the Central Government have 'conclusive evidence' regarding the objectionable activities of the party concerned, they could suspend the licence, given an opportunity of being heard to the licence, and thereafter, if so considered appropriate, cancel the licence.

The Committee, therefore, desired that the Ministry of Industrial Development should amend the Explosives Rules accordingly."

196. In their reply, the Ministry stated as below:—

".....a copy of the extract of paragraph 127 to 132 taken from Fourteenth\* Report of Committee on Subordinate Legislation of Rajya Sabha is also enclosed. Lok Sabha Secretariat are requested that the matter may please be brought before the Committee on Subordinate Legislation of the Lok Sabha and it may be confirmed whether the proposed amendment as extracted in paragraph 131 of the Fourteenth Report of the Rajya Sabha Committee on Subordinate Legislation would be acceptable to the Lok Sabha Committee."

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\*In paragraph 131 of the Fourteenth Report, the Committee of Rajya Sabha had agreed with the amendment to Rule 93 of the Rules *ibid* as suggested by the Ministry and did not insist to provide for giving an opportunity of being heard to a licensee in case of suspension or cancellation of his licence by the Government in public interest or in the interest of security of the State (Appendix III).

197. After considering the matter in depth, the Committee in paragraph 151 of their 13th Report (Fifth Lok Sabha) presented to the House on 12 August, 1974 observed as under:—

“The Committee have carefully considered the matter. They are not satisfied with the amendment (appendix III) proposed to be issued to Rule 93 of the Explosives Rules which retains the power of the Central Government to suspend or cancel the licence without giving an opportunity of being heard to the holder of the Licence. The Committee reiterate their earlier recommendation made in paras 74-75 of the Sixth Report (Fifth Lok Sabha).”

198. In their Action Taken Note dated 5 June, 1980, the Ministry stated that unfortunately the file in which the Report of the Committee was dealt with was untraceable. The Ministry were, therefore unable to indicate precisely what action had been taken on the relevant paragraph of the Report *viz* 151. The Ministry, however, stated the position as under:—

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#### Paragraph 151

The recommendation of the Committee on Subordinate Legislation in paragraph 151 relate to Rule 93 of the Explosives Rules as amended by the Explosives (Amendment) Rules 1971. Subsequent to the receipt of the Thirteenth Report of the Committee in August, 1974, the Rule has been again amended *vide* the Explosives (First Amendment) Rules, 1977.

In the meantime Parliament has enacted the Indian Explosives (Amendment) Act, 1978. Under the amending Act, a new Section *viz.* Section 6E, has been inserted in the Indian Explosives Act, 1884 which empowers the licencing authority, a convicting court and the Central Government to vary, suspend or revoke licences granted under the Act; a copy of the relevant provision is at Appendix IV. The amending Act has not been brought into force as yet.

It will be seen that in Section 6E *ibid* there is a precise definition of the powers of the licensing authority, convicting court and the Central Government, in the matter of variation, suspension and revocation of licences as also of the rights of the licence holder. The existing rules are being amended and new rules framed to conform to the provisions of the 1978 Act. It would, therefore, be appropriate to consider the recommendations of the Committee on Subordinate Legislation expressed in paragraph 151 as a part of this exercise. As soon as a final view is taken on this specific recommendation, a report will be submitted to the Lok Sabha Secretariat.

This has been seen and approved by the Minister of State in the Ministry of Industry.”

199. On being enquired further progress in the matter on 25 September, 1980, the Ministry *vide* their O.M. dated 9 October, 1980 stated that in their earlier reply dated 5 June, 1980 it was explained that Parliament, had enacted the Indian Explosives (Amendment) Act, 1978, which has not been enforced as yet. Under section 6E *ibid* statutory powers had been vested in the Licensing Authority, a convicting court and the Central Government to vary, suspend or revoke licences granted under the Act and that the recommendations of the Committee on Subordinate Legislation would be kept in mind while drafting the rules under the amended Act. The position is that the new rules have been finalised in consultation with the Ministry of Law and it has not been found necessary to make any provisions to supplement the statutory powers available to the authorities mentioned in Section 6E *ibid* to vary, suspend or revoke licences. Accordingly, the powers to vary, suspend and revoke a licence will now be statutory and not dependent on rules framed under Section 5 and 7 *ibid* (*i.e.* subordinate legislation).

200. The Ministry further stated that action to enforce the Act would be taken as soon as rules were ready for final publication.

201. Having not received further information in the matter, a D.O. to the Secretary of the Ministry *viz.* Ministry of Industry (Department of Industrial Development) was issued on 23 January, 1983. In reply thereto, the Ministry, *vide* their D.O. dated 29 January, 1983 stated as under:—

“The Indian Explosives (Amendment) Act, 1978 (No. 32 of 1978) was passed on 18th August, 1978 by the Parliament. However, this Act has not come into force so far, because this Ministry is framing Explosives Rules under the Explosives Act, 1884.

Consequent upon the amendment of the Act, Department of Explosives undertook the work relating to the revision of the Explosives Rules, 1940. The draft Revised Explosives Rules, were prepared by the Chief Controller of Explosives on 1st January, 1980. Vetted copies of the Rules were thereafter received on 28th June, 1980 from the Law Ministry. These Draft Rules were finally published and printed copies were received on 23rd October, 1981, inviting suggestions/objections from the affected parties by 28th February, 1982. The Chief Controller of Explosives, Department of Explosives, after having carefully examined these suggestions/objections received from the public, prepared the final Explosives Rules on 14th June, 1982. These were again required to undergo the same drill as in the draft stage. At present, these Rules are lying with the Official Language Wing, Ministry of Law and Justice for translation of the English version into Hindi version. These Rules are running into about 300 pages and the work is voluminous, the Explosives Industry and various Associations have to be consulted before the Rules are finalised. After receipt of the Hindi translation, the Rules will be sent to the Press for publication and the above process will take some time.

According to Section 1(2) of the Amendment Act, 'it shall come into force on such date as the Central Government may, by Notification in the Official Gazette, appoint'. In this connection, we have consulted Department of Legal Affairs, whether the Amendment Act can be brought into force in advance of the Explosive Rules. They have stated that the Explosive Rules and the Amendment Act should be brought into force simultaneously.

In the light of the foregoing, Lok Sabha Secretariat is requested to give us some more time say upto 31st March, 1983, to complete the above formalities."

**202. In paragraph 151 of their Thirteenth Report (Fifth Lok Sabha) presented to the House on 12 August, 1974 the Committee had reiterated their earlier recommendation whereby the Committee had desired the Ministry to amend rule 93 of the Explosives Rules 1940 so as to provide an opportunity of being heard to the licensee before his licence was cancelled. In the year 1978 the Indian Explosives Act had been amended (though not enforced as yet) and under that Act statutory powers have been given to the authorities mentioned in Section 6E thereof to vary, suspend or revoke licences granted under the Act which would not now be dependent**

on Rules. Thus, the Committee observe, that there has been a fundamental change in the factual position. The Committee would not, therefore, like to pursue the matter any further so far as this aspect is concerned.

203. However, the Committee object to the fact that between the period 1974 and 1978, the Ministry of Industry (Department of Industrial Development) appear to have taken no action to amend the Rule as recommended by them. The Committee observe, in this connection, that the first action taken reply of the Ministry was received on 5 June 1980. The committee, therefore, deplore this inordinate delay in the strongest words possible and desire the Ministry to fix responsibility for this lapse. . . . .  
(xiii) *The Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257) of 1975.*

204. Regulation 4(2) of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 reads as follows:—

“(2) Gratuity shall not be paid to an employee who resigns from service or whose services are terminated for misconduct, insolvency or in-efficiency.”

205. It was felt that in certain cases an employee, may have to resign from his service for reasons beyond his control and that in such cases benefit of gratuity must be given to him.

206. In this connection, the attention of the Ministry of Industry and Civil Supplies (Department of Industrial Development) was invited to paragraph 17 of the General Insurance (Rationalisation of Pay Scales and other conditions of Service of Development Staff) Scheme, 1976 which provides for admissibility of gratuity to an employee even on his resignation provided he had rendered service for not less than 5 years. In their reply dated 19 April, 1977, the Ministry stated as under:—

“.....That this Ministry has under consideration a proposal regarding modification of the notified Khadi and Village Industries Employees (Gratuity) Regulations, 1975 so as to incorporate therein such provisions of the Payment of Gratuity Act, 1972 as are beneficial to the employees of the Khadi and Village Industries Commission. One of the provisions proposed to be incorporated is that gratuity would be admissible to an employee even on his/her resignation provided he/she has rendered service of not less than five years.

The proposal is being processed in consultation with the Ministry of Law and a further communication will follow as soon as the matter has been finalised.”



207. After considering the above reply of the Ministry, the Committee in paragraphs 10 and 14 of their Fourteenth Report (Sixth LS) presented to the House on 15 December, 1978, recommended as under:

“The Committee note with satisfaction that, on being pointed out, the Ministry of Industry and Civil Supplies (Department of Industrial Development) have agreed to amend regulation 4(2) of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 so as to provide for payment of gratuity to an employee of the Commission even on his/her resignation provided he/she has rendered service for not less than 5 years.

The Committee desire the Ministry to issue the amendment at an early date.”

208. The implementation of the aforesaid recommendation of the Committee was pursued with the Ministry vigorously vide this Secretariat communications dated 7 August and 2 November, 1979, 26 February, 24 August and 6 October, 1980, 14 January, 3 April, 16 September and 16 October 1982 and then *vide* our D.O. dated 7 February, 1983 to the Secretary of the Ministry. On their part the Ministry also have been intimating progress made at various stages *vide* their communications dated 23 December, 1978, 18 August, 1979, 14 March, 21 May, 1980 and 17 February, 7 October, and 6 November, 1982. *Vide* their last reply dated 6 November, 1982, the Ministry intimated as under:—

“..... a proposal to extend the pension scheme to the KVIC employees is under active consideration of the Government. The Government have agreed to extend the scheme in principle. The modalities are being finalised in consultation with the Finance Ministry and a final decision is expected to be taken soon. As soon as this issue is decided, action on the gratuity case will be taken. It is hoped that this would be settled by the 31st December, 1982.”

209. In their further communication dated 8 February, 1983, the Ministry have stated as under:

“....As intimated *vide* our O.M. of even number dated 6th November, 1982, the Gratuity Scheme of KVIC employees is linked with the extension of Pension Scheme which is at an advanced stage of consideration with us. We expect to finalise this by the end of next month, after which action will be taken to carry out the amendments as proposed by the Committee

on Subordinate Legislation in the Employees (Gratuity) Regulations, 1975 of the KVIC.”

210. The Committee are unable to appreciate the linking by the Ministry of Industry (Department of Industrial Development) of the Committee's recommendation made in paragraphs 10 and 11 of their Fourteenth Report. (Sixth Lok Sabha) with the extension of Pension Scheme to the Khadi and Village Industries Commission Employees thus resulting in an inordinate delay in its implementation. The Committee observe that such extraneous considerations resulting in delay in implementing Committee's recommendations have been brought to their notice on earlier occasions also. The Committee, therefore, desire the Department of Parliamentary Affairs to issue necessary instructions to all Ministries/Departments of the Government of India that the recommendations of the Committee should be considered on their own merits and extraneous issues should not come in the way of implementation thereof.

211. The Committee further desire that since a period of more than 4 years has already elapsed when the Committee had made their aforesaid recommendation, the Ministry should amend regulation 4(2) of the K&VIC Employees (Gratuity) Regulations, 1975 as recommended by them within a period of 3 months of the presentation of this Report.

(xiv) *The High Speed Diesel Oil and Light Diesel Oil (Restriction on Use) Order 1974 (G.S.R. 263-E of 1974)*

212. In clause 2 of the above Order, the definition of High Speed Diesel Oil and Light Diesel Oil had been given by reference to the Central Excises and Salt Act, 1944. The Committee have recommended a number of times that legislation by reference should be avoided. The then Ministry of Petroleum and Chemicals with whom the matter was taken up, in their reply dated 14 February, 1978 stated as under:

“2. A draft Order to be issued on the subject has been shown to the Ministry of Law, Justice and Company Affairs. They have suggested that it be revised. We have since done it, and referred the case back to the Law Ministry.

3. It will be possible to issue the amendment Order as soon as we get the clearance of Law Ministry to the draft....”

213. To find out if the amendment Order had actually been issued, two reminders were issued to the Ministry but no intimation was received. The Committee, thereafter in paragraphs 31 and 32 of their Eighteenth

Report (Sixth Lok Sabha) presented to the House on 9 April, 1979 observed|recommended as under:

- “31. The Committee are unhappy to note that the communications addressed to the Ministry of Petroleum and Chemicals to ascertain whether the amendments to the High Speed Diesel Oil and Light Diesel Oil (Restriction on Use) Order, 1974 had been issued or not had not been paid due attention and that their reply in this regard is still pending. The Committee desire that this case of delay and scant regard shown to their communication be brought to the notice of the Minister of Petroleum and Chemicals and his reactions communicated to them for their information.
32. The Committee, however, desire the Ministry to finalise the proposed amendments to the above Order, if not already done, immediately on the lines as recommended by the Committee in similar cases on earlier occasions and issue them without any further delay.”

214. After presentation of the Report, a copy thereof was forwarded to the Ministry or furnishing their Action Taken Note in the matter.

215. Having not received any intimation, a reminder was issued on 8 February, 1980, followed by several reminders including D.O. reminders dated 25 April and 15 October, 1980, 22 January and 15 October, 1982. Since still there was no response to these communications another D.O. to the Secretary of the Ministry was issued on 22 January, 1983. In reply to this D.O., the Ministry however, responded *vide* their reply dated 22 February, 1983 wherein it was stated as under:

“...as some of the relevant papers are now not readily traceable, this Department file has been reconstructed and action has been initiated to expeditiously issue amendments to the High Speed Diesel Oil and Light Diesel Oil (Restriction on Use) Order, 1974. After the draft Amendment Order is vetted and cleared by the Law Ministry, it will be formally notified and the Action Taken Note forwarded to the Lok Sabha Secretariat. It is expected that necessary action in this regard will be completed by end March, 1983.

In view of the fact that almost all the members of staff of the concerned section of this Department have been deputed to Assam for election duty, it is regretted that this reply could not be sent earlier.”

216. In their further communication dated 16 April, 1983 the Ministry of Energy (Department of Petroleum) while forwarding a copy of the draft notification containing the requisite amendment to the Order in question have stated as under:—

“...that the Department of Legal Affairs have been consulted regarding vetting of the draft notification, a copy of which is...They have advised to show the draft notification to the Lok Sabha Secretariat to enlighten whether this would meet their view point. It is, therefore, requested that the draft notification may kindly be perused and this Department advised accordingly for taking further action.”

217. As the Committee are not in favour of involving themselves in approving an amendment of legal import unless the Committee have asked specifically for the same in any of their recommendations, the Ministry have been asked *vide* O.M. dated 27 April, 1983 to finalise the amendment themselves in consultation with the Ministry of Law.

218. The Committee note with concern that inspite of the fact that the then Ministry of Petroleum and Chemicals had been exhorted by the Committee *vide* their earlier recommendation contained in paragraph 31 of their Eighteenth Report (Sixth Lok Sabha) for not having paid due attention to the communications sent to them, the Ministry have repeated the same thing by not replying to any of the communications sent after the presentation of their aforesaid Report until a D.O. letter to the Secretary of the Ministry was issued on 22.1.1983. In reply to this communication, the Committee note that the Ministry have pleaded the non-traceability of the relevant papers and some of the staff being on the election duty in Assam as causes for the delay.

219. The Committee cannot help expressing their profound distress over this indifferent attitude of the Ministry in this regard. The least the Committee expected was that the Ministry in their first and last communication received in February, 1983 should have come forth regretting for not having replied to the earlier communications sent to them in the matter. The Committee desire that responsibility should be fixed for delay in the implementation of the recommendation in such a manner. The Committee earnestly trust that such an attitude will not be adopted in future and the Ministry would be prompt to reply to the Committee's communications.

220. The Committee, however, note with satisfaction, from the latest communication dated 16 April, 1983 that the Ministry have since prepared the draft notification containing the requisite amendment to the Order in question. The Ministry have also consulted the Department of Legal

Affairs of the Law Ministry for its vetting. The Committee further note that as advised by the Department of Legal Affairs, the Ministry have forwarded a copy of the notification for approval by the Secretariat and/or the Committee. In this connection, the Committee would stress that, unless they have specifically desired in their recommendation, that any such amendments should be shown to them before publication, normally the Ministry themselves should finalise the amendment to any rule/regulations in consultation with the Ministry of Law. The Committee do not like to get involved in approving the draft notification.

(xv) (a) *The Border Roads Engineering Service Group 'A' Rules, 1977 (G.S.R. 1554 of 1977);*

(b) *The Border Roads Engineering Service Group 'B' Rules, 1977 (G.S.R. 1555 of 1977).*

221. Rule 12 of each of the above Rules reads as under:—

“Other Matters.—In all matters not specifically provided for in these rules, persons appointed to the Service shall be governed by such rules or orders as may be issued by the Government from time to time.”

222. It was felt that all matters not specifically provided for in the rules should also be governed by statutory rules, either by issuing a new set of rules or by an amendment of these rules, rather than by issue of executive orders. The Ministry of Shipping and Transport (Border Roads Development Board) with whom the matter was taken up, in their reply dated 15 July, 1978 stated as under:—

“As regards deletion of Rule 12, as suggested by the Committee, it may be mentioned that the Union Public Service Commission to whom the matter regarding recruitment rules was referred for approval advised vide their letter No. F.3(21)/4/76-RR dated the 21st April, 1976, that the rules for the Central Engineering Service (Roads) issued by the Ministry of Shipping and Transport could be adopted as a model for framing the Recruitment Rules for GREF Service. Accordingly, the Recruitment Rules for the Border Roads Engineering Service have been formulated on the pattern of the rules for the Central Engineering Service (Roads), which contain an identical provision and with the specific approval of the Union Public Service Commission. The approval of the Department of Personnel and Administrative Reforms and also the Ministry of Law was obtained before notifying the rules.”

223. After considering the reply of the Ministry, the Committee in paragraphs 14 to 16 of their First Report (Seventh Lok Sabha) presented to the House on 15 July, 1980 observed that the contention of the Ministry in regard to rule 12 of both the rules in question was not tenable. In this connection, the Committee drew Ministry's attention to their earlier recommendation made in paragraph 37 of their Fifth Report (Sixth Lok Sabha) which dealt with the Central Engineering Service (Roads) Rules wherein the Committee had desired the Ministry to omit rule 27 of those rules which also dealt with other matters not specifically provided for in the rules. The Committee, therefore, in this case also desired the Ministry to omit rule 12 of both the rules in question and recommended that matters not specifically provided for in the rules should not be regulated by executive orders but be governed by statutory rules whether by way of an amendment to the existing rules or alternatively by framing new rules.

224. The Ministry did not intimate any action on the recommendation of the Committee until 27 January, 1983 that too after issue of a d.o. reminder to the Secretary of the Ministry. Before issue of the D.O. reminder two reminders had already been issued on 19 March, 1981 and 15 October, 1982.

225. In their next reply dated 11 February, 1983 the Ministry intimated that the Border Roads Development Board had requested the Roads Wing to intimate action taken regarding omitting of rule 27 of the Central Engineering Service (Roads) Rules as recommended by the Committee in para 37 of their 5th Report (6th Lok Sabha) so that similar action could be taken regarding rule 12 of the Rules in question in consultation with the UPSC. On hearing from the Roads Wing, the Ministry would write further in the matter.

226. In their last reply dated 28 February, 1983, the Ministry further intimated that the proposal for amendment of rule 27 of the Central Engineering Service (Roads) Rules was referred to the UPSC whose approval was awaited and that action to amend the rule in question would be taken as soon as their approval was received and the Central Engineering Services (Roads) Rules were amended.

**227. The Committee note that after a period of more than 2 years of the presentation of their Report viz. First Report (Seventh Lok Sabha) in which the Committee had made their recommendation, the Ministry of Shipping and Transport have intimated that Rule 12 of both the Rules in question would be amended only after the Ministry have received approval of the U.P.S.C. in regard to Rule 27 of the Central Engineering Services**

(Roads) Rules which had already been referred to them as the Committee in paragraph 37 of their Fifth Report (Sixth Lok Sabha) had made similar recommendation in regard to these Rules.

228. The Committee observe with distress that so simple a recommendation of the Committee made as far back as in 1978 in their aforesaid Report viz. Fifth Report (Sixth Lok Sabha) could not be finalised and implemented so far as a result of which the Committee's latter recommendation made in their First Report (Seventh Lok Sabha) also remained unimplemented. The Committee now, therefore, desire that the Ministry should finalise the matter without any further delay and notify the requisite amendment to the desired effect under intimation to the Committee thereafter.

(xvi) *The Sugarcane Control Amendment Order, 1975 (G.S.R. 492-E of 1975)*

229. Proviso to sub-clause (7) of clause 5A of the Sugarcane (Control) Order, 1966, as inserted by the above Amendment Order provided for payment of additional price to the sugarcane grower even when he supplies less than 85 per cent of the agreed quantity of sugarcane. Sub-clause (7) of clause 5A *ibid*, lays down that additional price shall become payable to a sugarcane grower, if he supplies not less than 85 per cent of the agreed quantity. It was felt that the words 'less than 85 per cent' appearing in the proviso introduced an element of uncertainty as it might mean any figure varying from 1 to 85.

230. The then Ministry of Agriculture and Irrigation (Department of Food), with whom the matter was taken up, stated in their reply as under:

"...the intention of clause 5A(7) of the Sugarcane Control Order is that the grower should normally supply at least 85 per cent of the contracted quantity of cane to qualify to receive the determined additional price of cane. Failure to do so can be condoned only in circumstances envisaged in the proviso to this clause to enable the grower to get the payment.

To clarify the matter further, the sugarcane grower will be eligible for payment of additional price for the supplies of not less than 85 per cent of the sugarcane as agreed to between him and the producer of sugar. In spite of his best intentions, however, the grower may not be in a position to keep up his supplies of not less than 85 per cent of the cane agreed to be supplied by him, for reasons beyond his control, such as, drought floods, etc. To take care of such exigencies, it has been provided in the proviso that the additional price

shall be payable even though supplies fell short of 85 per cent of the agreed quantity, provided for the same supplies, the grower had not been subjected to any penalty under any Central|State Acts|Rules|Orders for his failure to supply the 85 per cent of the cane contracted for supply. The proviso is intended to prevent frivolous claims by growers, and ensure only genuine claims."

231. In reply to a further query, the Ministry clarified the position as follows:—

"the intention is that a grower should normally supply at least 85 per cent of the cane he had agreed to supply and to deny him the benefit of additional cane price if he fails to do so. There may be occasions, when for reasons beyond his control he may not be able to do so, and the intention further is that he should not be deprived of the additional price for the cane he actually supplied, even if it is as low as 45 per cent or 50 per cent.

232. In view of their above reply, the Ministry were requested to state whether they had any objection to reflect their intention in the Order that the grower would not be deprived of the additional price for the sugarcane he actually supplied, even if it fell short of 85 per cent of the agreed quantity, if the short supply was occasioned by reasons beyond his control.

233. While not agreeing with the above suggestion the Ministry stated as follows:—

"The main objective behind the provision to supply 85 per cent of the cane agreed to be supplied by the farmer for being eligible to receive additional cane price under Clause 5A of the Sugarcane (Control) Order, 1966 (as amended by the Sugarcane (Control) Amendment Order 1975 is that in the normal course every producer of sugarcane should supply at least 85 per cent of the contracted amount. It is only in exceptional circumstances beyond his control that he would be entitled to his share of the additional cane price even if he failed to supply 85 per cent. The test for this qualification is that he should not have been penalised by a competent authority for his failure to supply 85 per cent of the sugarcane so agreed.

In the circumstances, it is felt that no change in the existing Clause 5A (7) of the sugarcane (Control) Order, 1966, is called for."



234. After considering the above reply of the Ministry, the Committee in paragraph 57 of their Ninth Report (Sixth Lok Sabha) presented to the House on 11 May, 1978 recommended as under:—

“57. The Committee are not satisfied with the above reply of the Ministry of Agriculture and Irrigation (Department of Food). According to the Ministry, the intention underlying the proviso to sub-clause (7) of clause 5A is that the cane grower should get the benefit of additional price even in cases where he supplies less than 85 per cent of the agreed quantity if the shortfall is occasioned by reasons beyond his control. If so, the Ministry should have no objection to clearly spelling out their intention in the Order. The argument advanced by the Ministry for not incorporating the above intention in the Order is that it would lead to frivolous claims for additional cane price. The Committee are unable to appreciate this argument, for, as they observe, natural calamities, such as floods, droughts, etc. which are generally the cause of shortfall in agricultural production are a well-known phenomenon. Also, the additional payment will become admissible only when the grower shows that the shortfall in supply is ascribable to reasons beyond his control. On the other hand, as under the existing proviso, the only condition for admissibility of additional price is that the supplier has not been subjected to any penalty under any Central/State Act/Rules/Order for the shortfall in supply, there could be cases where additional price is paid to a supplier even where such shortfall has not been occasioned by reasons beyond his control. Apparently, this would be against the underlying intention of the proviso. The Committee will, therefore, like the Ministry of Agriculture and Irrigation (Department of Food) to take early steps to amend the proviso in question so as to clearly spell out their intention.”

235. In their Action Taken Note dated 19 July, 1978, the Ministry while explaining certain difficulties in amending the proviso as suggested by the Committee, requested them to reconsider their decision.

236. At their sitting held on 27 February, 1979, the Committee after considering the matter from all aspects decided to hear oral evidence of representatives of the Ministry of Agriculture (Department of Food) in this regard. Accordingly, the Committee heard oral evidence on 9 May, 1979. Thereafter, the Committee in paragraphs 97 to 99 of their Twenty-first Report (Sixth Lok Sabha) presented to the House on 17 May, 1979 recommended/observed as under:—

“97. The Committee considered the matter from all its aspects and note the view of the Ministry that by making the proviso

to sub-clause (7) of Clause 5A of the Sugarcane (Control) Order 1966 more explicit by spelling out the intention regarding reasons beyond the control of sugarcane grower would entail second inquiry. The Committee note that two inquiries in this matter would lead to more red tapism and create more troubles for the cane growers.

98. The Committee are unhappy to note that the Ministry of Agriculture and Irrigation (Department of Food) have been bringing forth conflicting view points at different times. They should have considered the matter in all seriousness and submitted their firm opinion to the Committee, at the earliest stage itself. It was only during the course of the evidence of the Ministry that the position became clear. In view of the position explained by the Ministry during their evidence the Committee are of the opinion that the existing position may continue and the Sugar Control Order need not be amended.
99. The Committee further note that majority of the sugarcane growing states have in their State laws a provision for inquiry into the circumstances leading to failure on the part of the grower to supply the agreed quantity of sugarcane. The Committee desire that the remaining States which do not have such a provision should be asked to make suitable arrangements for this purpose."

237. In implementation of the Committee's recommendation, the Ministry *vide* their O.M. dated 10<sup>th</sup> March, 1980 forwarded a copy of circular letter dated 29 May, 1979 addressed to all Sugar Producing State Governments/Union territory Administrations advising them to examine the existing provisions of the Act/Rules pertaining to the regulation of supply and purchase of sugarcane in their States and make suitable amendments therein to provide for inquiry into the circumstances leading to failure on the part of the grower to supply the agreed quantity of sugarcane in case such a provision does not already exist in the relevant Act/Rules etc.

238. Thereafter, the Ministry *vide* their Office Memoranda dated 12 May, 1980 and 22 October, 1982 furnished information in respect of the action taken by the States of Assam, Bihar, Gujarat, Haryana, Karnataka, Nagaland, Rajasthan, Goa and Pondicherry and Kerala and Punjab respectively. As regards the Government of Madhya Pradesh, the Ministry *vide* their further reply dated 18 February, 1983 stated that there was only one State, namely, Madhya Pradesh that has to take action to implement Committee's recommendation.

239. The Committee note that in pursuance of their observation made in paragraph 99 of their Twenty-first Report (Sixth Lok Sabha) the Ministry of Agriculture (Department of Food) have since addressed a Circular letter dated 29 May 1979 to all Sugar Producing State Governments/Union-territory Administrations on the subject as a result of which except the State Government of Madhya Pradesh all other State Governments/Union-territory Administrations concerned have furnished information to the Ministry in regard to the action taken by them.

240. The Committee, while expressing their satisfaction at the prompt action taken by the Ministry, desire that the matter might continue to be pursued with the State Government of Madhya Pradesh until the requisite information is received from them also.

241. The Committee observe that the essence of implementing their recommendations, however, lay in pursuing with the State Governments to make provisions in their laws for an inquiry into the circumstances leading to failure on the part of the growers to supply the agreed quantity of sugarcane. Since from Government's reply it is not clear to the Committee as to what replies have been received from the State Governments etc. the Committee observe that to that extent the reply of the Ministry can be called an interim one. The Committee, therefore, desire the Ministry to inform them of the precise position in respect of these States/Union-territories within three months of the presentation of their Report in the matter.

(xvii) (a) *The Central Government Health Scheme (Bangalore) Rules, 1976 (S.O. 992 of 1976).*

(b) *The Central Government Health Scheme (Hyderabad) Rules, 1976 (S.O. 994 of 1976).*

242. Rule 2 of the Central Government Health Scheme (Bangalore) Rules, 1976 and the Central Government Health Scheme (Hyderabad) Rules, 1976 reads as under:—

“Notwithstanding anything contained in the Secretary of State Services (Medical Attendance) Rules, 1938, the Central Services (Medical Attendance) Rules 1944 or the All India Services (Medical Attendance) Rules 1954, the instructions issued from time to time by the Central Government relating to the Central Government Health Scheme as in force in Delhi shall apply *mutatis mutandis* in respect of persons mentioned in sub-rule (4) of rule 1.”

243. It was felt that while a statutory rule subsequently issued by the Government might override an earlier rule, it did not appear to be appropriate that instructions issued by the executive should override the provisions of the statutory rules. If it becomes necessary for Government to

issue instructions, these can be incorporated in the rules by way of amendment.

244. The Ministry of Health and Family Welfare (Department of Health) to whom the matter was referred, in their reply, dated 1 September, 1978, stated as under:—

“The proposal has been discussed with the Ministry of Law, Justice. That Ministry have advised that Model set of statutory rules defining the scope of the C.G.H. Scheme may be prepared and issued, making it applicable to all stations where the Scheme is operating or where it may be extended in future. The draft rules for the Scheme have since been prepared and are expected to be issued shortly after getting these vetted by Law Ministry.”

245. After considering the reply of the Ministry the Committee in paragraph 32 of their 21st Report (Sixth Lok Sabha) presented to the House on 17 May, 1979 recommended/observed as under:—

“32. The Committee note that the Ministry of Health and Family Welfare (Department of Health) have since prepared the draft model set of statutory rules defining the scope of the Central Government Health Scheme. The Committee desire the Ministry to notify the model rules at an early date and delete rule 2 which provides for the issuing of instructions by the executive to over-ride the statutory rules, from both the Central Government Health Scheme (Bangalore) Rules, 1976 and the Central Government Health Scheme (Hyderabad) Rules, 1976.”

246. In their Action Taken Note dated 4 December, 1981, the Ministry of Health and Family Welfare (Department of Health) stated, *inter alia*, as under:—

“...the CGHS Rules have been framed for respective stations and there is no need to issue the executive instructions superseding the Rules as per advice of Ministry of Law. The CGHS Rules have already been notified for each city before extension of the Scheme to a particular station...”

247. That Ministry also stated that the words ‘Secretary of States’ Services (Medical Attendance) Rules, 1938 appearing in paragraph 2 of each of their Notifications Nos. S 11011/3/76-CGHS dated 16 February, 1976 regarding Central Government Health Scheme<sup>1</sup> (Hyderabad) Rules and S. 11011/2/76-CGHS(P) (A), dated 16 February, 1976 regarding CGHS (Bangalore) Rules, 1976 had been deleted.

248. After pursuing the aforesaid reply of the Ministry, a clarification was sought from them on 24.3.1982 whether in pursuance of the Com-

mittee's recommendation, rule 2 from both the Rules in question, which provides for issue of executive instructions notwithstanding anything to the contrary in the statutory rules had since been deleted. Not hearing anything a reminder was issued on 20 April and 16 October, 1982. Still not hearing anything, a d.o. to the Secretary of the Ministry was issued on 3 February, 1983. The reply is awaited.

249. The Committee observe that the reply of the Ministry of Health and Family Welfare (Department of Health) to the clarification sought whether in compliance with their recommendation made in paragraph 32 of their Twenty-first Report (Sixth Lok Sabha), rule 2 from both CGHS (Bangalore and Hyderabad) Rules, 1976 (S.O. Nos. 992 and 994) had since been deleted, is cryptic. The Committee also observe that the Ministry took more than a year which is most deplorable in replying to such a simple query for clarification.

250. The Committee further observe that the Ministry are of the view that since CGHS Rules were framed for each city and notified before extending the CGH Scheme to those cities, there was now no need to issue the executive instructions superseding the Rules as per advice of the Ministry of Law. The Committee feel that if it is so, in their view, the Ministry should then have no objection in deleting rule 2 from both the CGHS (Bangalore and Hyderabad) Rules under which the executive instructions are presently enforceable even if these are contrary to certain earlier rules on the subject.

251. The fact that the Ministry have deleted the words 'the Secretary of States Services (Medical Attendance) Rules, 1938' from the notifications is of no relevance from the point of Committee's recommendation. The Committee, therefore, desire the Ministry to amend both the Rules in question accordingly without any further delay.

(xviii) *The Internal Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 (S.O. 717 of 1973)*

252. 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) were published in the Gazette of India on 29 November, 1973 but were enforced w.e.f. 1.2.1972. Explanatory Memorandum certifying that no one would be adversely affected by giving retrospective effect to the rules was appended thereto. The International Airports Authority Act, 1971, under which the above rules had been framed did not empower the Government to give retrospective effect to the rules framed thereunder.

253. The matter was referred to the Ministry of Tourism and Civil Aviation. The Committee being not satisfied with the reply of the Minis-

try, in para 34 of their 14th Report (Fifth Lok Sabha) presented to the House on 20 December, 1974 recommended as under:—

“The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to the 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 were 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 the rules framed under the proviso to Article 309 of the Constitution whereas under the present case 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 publication 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.”

254. In their action taken note dated 28 July, 1976, the Ministry of Tourism and Civil Aviation stated that action was being taken to amend the International Airports Authority Act, 1971 so that rules made by the Government could be given retrospective effect.

255. On further pursuing the matter, the Ministry in their reply dated 12 May, 1978, stated that the question of amendment to the International Airports Authority Act was still under consideration. It is likely that the Act will be amended some time next year after consultation with the Ministry of Law and other concerned Ministries/Departments.

256. Rule 7 of the International Airports Authority of India (Conditions of Service of the Chairman and other whole time Members) Rules, 1973 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.”

257. It was noticed 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 were to be determined through the rules and not as determined by the Central Government at the time of the appointment.

258. No being satisfied with the reply of the Ministry of Tourism and Civil Aviation, the Committee in para 40 of their Fourteenth Report (Fifth Lok Sabha) presented to the House on 20 December, 1974, observed as under:—

“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 service of the Chairman and other whole-time Members rather than to leave it to be determined through administrative orders.”

259. In their action taken note dated 30 August, 1976, the Ministry of Tourism and Civil Aviation stated as under:

“... amendment of rule 7 of the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 as suggested by the Committee on Subordinate Legislation in para 40 of the Fourteenth Report involves giving retrospective effect to the amended rule, for which purpose amendment of the International Airports Authority Act is necessary. Once the Government is empowered to make rules with retrospective effect, the rule can be amended as per the directions of the Committee on Subordinate Legislation.

As already indicated in this Ministry's O.M. dated the 28th July, 1976, amendment of the International Airports Authority Act is under consideration and amendment of rule 7 will be taken up immediately after the necessary amendment to the International Airports Authority Act is made.”

260. After considering the Action Taken Note of the Ministry, the Committee in paras 70 and 71 of their Fourteenth Report (Sixth Lok Sabha) presented to the House on 15th December, 1978, made the following recommendations:—

“70. The Committee note with concern that even after three and a half years of the presentation of their Fourteenth Report (Fifth Lok Sabha) to the House on the 20th December, 1974, the Ministry of Tourism and Civil Aviation in their reply dated the 12th May, 1978 have stated that amendment of the International Airports Authority Act is still under their consideration. The Committee deprecate this delay and desire the Ministry to incorporate the necessary amendment in the Act without any further delay but in no case later than three months after presentation of this Report to the House. In case the finalisation of other amendments to the Act is likely to take more time, the Committee desire the Ministry to bring the amending legislation exclusively for the above specific purpose of empowering Government to give retrospective effect to the rules.

71. The Committee note with satisfaction that the Ministry have agreed to amend rule 7 of the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 on the lines indicated by them. The Committee desire that amendment to the said rule may be made as early as possible after necessary action to amend the Act has been taken as indicated in the foregoing para.”

261. The matter was taken up with the Ministry of Tourism and Civil Aviation (Department of Civil Aviation) immediately after the Report was presented to the House.

262. In their Action Taken Note dated 3 November, 1979, the Ministry intimated that the question of amendment to the International Airports Authority Act, 1971 was still under consideration of the Government and it was hoped that a Bill might be presented to the Parliament during the following Session.

263. When no such proposal for amendment to the International Airports Authority Act, 1971 was received during the First Session of the Seventh Lok Sabha, the Ministry was reminded again on 26-2-1980. The Ministry then replied on 6-3-1980 as follows:—

“... a proposal for amendment to the International Airports Authority Act, 1971 is still in the state of finalisation. Only



when the Act is amended to give powers to the Government to make rules with retrospective effect, necessary amendment to the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 can be made with retrospective effect."

264. Having not received any further information in the matter, a D.O. to the Secretary of the Ministry was issued on 2 February, 1983, Reply is awaited.

265. The Committee observe that in paragraph 34 of their Fourteenth Report (Fifth Lok Sabha) they had desired the Ministry of Tourism and Civil Aviation to either enforce the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 from the date of their publication in the Gazette or to amend the relevant Act viz. the International Airports Authority Act of 1971 so as to empower the Government to give retrospective effect to the Rules. As the Act had not been amended as desired by the Committee, the Committee expressed their concern and recommended again in paragraph 70 of their Fourteenth Report (Sixth Lok Sabha) that Government should amend the Act to the desired effect without any further delay and in no case later than 3 months of the presentation of their aforesaid Report.

266. The Committee are, however, sorry to observe that, although a period of more than 8 years has elapsed since the Committee had for the first time recommended amendment of the Act, the Ministry, somehow, have not been able to do the needful so far. Consequently, the Committee observe that the amendment to rule 7 of the Rules *ibid* which could only be taken up after the relevant Act had been amended, also remains unaltered. The Committee deplore the inordinate delay in implementation of their recommendation which was first made in 1974 and reiterated in 1978. The Committee desire that the Act be amended as recommended by them without any further delay.

(xix) *Indication of incorrect entry in column 13 of the schedule appended to Recruitment Rules regarding circumstances in which U.P.S.C. is to be consulted in making recruitment.*

267. Normally the Schedule appended to the Recruitment Rules contains a column regarding circumstances in which U.P.S.C. is to be consulted in making recruitment. However, while examining various

Recruitment Rules it was noticed that the expression 'as required under the Union Public Service Commission (Exemption from consultation) Regulations, 1958' was being indicated under this column. This entry did not appear to be appropriate as these Regulations enumerate only those matters in regard to which Government are exempted from consulting the U.P.S.C.

268. In this connection, the Committee in paragraph 13 of their Seventeenth Report (Fifth Lok Sabha) presented to the House on 7 January, 1976 had observed/recommended as under:—

“The Committee note that the Ministry of Law have seen the validity of the objection raised by the Committee that the expression 'as required under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958' in Column 13 of the Schedule is not an accurate one in that the said Regulation does not require consultation with the Commission. On the contrary, it provides for cases where consultation with the Commission is not necessary. Even so, the Ministry of Law have pleaded for the retention of this expression in Column 13 of the Schedule as there is no other regulation which positively specifies the cases in which the Commission is to be consulted. The Committee can hardly accept this explanation. They feel that it should not be difficult for the Department of Personnel and Administrative Reforms to devise, in consultation with the Ministry of Law and the U.P.S.C., some formula to precisely indicate the cases in which the U.P.S.C. is to be consulted. The Committee will like the Department of Personnel and Administrative Reforms to take early action in the matter as the expression objected to in this case occurs in a large number of Recruitment Rules.”

269. The Committee observed that, even after the presentation of their above Report on the subject, the expression *ibid* which was objected to by them still continued to occur in a large number of Recruitment Rules. Some of those rules are enumerated in Appendix II of the Committee's Twenty-first Report (Sixth Lok Sabha).

270. The Ministries/Departments concerned to whom the matter was referred, had either amended or agreed to amend the above expression in the schedules appended to the Rules in order to indicate the circumstances under which the U.P.S.C. would be consulted.

271. After considering the replies received from various Ministries/Departments, the Committee in paragraph 71 of their Twenty-first Report

(Sixth Lok Sabha) presented to the House on 17 May, 1979 recommended as under:—

“71. The Committee note with satisfaction that, on being pointed out, the Ministries/Departments concerned have either amended or have agreed to amend the entry under column 13 of the recruitment rules indicating the circumstances under which U.P.S.C. will be consulted. The Committee desire the Ministries/Departments who have not issued the amendment to do so expeditiously. The Committee also desire the Department of Personnel and Administrative Reforms to issue necessary instructions to all Ministries/Departments in this connection so that this infirmity of the rules may not continue any more.”

272. The following Recruitment Rules *inter alia* concerned the Ministry of Agriculture (Department of Agriculture) which, in compliance with the above recommendation of the Committee, were required to be amended:—

1. The Central Poultry Breeding Farms (Group A Posts) Recruitment Rules, 1976 (GSR 1702 of 1976).
2. The Integrated Fisheries Project (Mate Grade II) Recruitment Rules, 1976 (GSR 1929 of 1976).
3. The Department of Agriculture (Deputy Director of Accounts) (Fertiliser) and Accounts Officer (Budget) Recruitment Rules, (GSR 191 of 1977).
4. The Delhi Milk Scheme (Class I and Class II Posts) Recruitment (Amendment) Rules, 1977 (GSR 494 of 1977); and
5. The Department of Agriculture, Deputy Commissioner (Fertiliser) Recruitment Rules, 1977 (GSR 805 of 1977).

273. As regards Recruitment Rules at S. Nos. 3 and 5 above, the Ministry of Agriculture (Department of Agriculture) have since revised them vide Notifications dated 3 April, and 4 March, 1978 respectively.

274. Regarding the remaining 3 Recruitment Rules at S. Nos. 1, 2 and 4 above, the Ministry vide their O.M. No. 5/57/79-FY(Adm.) dated 17 December, 1980, D.O. No. 3-36/77-LDI dated 21 February, 1983 and O.M. No. 13-18/71-LDI/LDII(Vol. II) dated 26 February, 1983, have stated that the matter is again being taken up with the Union Public Service Commission, Department of Personnel and Administrative Reforms and the Ministry of Law for finalisation of the cases.

275. Similarly, Ministry of Home Affairs who were required to amend the Office of the Registrar General and ex-officio Census Commissioner (Map Officer) Class I Recruitment Rules, 1977 (G.S.R. 661 of 1977) have not intimated so far whether or not the Rules in question have since been amended to the desired effect.

276. The Committee note that while the Ministry of Agriculture have since revised two Recruitment Rules viz. (a) The Department of Agriculture (Deputy Director of Accounts) (Fertiliser) and Accounts Officer (Budget); and (b) the Department of Agriculture, Deputy Commissioner (Fertiliser) as desired by them in Paragraph 71 of their Twenty-first Report (Sixth Lok Sabha), the following three Rules still remain to be amended to the desired effect:

- (1) The CPBF (Group A Posts) Recruitment Rules;
- (2) The Integrated Fisheries Project (Mate Grade II) Recruitment Rules; and
- (3) The DMS (Class I and II Posts) Recruitment Rules.

277. The Committee hope that the Ministry of Agriculture would amend the above-mentioned Rules at an early date as a period of about 4 years has already elapsed since the Committee had made their aforesaid recommendation.

278. The Committee also desire the Ministry of Home to amend the office of the Registrar General and ex-officio Census Commissioner (Map Officer) Class I Recruitment Rules with which they are concerned, accordingly if not already done.

## CHAPTER IV

### CASES OF RECOMMENDATIONS PENDING INTRODUCTION OF COMPREHENSIVE BILLS FOR AMENDMENT OF RELEVANT ACTS

273. During the course of examination of Subordinate legislation, the Committee have from time to time observed that provisions of substantial nature were sought to be made in the Rules instead of in the statutes. The Committee have in such cases recommended that Acts should be amended. Amendment of Acts no doubt takes some time. But the following cases indicated that the introduction of amendment Bills has taken inordinately long time and consequently the impropriety of continuing such provisions in the Rules continued:

#### (i) *Amendment in the Companies Act, 1956*

280. Paragraph 11(b) of the Indian Consortium for power Projects Private Limited and the Bharat Heavy Electricals Limited Amalgamation Order, 1974 provided that the right of every shareholder to or in respect of any share in the dissolved company shall be extinguished, and thereafter no such share holder shall make, assert or take any claim or demands or proceedings in respect of any such share. As the wording of this provision so appeared as if the jurisdiction of the court was barred, it was felt that there should be an express provision in the parent Act empowering the executive to extinguish the right of partners by delegated legislation.

281. The Committee after considering the reply of the Ministry of Law, Justice and Company Affairs with whom the matter was taken up, and having heard oral evidence of the Ministry in this regard, in paragraphs 42-43 of their Ninth Report (Sixth Lok Sabha) *inter alia* recommended as under:

“...the Committee desire that the Department of Company Affairs should amend the Order in question so as not to give an impression that it seems to take away the right of a share holder to go to a court of law. The Committee also feel that apart from courts, there should be some sort of revisionary or appellate authority for the redressal of any grievance of a person who might feel aggrieved by any action taken under the Amalgamation Order...”

282. After considering the reply of the Ministry on the above recommendation, the Committee in Paragraph 41 of their Second Report (Seventh Lok Sabha) presented to the House on 18 November, 1980, made the following recommendation:

“The Committee note that the Ministry of Law, Justice and Company Affairs (Legislative Department) have conceded that provision of revisionary or appellate authority is of a substantive nature which could be made only by an amendment of the Companies Act, 1956. The Committee regret that, despite the above advice of the Legislative Department, the Department of Company Affairs have simply amended the Companies (Central Government’s) General Rules and Forms, 1956, to provide that Joint Director (Accounts) in the Department of Company Affairs shall be the authority to assess the compensation payable to a member or creditor (including a debenture holder) of each of the Companies amalgamating under Companies Act, 1956. The Committee desire the Ministry to amend the Companies Act, 1956 in order to provide for revisionary or appellate authority for redressal of grievances of a person aggrieved by any action taken under the Amalgamation Order.”

283. The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) to whom the above recommendation of the Committee was forwarded on 18-11-1980, in their reply dated 6 December, 1980, stated as under:—

“...the recommendations made by the Committee on Subordinate Legislation for amendment of Section 396(3) of the Companies Act, 1956 in order to provide for revisionary or appellate authority for redressal of grievances under the Amalgamation Order has been examined further in consultation with the Legislative Department and Department of Legal Affairs. It is now proposed to amend Section 396(3) of the Act on the above lines. Necessary legislative amendments to Section 396 would be included in the Comprehensive Bill to amend the Act to be introduced in Parliament.”

284. When asked whether the requisite proposed amendment to Section 396 of the Act had since been made, the Ministry *vide* their communication dated 10 November, 1982 intimated that it was proposed to include this recommendation in the comprehensive proposals for amendment of the Companies Act for approval of the Cabinet .

285 The Committee observe with distress that although a period of more than 2 years has elapsed since the Committee had desired the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) to amend the Companies Act, 1956 in order to provide for revisionary or appellate authority for redressal of grievances of a person aggrieved by any action taken under the Amalgamation Order, the Ministry are still in the process of including the recommendation of the Committee in the comprehensive proposals for amendment of the said Act for the approval of the Cabinet. The Committee, while expressing their unhappiness over the delay in finalising the matter so far, would like that in case the comprehensive proposals for amendment of the Act take a longer time, the Ministry should bring forth a specific amendment to amend section 396(3) of the Act *ibid* without any further delay.

(ii) *Amendment in the Central Excise and Salt Act, 1944.*

286 Sub-rule (1) of rule 204 of the Central Excise Rules, 1944 as substituted by the Central Excise (Third Amendment) Rules, 1978, reads as under:—

“204. Service of decision, order, summons or notices:—(1) Any decision or order passed or any summons or notice issued under the Act or these rules, shall be served—

- (a) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgement due, to the person for whom it is intended, or his authorised agent of he has any; or
- (b) if the decision, order, summons or notice cannot be served in the manner provided in clause (a), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case may be, is intended;
- (c) if the decision, order, summons or notice cannot be served in the manner provided in clause (a) or clause (b), by affixing it on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.”

287 The provisions of clause (c) of the sub-rule appeared to be unusual and against the canons of natural justice inasmuch as it presupposed the service of the notice etc. without its reaching the hands of the persons concerned.

288. The Ministry of Finance with whom the matter was taken up, in their reply dated 31 March, 1979 *inter alia* stated that these provisions by themselves were nothing unusual. Provisions already exist in section 153 of the Customs Act, 1962 and Section 113 of the Gold (Control) Act, 1968.

289 After considering the aforesaid reply of the Ministry, the Committee in paragraph 34 of their Third Report (Seventh Lok Sabha) presented to the House on 5 December, 1980, made the following recommendation:

“The Committee note that the rules under reference are said to have been framed on the analogy of provisions in Section 153 of the Customs Act, 1962 and Section 113 of the Gold (Control) Act, 1968. The Committee are of the view that the provision relating to service of decision, order, summons or notice etc. as laid down in clauses (a) and (b) of rule 204(1) are adequate in so far as they provide for affixing a copy to some conspicuous part of the factory or ware-house or other place of business or usual place of residence of the person concerned. It is difficult to imagine a case where it will not be possible for the authorities to locate even any of the places mentioned therein.

The Committee will like to observe that provisions of such extreme nature should not form part of the rules framed under the powers delegated by any statute. In case the Ministry considers these provisions as absolutely necessary, they may come forward with an amendment of the Central Excise and Salt Act, 1944 as has been done in the case of the Customs Act and the Gold (Control) Act cited by the Ministry.”

290 The Ministry of Finance (Department of Revenue) to whom the aforesaid recommendation of the Committee was forwarded on 6 December, 1980, in their reply dated 15 December, 1980 stated that a suitable provision was proposed to be made in the draft Central Excise Bill which was under finalisation.

291 On being asked to furnish their final reply in the matter, the Ministry *vide* their O.M. dated 3 July, 1981 stated that as already intimated by them a suitable provision was proposed to be made in the draft Bill which was under finalisation. The Ministry further stated that since finalisation and introduction of the Bill and its passage by Parliament would take considerable time, the matter might be treated as closed at that stage in view of their earlier reply of 15 December, 1980.



292 To a query as to the approximate date by which the Ministry proposed to bring forward the necessary Bill for introduction in Lok Sabha the Ministry *vide* their O.M. dated 2 September, 1981 stated that efforts were being made to introduce the Comprehensive Central Excise Bill in the Lok Sabha as early as possible, perhaps in the Monsoon Session, 1981 unless that was found not feasible for reasons beyond the control of that Department. In view of that, the Ministry again requested that the matter might be treated as closed.

293 On being further asked, the Ministry *vide* their O.M. dated 20 November, 1981, stated as follows:

“.....every effort is being made to introduce the Comprehensive Central Excise Bill in the Lok Sabha as early as possible, perhaps in the forthcoming winter session of Parliament. However, it is difficult to give a firm date because of comprehensive nature of the draft it may take some more time for reasons beyond the control of the Department.

In view of the Govt's assurance to make suitable provisions in the comprehensive Bill on the question, it is requested that these facts may be brought to the notice of the Committee for their consideration and the matter may not be pursued further.”

294 In their last communication dated 18 November, 1982, the Ministry stated that every effort was being made to introduce the Comprehensive Central Excise Bill in Lok Sabha as early as possible. Under the present circumstances, it was very difficult to say when the Bill would be introduced in Parliament.

295 The Committee are surprised to note that though the Ministry of Finance (Department of Revenue) had intimated in December, 1980 that a suitable provision was proposed to be made in the draft Central Excise Bill which was under finalisation, they had not introduced it in Parliament so far and now are not even in a position to indicate precisely the time by which it would be introduced. The Committee, while expressing their dissatisfaction over this delay desire the Ministry to make concerted efforts and bring forth the comprehensive Bill at a very early date failing which they should bring forward the amending legislation exclusively for the purpose of amending the Act viz the Central Excise and Salt Act, 1944 to the desired effect.

(iii) *Amendment in the Indian Boilers Act, 1923.*

296 While examining the Indian Boiler (Twelfth Amendment) Regulations, 1978, (G.S.R. 1972 of 1978) the Committee had observed that the Indian Boiler Act, 1923 under which the regulations were framed, did not

provide for laying of Regulations before Parliament. The Ministry of Industry (Department of Industrial Development) with whom the matter was taken up in their reply dated 14 August, 1980 *inter alia* stated as under:—

“It has also been decided by this Department to incorporate a provision in the Indian Boilers Act for laying of regulations framed thereunder before the Parliament as suggested by the Committee on Subordinate Legislation.

Accordingly, steps are now being taken by this Department for amendment of the relevant provisions of the Indian Boilers Act, 1923.”

297 The Committee, after considering the aforesaid reply of the Ministry, in paragraph 42 of their Fifth Report (Seventh Lok Sabha) presented to the House on 19 March, 1981, made the following recommendation:—

“The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have agreed to amend the relevant provisions of the Indian Boilers Act, 1923, to provide for laying of Regulations framed thereunder before Parliament. The Committee desire the Ministry of Industry (Department of Industrial Development) to amend the said Act at an early date.”

298 The Ministry of Industry (Department of Industrial Development) to whom the aforesaid recommendation of the Committee was forwarded, in their O.M. dated 18 April, 1981 stated that they were taking steps to amend the relevant provisions of the Indian Boilers Act, 1923 in order to give effect to the recommendation of the Committee and also in accordance with the decision taken by that Department on the recommendations of the Committee set up by the Government of India for comprehensive review of laws on Boilers and Unfired Pressure Vessels.

299 When asked to furnish final reply in the matter, the Ministry vide their D.O. dated 29 October, 1982 intimated as under:—

“.....a draft Summary for the Cabinet for amendment of the various provisions of the Indian Boilers Act, 1923 was prepared in accordance with the decision taken by this Department on the recommendations of the high-powered committee set up by the Govt. of India for comprehensive review of laws on boilers and unfired pressure Vessels. In order to give effect to the recommendations of the Committee on Subordinate Legislation

a provision has also been proposed in the draft Summary for the Cabinet for laying of regulations framed under the said Act before the Parliament. The draft Summary for the Cabinet was sent to the Ministry of Law (Department of Legal Affairs) on 29th May, 1981 for concurrence. Several reminders have been issued to the Ministry of Law (Department of Legal Affairs) including 3 D.O. reminders at Secretary's level. The draft Summary for the Cabinet is still under consideration of the Ministry of Law.

After receipt of the concurrence of the Ministry of Law further necessary steps will be taken for the amendment of the Indian Boilers Act, 1923."

300. The Committee observe that a draft Summary for the Cabinet prepared by the Ministry of Industry (Department of Industrial Development) for the amendment of various provisions of the Indian Boilers Act, 1923 had also included a provision for laying of regulations framed under the said Act with a view to implement Committee's recommendation made in paragraph 42 of their Fifth Report (Seventh Lok Sabha). The Committee further observe that the draft summary sent on 29 May, 1981 to the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) for their concurrence is stated to be still under their consideration which is most deplorable as it has resulted in non-finalisation of the comprehensive legislation by the Ministry concerned. The Committee would now urge upon the Ministry of Industry to get clearance from the Ministry of Law by holding mutual discussions among higher officers of both the Ministries instead of pursuing the matter by issue of official reminders. The Ministry should thereafter, obtain Cabinet's approval before introduction thereof. In case, however, clearance from the Ministry of Law is likely to take a considerable time, the Ministry ought to introduce the Amendment Bill specifically for the purpose of making provision for laying of regulations. In this connection, the Committee would like to draw attention of the Ministry to their recommendation made in paragraph 9 of their Eighth Report (Seventh Lok Sabha) which inter alia states that in case where finalisation of other amendments is likely to take some more time, the Ministries should bring forward the amending legislation exclusively for that purpose immediately.

301. The Committee also take note of the fact that for incorporating a provision regarding 'Laying of rules' on the Table the Ministry did have an opportunity to amend the Act *ibid* by including the same in the comprehensive Delegated Legislation Provisions (Amendment) Bill since introduced in the Rajya Sabha on 5 November, 1982 to make such a provision in 50 Acts (Appendix V) by the Ministry of Law.

302. The Committee further note in this connection, that the Ministry of Law in their O.M. No. F. 1(39)/82-Leg.I dated 23 November, 1982 (Appendix VI) have conceded that in nearly 150 other Acts 'laying of rules' provision will have to be incorporated. The Committee would, therefore, desire the Ministry of Law to ensure that the second proposed Delegated Legislation Provisions Bill is made so exhaustive as to cover all other Acts wherein, as recommended by the Committee in their various Reports such a provision should be made and that no Act is left out on the plea that a comprehensive legislation is intended to be brought forward for the purpose by any Ministry.

(iv) *Amendment to the University Grants Commission Act, 1956.*

303. The Central Acts containing provisions for delegation of legislative powers to subordinate authorities usually provide for rule-making by the Central and State Governments. A number of Central Acts, in addition to rules, provide for framing of regulations.

304. Normally, Acts contain provisions for laying of rules framed thereunder before Parliament but do not provide for laying of regulations before Parliament.

305. In this regard the Committee had undertaken a Study of certain Central Acts, one of which is the University Grants Commission Act, 1956 which provide for laying of rules but not regulations before Parliament.

306. The Committee, as far back as May, 1955, in para 37 of their Third Report (First Lok Sabha) had emphasised on Government to make a suitable provision for laying and modification in all future Bills, which may seek to delegate power to make rules, regulations, etc. or which may seek to amend earlier Acts giving power to make rules, regulations etc.

307. The Committee again dealt with this matter extensively and thereafter in paragraph 26 of their Seventh Report (Sixth Lok Sabha) presented to the House on 4 April, 1978 reiterated their earlier recommendation which reads as under:—

“The Committee reiterate their earlier recommendations on the subject and desire that like rules, regulations should also be laid before Parliament and there should be a provision to this effect in the relevant statutes. Like-wise, there should invariably be a provision in the relevant statutes for publication of regulations to be framed thereunder. With this end

in view, the Committee desire the Ministries/Departments of Government of India to examine all Acts delegating power to make regulations, with which they are administratively concerned, and to incorporate suitably provisions for publication and laying of regulations in those Acts which do not contain such provisions. The Committee desire the Ministry of Law/Department of Parliamentary Affairs to issue necessary instructions to all Ministries/Departments of the Government of India to this effect."

308. In response to the aforesaid recommendation of the Committee, the Ministry of Education and Social Welfare (Department of Education), in their communication dated 16 February, 1979 stated as under regarding amending of U.G.C. Act:—

"(1) University Grants Commission Act, 1956:

Section 26 of the UGC Act, 1956 empowers the Commission to make regulations in respect of such matters as procedure for conducting business at the meetings of the Commission, terms and conditions of service of the employees, institutions or class of institutions which may be recognised by the Commission under section 2(f) etc., specified in clauses (a) to (g) of sub-section (1) of section 26. Some of these Regulations are to be made by the Commission with the previous approval of the Central Government.

Section 27 of the Act also empowers the Commission to make regulations with the previous approval of the Central Government for delegation of powers to Chairman, Vice Chairman or any of officers of the Commission. There is at present no provision in the said Act either for notification of these Regulations in the Official Gazette or for laying them before Parliament. This Ministry will make necessary provision in the Act for publication of the Regulations in the Gazette of India as also for their laying before Parliament, at the earliest opportunity when the Act is next amended. It is not considered worthwhile to amend the Act just for this purpose only. The time and labour involved will not be commensurate with the purpose in view."

(2) Central Universities Acts:

There is provision in these Acts to the effect that the authorities concerned of the respective University may make Regulations consistent with the Act the Statutes and the Ordinances for the conduct of their own business and that of the Committee appointed by them. Having regard to

the autonomous character of the Universities and the scheme of their Acts of incorporation, it is felt that it will serve no useful purpose if these regulations and their amendments are placed before Parliament. It will only increase work and expenditure. Thus, it will not be possible to implement the recommendation of the Committee on Subordinate Legislation, in so far as the regulations of the Central Universities are concerned. As already stated the regulations contain very insignificant matters like regulations of procedure of meetings of the various authorities of the University which are hardly of any importance."

309. The Committee after considering the above reply of the Ministry and after hearing oral evidence of the representatives of that Ministry and the Ministry of Law, Justice and Company Affairs (Legislative Department), made the following recommendation in paragraphs 105 to 107 of their Sixth Report (Seventh Lok Sabha) presented to the House on 21 April, 1981:—

"105. The Committee note that the Ministry of Education and Culture (Department of Education) have no objection to amend the University Grants Commission Act, 1956, for making provision for publication of the Regulations in the Gazette as also for their laying before Parliament. The Committee desire the Ministry to amend the Act in this regard by the end of Autumn Session, 1981.

106. The Committee are not convinced with the arguments put forward by the representative of the Ministry of Education and Culture (Department of Education) that in case all statutes, ordinances and regulations issued under the Universities Acts and which pertain to day-to-day matters are laid before Parliament, it will increase the work of the Government as well as of Parliament and that it will not be economical also and in some respects it may even be wasteful. The Committee feel that in the absence of the provisions for laying of regulations which are framed under the Central Universities Acts to carry out the functions of the Universities, how could Parliament ensure that the regulations so framed under the delegated powers are within the limit laid down by it.

107. The Committee, therefore, reiterate their earlier recommendation contained in paras 36-37 of their Third Report (First Lok Sabha) wherein it has been impressed upon Government to incorporate suitable provisions in all Bills

for laying before and modification by Parliament of all rules, regulations etc. framed under the power delegated thereunder."

310. In their action taken reply dated 18 February, 1983, the Ministry of Education and Culture (Department of Education) *inter alia* stated as follows:—

"Government have already introduced a comprehensive Bill in Parliament to amend the Acts of the seven Central Universities. These amendments, *inter alia*, include provisions for laying before Parliament the Statutes, Ordinances or Regulations framed by the Central Universities. The Bill was passed by Rajya Sabha on 7-10-1982 and is pending in Lok Sabha.

The Ministry of Law, Justice and Company Affairs is introducing separately a single Bill to make similar provisions in a number of Central Acts. We have suggested that the UGC Act may be included in the proposed legislation so that Rules and Regulations framed under the UGC Act can also be laid before Parliament. This course was suggested as the finalisation of the amendments to the U.G.C. Act is likely to take some more time."

311. The Committee note that the Ministry of Education and Culture (Department of Education) have since introduced a comprehensive Bill (since passed by Rajya Sabha on 7-10-1982 and now pending in Lok Sabha) to amend Acts of the seven Central Universities to provide *inter alia* therein a provision for laying before Parliament the Statutes, Ordinances or Regulations framed by those Universities. The Ministry have not, however, amended the University Grants Commission Act, 1956 so far but now propose to include the said Act in the comprehensive Delegated Legislation Provisions (Amendment) Bill proposed to be introduced by the Ministry of Law soon for the purpose. The Committee, would therefore, urge the Ministry to ensure that as proposed by them the inclusion of the UGC Act therein is not lost sight of.

(v) *Amendment to the Cantonments Act, 1924, Agriculture Produce Grading and Marking Act, 1937, Narcotics Laws—the Dangerous Drugs Act, 1930 and Opium Act, 1857 and 1878 and the Central Reserve Police Force Act, 1949.*

312. During the course of the scrutiny of the various statutory Orders, the Committee on Subordinate legislation in paragraph 6 of their Eighth Report (Seventh Lok Sabha) had noted that in respect of the following

Orders, the corresponding enabling Acts did not contain the usual provision for laying of Orders before Parliament.

- (1) The Poona Cantonment (Division into Wards) Amendment Rules, 1977 (S.R.O. 74 of 1977);
- (2) The Raw Meat (Chilled or Frozen) Grading and Marking Rules, 1977 (S.O. 1251 of 1977);
- (3) The Central Manufactured Drugs (Amendment) Rules, 1977 (S.O. 1541 of 1977);
- (4) The Central Reserve Police Force (Amendment) Rules, 1977 (C.S.R. 480 of 1977);
- (5) The Central Reserve Police Force (Second Amendment) Rules, 1977 (G.S.R. 823 of 1977); and
- (6) The Central Reserve Police Force (Third Amendment) Rules, 1977, (G.S.R. 1673 of 1977).

313. When this lacuna along with an earlier recommendation of the Committee contained in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) regarding incorporation of a laying provision in the Acts was brought to the notice of the Ministries concerned with the aforesaid Orders, they stated that they were taking steps for incorporation of the said provision in the enabling Acts.

314. After perusing the replies furnished by those Ministries viz. Defence, Agriculture and Irrigation (Department of Rural Development) Finance and Home Affairs respectively, the Committee in paragraph 9 of their Eighth Report (Seventh Lok Sabha) presented to the House on 18 September, 1981 observed as follows:—

“While noting that the Ministries concerned are taking necessary steps for incorporation of the requisite provisions in the enabling enactments for laying of the Statutory Orders framed thereunder before Parliament, the Committee are constrained to observe that the Ministries concerned have not shown the due urgency and earnestness in implementing the recommendation of the Committee and the infirmities have been allowed to prolong for years. The Committee, therefore, once again impress upon the Ministries concerned to bring forth the necessary amending legislation before Parliament to incorporate in the Acts the requisite provisions for laying of the Statutory Orders framed thereunder as recommended by the Committee in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) presented



to the House on 20 December, 1974. In cases where finalisation of other amendments is likely to take some more time, the Ministries should bring forward the amending legislation exclusively for this purpose immediately.”

315. In compliance with the aforesaid recommendation of the Committee, the above mentioned Ministries have taken the following steps in regard to amendment of the enabling Acts, namely (i) Cantonments Act, 1924; (ii) Agriculture Produce Grading and Marking Act, 1937; (iii) Narcotics Laws—the Dangerous Drugs Act, 1930 and the Opium Act of 1857; and (iv) Central Reserve Police Force Act, 1949:—

(a) *Cantonment Act, 1924—Ministry of Defence*

316. The Hon'ble Minister of Defence has since introduced in Lok Sabha the Cantonments Act, 1924 on 9 July, 1982. He has also now tabled a Notice of Amendment to the said amendment Bill for incorporating the model clause in the Cantonments Act as approved by the Committee for laying of Rules.

**317. The Committee note with satisfaction that the Minister of Defence had since introduced the Cantonments (Amendment) Bill, 1982 to amend the Cantonments Act, 1924 and Government have tabled a Notice of Amendment to the Bill for incorporating the requisite laying provision in the Act in compliance with the Committee's recommendation in this regard. The Committee would like to place on record their appreciation of Government's action in implementing their recommendation though belatedly.**

(b) *Agriculture Produce Grading and Marketing Act, 1937—Ministry of Agriculture and Irrigation (Department of Rural Development) now Ministry of Rural Development.*

318. The Ministry of Rural Development vide their O.M. dated 24 August, 1982 had stated that the Ministry of Law (Department of Legal Affairs) who were consulted regarding the amendment of the Act in question for incorporating a provision therein had intimated to them that they were considering a proposal for the introduction of a comprehensive Bill covering various enactments including the Agriculture Produce Grading and Marking Act, 1937 which required similar amendments.

319. The long awaited comprehensive Bill viz. the Delegated Legislation Provisions (Amendment) Bill, 1982 has since been introduced in the Rajya Sabha on 5 November, 1982. As intimated by the Ministry of Rural Development the Act of 1937 cited above finds a place in the comprehensive Bill for the purpose.

**320. The Committee note in this connection that Government in the Ministry of Law have at last brought forward the long awaited comprehensive Bill on the provisions of the Delegated Legislation covering a**

number of Acts including the Agriculture Produce Grading and Marking Act, 1937 in pursuance of the Committee's recommendation made in this regard in their various Reports about different Acts. The Committee would, however, desire the Ministry of Law to bring forth another comprehensive Bill at a very early date which should cover all the other remaining Acts which do not contain laying provision.

(c) *Narcotics Laws* (i) *the Damagerous Drugs Act, 1930* and (ii) *Opium Act, 1857—Ministry of Finance (Department of Revenue)*.

321. The perusal of the comprehensive Bill viz. the Delegated Legislation Provisions (Amendment) Bill, 1982 since introduced in the Rajya Sabha by the Ministry of Law showed that the aforementioned Acts on Narcotics Laws also find a place therein seeking to provide the provision for laying of Rules framed thereunder.

322. The Committee note that the two Acts on Narcotics laws—(i) the Dangerous Drugs Act, 1930 and (ii) the Opium Act, 1857 have since been included in the Comprehensive Bill on the provisions of the Delegated Legislation since introduced by the Ministry of Law for incorporating laying provisions in about 50 Acts. The Committee also note that the Ministry of Finance who administer the aforesaid Acts, are alive to the Committee's recommendation made by them in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) for incorporating a provision for laying of rules before Parliament in other Acts with which they are concerned but do not contain such a provision.

323. The Committee would, however, observe and stress that the Opium Act, 1978 which also ought to have been included in the aforesaid comprehensive Bill should now be included in the next Delegated Legislation Bill being proposed to be introduced by the Ministry of Law soon.

(d) *The Central Reserve Police Force Act, 1949—Ministry of Home Affairs*.

324. In their Action Taken Note received with the Ministry's O.M. dated 14 January, 1983 it was stated that they proposed to incorporate a provision in this regard in the Amendment Bill of the Central Reserve Police Force Act which would include certain other changes in the laws presently under consideration. The Ministry further stated that, in the meantime, Ministry of Law were contemplating to introduce a comprehensive legislation containing therein provision for laying rules before Parliament in respect of various Acts which did not contain such a provision and that the name of the Central Reserve Police Force Act had been included in the proposed comprehensive Legislation. In view of that there did not appear to be any need for passing a separate

Legislation incorporating therein rule laying power in respect of the Central Reserve Police Force Act or incorporating a provision in this regard in the Central Reserve Police Force Amendment Bill.

325. The Committee note that the Ministry of Home Affairs have since included the name of the Central Reserve Police Force Act, 1949 for incorporating therein a laying provision in the second comprehensive Bill on the provisions of Delegated Legislation being contemplated to be introduced by the Ministry of Law soon. The Committee hope that the Ministry will ensure that the comprehensive Bill when introduced by the Ministry of Law includes a provision in respect of the CRPF Act also positively.

## CHAPTER V

### GENERAL OBSERVATIONS

#### Provision regarding laying of Rules on the Table of the House

326. The Committee on Subordinate Legislation (Lok Sabha) have from time to time, recommended in their Reports to the House that in order to enable the Committee to examine any 'Orders' issued by Government as defined in the Rules of Procedure and Conduct of Business in Lok Sabha, there should be invariably a provision in the Statutes for laying of rules and regulations (in order) on the Table of the House. These recommendations have been widely circulated to all the Ministries/Departments of the Government of India. Attention in this connection is drawn to the following recommendations of the Committee made in their various Reports:—

Report	Lok Sabha	Date of presentation	Para
Third	First	3-5-1955	37
Ninth	Fifth	19-11-1973	13 (5—18)
Fourteenth	Fifth	20-12-1974	11

327. These are similar recommendations have also been consolidated and circulated to the Ministries/Departments of the Government of India by the Department of Parliamentary Affairs vide their letter No. 32(7)/75-R&C dated 5 July, 1976. The summary of these recommendations is given below:

\* \* \* \*

- (iv) A high ranking officer in each Ministry/Department should be made responsible for ensuring the timely laying of rules on the Table of the House and for compliance of the statutory requirements relating to Subordinate Legislation. He should devise his own procedure to avoid cases of delay.

\* \* \* \*

- (vi) The Committee on Subordinate Legislation of both the Houses of Parliament had approved the following revised model clause

for the laying of the rules, etc. before Parliament for incorporation in the Acts of Parliament providing for delegation of Legislative powers. According to this clause, all rules shall be laid before the House of Parliament for a period of 30 days which may be comprised in one or two or more successive sessions:—

“Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.”

328. The Department of Parliamentary Affairs had also suggested to Ministries that they should incorporate the revised formula in the new legislation as well as in the existing Acts as and when Bills to amend them are brought before Parliament. They also desired that it should also be incorporated in the *legislation pending before Parliament* in order to ensure uniformity in the matter. These were again repeated and stressed in the Department of Parliamentary Affairs O.M. of even No. dated 6-2-1976.

328A. The Committee, however, find that these specific recommendations of the Committee have not had the desired impact on the Ministries/Departments of the Government of India and some of the Ministries/Departments still continue to avoid inclusion of the model clause laying provision in the statutes concerned until the Committee or, on their behalf, the Secretariat point out the lacunae.

329. The Committee therefore, strongly deprecate the neglect on the part of Government towards providing of ‘laying of rules’ provision in the Bills. While the comprehensive Bill on the subject introduced in the Rajya Sabha on 5 November, 1982 and further contemplation of the Ministry of Law to introduce another similar Bill is to be welcomed; it is distressing that the Government takes action on matters only after it is pointed out by the Committee.

330. During the scrutiny of various Bills introduced in Parliament, the Committee found that the following three Bills did not include the provisions for laying of rules therein:—

- (i) The Marriage Laws (Amendment) Bill, 1981.
- (ii) The Pharmacy (Amendment) Bill, 1981; and
- (iii) The Indian Railways (Amendment) Bill, 1982.

331. In the case of the Marriage Laws (Amendment) Bill, 1981, the Committee find that the Ministry of Law, Justice and Company Affairs in their O.M. dated 13 April, 1981 have regretted the omission and have promised to comply with their recommendation by moving an official amendment to the desired effect at the time of consideration of the Bill. The Committee hope that this will be done.

332. As regards the Pharmacy (Amendment) Bill, 1981, the Committee note that the Ministry of Health and Family Welfare have stated that the said Bill has a limited scope in regard to extending the time-limit prescribed in the second proviso to sub-section 1 of Section 42 of the Pharmacy Act, 1948, as explained in the statement of Objects and Reasons appended to the Bill. The Committee further note that the Ministry now propose to bring a comprehensive Bill for amending the Pharmacy Act, wherein a provision for laying of rules, regulations framed thereunder will also be taken into account. In this connection, the Committee observe that this again is an illustration of the piecemeal thinking of the Government in the Ministry of Health and Family Welfare in so far as the laying provision is concerned. The Committee feel that the Ministry could have provided for the same by including the Pharmacy Act in the Delegated Legislation (Provisions) Amendment Bill since introduced in the Rajya Sabha on 5 November, 1982, which has not been done.

333. In regard to the Indian Railways (Amendment) Bill, 1982, the Committee observe that sections 56(E) and 82(J) of the Principal Act which confer rule-making power on the Central Government contain the requisite formula for laying and modification of such rules by Parliament but sections 22, 47, 71E and 84 which also confer rule-making power do not have corresponding provisions for laying and modifications of such rules by Parliament. The Committee further observe that the Ministry of Railways with whom the matter was taken up on 13 March, 1982 have stated that the Indian Railways Act, 1890 is under comprehensive revision. The draft Bill seeking to revise the Indian Railways Act, 1890, is likely to be brought before Parliament shortly and Clause 225 thereof would contain the necessary provisions for laying copies of the rules framed thereunder in

**Parliament. The Committee express the hope that the said comprehensive Bill will be introduced soon.**

334. The Committee also note that the Ministry of Finance in their communication No. F.16/50/77-80 dated 4 January, 1983 have indicated that they are taking parallel action to introduce a common amendment Bill to amend the following Acts for the purpose of providing for laying of rules therein:—

- (i) The Banking Regulation Act, 1949;
- (ii) The State Bank of India Act, 1955;
- (iii) The Deposit Insurance and Credit Guarantee Corporation Act, 1961;
- (iv) The Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970;
- (v) The Regional Rural Bank Act, 1976;
- (vi) The State Bank of India (Subsidiary Banks) Act, 1959; and
- (vii) The Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980.

335. The Committee feel that, though from their point of view there may not be any objection to such a separate common amendment bill at the same time, the Ministry could at least ensure that the other wings of the Ministry also equally acted promptly. The Ministry's communication further says that, in so far as other enactments which are being administered by the Ministry of Finance, are concerned, necessary information will be furnished to the Committee by the Departments of Revenue, Expenditure and Economic Affairs (Economic Division) and Bureau of Public Enterprises Defence Division Insurance Division etc. direct. The Committee, however, note in this connection that the Office of the Controller General of Defence Accounts have since intimated *vide* their communication dated 30 March, 1983 that in so far as the Defence Accounts Department is concerned, they have no information to furnish on the subject.

336. The Committee observe that one of the arguments advanced by most Ministries (where it relates to laying of rules provision or any other provision) is that Government are contemplating to introduce a comprehensive legislation. Usually, as observed by the Committee such comprehensive legislation is delayed over three to four years from the dates of recommendations made by the Committee in their Reports. The Committee notice that in a number of cases (Appendix VII) Government have

introduced and got passed Bills to amend only one or two specific sections. When the Government can, thus, suo moto initiate legislation to amend only one or two specific sections of the statute, the Committee express their surprise and displeasure at the lackadaisical manner in which their recommendations for amending specific sections of the statutes have been attended to by the Ministries. The Committee would emphasise the need for reducing delay to the minimum and also desire that, where introduction of such comprehensive Bills is likely to take a long time, Bills for making specific amendments in implementation of the Committee's recommendations should invariably be introduced in Lok Sabha at the next earliest occasion immediately after presentation of their Reports. The Committee, therefore, desire the Department of Parliamentary Affairs to bring to the notice of the Ministries/Departments the above observations of the Committee for their guidance and strict compliance in future.



## CHAPTER VI

### ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS MADE BY, AND ASSURANCES GIVEN TO, THE COMMITTEE ON SUBORDINATE LEGISLATION

337. With a view to ensure speedy implementation of their recommendations, the Committee on Subordinate Legislation in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), presented to the House on 9 May, 1975, fixed a time-limit of six months for implementation thereof by the Ministries/Departments of the Government of India.

338. The Committee find that certain Ministries/Departments have taken an unusually long time in implementing their recommendations. It will be observed from the cases mentioned at S. Nos. 1, 4, 9, 11, 13, 14 and 18 of Appendix VIII that the period of delay ranges between 2 and 8 years in implementing them. The Committee would like the Ministries/Departments to be more careful in future and strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations.

339. In certain cases listed in the Appendix, the Committee find that the recommendations have been implemented within the time-limit prescribed by them. The Committee place on record their appreciation of the promptness with which the Ministries/Departments concerned have implemented their recommendations within the time-limit.

NEW DELHI;  
May 5, 1983.

*Vaisakha 15, 1905 (Saka)*

MOOL CHAND DAGA,  
*Chairman,*

*Committee on Subordinate Legislation*

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## **APPENDICES**

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## APPENDIX I

*Vide* (para 10 of the Report)

### Summary of main Recommendations/observations made by the Committee

S. No.	Para No.	Summary
1	2	3
1 (M/o Works and Housing)	17	The Committee note that the Ministry of Works and Housing is implementation of their recommendation had brought forward a Bill seeking amendment to the Requisitioning and Acquisition of Immovable Property Act, 1952 which was passed by Lok Sabha on 19.3.1980 and by Rajya Sabha on 26.3.1980. The Committee are, however, unhappy to note that even after issue of the second reminder on 28.2.1980, the Ministry did not care to intimate the action already taken by them in regard to implementation of their recommendation.
2 (M/o Finance Deptt. of Revenue)	22	The Committee note that although the Ministry of Finance had implemented their recommendation made in Paragraph 43 of their Sixth Report (Sixth Lok Sabha) as far back as 29.10.1979, the Ministry did not intimate this fact to the Committee in spite of the Ministry having been asked in this regard on 26.2.1980 and 10.4.1981. The Committee further note that it was only when the matter was taken up at the level of the Secretary of the Ministry through a D.O letter dated 27.8.1982 that the Ministry intimated the action since taken by them. The Committee are constrained to observe that the Ministry not only failed to intimate to the Committee the action taken by them on their recommendation but also failed to take notice of the two communications sent to them. The Committee, however, note that, in this connection, the displeasure of the Chairman of the Committee over the scant regard shown to the communications sent by them, had been conveyed to the Secretary of the Ministry on 14.10.1982.

1	2	3
3 (M/o Finance Deptt. of Revenue)	31	<p>The Committee note that the recommendation made by them in paragraph 28 of their Eleventh Report (Sixth Lok Sabha) became infructuous when the Ministry of Finance (Department of Revenue) intimated to them <i>vide</i> their O.M. dated 31-8-1982 that Rule 11 of the Central Excise Rules, 1944 which had been commented upon by them, had been deleted with effect from 17-11-1980. The Committee are pained to observe that the Ministry which should have informed them <i>suo moto</i> about this position soon after the Rule in question was omitted did not do so. The Committee, however, observe that, in this connection, the displeasure of the Chairman of the Committee over the indifferent manner in which the implementation of their recommendation was reported by the Ministry, had been conveyed to the Secretary of the Ministry <i>vide</i> letter dated 24-9-1982. The Committee, therefore, do not desire to pursue the matter further.</p>
4 [M/o Communica- tions (P&T Deptt.)]	36	<p>The Committee note with concern that, although the Ministry of Communications had amended the Rules in question as desired by them as far back as October, 1980 and January, 1982, they had failed to intimate to the Committee the action taken by them. The Committee further note that even the reminders issued on 6th March, 1980 and 30th September, 1980 for pursuing implementation of their recommendation did not evoke the Ministry's response. The Committee have a feeling that there are no satisfactory arrangements in the Ministry to attend to the communications sent by a Parliamentary Committee.</p>
5 (M/o Industry Deptt. of Industrial Development)	40	<p>The Committee note with satisfaction that the Ministry of Industry have implemented their recommendation made in paragraph 42 of their Nineteenth Report (Sixth Lok Sabha) within six months of its presentation. The Committee are, however, compelled to remark that, due to the failure of the Ministry to intimate to the Committee the action taken by</p>

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them, the Committee could not take note of the prompt action otherwise taken by the Ministry. The Committee feel that the omission on the part of the Ministry in replying to the communications sent to them by the Committee in that regard had devalued the commendable work done by them by implementing the Committee's recommendation well in time.

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[M/o Home  
Affairs  
(Deptt. of  
Per & A.R.)]

The Committee note that while the Department of Personnel and Administrative Reforms *vide* their communication dated 18.3.1980 had intimated to them regarding implementation of one of their recommendations made in paragraph 52 of their Nineteenth Report (Sixth Lok Sabha) by issuing necessary instructions to all Ministries/Departments for compliance on 22-5-1979 *i.e.* within one month of the presentation of their Report, the Department did not inform the Committee the fact of the implementation of their other recommendation which related to amendment of rule 3 of the Central Vigilance Commission (Staff) Rules, 1964. About this part of the recommendation, the Department simply kept the Committee informed of the progress being made in the amendment of the rules. The Committee find that the last letter of the Department received in the matter is dated 4.9.1980. The Committee observe that it was only after the matter was taken up with the Secretary of the Department that the Committee came to know through their letter dated 18.9-1982 that the requisite amendment had been made *vide* Notification dated 25.10.1980. While appreciating the prompt implementation of one of their recommendations and its timely intimation to them, the Committee are forced to deplore the failure on the part of the Department to intimate the fact of the implementation of the other part of their recommendation as far back as 25.10.1980, immediately thereafter.

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(Deptt. of environ-

The Committee note that in pursuance of their recommendation the Ministry of Agriculture (Depart-

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ment of Agriculture) had notified the requisite amendment to sub-rule (1) of Rule 4 of the Wild Life (Transactions and Taxidermy) Rules, 1977 in the Gazette vide G.S.R. 401-E dated 22.6.1981. The Committee, however, observe that the Ministry had not intimated this fact to the Committee which is most deplorable. The Committee would, therefore, impress upon the Ministry the need to invariably intimate the Committee as and when any rules are amended in compliance with the Committee's recommendation.

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M/o Law, Justice  
and Company  
Affairs (Deptt. of  
Legal Affairs)

The Committee note that, although the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) have since amended Rule 9 of the Law Officers (Conditions of Services) Rules, 1972 as desired by them vide GSR 1108 dated 29.12.1981, the Ministry have not intimated this fact to the Committee so far. The Committee, therefore, cannot help exhorting the Ministry that, in future, after an amendment to a rule in pursuance of the Committee's recommendation is notified, the Ministry should forthwith intimate the fact to the Committee without awaiting a reminder from them.

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M/o Shipping and  
Transport  
(Transport wing)

The Committee note that as desired by them in paragraphs 45 and 46 of their Seventeenth Report (Sixth Lok Sabha), the Ministry of Shipping and Transport (Transport Wing) have since amended Paragraph 58-E(4) of the Seamen's Provident Fund Scheme, 1966 vide G.S.R. 881 dated 23-8-1980. The Committee, however, observe that the Ministry after their O.M. of 13-5-1980, had not even the courtesy to intimate the fact of the amendment having been carried out by them nor did the Ministry send a copy of the notification containing the said amendment. The Committee express their displeasure over the failure on the part of the Ministry in that regard and would like such lapses not to recur in future.

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10 70  
M/o Labour

The Committee note that, although in compliance with their recommendation contained in paragraph 71 of their Twenty-First Report (Sixth Lok Sabha) the Ministry of Labour had amended the Mica Mines Labour Welfare Fund Organisation (Class I and Class II Posts) Recruitment Rules, 1976 vide G.S.R. 108 dated 20-11-1979 to read as Labour Welfare Organisation, Ministry of Labour (Group 'A' and 'B' Posts) Recruitment Rules, 1979, the Ministry had not intimated this fact until a D.O. reminder was issued to them in January, 1983 in that connection. The Committee observe with distress that such neglect on the part of the Ministry reflects the casual manner in which the Ministry treat the recommendations of the Committee, which is most deplorable.

11 73  
Dept. of Parliamentary Affairs

Although the Committee note that, in all the above cases Government have taken action as desired by the Committee, the Committee are distressed to observe that the fact that these recommendations originated from the Committee had been relegated to the background as Government were not courteous enough to acknowledge the same while implementing them. This reflect a contempt and indifference by the Ministries towards the Committee's recommendations. The Committee further observe that when, it was at their instance that the relevant rules/acts were amended by the Ministries/Departments concerned, it was their primary duty to inform the Committee immediately after the recommendations were implemented. The Committee, therefore, urge upon the Department of Parliamentary Affairs to strictly enjoin on all Ministries/Departments of the Government of India that, in future they should keep the Secretariat of the Committee informed simultaneously with the action taken by them to implement their recommendations and not await till the Ministry's attention was drawn to that aspect. The Committee are compelled to deplore this state of affairs in the Ministries and hope that this would not recur in future and that a healthy, bind-

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ing convention is developed so that Government intimated forthwith the action taken by them in implementing the Committee's recommendations, and the matter is not pursued further by the Committee for ascertaining the latest position.

12            85  
M/o Finance  
(Dept. of Economic  
Affairs)

The Committee note that it is now more than two years ago since the Committee had made recommendations in paragraphs 35 to 39 of their Fourth Report (Seventh Lok Sabha) presented to the House on 10 December, 1980. The Committee further note that while the Ministry vide their O.M. dated 19 May, 1981 had intimated that they had noted the recommendations/views of the Committee contained in these paragraphs, the Ministry had not stated anything about the specific recommendation made by them in paragraph 36 thereof. It was only when the matter was taken up with the Secretary of the Ministry that the Ministry *inter alia* stated that the Employees of the General Insurance Industry had challenged the powers of the Central Government to amend the Schemes in various High Courts and the Supreme Court. It was further stated that, after the judgement of the Court was available, if necessary, a comprehensive amendment would be made to the Act viz. the General Insurance Business (Nationalisation) Act, 1972. The Committee, however, observe that the appeal of the Employees lying in the Supreme Court has nothing to do with the recommendation of the Committee. The Committee, therefore, desire that the Ministry of Finance should ensure introduction of an amendment Bill in Parliament for incorporating a provision in the said Act for validating the Rules already made and given retrospective effect. In the Committee's view such an amendment to the Act will not be affected by the fact that the Amendment Order issued in 1980 is *sub judice*.

13            96  
M/o Shipping and  
Transport

The Committee note that although a period of more than 2 years has elapsed since a copy of the Fourth Report (Seventh Lok Sabha) was forwarded to the Ministry of Shipping and Transport for implementation of their recommendation contained in



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<p>14(i) 104 M/o Tourism and Civil Aviation</p>	<p>paragraph 48 thereof, the Ministry have not been able to finalise the requisite amendment so far. The Committee observe that it was on the Ministry stating that the reasons for curtailing or extending the period of probation by the concerned authority were being recorded in writing that the Committee had recommended placing the same on a statutory footing by amending the rules. The Committee further observe that except for their first reply in the matter dated 14 April, 1981 other replies received from them were only after the issue of reminders at each stage which is not a happy state of affairs. The Committee, however, now desire the Ministry to finalise the amendment without any further delay and to notify the same in accordance with their recommendations.</p>	<p>The Committee note with distress that even though the Ministry of Tourism and Civil Aviation had vide their O.M. dated 22 April, 1981 intimated that the necessary action was being initiated to notify the proposed amendments to the Rules in question as approved by the Committee in paragraph 69 of their Fifth Report (Seventh Lok Sabha), it has not yet been done.</p>
<p>14(ii) 105 M/o Tourism and Civil Aviation</p>	<p>From their latest reply dated 9 March, 1983, the Committee observe that the Ministry obviously did not send the proposal to the Ministry of Law for vetting the final notification immediately after receiving the objections/suggestions from the public on the draft rules which resulted in re-publication thereof. The Committee cannot help expressing their unhappiness over the delay in implementing their recommendation so far. The Committee would now like the Ministry to amend the rules without any further delay and to intimate the same to the Committee at an early date.</p>	
<p>15 120 M/o Defence</p>	<p>As regards the recommendation contained in paragraph 19 of the Sixth Report (Seventh Lok Sabha), the Committee note that, although the Ministry have received necessary information from all Maritime States the matter is stated to be still under consideration of the Ministry of Law for approval of a S.R.O. in that regard. The Committee, while deploring the</p>	

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		<p>inordinate delay in implementing their recommendation, desire the Ministry to reduce such delays to the minimum in future. As regards the present case, the Committee would like the Ministry to finalise the matter at an early date by issue of a requisite S.R.O. under intimation to the Committee.</p>
16	131	
M/o Energy (Deptt. of Petroleum)		<p>Observing that the work relating to framing of a compact set of rules is a time-consuming job and the fact that the Department of Petroleum are making sincere efforts in completing the job as early as possible which is evident from their various communications received from time to time intimating the progress made at each stage in the matter, the Committee agree to give further extension of time for completing the work by the end of August, 1983, as requested by the Department. The Committee, however, hope and trust that there would be no occasion for seeking further extension of time.</p>
17	136	
M/o Energy (Deptt. of Petroleum)		<p>In view of the specific reply of the Department of Petroleum that sub-section (3) of Section 31 of the Oil Industry (Development) Act, 1974 provides that every rule made by the Central Government should be laid before Parliament as soon as it is made, the Committee, on reconsideration would not like to pursue their earlier recommendation made in paragraph 21 of their Seventh Report (Seventh Lok Sabha) whereby the Committee had desired the Department to incorporate a suitable provision in the Oil Industry Development Board Employees' (General Conditions of Service) Rules, 1978.</p>
18(i)	144	
M/o Finance (Deptt. of Expenditure)		<p>The Committee deprecate strongly the inordinate delay in implementing their recommendation which was first made in paragraphs 49 to 51 of their Eleventh Report (Sixth Lok Sabha) and was reiterated in paragraph 61 of their Seventh Report (Seventh Lok Sabha) presented to the House on 8 September, 1981 i.e. more than one and a half years hence.</p>

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18(ii) 145  
M/o Finance,  
(Deptt. of Expendi-  
ture) &  
M/o Home Affairs  
(Deptt. of Pr. &  
A R)

However, in view of the latest reply dated 10 December, 1982 received from the Ministry, the Committee hope that the matter would now be finalised soon in consultation with the Department of Personnel and Administrative Reforms and the Ministry would issue the necessary amendments to ICAS (Group 'A') Recruitment Rules to the desired effect. The Committee also hope that the standard provision laying down principles of seniority would now be incorporated in all Recruitment Rules by the Department of Personnel and Administrative Reforms as intimated by the Ministry of Finance (Department of Expenditure) in their earlier reply dated 19 April, 1982.

19 150  
Deptt. of Agriculture  
Research and educa-  
tion.

The Committee note that the Ministry of Agriculture have not yet amended the IARI (Allotment of Residences) Rules, 1977 as desired by them in paragraph 38 of their Eighth Report (Seventh Lok Sabha) which was presented on 18 September, 1981. Further it was only after the issue of reminders on 4 November, 1982 and 29 January, 1983 that the Ministry (Indian Council of Agricultural Research) furnished their reply in the matter *vide* their O.M. dated 18 February, 1983 and that too an *interim* one. The Committee would stress that instead of waiting for the reminders from the Committee, the Ministry should have acted *suo motu* in furnishing their reply. However, in view of the Ministry's reply dated 18 February, 1983, the Committee hope that the requisite amendment would now be issued with the least possible delay as desired by them.

20(i) 160  
M/o Industry  
(Deptt. of Industrial  
Development)

The Committee note that in compliance with their recommendation made in paragraph 10 of their Seventh Report (Seventh Lok Sabha), the Ministry of Industry (Department of Industrial Development) have since taken certain steps in order to streamline the procedure to avoid delay in processing the amendment to the Indian Boiler Regulations, 1950.

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20(ii) M/o Industry (Deptt. of Industrial Development)	161	As regards their recommendation contained in paragraph 9 of their aforesaid Report regarding laying down of suitable guidelines, the Committee note that, although a period of more than a year and a half has elapsed since the Report of the Committee was presented to the House and a copy thereof was sent to the Ministry for necessary action, the recommendation is yet to be implemented. The Committee however, hope that the Ministry by now would have placed the matter before the Central Boilers Board at its meeting which was expected to be held sometime in the month of March, 1983 and would get the Regulations amended so as to provide therein suitable guidelines as suggested by the Committee earlier.
21(i) M/o Tourism & Civil Aviation	171	The Committee note that, except for an interim information received in September, 1981 the Ministry of Tourism and Civil Aviation have not conveyed anything further in the matter even after issue of a reminder in November, 1982 and a d.o. letter to the Secretary of the Ministry in February, 1983. The Committee deplore this indifferent attitude of the Ministry.
21(ii) M/o Tourism & Civil Aviation	172	As a period of more than one and a half years has already elapsed since the Committee had made their recommendations in paragraphs 50 to 52 of their Eighth Report (Seventh Lok Sabha), the Committee desire that the Ministry should fix responsibility for this lapse. The Committee also expect the Ministry to issue the requisite amendment without any further delay as recommended by them earlier in this regard.
21(iii) DPA	173	The Committee, however, note with satisfaction that as desired by them in paragraph 52 of their aforesaid Report, the Department of Parliamentary Affairs have since circulated their recommendations/ observations to all Ministries/Departments of the Government of India for their information and guidance <i>vide</i> their O.M. dated 6 February, 1982.

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22 M/o Defence	180	<p>While noting that the Ministry of Defence have agreed with the recommendation of the Committee contained in paragraph 42 of their Eighth Report (Seventh Lok Sabha), the Committee deplore that though a period of more than a year and a half has already elapsed since the Committee had made their aforesaid recommendation, the Rules in question have not been amended so far. The Committee would, therefore expect the Ministry to issue the necessary amendment to the desired effect without any further delay whatsoever.</p>
23 M/o Education & Culture (Deptt. of Education)	191	<p>The Committee note that the recommendation made by them in paragraph 74 of their Twelfth Report (Fifth Lok Sabha) was re-iterated in paragraphs 92 to 94 of their Sixteenth Report (Fifth Lok Sabha) presented to the House as far back as on 9 May, 1975. The Committee, in this connection, further note that the Committee had granted extension of time to the Ministry to implement their recommendations only upto the end of September, 1975. The Committee, however, observe that, as on 30-3-1983, the Ministry of Education are yet to issue the revised rules. Thus, in spite of the lapse of more than 7 years, the Ministry had been seeking extension of time off and on. The Committee further observe that, although the Ministry have accepted their recommendation, yet in actual practice the Ministry do not appear to be willing to implement them quickly. Therefore, the Committee in the normal course would have expected the Ministry to go into each stage of delay at the end of the Ministry as well as the University Grants Commission and fix responsibility for the lapse. However, in view of the latest reply of the Ministry the Committee hope and trust that there would be no further delay in notifying the requisite Rules.</p>
24(i) M/o Industry (Deptt. of Industrial Development)	202	<p>In paragraph 151 of their Thirteenth Report (Fifth Lok Sabha) presented to the House on 12 August, 1974 the Committee had reiterated their earlier recommendation whereby the Committee had desired the Ministry to amend rule 93 of the Explosives</p>

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Rules 1940 so as to provide an opportunity of being heard to the licensee before his licence was cancelled. In the year 1978 the Indian Explosives Act had been amended (though not enforced as yet) and under that Act statutory powers have been given to the authorities mentioned in Section 6E thereof to vary, suspend or revoke licences granted under the Act which would not now be dependent on Rules. Thus, the Committee observe, that there has been a fundamental change in the factual position. The Committee would not, therefore, like to pursue the matter any further so far as this aspect is concerned.

24(ii) 203  
M/o Industry  
(Deptt. of Industrial Development)

However, the Committee object to the fact that between the period 1974 and 1978, the Ministry of Industry (Department of Industrial Development) appear to have taken no action to amend the Rule as recommended by them. The Committee observe, in this connection, that the first action taken reply of the Ministry was received on 5 June, 1980. The Committee, therefore deplore this inordinate delay in the strongest words possible and desire the Ministry to fix responsibility for this lapse.

25(i) 210  
M/o Industry  
(Deptt. of Industrial Development)  
D P A

The Committee are unable to appreciate the linking by the Ministry of Industry (Department of Industrial Development) of the Committee's recommendation made in paragraphs 10 and 11 of their Fourteenth Report (Sixth Lok Sabha) with the extension of Pension Scheme to the Khadi and Village Industries Commission Employees thus resulting in an inordinate delay in its implementation. The Committee observe that such extraneous considerations resulting in delay in implementing Committee's recommendations have been brought to their notice on earlier occasions also. The Committee, therefore, desire the Department of Parliamentary Affairs to issue necessary instructions to all Ministries/Departments of the Government of India that the

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		recommendations of the Committee should be considered on their own merits and extraneous issues should not come in the way of implementation thereof.
	25(ii) 211 M/o Industry (Dept. of Industrial Development)	The Committee further desire that since a period of more than 4 years has already elapsed when the Committee had made their aforesaid recommendation, the Ministry should amend regulation 4(2) of the K&VIC Employees (Gratuity) Regulations, 1975 as recommended by them within a period of 3 months of the presentation of this Report.
	26(i) 218 M/o Energy (Deptt. of Petroleum)	The Committee note with concern that inspite of the fact that the then Ministry of Petroleum and Chemicals had been exhorted by the Committee vide their earlier recommendation contained in paragraph 31 of their Eighteenth Report (Sixth Lok Sabha) for not having paid due attention to the communications sent to them, the Ministry have repeated the same thing by not replying to any of the communications sent after the presentation of their aforesaid Report until a D.O. letter to the Secretary of the Ministry was issued on 22-1-1983. In reply to this communication, the Committee note that the Ministry have pleaded the non-traceability of the relevant papers and some of the staff being on the election duty in Assam as causes for the delay.
	26(ii) 219 M/o Energy (Department of Petroleum)	The Committee cannot help expressing their profound distress over this indifferent attitude of the Ministry in this regard. The least the Committee expected was that the Ministry in their first and last communication received in February, 1983 should have come forth regretting for not having replied to the earlier communications sent to them in the matter. The Committee desire that responsibility should be fixed for delay in the implementation of the recommendation in such a manner. The Committee earnestly trust that such an attitude will not be adopted in future and the Ministry would be prompt to reply to the Committee's communications

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26(iii) M/o Energy (Deptt. of Petroleum)	220	<p>The Committee, however, note with satisfaction, from the latest communication dated 16 April, 1983 that the Ministry have since prepared the draft notification containing the requisite amendment to the Order in question. The Ministry have also consulted the Department of Legal Affairs of the Law Ministry for its vetting. The Committee further note that as advised by the Department of Legal Affairs, the Ministry have forwarded a copy of the notification for approval by the Secretariat and/or the Committee. In this connection, the Committee would stress that, unless they have specifically desired in their recommendation, that any such amendments should be shown to them before publication, normally the Ministry themselves should finalise the amendment to any rule/regulations in consultation with the Ministry of Law. The Committee do not line to get involved in approving the draft notification.</p>
27(i) M/o Shipping & Transport	227	<p>The Committee note that after a period of more than 2 years of the presentation of their Reports viz. First Report (Seventh Lok Sabha) on which the Committee had made their recommendation, the Ministry of Shipping and Transport have intimated that Rule 12 of both the Rules in question would be amended only after the Ministry have received approval of the U.P.S.C. in regard to Rule 27 of the Central Engineering Services (Roads) Rules which had already been referred to them as the Committee in paragraph 37 of their Fifth Report (Sixth Lok Sabha) had made similar recommendation in regard to these Rules.</p>
27(ii) M/o Shipping & Transport	228	<p>The Committee observe with distress that so simple a recommendation of the Committee made as far back as in 1978 in their aforesaid Report viz. Fifth Report (Sixth Lok Sabha) could not be finalised and implemented so far as a result of which the Committee's latter recommendation made in their First Report (Seventh Lok Sabha) also remained</p>



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unimplemented. The Committee now, therefore, desire that the Ministry should finalise the matter without any further delay and notify the requisite amendment to the desired effect under intimation to the Committee thereafter.

28(i) 239  
M/o Agriculture  
(Deptt. of Food)

The Committee note that in pursuance of their observation made in paragraph 99 of their Twenty-first Report (Sixth Lok Sabha) the Ministry of Agriculture (Department of Food) we have addressed a Circular letter dated 29 May, 1979 to all Sugar Producing State Governments/Union-territory Administrations on the subject as a result of which except the State Government of Madhya Pradesh all other State Governments|Union territory Administrations concerned have furnished information to the Ministry in regard to the action taken by them.

28(ii) 240

The Committee, while expressing their satisfaction at the prompt action taken by the Ministry, desire that the matter might continue to be pursued with the State Government of Madhya Pradesh until the requisite information is received from them also.

28(iii) 241  
M/o Agriculture  
(Deptt. of Food)

The Committee observe that the essence of implementing their recommendations, however, lay in pursuing with the State Governments to make provisions in their laws for an inquiry into the circumstances leading to failure on the part of the growers to supply the agreed quantity of sugarcane. Since from Government's reply it is not clear to the Committee as to what replies have been received from the State Governments etc. the Committee observe that to that extent the reply of the Ministry can be called an interim one. The Committee, therefore, desire the Ministry to inform them of the precise position in respect of these States|Union-territories within three months of the presentation of their Report in the matter.

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29(i) M/o Health & F.W. (Department of Health)	249	The Committee observe that the reply of the Ministry of Health and Family Welfare (Department of Health) to the clarification sought whether in compliance with their recommendation made in paragraph 32 of their Twenty-first Report (Sixth Lok Sabha), rule 2 from both CGHS (Bangalore and Hyderabad) Rules, 1976 (S.O. Nos. 992 and 994) had since been deleted, is cryptic. The Committee also observe that the Ministry took more than a year which is most deplorable in replying to such a simple query for clarification.
29(ii) M/o Health & F.W. (Department of Health)	250	The Committee further observe that the Ministry are of the view that since CGHS Rules were framed for each city and notified before extending the CGH Scheme to those cities, there was now no need to issue the executive instructions superseding the Rules as per advice of the Ministry of Law. The Committee feel that if it is so, in their view, the Ministry should then have no objection in deleting rule 2 from both the CGHS (Bangalore and Hyderabad) Rules under which the executive instructions are presently enforceable even if these are contrary to certain earlier rules on the subject.
29(iii) M/o Health & F.W. (Department of Health)	251	The fact that the Ministry have deleted the words 'the Secretary of States Services (Medical Attendance) Rules, 1938' from the notifications is of no relevance from the point of Committee's recommendation. The Committee, therefore, desire the Ministry to amend both the Rules in question accordingly without any further delay.
30(i) M/o Tourism and Civil Aviation	265	The Committee observe that in paragraph 34 of their Fourteenth Report (Fifth Lok Sabha) they had desired the Ministry of Tourism and Civil Aviation to either enforce the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 from the date of their publication in the Gazette or to amend the relevant Act viz. the International Airports Authority Act, 1971 so as to empower the

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Government to give retrospective effect to the Rules. As the Act had not been amended as desired by the Committee, the Committee expressed their concern and recommended again in paragraph 70 of their Fourteenth Report (Sixth Lok Sabha) that Government should amend the Act to the desired effect without any further delay and in no case later than 3 months of the presentation of their aforesaid Report.

30(ii) 266  
M/o Tourism and  
Civil Aviation

The Committee are, however, sorry to observe that, although a period of more than 8 years has elapsed since the Committee had for the first time recommended amendment of the Act, the Ministry, somehow, have not been able to do the needful so far. Consequently, the Committee observe that the amendment to rule 7 of the Rules *ibid* which could only be taken up after the relevant Act had been amended, also remains unaltered. The Committee deplore the inordinate delay in implementation of their recommendation which was first made in 1974 and reiterated in 1978. The Committee desire that the Act be amended as recommended by them without any further delay.

31(i) 276  
M/o Agriculture  
(Deptl. of Agriculture)

The Committee note that while the Ministry of Agriculture have since revised two Recruitment Rules viz. (a) The Department of Agriculture (Deputy Director of Accounts) (Fertiliser) and Accounts Officer (Budget); and (b) the Department of Agriculture, Deputy Commissioner (Fertiliser) as desired by them in Paragraph 71 of their Twenty-first Report (Sixth Lok Sabha), the following three Rules still remain to be amended to the desired effect:

- (1) The CPBF (Group A Posts) Recruitment Rules;
- (2) The Integrated Fisheries Project (Mate Grade II) Recruitment Rules; and
- (3) The DMS (Class I and II Posts) Recruitment Rules.

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31(ii) 277 M/o Agriculture (Deptt. of Agriculture)	The Committee hope that the Ministry of Agriculture would amend the above-mentioned Rules at an early date as a period of about 4 years has already elapsed since the Committee had made their aforesaid recommendation.	
31(iii) 278 M/o Home Affairs	The Committee also desire the Ministry of Home to amend the office of the Registrar General and ex-officio Census Commissioner (Map Officer) Class I Recruitment Rules with which they are concerned, accordingly if not already done.	
32 285 M/o Law, Jus- tice and C.A. (Deptt. of Com- pany Affairs)	The Committee observe with distress that although a period of more than 2 years has elapsed since the Committee had desired the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) to amend the Companies Act, 1956 in order to provide for revisionary or appellate authority for redressal of grievances of a person aggrieved by any action taken under the Amalgamation Order, the Ministry are still in the process of including the recommendation of the Committee in the comprehensive proposals for amendment of the said Act for the approval of the Cabinet. The Committee, while expressing their unhappiness over the delay in finalising the matter so far, would like that in case the comprehensive proposals for amendment of the Act take a longer time, the Ministry should bring forth a specific amendment to amend section 396(3) of the Act <i>ibid</i> without any further delay.	
33 295 M/o Finance (Deptt. of Re- venue)	The Committee are surprised to note that though the Ministry of Finance (Department of Revenue) had intimated in December, 1980 that a suitable provision was proposed to be made in the draft Central Excise Bill which was under finalisation, they had not introduced it in Parliament so far and now are not even in a position to indicate precisely the time by which it would be introduced. The Committee, while expressing their dissatisfaction over this delay desire the Ministry to make concerted	

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efforts and bring forth the comprehensive Bill at a very early date failing which they should bring forward the amending legislation exclusively for the purpose of amending the Act viz. the Central Excise and Salt Act, 1944 to the desired effect.

34(i) 300

M/o Industry  
(Deptt. of Industrial Department)

The Committee observe that a draft Summary for the Cabinet prepared by the Ministry of Industry (Department of Industrial Development) for the amendment of various provisions of the Indian Boilers Act, 1923 had also included a provision for laying of regulations framed under the said Act with a view to implement Committee's recommendation made in paragraph 42 of their Fifth Report (Seventh Lok Sabha). The Committee further observe that the draft summary sent on 29 May, 1981 to the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) for their concurrence is stated to be still under their consideration which is most deplorable as it has resulted in non-finalisation of the comprehensive legislation by the Ministry concerned. The Committee would now urge upon the Ministry of Industry to get clearance from the Ministry of Law by holding mutual discussions among higher officers of both the Ministries instead of pursuing the matter by issue of official reminders. The Ministry should thereafter, obtain Cabinet's approval before introduction thereof. In case, however, clearance from the Ministry of Law is likely to take a considerable time, the Ministry ought to introduce the Amendment Bill specifically for the purpose of making provision for laying of regulations. In this connection, the Committee would like to draw attention of the Ministry to their recommendation made in paragraph 9 of their Eighth Report (Seventh Lok Sabha) which *inter-alia* states that in cases where finalisation of other amendments is likely to take some more time, the Ministries should bring forward the amending legislation exclusively for that purpose immediately.

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<p>34(ii) 301 M/o Industry (Deptt. of Industrial Development.)</p>	301	<p>The Committee also take note of the fact that for incorporating a provision regarding 'Laying of rules' on the Table, the Ministry did have an opportunity to amend the Act <i>ibid</i> by including the same in the comprehensive Delegated Legislation Provisions (Amendment) Bill since introduced in the Rajya Sabha on 5 November, 1982 to make such a provision in 50 Acts (Appendix V) by the Ministry of Law.</p>
<p>34(iii) 302 M/o Law, Justice &amp; Company Affairs (Legislative Deptt.)</p>	302	<p>The Committee further note in this connection, that the Ministry of Law in their O.M. No. F. 1(39)82-Leg. I dated 23 November, 1982 (Appendix VI) have conceded that in nearly 150 other Acts 'laying of rules' provision will have to be incorporated. The Committee would, therefore, desire the Ministry of Law to ensure that the second proposed Delegated Legislation Provisions Bill is made so exhaustive as to cover all other Acts wherein, as recommended by the Committee in their various Reports such a provision should be made and that no Act is left out on the plea that a comprehensive legislation is intended to be brought forward for the purpose by any Ministry.</p>
<p>35 M/o Education &amp; Culture (Deptt. of Education)</p>	311	<p>The Committee note that the Ministry of Education and Culture (Department of Education) have since introduced a comprehensive Bill (since passed by Rajya Sabha on 7-10-1982 and now pending in Lok Sabha) to amend Acts of the seven Central Universities to provide <i>inter alia</i> therein a provision for laying before Parliament the Statutes, Ordinances or Regulations framed by those Universities. The Ministry have not, however, amended the University Grants Commission Act, 1956 so far but now propose to include the said Act in the comprehensive Delegated Legislation Provisions (Amendment) Bill proposed to be introduced by the Ministry of Law, soon for the purpose. The Committee, would therefore, urge the Ministry to ensure that as proposed by them the inclusion of the UGC Act therein is not lost sight of.</p>

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36 M/o Defence	317	The Committee note with satisfaction that the Minister of Defence had since introduced the Cantonments (Amendment) Bill, 1982 to amend the Cantonments Act, 1924 and Government have tabled a Notice of Amendment to the Bill for incorporating the requisite laying provision in the Act in compliance with the Committee's recommendation in this regard. The Committee would like to place on record their appreciation of Government's action in implementing their recommendation though belatedly.
37 M/o Law, Justice and Company Affairs. (Legislative Deptt.) and M/o Rural Development	320	The Committee note in this connection that Government in the Ministry of Law have at last brought forward the long awaited comprehensive Bill on the provisions of the Delegated Legislation covering a number of Acts including the Agriculture Produce Grading and Marking Act, 1937 in pursuance of the Committee's recommendation made in this regard in their various Reports about different Acts. The Committee would, however, desire the Ministry of Law to bring forth another comprehensive Bill at a very early date which should cover all the other remaining Acts which do not contain laying provision.
38(i) M/o Finance (Deppt. of Revenue)	322	The Committee note that the two Acts on Narcotics laws—(i) the Dangerous Drugs Act, 1930 and (ii) the Opium Act, 1857 have since been included in the Comprehensive Bill on the provisions of the Delegated Legislation since introduced by the Ministry of Law for incorporating laying provisions in about 50 Acts. The Committee also note that the Ministry of Finance who administer the aforesaid Acts, are alive to the Committee's recommendation made by them in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) for incorporating a provision for laying of rules before Parliament in other Acts with which they are concerned but do not contain such a provision.
8 (ii) -do-	323	The Committee would, however, observe and stress that the Opium Act, 1878 which also sought

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		to have been included in the aforesaid comprehensive Bill should now be included in the next Delegated Legislation Bill being proposed to be introduced by the Ministry of Law soon.
39 M/o Home Affairs	325 Affairs	The Committee note that the Ministry of Home Affairs have since included the name of the Central Reserve Police Force Act, 1949 for incorporating therein a laying provision in the second comprehensive Bill on the provisions of Delegated Legislation being contemplated to be introduced by the Ministry of Law soon. The Committee hope that the Ministry will ensure that the comprehensive Bill when introduced by the Ministry of Law includes a provision in respect of the CRPF Act also positively.
40(i)	328A D P A	The Committee, however, find that these specific recommendations of the Committee have not had the desired impact on the Ministries/Departments of the Government of India and some of the Ministries/Departments still continue to avoid inclusion of the model clause laying provision in the statutes concerned until the Committee or, on their behalf, the Secretariat point out the lacunae.
40(ii)	329 D P A	The Committee therefore, strongly deprecate the neglect on the part of Government towards providing of 'laying of rules' provision in the Bills. While the comprehensive Bill on the subject introduced in the Rajya Sabha on 5 November, 1982 and further contemplation of the Ministry of Law to introduce another similar Bill is to be welcomed; it is distressing that the Government takes action on matters only after it is pointed out by the Committee.
41 M/o Law, Justice and Company Affairs, (Legislative Deptt.)	331	In the case of the Marriage Laws (Amendment) Bill, 1981, the Committee find that the Ministry of Law, Justice and Company Affairs in their O.M. dated 13 April, 1981 have regretted the omission and have promised to comply with their recommendation by moving an official amendment to the desired effect at the time of consideration



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		of the Bill. The Committee hope that this will be done.
47 M/o Health and Family Welfare (Deptt. of Health)	332	As regards the Pharmacy (Amendment) Bill, 1981, the Committee note that the Ministry of Health and Family Welfare have stated that the said Bill has a limited scope in regard to extending the time-limit prescribed in the second proviso to sub-section 1 of Section 42 of the Pharmacy Act, 1948, as explained in the statement of Objects and Reasons appended to the Bill. The Committee further note that the Ministry now propose to bring a comprehensive Bill for amending the Pharmacy Act, wherein a provision for laying of rules, regulations framed thereunder will also be taken into account. In this connection, the Committee observe that this again is an illustration of the piecemeal thinking of the Government in the Ministry of Health and Family Welfare in so far as the laying provision is concerned. The Committee feel that the Ministry could have provided for the same by including the Pharmacy Act in the Delegated Legislation (Provisions) Amendment Bill since introduced in the Rajya Sabha on 5 November, 1982, which has not been done.
43 M/o Railway's (Railway Board)	333	In regard to the Indian Railways (Amendment) Bill, 1982, the Committee observe that sections 56(E) and 82 (J) of the Principal Act which confer rule making power on the Central Government contain the requisite formula for laying and modification of such rules by Parliament but sections 22, 47, 71E and 84 which also confer rule-making power do not have corresponding provisions for laying and modifications of such rules by Parliament. The Committee further observe that the Ministry of Railways with whom the matter was taken up on 13 March, 1982 have stated that the Indian Railways Act, 1890 is under comprehensive revision. The draft Bill seeking to revise the Indian Railways Act, 1890, is likely to be brought before Parliament shortly and Clause 225 thereof would contain the necessary provisions for laying copies of the rules framed thereunder in Parliament. The Committee express

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		the hope that the said comprehensive Bill will be introduced soon.
44(i) Ministry of Finance (Department of Economic Affairs)	334	<p>The Committee also note that the Ministry of Finance in their communication No. F.16 50 77-80 dated 4 January, 1983 have indicated that they are taking parallel action to introduce a common amendment Bill to amend the following Acts for the purpose of providing for laying of rules therein:—</p> <ul style="list-style-type: none"> <li>(i) The Banking Regulation Act, 1949;</li> <li>(ii) The State Bank of India Act, 1955;</li> <li>(iii) The Deposit Insurance and Credit Guarantee Corporation Act, 1961;</li> <li>(iv) The Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970;</li> <li>(v) The Regional Rural Bank Act, 1976;</li> <li>(vi) The State Bank of India (subsidiary Banks) Act, 1959; and</li> <li>(vii) The Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980.</li> </ul>
44(ii) -do-	335	<p>The Committee feel that, though from their point of view there may not be any objection to such a separate common amendment bill at the same time, the Ministry could at least ensure that the other wings of the Ministry also equally acted promptly. The Ministry's communication further says that, in so far as other enactments which are being administered by the Ministry of Finance, are concerned, necessary information will be furnished to the Committee by the Department of Revenue, Expenditure and Economic Affairs (Economic Division) and Bureau of Public Enterprises, Defence Division Insurance Division etc. direct. The Committee, however, note in this connection that the Office of the Controller General of Defence Accounts have since intimated <i>vide</i> their communication dated 30 March, 1983 that in so far as the Defence Accounts Depart-</p>

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45 D. P. A.	336	<p>ment is concerned they have no information to furnish on the subject.</p> <p>The Committee observe that one of the arguments advanced by most Ministries (where it relates to laying of rules provision or any other provision) is that Government are contemplating to introduce a comprehensive legislation. Usually, as observed by the Committee, such comprehensive legislation is delayed over three years to four years from the dates of recommendations made by the Committee in their Reports. The Committee notice that in a number of cases (Appendix VII) Government have introduced, and got passed Bills to amend only one or two specific sections. When the Government can, thus, <i>suo-moto</i> initiate legislation to amend only one or two specific sections of the statute, the Committee express their surprise and displeasure at the lackadaisical manner in which their recommendations for amending specific sections of the statutes have been attended to by the Ministries. The Committee would emphasise the need for reducing delay to the minimum and also desire that, where introduction of such comprehensive Bills is likely to take a long time, Bills for making specific amendments in implementation of the Committee's recommendations should invariably be introduced in Lok Sabha at the next earliest occasion immediately after presentation of their Reports. The Committee, therefore, desire the department of Parliamentary Affairs to bring to the notice of the Ministries Departments the above observations of the Committee for their guidance and strict compliance in future.</p>
45(i) 338 Ministry of (i) Health and Family Welfare (Health) (ii) Rural Develop- ment (iii) Supply and Transport (iv) Labour and (v) Industry Department of In- dustrial Development	338	<p>The Committee find that certain Ministries Departments have taken an unusually long time in implementing their recommendations. It will be observed from the cases mentioned at S. Nos. 1, 4, 9, 11, 13, 14 and 18 of Appendix VIII that the period of delay ranges between 2 and 8 years in implementing them. The Committee would like the Ministries Departments to be more careful in future and strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations.</p>

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1	45(ii) 339	In certain cases listed in the Appendix, the Committee find that the recommendations have been implemented within the time-limit prescribed by them. The Committee place on record their appreciation of the promptness with which the Ministries/ Departments concerned have implemented their recommendations within the time-limit.

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## APPENDIX II

(Vide para 84 of the Report)

### MINISTRY OF FINANCE

(Department of Economic Affairs)

#### NOTIFICATION

#### INSURANCE

*New Delhi, the 30th September, 1980*

S.O. 827(E).—In exercise of the powers conferred by sub-section (6) of Section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), the Central Government hereby makes the following Scheme further to amend the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974 published with the Notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No. S.O. 326(E), dated the 27th May, 1974, namely:—

1. Short title and commencement.—(1) This Scheme may be called the General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980.
- (2) It shall come into force on the date of its publication in the Official Gazette.

2. In the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974 (hereinafter referred to as the said Scheme), in paragraph 3:—

- (i) after clause (a), the following clause shall be inserted, namely:—

‘(aa). “Company” means the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited, and the United India Insurance Company Limited’;

- (ii) after clause (c), the following clause shall be inserted, namely:—

‘(ea) “Net monthly emoluments” means—

- (1) In respect of an employee not provided with residential accommodation by the Corporation or the Company, the

amount obtained by deducting the employee's compulsory contribution towards provident fund from the sum of the basic salary, dearness allowance and house rent allowance;

(2) In respect of an employee provided with residential accommodation by the Corporation or the Company, the amount obtained by deducting the employee's compulsory contribution towards provident fund from the sum of the basic salary, dearness allowance and house rent allowance';

(iii) after clause (f), the following clauses shall be inserted, namely:—

(fa) "Revised terms" means the revised scales of pay and allowances as specified in the Fourth Schedule;

(fb) "Revised scales of pay" means the revised scales of pay specified in the Fourth Schedule";

3. In paragraph 4 of the said Scheme, after sub-paragraph (3), the following sub-paragraphs shall be inserted, namely:—

"(4) With effect from the date of commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980, the pay and allowances of every employee shall be in the revised terms and the basic salary of every employee in service as on that date shall be fitted into revised scales of pay in accordance with the provisions of paragraph 6A.

(5) Every employee whose basic salary is fitted into the revised scales of pay in accordance with the provisions of paragraph 6A shall be paid, for the period commencing from the 1st day of January, 1979 or the date of appointment, as the case may be, and ending with the date preceding the date on which the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980, comes into force, the difference of basic salary, dearness allowance and other allowance, after deducting the employee's compulsory contribution to the provident fund, between the revised terms and the new scale of pay (hereinafter referred to as the 'existing terms') applicable to him immediately before the date of commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980, as if the revised terms came into force with effect from the 1st day of January, 1979;

Provided that during the period aforesaid—

- (i) in the event of retirement of an employee, difference in money referred to above along with the difference in the amount of gratuity upto the date of retirement, if any, shall be payable to him; and
- (ii) in the event of his death, such difference, excluding the difference in the amount of gratuity, shall be paid to the person to whose the provident fund balance would become payable and the difference in gratuity, if any shall be paid to the person to whom the gratuity would become payable:

Provided further that where an employee is promoted to a higher grade during the period aforesaid, the scale of pay in that grade in relation to such employee shall be the revised scales of pay specified in the Fourth Schedule for such higher grade.

Note.—‘Other allowance’ for the purpose of sub-paragraph (5) shall mean house rent allowance, city compensatory allowance, qualification pay and allowances for technical qualification.”

4. After paragraph 6 of the said Scheme, the following paragraph shall be inserted, namely:—

“6A. Fixing of basic pay in the revised scale of pay.

The basic salary for every employee—

- (a) in service as on the 31st day of December, 1978 shall be fixed by the Corporation in the revised scales of pay with effect from the 1st day of January, 1979.
- (b) appointed after the 31st day of December, 1978 and before the commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980, shall be fixed by the Corporation in the revised scales of pay on the date of his appointment:

Provided that where the net monthly emoluments under the scale of pay specified in the Fourth Schedule do not exceed the net monthly emoluments under the existing scale of pay by an amount as indicated in column (2) of the Table below an appropriate adjustment allowance shall be granted to the category of employee referred to in the corresponding entry

in column (1) thereof so as to ensure a net minimum increase of the said amount.

Table

Category of employee	Minimum increase in Net Monthly Emoluments
(1)	(2)
Subordinate Staff	Rs. 20/-
Employees other than Subordinate Staff—	
Employees fitted at basic salary under the revised scale of pay in the range of—	
(i) Upto Rs. 1000	Rs. 30/-
(ii) Rs. 1001 to Rs. 1200	Rs. 45/-
(iii) Rs. 1201 to Rs. 1400	Rs. 60/-
(iv) Rs. 1401 and above	Rs. 75/-

Note : 1.—“Adjustment Allowance” referred to in this paragraph shall not count for the purpose of computing dearness allowance, overtime allowance, contribution to provident fund and other retirement benefits.

Note : 2.—The “Adjustment Allowance” shall continue to be paid upto the time the concerned employee is promoted to the officer’s grade. On promotion, the allowance shall be absorbed in the total emoluments.”

5. For paragraph 7 of the said Scheme, the following paragraph shall be substituted, namely:—

“(1). Increments.—Increments to an employee in the grade applicable to him with effect from the date of commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980, shall be due every year on the first day of the month in which the last increment was drawn or on the 1st day of the month in which he complete 12 months of continuous service.

Note.—“12 months of continuous service” means a period of duty equal to twelve months excluding period of extraordinary leave.

(2) On or after the date of commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate



Staff) Second Amendment Scheme, 1980, the Managing Director or the Chairman-cum-Managing Director, as the case may be, may subject to the record of work being found satisfactory, consider granting an employee belonging to the post of record clerk one increment after two years of service rendered by him, after such employee reaches the maximum of the scale of pay specified in the Fourth Schedule applicable to him."

6. In paragraph 10 of the said Scheme, in sub-paragraph (3)—

(1) for clause (c), the following clause shall be substituted, namely:—

"(c) Where an employee has earned leave to his credit but has not availed of the same till the date of retirement, he may be paid cash equivalent of leave salary in respect of the period of earned leave at his credit as on the date of retirement subject to the following maximum limits, namely:—

(i) 180 days, if the normal retirement age of the employee is 58 years; and

(ii) 120 days, if the normal retirement age of the employee is 60 years:

Provided that earned leave standing to his credit as on the date of death may be allowed to be encashed:

Provided further that this clause shall not apply to an employee who has been compulsorily retired, removed or dismissed in accordance with the General Insurance (Conduct, Discipline and Appeal) Rules, 1975";

(2) After clause (e), the following shall be inserted namely:—

"(f) Once in a block of two calendar years, the earned leave standing to the credit of an employee, but not availed of subject to a maximum of 15 days, may be encashed and upon such leave having been encashed, the earned leave account of such employee shall be debited with the number of days of earned leave encashed by such employees:

Provided that before such employee is allowed to encash the earned leave as aforesaid, he shall be required to avail of earned leave for continuous period of not less than 15 days.

Note : The first block of two calendar years shall commence on the date of enforcement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980

and shall end on the 31st day of December, 1981. The subsequent blocks of two calendar years shall be 1982-83, 1984-85 and so on."

7. For paragraph 12 of the said Scheme, the following paragraph shall be substituted, namely:—

**"12. Retirement**

- (1) An employee who is in the service of the Corporation or a Company before the date of commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Services of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980, shall retire from service when he attains the age of 60 years.
- (2) An employee, who joins the service of the Corporation or a Company on or after the date of commencement of the General Insurance (Rationalisation and Revision of Pay Scales and Other Conditions of Services of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980 shall retire from service on his attaining the age of 58 years:

Provided that an employee shall retire on the afternoon of the last day of the month in which he attains the age of 60 years or 58 years as the case may be."

8. Paragraph 13 of the said Scheme, shall be renumbered as sub-paragraph (1) thereof and after sub-paragraph (1) as so renumbered, the following paragraphs will be inserted, namely:—

"(2) Notwithstanding anything contained in sub-paragraph (1) an employee who has rendered continuous service of not less than 15 years shall be paid gratuity which shall be higher of the two amounts calculated in accordance with sub-clause (i) and sub-clause (ii) below:—

- (i) Gratuity calculated in accordance with sub-paragraph (1);
- (ii) Gratuity at the rate of one month's terminal basic pay for each completed year of continuous service in respect of the first fifteen years and at the rate of half a month's terminal basic pay for each year or further continuous service subject to the condition that the total gratuity so admissible does not exceed a maximum of 20 months terminal basic pay or Rs. 30,000 whichever is less".

9. In paragraph 20 of the said Scheme, in clause (c) for the letters and figures "Rs. 400", the letters and figures "Rs. 500" shall be substituted.

10. For paragraph 23 of the said Scheme, the following paragraph shall be substituted, namely:—

“23. Duration of revised terms: The revised terms shall continue to be in force unless modified by the Central Government”.

11. In Second Schedule of the said Scheme—

(i) in part I—

(a) for the heading “A. Travelling Allowance” and the entries thereunder, the following shall be substituted, namely:—

“A. TRAVELLING ALLOWANCE

Category	Mode and class of travel
<b>(1) TRAIN JOURNEY :</b>	
(i) Employees drawing basic salary of Rs. 600 and above.	First class.
(ii) Employees drawing basic salary below Rs. 600	Second class (new) with a sleeper berth for night journey.
(iii) Subordinate staff . . . . .	Second Class (new) with a sleeper berth for night journey.
<b>(2) TRAVEL BY STEAMER :</b>	
(i) Employees drawing basic salary of more than Rs. 1000/-.	Highest Class.
(ii) Employees drawing Rs. 600/- and more but less than Rs. 1000.	Higher of the two classes and middle or second in case more than two classes are provided.
(iii) Employees drawing less than Rs. 600 (other than subordinate staff).	Lower of the two classes, and middle or second if three classes. Third if four classes.
(iv) Subordinate staff . . . . .	Lowest class.
<b>(3) TRAVEL BY ROAD :</b>	
Taking a single seat . . . . .	Actual fare.
£by upper class if provided, for all employees except Subordinate Staff.” ;	

(b) under the heading “B. Halting allowance”, for items (a) and (e), the following items shall respectively be substituted, namely:—

“(a) The rates of Halting Allowance shall be as follows, namely:—

Category of employees	Amount
(1) Subordinate Staff	Rs. 10 per day
<b>(2) Employees other than subordinate staff:—</b>	
(i) basic salary upto Rs. 600/-	Rs. 15 per day
(ii) basic salary between Rs. 601/- Rs. 1000.	Rs. 25 per day
(iii) basic salary over Rs. 1000/-	Rs. 30 per day

- (e) Halting Allowance shall be allowed at full rates for the first 30 days of absence at any one station from headquarters on duty and thereafter at half the normal rates upto a maximum period of 90 days.

Provided that an employee deputed by the Corporation or a Company to attend any training programme outside his normal place of posting shall be treated as on tour for the full duration of the training programme and Halting Allowance at full rates shall be admissible to him for the training period subject to a maximum period of 90 days."

- (ii) In Part 'II, Travelling Allowance on Transfer', for clauses (d), (f) and (g), the following clauses shall respectively be substituted, namely:—

"(d) Reimbursement of expenses on transportation of personal luggage shall be on the following basis:

For employees drawing basic salary	With family	Without family
Over Rs. 1000	20 quintals	10 quintals
Between Rs. 301 to Rs. 1000	15 quintals	7.5 quintals
Upto Rs. 300	6 quintals	2.5 quintals

The luggage may be carried by goods train or by passenger train or if rail transport is not available, by other mode of transportation subject to the condition that the cost of transportation shall not exceed the maximum permissible by goods train.

- (f) For packing charges, reimbursement shall be as under:

- (i) For employees drawing basic salary upto and including Rs. 600. 1 paise per kg.
- (ii) For employees drawing basic salary above Rs. 600. 2 paise per kg.

- (g) Apart from reimbursement of packing and cartage, employees shall be given a Transfer Grant on the following scale:—

Basic salary	Transfer Grant
Upto Rs. 300	Rs. 100.
Between Rs. 301—Rs. 1000	Rs. 200.
Over Rs. 1000.	Rs. 300.

NOTE:—In this Schedule, "Family" in relation to an employee, includes the spouse, legitimate dependent children and parents residing with and wholly dependent on the employee".

12. In the said Scheme, after the Third Schedule, the following Schedule shall be inserted, namely:—

**“THE FOURTH SCHEDULE**

[See paragraph 3 (fa)]

**I-Revised Scales of Pay (Basic Salary)**

**A—Supervisory and Clerical Staff—**

- (1) Superintendent (Run off cadre)\* :  
Rs. 640-50-890-60-1550
- (2) Senior Assistant :  
Rs. 440-30-530-35-600-40-720-45-855-50-905-  
EB-50-955-55-1120-60-1360.
- (3) Stenographer :  
Rs. 440-30-530-35-600-40-720-45-855-50-905-  
EB-50-955-55-1120-60-1360.
- (4) Assistant :  
Rs. 340-20-440-25-540-30-630-35-700-40-740-  
EB-40-820-45-910-50-1060.
- (5) Record Clerk :  
Rs. 305-10-385-15-415-20-495-25-570-30-720.

**B—Subordinate Staff—**

- (1) Drivers :  
Rs. 314-10-354-12-390-15-480-20-620.
- (2) Other Subordinate Staff :  
Rs. 255-10-335-12-383-16-431-18-467-20-527.

\*No fresh appointment to the posts of Superintendent shall be made by the Corporation or Company.

**II. Functional Allowance**

Employees engaged in any of the following functions as their regular and main function shall be paid a functional allowance as indicated below:

- (1) Subordinate Staff working as Liftmen, Machine Operators, Head Peons, Jamadars or Daftaries Rs. 20 p.m.
- (2) Subordinate Staff carrying cash to from Bank where the amount of cash carried during a calendar month is ordinarily Rs. 25,000 or more. Rs. 10 p.m.

- (3) Cashier handling cash in an office where the total amount of cash transactions during a calendar month is ordinarily Rs. 25,000 or more. Rs. 25 p.m.
- (4) Telex Operators, Punch Card Operators and Unit Record Machine Operators. Rs. 25 p.m.
- (5) Comptists Rs. 25 p.m.
- (6) Stenographers to Chairman of Corporation, Managing Directors, General Managers, Assistant General Managers and equivalent positions. Rs. 40 p.m.

NOTES :1. The number and names of persons eligible to draw the functional allowance shall be determined by the Chairman-cum-Managing Director or the Managing Director depending upon the load of work and administrative requirements.

2. An employee shall draw only one functional allowance at any one time.
3. An employee proceeding on leave shall be paid the functional allowance during the leave period provided he resumes work in the same position on the expiry of his leave.
4. No employee shall, as a matter of right, claim to be allotted a particular portfolio of work in order to avail of the functional allowance attaching to that position.
5. No employee shall refuse to work in a position carrying a functional allowance or make it a condition that he be paid such allowance where, because of absence of the incumbent or temporary pressure of work, the employee is assigned such work by the Head of his Office.

### III. Dearness Allowances

(1) The scale of dearness allowance applicable to the employees shall be determined as under:—

Index: All-India Average Consumers Price Index Number for industrial workers as published in the Indian Labour Journal.

Base Year : 1960=100.

Revision of Dearness Allowance:—Revision of dearness allowance may be made on quarterly basis for every 4 points rise or fall.

Rate of dearness allowance:—For every 4 points of the quarterly average over 200 points, the dearness allowance shall be calculated at the following rates :

- |   |   |
|---|---|
| (i) Basic salary of Rs. 400 or less . . . . . | . . . . . 2% of basic salary.   |
| (ii) Basic salary of above Rs. 400 . . . . .  | . . . . . 1.58% of basic salary with a minimum of Rs. 8 and maximum of Rs. 15.80. |

(2) At no stage the sum of Basic Salary and Dearness Allowance (by whatever name called) is to exceed Rs. 2750 per month.

**Note:** For the purpose of calculating dearness allowance quarter shall mean a period of three months ending on the last day of March, June, September or December. The final index figures as published in the Indian Labour Journal will be the index figures which shall be taken for the purpose of calculation of dearness allowance. For the purpose of calculating dearness allowance for a particular month, the quarterly average for the last quarter for which the final index figures are available on the 15th day of that month shall be taken. For example, if the dearness allowance for the month of April is to be calculated the quarterly average for the last quarter for which the final index figures are available on the 15th of April will be taken. Actual payment of this revised dearness allowance shall be made in the month following that in which the relevant index figure are available.

#### IV. Allowance for Technical Qualifications

(1) A confirmed employee who qualifies or has qualified in an examination mentioned below shall be paid with effect from the date of publication of the results of the examination the allowance for technical qualifications mentioned below:—

Provided that not more than one allowance for technical qualifications shall be permissible to him.

Examination	Allowance per month
<b>Federation of Insurance Institute or Chartered Insurance Institute</b>	
(i) Licentiate . . . . .	-Rs. 15/-
(ii) Completion of Associateship . . . . .	Rs. 25/-
(iii) Completion of Fellowships Institute of Actuaries :	Rs. 50/-
(iv) Any three subjects . . . . .	Rs. 25/-
(v) Any Seven subjects . . . . .	Rs. 40/-
(vi) Completion of Fellowship . . . . .	Rs. 60/-
<b>Institute of Chartered Accountants or Institutes of Cost and Work Accounts :</b>	
(vii) Completion of Intermediates . . . . .	Rs. 25/-
(viii) Completion of Associateship or Fellowship . . . . .	Rs. 50/-

(2) The grant of allowance for technical qualifications shall not affect the seniority of the person concerned.

(3) Where an employee has already been given any advance increment or any other recurring monetary benefit for having qualified in any insurance examinations, the amount of qualification pay shall be suitably reduced or be not admissible depending on the quantum of benefit already received.

#### V. House Rent Allowance

The House Rent Allowance to the employees shall be payable at the rate of 10 per cent of basic salary subject to a minimum of Rs. 30 and a maximum of Rs. 150 per month. Where an employee has been provided with residential accommodation by the Corporation or a Company, no House Rent Allowance shall be payable to him. An employee who is so provided with residential accommodation will be required to pay 10 per cent of the basic pay or the standard rent for the accommodation whichever is less.

Explanation.—For this purpose “standard rent” means—

- (a) in the case of any accommodation owned by the Corporation or the Company the standard rent calculated in accordance with the procedure for such calculation in vogue in the Central Government :
- (b) whether accommodation has been hired by the Corporation or the Company, the contractual rent payable by the Corporation or the Company, as the case may be.

#### VI. City Compensatory allowance shall be payable at the following rates:

“A” Class Cities declared as such by the Central Government from time to time. 6% of Basic salary with a minimum of Rs. 20/- and a maximum of Rs. 60/-

“B” Class Cities declared as such by the Central Government from time to time. 4-1/2% of Basic salary with a minimum of Rs. 20 and a maximum of Rs. 40/-

Other Cities where the Central Government extends the benefit to its employees. Rs. 20/-

#### VII. Hill Station Allowance

Employees stationed at Srinagar, Dharmasala, Baramulla, Anantnag, Palampur, Simla, Almora, Nainital, Shillong, Darjeeling, Gangtok, Ootacamund and Mercara shall be paid Hill Station Allowance every month at



the rate of 10 per cent of their basic salary subject to a minimum of Rs. 20 per month and a maximum amount of Rs. 75 per month. The allowance shall also be admissible to all the employees stationed at Hill Stations:

- (i) which are situated at a height of 4000 ft. or more above sea level; and
- (ii) which are declared as Hill Stations by the Central Government for payment of the allowance to its employees.

#### **VIII. Kit allowance**

Employees transferred to any of the hill stations listed in paragraph VII shall be paid a kit allowance of Rs. 200. The kit allowance shall not be payable on transfer from one hill station to another or if the same was drawn at any time during the preceding three years.

#### **IX. Uniforms and Washing Allowance**

Issue of uniforms to subordinate staff including drivers and arrangement for washing or payment of a washing allowance shall be regulated as under:—

- (i) Office uniforms may be supplied to subordinate staff including Drivers.
- (ii) 3 sets of cotton uniforms may be supplied to subordinate staff including Drivers once every year. In places specified by the Managing Director as places where winter is severe, a woollen uniform may be supplied in lieu of one cotton uniform and renewed every two years.
- (iii) An employee to whom a uniform is supplied may be supplied with a pair of chappals once a year. Where woollen uniform-supplied, a pair of shoes in addition to chappals may be supplied once in two years. Where shoes are supplied, two pairs of stocks may also be supplied every year. One umbrella once every alternate year may also be supplied.
- (iv) Where the Corporation or any of its subsidiaries does not make arrangements to get the uniforms washed or cleaned a washing allowance at the rate of Rs. 7 per month at Bombay Calcutta, Delhi and Madras and Rs. 5 per month at other places may be granted to employees. Where woollen uniforms are supplied, the actual devoloaning charges once a year may be reimbursed in addition."

[F. No. 105(20) Ins. IV/80]

KM. KUSUM LATA MITAL, Addl. Secy.

## APPENDIX III

(Vide Para 197 of the Report)

### Extracts from Fourteenth Report of Rajya Sabha Committee on Subordinate Legislation

#### THE EXPLOSIVES (AMENDMENT) RULES, 1971 (G.S.R. 1077 OF 1971)

127. Rule 93 of the Explosives Rules, 1940, which the Committee had considered, provides as follows:

"93. Suspension and cancellation of licence.—(1) Every licence granted under these rules shall be liable to be suspended or cancelled by order of the licensing authority for any contravention of the Act or of any rule thereunder or of any condition contained in such licence, or by order of the Central Government if at any time the continuance of the licence in the hands of the licensee is deemed objectionable:

Provided that before suspending or cancelling a licence under this rule the holder of such licence shall be given an opportunity of being heard:

Provided further that no such opportunity shall be given in cases:—

- (i) Where the licence is being suspended for violation of any of the provisions of the Act or these rules, or of any condition contained in such licence and in the opinion of the licensing authority, such violation is likely to cause danger to the public; or
- (ii) Where the licence is suspended or cancelled by the Central Government, if that Government considers that in the public interest or in the interests of the Security of the State, such opportunity should not be given.

(2) A licensing authority or the Central Government, suspending or cancelling a licence under sub-rule (1), shall record its reasons for so doing in writing.

(3) A copy of the order containing the reasons for the suspension or cancellation of a licence shall be given to the holder of the licence on payment of a fee of two rupees."

128. The following points were referred to the Ministry of Industrial Development:—

- (1) The expression "deemed objectionable" occurring in sub-rule (1) appears to be too general and vague. It leaves an uncanalised discretion with the Government to decide what is and what is not objectionable. It was felt that either the expression should be deleted as unnecessary or matters which might be deemed objectionable should be specified in the rule or the expression might be replaced by specific grounds as mentioned in the proviso to this sub-rule, *i.e.* imminent danger to the public, not being in the public interest or in the interest of security of the State.
- (2) If no opportunity of being heard is given to a person whose licence is proposed to be cancelled or suspended, it will cause him hardship inasmuch as he will not be able to make his submission to the licensing authority before having recourse to filing an appeal as provided in rule 95. The licensing Officer will also not be able to decide whether the cancellation or suspension order should be revoked and the licensee should be permitted to resume the manufacture, possession or use of explosives."

129. After considering the comments of the Ministry concerned in the matter the Committee had observed as follows:—

"While the Committee is inclined to agree with the condition of the Ministry that the amended rule, read in its entirety, makes it clear as to the matter which come within the expression 'deemed objectionable', it is of the view that the period of suspension of a licence should not count towards the total validity period of the licence unless the suspension is ordered as a substantive punishment. The Committee recommends that the relevant rule should be amended to clarify the position accordingly.

As regards the provision which denies opportunity of being heard to a licensee whose licence is suspended on the ground that the continuance thereof in the hands of the licensee is likely to cause danger to the public, the Committee is of the opinion that the licensee should be given an opportunity of being heard before the order of suspension is confirmed. The Committee recommends that the relevant rule be modified accordingly." (Vide paras 20-21 of the Thirteenth Report).

130. In their reply, the Ministry of Industrial Development have submitted as follows:—

2. These recommendations of the Committee have been carefully considered by his Ministry in consultation with the Chief Inspector of Explosives, Nagpur. According to Rule 93 of the Explosives Rules, 1940 as amended, a licence could be suspended:—
  - (a) by the licensing authority for specific violations of a nature which is NOT likely to cause imminent danger to the public;
  - (b) by the licensing authority for specific violations which ARE likely to cause imminent danger to the public; and
  - (c) by the Central Government where continuance of the licence in the hands of the licensee is deemed objectionable.
3. In cases of type (a), the licensing authority has to give to the licensee an opportunity of being heard before he suspends a licence. In this case the suspension if ordered will be a substantive punishment.
4. In cases of type (b), the suspension will be merely on 'interim measure' to avert imminent danger to public. This Ministry agree that such a measure should be followed by a further order confirming suspension after giving the licensee an opportunity of being heard.
5. In the case of type (c), licence could be suspended by the Central Government (who is not a licensing authority) if continuance of the licence in the hands of the licensee is deemed objectionable. It will give the licensee an opportunity of being heard if the licence is suspended for reasons which could be disclosed. No such opportunity will be given before passing suspension order if the reasons cannot be disclosed in public interest/interest of the security of the State."
6. It may be noted that the Central Government need not exercise the power in cases involving specific violation of the rules, as, in such cases the licensing authorities will have the necessary powers. The Central Government may have to take action when suspension/cancellation is necessary for reasons other than specific violation of the Indian Explosives Act, 1884. A few typical cases which would necessitate exercise of the power of suspension/cancellation by the Central Government are given below:—

Case (i).—A licensee surreptitiously exports explosives to an unfriendly foreign country. Offences relating to export of ex-

plosives do not come under the purview of the Indian Explosive Act, 1884. They are punishable under the Arms Act 1959. Punishment under the latter Act cannot prevent the offender to hold a licence under the former Act and continue his anti-national activities.

Case (ii).—A person holding a licence for possession and sale, supplies explosives to another person holding a licence for possession knowing that the latter person is using explosives for manufacturing bombs for unlawful activities. Though the first person is a better and could be punished under the Arms Act, 1959, no action could be taken against him under the Indian Explosives Act.

Case (iii).—A habitual offender occupies a number of premises under different licence in his name with the object of continuing in business even if a few, but not all of his licences, are suspended/cancelled for gross violations culminating in serious loss of life. In a typical case of this type, a High Court had ruled that a licence could not be suspended/cancelled for offences relating to another licence held by the same person.

The above do not cover all the contingencies in which the Central Government may have to suspend a licence on the ground that its continuance in the hands of the licensee is objectionable.

7. As the amended rule 93 now stands, the Central Government may exercise powers given thereunder to suspend a licence when it has good and sufficient reasons to suspect that continuance of the licence is objectionable. If it has conclusive evidence to the effect that continuance of any licence is objectionable, it will be a case of cancellation and not suspension and, therefore, the question of confirming the suspension order will not arise. Thus suspension of a licence by the Central Government will be an 'interim measure' (and not a confirmed order) to enable it to investigate the matter further and come to a positive decision regarding continuance/discontinuance of the licence. It should satisfy the Committee on Subordinate Legislation if Rule 93 is further amended to prescribe the maximum duration of a suspension order and to ensure that suspension does not deprive the licensee of his right to have the licence renewed. In the case of suspension by a licensing authority without giving the licensee an opportunity of being heard, the order of suspension should be confirmed after giving such an opportunity.

8. As regards cancellation of a licence, the Committee on Subordinate Legislation want that a reasonable opportunity of being heard, must be given by the Central Government to a licence holder before his licence is cancelled.
9. It will be seen from the remarks in paragraph 7 above that the Central Government will be required to cancel a licence only when it has conclusive evidence to the effect that continuance of the licence is objectionable in public interest or in the interest of the security of the State. In such circumstances, the offender will be able to continue his objectionable activities for some more time, if he is to be given an opportunity of being heard before his licence is cancelled. The Committee may be requested to please reconsider their recommendation in the light of the position stated above."

131. The Committee has reconsidered the rule in the light of the Ministry's submissions quoted above. The Committee do not wish to insist on its recommendation in so far as the giving an opportunity of being heard to a licensee is concerned in case of suspension or cancellation of his licence by the Government in public interest or in the interest of security of the State. The Committee also notes that the Ministry of Industrial Development propose to amend rule 93 in the following material respects:—

- (i) The first proviso to sub-rule (1) of rule 93 shall be substituted by the following, namely:—

Provided that—

- (a) before suspending or cancelling a licence under this rule, the holder of the licence shall be given an opportunity of being heard;
- (b) the maximum period of suspension shall not exceed three months; and
- (c) the suspension of a licence shall not debar the holder of licence from applying for its renewal in accordance with the provisions of rule 91.
- (ii) The second proviso to sub-rule 93 shall be substituted by the following, namely:—
- (2) Notwithstanding anything in sub-rule (1), an opportunity of being heard may not be given to the holder of a licence before his licence is suspended or cancelled in cases—
- (a) where the licence is suspended by a licensing authority as an interim measure for violation of any of the provisions of the

Act or these rules, or of any conditions contained in such licence and in his opinion such violation is likely to cause danger to the public :

- Provided that where a licence is so suspended the licensing authority shall give the holder of the licence an opportunity of being heard before the order of suspension is confirmed; or
- (b) where the licence is suspended or cancelled by the Central Government, if that Government considers that in the public interest or in the interest of the security of the State such opportunity should not be given.

132. The Committee is satisfied with the proposed amendments to be issued by the Ministry. The Committee will, however, like that the word "danger" occurring in clause (a) of (new) sub-rule (2) should be qualified by the word "imminent" to make the intention clear.

## APPENDIX IV

(Vide PARAGRAPH 198 OF THE REPORT)

Extracts from the Indian Explosives (Amendment) Act, 1978

(No. 32 of 1978)

6E. (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the holder of licence by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may, by order in writing, suspend a licence for such period as it thinks fit or revoke a licence,—

- (a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export any explosive, or is of unsound mind, or is for any reason unfit for a licence under this Act; or
- (b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or
- (c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for the licence; or
- (d) if any of the conditions of the licence has been contravened; or
- (e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying the conditions of a licence under sub-section (1) or an order suspending or revok-



ing a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke a licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(7) A norder of suspension or revocation under sub-section (6) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(8) The Central Government may, by order in the Official Gazette, suspend or revoke, or direct any licensing authority to suspend or revoke, all or any licences granted under this Act throughout India or any part thereof.

(9) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

## APPENDIX V

(Vide para 301 of the Report)

### **Acts sought to be amended regarding publication and Laying of Rules and other delegated legislation through the delegated legislation Provisions (Amendment) Bill, 1982.**

(i) The following Acts are being amended so as to incorporate therein a provision for laying of Rules before Parliament:

1. The Opium Act, 1857 (13 of 1857)
2. The Indian Reserve Forces Act, 1888 (4 of 1888).
3. The Indian Tolls (Army and Air Force) Act 1901 (2 of 1901).
4. The Indian Ports Act, 1908 (15 of 1908).
5. The Indian Electricity Act, 1910 (9 of 1910).
6. The Indian Museum Act, 1910 (10 of 1910).
7. The Local Authorities Loans Act, 1914 (9 of 1914).
8. The Maintenance Orders Enforcement Act, 1921 (18 of 1921)
9. The Cantonments (House—Accommodation) Act, 1923 (6 of 1923).
10. The Dangerous Drugs Act, 1930 (2 of 1930)
11. The Agricultural (Grading and Marking) Act, 1937 (1 of 1937).
12. The Insurance Act, 1938 (4 of 1938).
13. The Capital Issues (Control) Act, 1947 (29 of 1947).
14. The Electricity (Supply) Act, 1948 (54 of 1948).
15. The Chartered Accountants Act, 1949 (38 of 1949).
16. The Army and Air Force (Disposal of Private Property Act, 1950 (40 of 1950).
17. The Army Act, 1950 (46 of 1950).
18. The Displaced Persons (Debts Adjustment) Act, 1951 (70 of 1951).
19. The Notaries Act, 1952 (53 of 1952).
20. The Special Marriage Act, 1954 (43 of 1954).
21. The Durgah Khawaja Saheb Act, 1955 (36 of 1955).
22. The Securities Contracts (Regulation) Act, 1956 (42 of 1956).
23. The Inter-State Corporations Act, 1957 (38 of 1957).

24. The Delhi Municipal Corporation Act, 1957 (66 of 1957).
25. The International Finance Corporation (Status, immunities and Privileges) Act, 1958, (42 of 1958).
26. The Cost and Works Accountants Act, 1959 (23 of 1959).
27. The Salar Jung Museum Act, 1961 (26 of 1961).
28. The Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969).
29. The Indian Medicine Central Council Act, 1970 (48 of 1970).
30. The Homoeopathy Central Council Act, 1973 (59 of 1973).
31. The Press Council Act, 1978 (37 of 1978).

(ii) The following Acts are being amended with a view to modify the laying provisions contained therein so as to bring them at par with those approved by the Committee in paragraphs 33-34 of their Second Report (Fifth Lok Sabha)

1. The Government Savings Bank Act, 1873 (5 of 1873).
2. The Medicinal and Toilet preparations (Excise Duties) Act, 1955 of 16 of 1955).
3. The Government Savings Certificates Act, 1959 (46 of 1959).
4. The International Development Association (Status, Immunities and Privileges) Act, 1960 (32 of 1960).
5. The Salar Jung Museum Act, 1961 (26 of 1961).
6. The Dowry Prohibition Act, 1961 (28 of 1961).
7. The Asian Development Bank Act, 1966 (18 of 1966).
8. The Civil Defence Act, 1968 (27 of 1968).
9. The Gold (Control) Act, 1968 (45 of 1968).
10. The Foreign Marriage Act, 1969 (33 of 1969).
11. The Monopolies and Restrictive Trade Practices Act, 1969 (45 of 1969).
12. The Indian Medicine Central Council Act, 1970 (48 of 1970).
13. The Naval and Aircraft Prize Act, 1971 (59 of 1971).

(iii) The following Acts are being amended to provide therein a provision for laying of Rules before State Legislatures:

1. The Religious Endowments Act, 1963 (20 of 1963).
2. The Press and Registration of Books Act, 1867 (25 of 1867).
3. The Indian Christian Marriage Act, 1872 (15 of 1872).
4. The Code of Civil Procedure Act, 1908 (5 of 1908).

5. **The Registration Act, 1908 (16 of 1908).**
6. **The Official Trustees Act, 1913 (2 of 1913).**
7. **The Indian Succession Act, 1925 (39 of 1925).**
8. **The Indian Partnership Act, 1932 (9 of 1932).**
9. **The Muslim Personal Law (Shariat) Application Act, 1937 (26 of 1937).**

## APPENDIX VI

(Vide para 302 of the Report)

F. 1(39)/82-Log. I

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE & CO. AFFAIRS

Legislative Department

New Delhi, the 23rd Nov., 1982

### OFFICE MEMORANDUM

**SUBJECT :** *Proposal for comprehensive legislation to implement the recommendations of the Committees on Subordinate Legislation with regard to the Publication and laying of rules and regulations and other delegated legislation thereunder.*

Attention of the Ministry of External Affairs, etc., is invited to this Department O.M. No. 1(39)/82-L. I dated the 17th May, 1982 on the subject noted above.

2. In response to the O.M. certain Ministries/Departments promptly communicated their clearance for the inclusion of the Acts with which they were administratively concerned with the subject matter, in the proposed Bill. On the basis of the information received a Bill—The Delegated Legislation Provisions (Amendment) Bill, 1982—was drafted by this Department and fifty Acts in respect of which clearance had been received were included in the Schedule annexed to the bill. The Bill was introduced in the Rajya Sabha on the 5th November, 1982.

3. According to our estimate, amendments similar to those included in the Bill would be required in respect of nearly 150 other Acts. We could not include these 150 Acts also in the Bill as we did not get the clearance from the administrative Ministries/Departments concerned. When the Bill comes up for consideration before Rajya Sabha in the next Session, there may be strong criticism as to why these 150 and odd Acts which require similar amendments have not been covered by the Bill. The scope for such criticism can be avoided if we can manage to introduce another Bill in the next session of Parliament for covering the remaining Acts.

4. The Ministry of External Affairs, etc. are, therefore, requested to examine the various Acts with which they are administratively concerned

and determine which of those Acts require to be amended for giving effect to the recommendation of the Committee on Subordinate Legislation with regard to the publication of rules, regulations and other forms of delegated legislation before the Houses of Parliament in accordance with the latest formula on the subject. A copy of the Bill introduced in Rajya Sabha on the 5th November, 1982 is enclosed to give an idea of the lines on which the various Acts have to be examined. If any clarification is needed the undersigned may be contacted.

Sd/- (Y. P. SUD),  
Deputy Legislative Counsel  
Tel. No. 384841

Encl: Copy of the Bill

To,

All the Ministries/Departments  
of Govt. of India.

**APPENDIX VII**

(Vide Para 336 of the Report)

*Statement showing Bills passed by Parliament amending one or two specific Sections of the Parent Acts (1979 to 1981).*

S. No.	Title of Bill as passed by both Houses of Parliament	Bill No. Act No. on assent	Amending/Substituting Sections/Schedule No. of parent Act	No. of Amendments
1	2	3	4	5
1.	The Industries (Development and Regulations) Amendment Bill, 1979.	16F/79 17/79	18 FB, First Schedule d	a
a.	The Merchant Shipping (Amendment) Bill, 1979.	138F/79 20/79	377	1
3.	Additional Duties of Excise (Goods of Special Importance) Amendment Bill, 1979.	29F/79 23/79	Second Schedule	1
4.	The Estate Duty (Distribution) Amendment Bill, 1979	51F/79 26/79	3	1
5.	The Payment of Bonus (Amendment) Bill, 1980.	3F/80 5/80	a	1
6.	The Central Excises and Salt and Additional Duties of Excise (Amendment) Bill, 1980.	7F/80 6/80	a First Schedule	a
7.	The Requisitioning and Acquisition of Immovable Property (Amendment) Bill, 1980.	65F/80 35/80	5/a	a
8.	The Delhi High Court (Amendment) Bill, 1980.	XVIII F/80 25	5/a	a
9.	The Advocates (Amendment) Bill, 1980.	97F/80 47/80	17,23	a
10.	The Dock Workers (Regulation of Employment) Amendment Bill, 1980.	137F/80 49/80	8(3) omit 3,8	3

1	2	3	4	5
11.	The Hindustan Tractors Limited (Acquisition and Transfer of Undertakings) Amendment Bill, 1980.	95F/80	5, Schedule category (III)	3
12.	The Mica Mines Labour Welfare Fund (Amendment) Bill, 1980.	74F/80	6	1
13.	The Territorial Army (Amendment) Bill, 1980.	51/80 136F/80	14	1
14.	The Smugglers and Foreign Exchange Manipulators (Forfeiture of property) Amendment Bill, 1980.	53/80 64F/80	12, 26	
15.	The Monopolies and Restrictive Trade Practices (Amendment) Bill, 1980.	60/80 142F/80	a	
16.	The L.I.C. (Amendment) Bill, 1981.	60/80 21F/81	48, 49	
17.	Delhi Sikh Gurdwaras (Amendment) Bill, 1981.	81 VIF/81	16 (3) omit	
18.	The Oil and Natural Gas Commission (Amendment) Bill, 1981.	6/81 27F/81	5 (1) proviso	
19.	The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities of (Amendment) Bill, 1981.	IV F/81 19/81	9	9
20.	The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1981.	XIXF/80 21/81		
21.	The Compulsory Deposit Scheme (Income-tax Payers) (Amendment) Bill, 1981.	95F/81 23/81	SA	1
22.	The Customs Tariff (Amendment) Bill, 1981.	100F/81 24/81	First Schedule	1
23.	The Coal Mines Labour Welfare Fund (Amendment) Bill, 1981.	185F/81	10	1
24.	The Delhi University (Amendment) Bill, 1981.	99F/81 27/81	5	1
25.	The Victoria Memorial (Amendment) Bill, 1981.	184F/81 32/81	2, 5	2
26.	The State of Nagaland (Amendment) Bill, 1981.	1F/81 35/81	22, 32	2



1	2	3	4	5
27.	The working journalists and other Newspaper Employees (Conditions of service) and Miscellaneous Provisions (Amendment) Bill, 1981.	XXF/81 36/81	a/6	a
28.	The Sugar Undertakings (Taking over of Management) Amendment Bill, 1981.	XXXV/81 44/81	a	1
29.	The Economic Offences (Inapplicability of Limitation) Amendment Bill, 1981.	107F/81 46/81	Schedule	1
30.	The Beedi Workers Welfare Cess (Amendment) Bill, 1981.	118F/81 47/81	a,3	2
31.	The Khurda Bakhsh Oriental Public Library (Amendment) Bill, 1981.	VIII/81 51/81	a7,a3	2
32.	The Rampur Raza Library (Amendment) Bill, 1981.	IX/81 52/81	a8	1
33.	The Indian Iron and Steel Company (Acquisition of Shares) Amendment Bill, 1981.	XXXVII/81 59/81	a,7,11	3

**APPENDIX VIII**

*(Vide Paragraphs 337-339 of the Report)*

**Statement showing the Action taken by Government on the Recommendations made by, and assurances given to, the Committee on Subordinate Legislation**

Sl. No.	Reference to para Nos. of Report and date of its presentation	Summary of Recommendations/Assurances	Gist of Government's reply
1	6	3	4
1.	<p><b>Eleventh Report</b> (Fifth Lok Sabha) 34 9-5-1974</p>	<p>The Committee note with satisfaction that the Ministry of Health and Family Planning (Department of Health) have agreed to amend the Drugs and Cosmetic Act so as to prohibit the manufacture of a drug considered unsafe for the use. The committee desire the Ministry of Health and Family Planning (Department of Health) to amend the Act at an early date.</p>	<p>The Drugs and Cosmetics Act, 1940 has accordingly been amended to the desired effect <i>vide</i> Act No. 68 of 1988.</p>
2.	<p><b>Eleventh Report</b> (Fifth Lok Sabha) 67 9-5-1974</p>	<p>The Committee are not convinced by the opinion of the Ministry of Law that corrigendum to correct the year in short title will not be the proper thing. They are of the view that in order to avoid confusion in referencing and tracing by all concerned, the year in the short title should be amended. The Committee desire the Ministry of Health and Family Planning (Department of Health) to take necessary action in the matter at an early date.</p>	<p>Necessary corrigendum to correct the year in the short title of the Amendment Rules (G.S.R. 335 of 1972) has accordingly been notified in the Gazette of India <i>vide</i> G.S.R. 683 of 1975.</p>
3.	<p><b>Eleventh Report</b> (Fifth Lok Sabha) 155 9-5-1974</p>	<p>The Committee take a serious view of the lapse on the part of the concerned Ministries/Departments in not sending final replies to the communications sent by the Committee. They need hardly mention that unless information is furnished to them in time, they can not express their views on the various Rules/Regulations scrutinized by them and submit their report to the House. They would like the defaulting Ministries/Departments to send replies within 3 months of the presentation of this Report.</p>	<p>(i) The recommendation has been brought to the notice of all concerned in the Ministry of Commerce. (See Ministry of Commerce O.M. No. H-11013/12/74-Parl. dated 21st July, 1975).</p>

(ii) The Ministry of Communication (P&T Department) have regretted the delay and furnished their final reply within the stipulated period to the Committee vide their D.O. No. 2-1/78-TF (Pt.) dated 31st May, 1974.

(iii) The Ministry of Railways (Railway Board) have regretted the delay and furnished their final reply to the Committee within the stipulated period vide their Office Memorandum No.E-710-G/4/3/RB-3 dated 13th June, 1974.

4- First Report  
(Sixth Lok Sabha)

50

16-7-1977

The Committee with satisfaction that the Ministry of Agriculture and Irrigation (Department of Rural Development) have agreed to incorporate the conditions prescribed in Rule 4 of the General Grading and Marking Rules, 1937, in Rule 15(a) of the Wool Grading and Marking Rules, 1975 so as to make them self-contained. The Committee desire the Ministry to do the needful at an early date.

The Ministry have stated that the requisite notification for amending Rule 15(a) of the Wool Grading and Marking Rules, 1975, with a view to incorporating therein all the condition mentioned in Rule 4 of the General Grading and Marking Rules, 1937 is being published in the Gazette of India Shortly.

(Ministry of Rural Development D.O. No. 13-10/76-AM dated 25 February, 1983).

5- Third Report  
(Sixth Lok Sabha)

50-54

14-18-1977

The Committee on Subordinate Legislation have time and again deprecated delays in laying of 'Orders' on the Table of the House. They regret to observe that cases of inordinate delays in laying still continue to occur in large numbers. Out of 1142 'Orders' laid on the table during the Twelfth Session to Eighteenth Session of Fifth Lok Sabha.

The Department of Parliamentary Affairs have circulated the recommendations to all Ministries/ Departments of the Government of India vide their Office Memorandum No. F.32(9)/77-R&C dated 28 February, 1978.

93 'Orders' were laid after the prescribed time-limit. In three cases, there was a delay of over one year, in one case of over two years, in two cases of over three years and in another two cases of over four years. The Committee need hardly re-emphasize that such inordinate delays in laying are contrary to the spirit of the relevant provisions in Acts which require that the 'Orders' should be laid before Parliament as soon as possible, after they are made. The Committee will also like the Ministries/Departments exercising rule-making power to bear in mind that generally the rules become operative as soon as they are published, but Parliament's statutory right of modification/annulment, in terms of statutes, becomes exercisable only after the rules are laid before Parliament. Inordinate delays such as above result in depriving Parliament of their statutory right of modification/annulment for unduly long periods.

51. An analysis of reasons for delay, as revealed by the statements laid before Parliament and the explanations subsequently furnished to the Committee, indicates that, as in the past, (i) in advice/oversight/administrative reasons (45 cases), and (ii) non-receipt of G.S.R. numbers/printed copies from the Press (38 cases) account for bulk of the cases of delay. To obviate delays on account of in-advicence/oversight, the Committee in para 32 of their Ninth Report (Fifth Lok Sabha) presented to the House on 19th November, 1973, had desired the Ministries/Departments to take specific steps on the lines indicated by the Ministry of Labour viz. (a) maintenance of a register for entering notifications issued under various Acts, and

(b) submission of periodical returns by the Sections issuing notifications to the Parliament Section. On the 18th December, 1973, the Department of Parliamentary Affairs brought the above recommendation of the Committee to the notice of all Ministries/Departments. Subsequently, on the 9th April, 1974, the Cabinet Secretary addressed a D.O. letter to all Secretaries of the Government saying that he had been desired by the Prime Minister to request that the procedure laid down in the D.O. to facilitate timely compliance with the statutory requirements relating to subordinate legislation should be strictly adhered to. The Secretaries of Ministries/Departments were asked to send confirmation to the Cabinet Secretary by the 20th April, 1974 that necessary arrangements in this regard had been made. It is unthinkable that after so emphatic a direction by the Committee, instructions by the Department of Parliamentary Affairs and the desire of the Prime Minister as communicated in the Cabinet Secretary's D.O. of the 9th April, 1974, delays on account of inadvertence/oversight should have occurred in such a large number of cases. The Committee will like the Ministries/Departments to make a review whether the procedural safeguards against delays in laying, as outlined in the Cabinet Secretary's D.O. dated the 9th April, 1974, have been introduced by them, and are being strictly complied with. The Committee will also like them to make a review whether there are still any 'Orders' with them which have inadvertently been omitted to be laid on the Table, and, if so, to lay them without any further delay. Henceforth, the Committee will take a serious view of such omissions.

52. As regards the other main reason for delay, *viz.*, non-receipt of G.S.R. numbers/printed copies of the Gazette from the Press, the Committee note that the Chief Controller of Printing and

Do.

side his Memorandum No. H-11019/1/73-P dated the 9th February, 1973 addressed to all the Ministries/Departments of Government of India referred to a new procedure for supply of printed copies of Gazettes or details of G.S.R./S.O. numbers allotted to notifications by the Press, so as to obviate delays in laying on this account. In Para 43 of their Fifth Report (Fifth Lok Sabha) and in para 35 of their Ninth Report (Fifth Lok Sabha), the Committee had desired the Ministries/Departments to strictly comply with this procedure. The fact that in as many as 98 cases, the delay should have occurred on this account indicates that the above procedure is not being strictly followed. The Committee will like the Ministries/Departments to ensure that henceforth no delay in laying occurs on account of their failure to follow the above procedure.

53. In two cases where the Committee took evidence, a reason given for delay was that the amendment of the 'Orders' was under consideration. The Committee do not consider it a valid plea for delay in laying. The Committee will like to emphasise that once an 'order' has been published, it should be laid on the Table within the prescribed time-limit. Amendments to the 'Orders' if any, may be laid subsequently, when issued.

54. The Committee also observe that out of 93 cases in which the delay had occurred in as many as 56 cases, statement showing reasons for delay had not been laid on the Table. The Committee feel strongly about non-observance of their recommendation in this regard. The Committee once again urge that in case, due to any unavoidable reasons, it has not been possible for a Ministry/Department to lay an 'Order'

Do.

on the Table within the prescribed time-limit, they should make it a point to lay a statement showing reasons for delay along with the 'Order'.

6. Third Report  
(Sixth Lok Sabha)

74

14-12-1977

Government have noted the recommendation *vide* Ministry of Education and Social Welfare (Department of Education) Office Memorandum No. 19-2/78-Desk(U) dated 17/20 April, 1978.

The Committee note from the reply of the Ministry of Education, Social Welfare and Culture that both their recommendations made in para 162 of their First Report (Second Lok Sabha) had actually been implemented by the Ministry in 1958 and 1960, but there was a failure on the part of the Ministry in that they had not informed the Committee about the action taken by them on these recommendations, with the result that the Committee remained unaware of the fate of their recommendations till June, 1974 when, on the matter being again taken up by the Committee, the Ministry clarified the position. The Committee hope that the Ministry will take care to obviate such omissions in future, and send action-taken notes to the Committee immediately on implementation.

7. Third Report  
(Sixth Lok Sabha)

75

14-12-1977

A Bill further to amend the Visva-Bharati Act, 1951 has already been introduced in the Rajya Sabha on 23 March, 1978. A new Section 24-B has been inserted *vide* sub-clause (10) of clause 26 of the said Bill to provide that "a person who holds any post in the University or is a member of any authority of body of University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or that body or the holder of that particular appointment as the case maybe". The above provision is in accordance with the recommendation of the Committee on Subordinate Legislation.

The Committee note the assurance of the Ministry that they propose to introduce comprehensive legislation for the Visva-Bharati, and at the time of its introduction, they will take into account the suggestion of the Committee for restoration of clause (11) of Statute 10 of the Statutes of the Visva-Bharati University which provided that a person who is a member of any authority or body of the University in his capacity as a member of a particular body (for instance, a member of Parliament) shall hold office so long only as he continues to be a member of that particular authority or body. The Committee desire the Ministry to expedite the proposed legislation.

8 Third Report  
(Shree Lok Sabha)

96

14-12-1977

The Committee note that in their earlier reply the Ministry of Education, Social Welfare and Culture had indicated that the relevant posts in the Asian Institute of Educational Planning and Administration were covered by item (15) of the Schedule to the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, whereas the same were, in fact covered by item (18) of the said Schedule. As a result of this error on the part of the Ministry of Education, Social Welfare and Culture, a lot of unnecessary correspondence had ensued between the Committee and three Ministries/Departments of Government (including the Departments of Legal Affairs and Personnel and Administrative Reforms). Had the Ministry taken care to state the correct position in the first instance, not only the unnecessary correspondence would have been avoided but there would also have been no occasion for the Committee to record adverse comments in the matter. The Committee trust that the Ministry of Education, Social Welfare and Culture will in future avoid such errors and take care to furnish correct information to the Committee.

9. Fifth Report  
(Shree Lok Sabha)

28, 29, 30 & 31

3-3-1978

22. The Committee concur with the suggestion of the Ministry of Shipping & Transport (Transport Wing) to amend Rule 5(t) of the Merchant Shipping (Levy of Seamen's Welfare Fee) Rules, 1974 so as to put a ceiling of Rs. 500 as the amount of security to be charged from a ship. The Committee, therefore, desire the Ministry to give effect to the proposed amendment at an early date.

[See Ministry of Education and Social Welfare (Department of Education) Office Memorandum No. 19-2/78-Desk(U) dated 17/40 April, 1978].

Government have noted the observations for future guidance vide Ministry of Education and Social Welfare Office Memorandum No. 1-1/78. Fig. I dated 27 January, 1978.



Do.

25. The Committee concur with the suggestion of the Ministry of Shipping and Transport (Transport Wing) to amend Rule 6 of the Merchant Shipping (Levy of Seamen's Welfare Fee) Rules, 1974 so as to provide for arbitration subject to both parties agreeing to the reference of the dispute to the sole arbitration of the Director-General. The Committee, therefore desire the Ministry to issue the proposed amendment at an early date.

Do.

28. The Committee note the suggestion of the Ministry of Shipping and Transport (Transport Wing) to prescribe a period of 24 months as the maximum time-limit for settlement of claims for refund under Rule 9(1) of the Merchant Shipping (Levy of Seamen's Welfare Fee) Rules, 1974. In the opinion of the Committee, the period of 24 months suggested by the Ministry is too long. The Committee desire that a maximum period of 12 months may be prescribed for the purpose, which may be extendable by the competent authority for another 12 months for reasons to be recorded in writing. The Committee desire the Ministry to issue the necessary amendment to this effect at an early date.

Do.

31. The Committee note that the amount of penalty provided for in Rule 11 of the Merchant Shipping (Levy of Seamen's Welfare Fee) Rules, 1974, exceeded the limit laid down in Section 436(1) of the Merchant Shipping Act. On being pointed out, the Ministry of Shipping and Transport (Transport Wing) have proposed to amend Rule 11 *ibid* to the effect that any person who contravenes any provisions thereof will be guilty of an offence and shall be punishable with fine which may extend to two hundred rupees and when the breach is a continuing one with a further fine which may extend to rupees fifty per day after the first breach during which the breach continues. The Committee observe that the penalty now suggested by the Ministry is within the limits

10 Fifth Report  
(Sixth Lok Sabha)  
75  
3-3-1976

laid down in the parent Act. The Committee desire the Ministry to amend the Rule in question to the above effect without any further delay.

Rule 7 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973 has accordingly been amended vide G.S.R. 255 of 1976.

11 Fifth Report  
(Sixth Lok Sabha)  
76  
3-3-1976

The Committee note with satisfaction that, on being pointed out, the Ministry of Labour have agreed to amend Rule 4 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973 so as to lay down that an M.L.A. on ceasing to be an M.L.A., shall also cease to be a Member of the Advisory Committee. The Committee desire the Ministry to issue the necessary amendment to this effect at an early date.

The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972 has since been amended to the necessary effect vide Act No. 70 of 1982.

12 Fifth Report  
(Sixth Lok Sabha)  
82  
3-3-1976

The Committee note with satisfaction that, on being pointed out, the Ministry of Labour have agreed to amend rule 13(1) of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973 so as to provide a minimum short period of notice for emergency meetings and for furnishing the list of business in the agenda for such meetings. The Committee desire the Ministry to amend the rule in question to this effect at an early date.

Rule 13 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973 has accordingly been amended vide G.S.R. 255 of 1976.

13 Fifth Report  
(Sixth Lok Sabha)  
87  
3-3-1976

The Committee note with satisfaction that, on being pointed out, the Ministry of Labour have proposed to amend Rule 50 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973, so as to provide for issue of a separate set of rules relating to

(i) Rule of the Limestone and Dolomite Mines Labour Welfare Fund Rules 1973 has since been omitted vide G.S.R. 350 of 1982.

staff. The Committee desire the Ministry to do the needful taken an early date.

- (ii) Separate set of the rules governing conditions of employment, etc. of the staff have already been notified.

[See Ministry of Labour Office Memorandum No. S-23013/3/76-MV Vol. II dated 17 May, 1982].

14 Eighth Report  
(Sixth Lok Sabha)  
28-29  
26-4-1976

28. In the opinion of the Committee, a price-freeze order which does not clearly indicate the level at which prices have been frozen, does not fully subs-serve its purpose. The object of such an order is that a consumer does not pay more than the frozen price but unless the consumer knows the frozen price, the possibility of his paying more than the frozen price cannot be ruled out. Also as conceded by the Department of Industrial Development in their reply, unless the frozen prices are actually men-tioned in the order, it becomes difficult for Govern-ment to prove a contravention of the order in a court of law. In view of this, the Committee consider it absolutely necessary that the frozen prices are clearly indicated in a price control order.

29. The Committee are glad to note that Government have since reviewed the matter and decided that in similar situations wherever possible, the recommen-dation of the Committee made in para 75 of their Fourteenth Report (Fifth Lok Sabha) would be kept in view and that prices would be appended to the price control orders to be issued in future.

15 Twelfth Report (Sixth Lok Sabha)  
75-78  
22-11-1976

75. According to the Ministry of Finance (Depart-ment of Revenue), the delay in laying the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Rules, 1977, on the Table of the House, was caused by a wrong impre-

The Government have taken note of the observation made by the Committee that whenever a Price Control Order is issued in future, appropriate steps would be taken to append to the price Control Order a copy of the price list.

[See Ministry of Industry (Department of Industrial Development) D.O. No. 8 (4)/77-LR dated 17 September, 1982]

Necessary instructions have been issued by the Ministry of Finance to all Offi-cers and Branches in that Ministry *et cetera* their Circular No. 215-G/Parl/79 dated 16-2-1979.

sion on their part that only rules framed by the Government are needed to be laid on the Table whereas the rules in question had been framed by the Appellate Tribunal for Forfeited Property to regulate its own procedure. The Ministry, therefore, did not feel the necessity of laying the said rules before Parliament till it was pointed out by the Committee on Subordinate Legislation of the Rajya Sabha that even the rules framed by the Tribunal were required to be laid before each House of Parliament. In this connection, the Committee note that Section 56(3) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 clearly lays down that every rule made thereunder shall be laid before each House of Parliament, irrespective of the fact that the rules are framed by the Central Government or any other authority under the Act. The Committee further note that there is no indication in the Act that rules framed under Section 12 will not be laid before Parliament. Keeping this in view, the Committee cannot but feel that the plea of 'wrong impression' taken by the Ministry is not at all convincing.

Do.

76. With regard to not laying before Parliament a Statement showing reasons for delay in this case, the Ministry have attributed the omission to 'their ignorance of the requirements' on the part of its Safema Unit set up in April, 1976. The Committee are unable to accept it as a convincing reason as it appears to be like an after-thought for not complying with their of repeated recommendation in this regard.

Do.

77. To obviate delays on account of inadvertence/oversight, the Committee in para 32 of their Ninth Re-

port (Fifth Lok Sabha), presented to the House on the 19th November, 1973 had desired the Ministries/Departments to take specific steps on the lines indicated by the Ministry of Labour viz., (a) maintenance of a register for entering notifications issued under various Acts, and (b) Submission of periodical returns by the Sections issuing notifications to the Parliament Section. On the 18th December, 1973, the Department of Parliamentary Affairs brought the above recommendations of the Committee to the notice of all Ministries/Departments. Subsequently, on the 8th April, 1974, the Cabinet Secretary addressed a D.O. letter to all Secretaries of the Government saying that he had been desired by the Prime Minister to request that the procedure laid down in the D.O. to facilitate timely compliance with the statutory requirements relating to subordinate legislation should be strictly adhered to. The Secretaries of Ministries/Departments were asked to send confirmation to the Cabinet Secretary by the 20th April, 1974, that necessary arrangements in this regard had been made. It is unthinkable that after so emphatic a direction by the Committee, instructions by the Department of Parliamentary Affairs and the desire of the Prime Minister as communicated in the Cabinet Secretary's D. O. of the 9th April, 1974, delays on account of inadvertence/oversight should have occurred.

Do.

76. The Committee take a serious note of the fact that cases of delay in laying continue to occur in spite of Committee's emphatic exhortations in this regard time and again. Had the Ministry of Finance (Department of Revenue) viewed the things in proper perspective and bestowed the attention and care the matter deserved, the Committee feel that the present case of delay could have been avoided. The plea of 'wrong impression' and 'sheer ignorance of the requirement' are not at all tenable. The Committee feel strongly about the

matter and deprecate the delay in the present case. The Committee reiterate their earlier recommendations on the subject and desire the Ministry of Finance to bring them to the notice of their units forthwith for compliance.

16. Fourteenth Report (Sixth Lok Sabha)

44-45  
15-18-1976

44. The Committee note that in a number of cases Ministries/Departments concerned have not cared to comply with the Committee's earlier recommendation made in para 81 of their Sixth Report (First Lok Sabha) that while laying the amending Rules on the Table of the House extracts from the original rules should also be attached to them. The Committee are surprised to note that as many as 91 amending orders laid on the Table of the House during the period 27th October, 1976 to 8th August, 1977 were not accompanied by the relevant extracts from the original rules. By and large the Ministries/Departments concerned in their replies have given inadvertence or oversight on their part as the reason for this lapse. The Committee take a serious note of this lapse on the part of Ministries/Departments who do not appear to have paid due attention to the recommendation of the Committee on this subject more so when it has been brought to their notice by the Department of Parliamentary Affairs twice—once in 1958 and again in 1976. The Committee stress that attaching relevant extracts from the original rules to amending rules is necessary to facilitate reference not only by Members but also by the Committee while examining the latter under Direction 103 of the Directions by the Speaker.

The recommendations/observations of the Committee have since been brought to the notice of all Sections/Officers concerned for their future guidance and strict compliance by the Ministries concerned namely, Tourism and Civil Aviation, Railways (Railway Board), Works and Housing, Steel and Mines (Department of Mines), Shipping and Transport (Transport Wing), Law, Justice and Company Affairs (Department of C.A. and Legislative Department), Industry (Department of Industrial Development), Health and Family Welfare (Department of Health), External Affairs Labour, Home Affairs (Department of Labour, Home Affairs), Finance (Department of Revenue and E.A.), Defence, Communications, Commerce (Department of Commerce), and Agriculture (Department of Food).

(i) Ministry of Tourism and Civil Aviation  
O.M. No. 11015/5/89-P.U. dated  
5-2-1983.

45. The Committee recommend that the Ministries/Departments should devise some procedure so that the recommendations of the Committee are strictly

compiled with and not lost sight of while laying the  
amending orders on the Table of Lok Sabha.

- (ii) Ministry of Railways (Railway Board)  
O.M. No. 79/TG-IV/21/1 dated 22-1-79.
- (iii) Ministry of Works and Housing O.M.  
No. 11013/6/78-PIT dated 26 March,  
1980.
- (iv) Ministry of Steel and Mines O.M.  
No. 24/2/80-CDN-T. dated 3 July,  
1980.
- (v) Ministry of Shipping and Transport  
(Transport Wing) D.O. No. CDN-  
GPA/40/78 dated 11 March, 1983.
- (vi) Ministry of Law, Justice and Company  
Affairs (Department of C.A.) O.M.  
No. 4-Parl/78, dated 22 December,  
1978.
- (vii) Ministry of Law, Justice and C.A.  
(Legislative Department) O. M.  
No. F. 4 (13)/78-L.I., dated 29  
February, 1980.
- (viii) Ministry of Industry (Department  
of Industrial Development)  
O.M. No. 10/16/78-Parl.  
dated 14 February, 1980.
- (ix) Ministry of Health and Family Wel-  
fare D.O. No. H-11018/1/78-DM  
S & PFA, dated 23 March, 1983.
- (x) Ministry of External Affairs O.M.  
No. Q/12531/Parl/80, dated 21  
April, 1980.

- (xi) Ministry of Labour O. M. No. 11013/1/79-FU, dated 19 February, 1979.
- (xii) Ministry of Home Affairs (Department of Personnel and A.R.) O.M. No. 11013/43/78-Parl. dated 5 January, 1979.
- (xiii) Ministry of Finance O.M. No. 131/11/79-GC. II, dated 26 May, 1979.
- (xiv) Ministry of Finance (Department of Economic Affairs) O.M. No. 7/2/77-NS, dated 11 April, 1979.
- (xv) Ministry of Defence O.M. No. F. 3(34)/78/D (Parl.) dated 12 January, 1978.
- (xvi) Ministry of Communications O.M. No. 11014(12)/78-L. R. dated 27 December, 1978.
- (xvii) Ministry of Communications (P. & T. Department) O.M. No. 40-125/77-GA, dated 11 March, 1980.
- (xviii) Ministry of Commerce & Civil Supplies (Department of Commerce) O.M. No. 11013/44/78-Parl. dated 20 February, 1980; and O.M. No. 11013/44/78 dated 19 February, 1979.



17. Twenty-First Report  
(Sixth Lok Sabha)

71  
17-3-1979

The Committee note with satisfaction that on being pointed out, the Ministries/Departments concerned have either amended or have agreed to amend the entry under Column 13 of the recruitment rules (Appendix II) indicating the circumstances under which U.P.S.C. will be consulted. The Committee desire the Ministries/Departments, who have not issued the amendment so far, to do so expeditiously. The Committee also desire the Department of Personnel and Administrative Reforms to issue necessary instructions to all Ministries/Departments in this connection so that this infirmity of the rules may not continue any more.

(xix) Ministry of Agriculture & Irrigation (Department of Food) O.M. No. 11021/4/78-Parl.(F) dated 2 January, 1979.

(i) The Ministry have since notified the revised Recruitment Rules for the posts of Deputy Director of Accounts (Fertiliser)/Accounts Officer (Budget) and Deputy Commissioner (Fertiliser) in the Department of Agriculture *vide* Notification No. A. 12018/5/72-Esst, I dated 4-3-1978 and No. 12018/2/74-EI dated 3-4-1978 respectively.

[M/O Agriculture (Department of Agriculture and Cooperation) O.M. No. A. 12018/2/74-Esst, I dated 25 November, 1980 received with D.O. No. 44011/1/83-EI dated 8 March, 1983].

*Note* : Position regarding the remaining three Recruitment Rules with which the Ministry was also concerned, has been indicated in the combined Memorandum on cases of 'interim replies'.

(ii) The Ministry of Tourism & Civil Aviation have since revised the India Meteorological Department (Class I and II Posts) Recruitment Rules *vide* Notification No. A. 12018/1/77-M dated 6 October, 1978 and 2 January, 1980 to the desired effect.

18. First Report  
(Seventh Lok Sabha)  
25  
15-7-1980

Although the Ministry of Shipping and Transport (Transport Wing) have expressed their regret and assured compliance with the recommendations of the Committee in future, the Committee are not happy over the lapse on the part of the Ministry in as much as, while laying on the table of the House the ten amendments, the Ministry did not care to attach the extracts from original rules in spite of the fact that the Committee's earlier recommendation on the subject had not only once but twice been brought to the notice of all Ministries of the Government of India by the Department of Parliamentary Affairs—first in 1958 and again in 1976. The Committee are all the more distressed to note that the Ministry's reply does not reveal the reasons for not following the recommendation of the Committee in this respect particularly when the Ministry have themselves stated that they were aware of the recommendation of the Committee made in 1956. The Committee desire the Ministry to follow their recommendations scrupulously henceforth.

19. Seventh Report  
(Seventh Lok Sabha) 73-75  
8-9-1981

73. The Committee have reconsidered the matter in the light of the evidence given by the representatives of the Ministry of Law, Justice and Company Affairs (Department of Justice). The Committee are inclined to accept the plea of the Ministry that the Judges of the Gauhati High Court (Allocation of Salaries and Allowances) Order, 1975 (S.O. 4932 of 1975) was in the nature of an executive order and did not involve sub-ordinate legislation. The Committee, therefore, do not desire to pursue their earlier recommendation made in paragraphs 39-40 of their Sixteenth Report (Sixth Lok Sabha).

74. The Committee are however, constrained to observe that initially the Department of Justice had not

The relevant extracts from the Report of the Committee have already been sent to the concerned Officers in the Ministry for compliance.

[Ministry of Shipping and Transport  
(Transport Wing) D.O. No. CDDN/  
CPA-13/81, dated 1 March, 1983].

The Department of Justice has since noted the observations and recommendations of the Committee for future guidance. Ministry of Law, Justice and Company Affairs (Department of Justice) O.M. No. 31/126/81-jus dated 14 February, 1983

Note : The Action taken note of the Department of Parliamentary Affairs in this regard has since been included in Sixteenth Report of the Committee (Seventh Lok Sabha).

obtained the opinion of the Department of Legal Affairs before furnishing their comments on the reference made by the Committee which resulted in inordinate delay in finalisation of the matter by the Committee.

73. In order to avoid recurrence of such situations in future, the Committee recommend that whenever any reference is made by the Committee to the Ministries/Departments, they should give it prompt attention and consider the matter in all aspects including obtaining the opinion of the department of Legal Affairs, if considered necessary, before furnishing their comments for consideration of the Committee.

30.

Tenth Report 5  
(Seventh Lok Sabha)  
8

24-12-1981

The Committee note from the reply of the Ministry of Defence that the proviso to sub-rule (b) of Rule 6 of the Military Lands and Cantonments Service (Class I and Class II) Rules is intended to provide for the age concession to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Government from time to time in this behalf. The Committee, however, feel that the intention is not fully borne out by the proviso as worded. On a reference to the consolidated instructions issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) vide their O.M. No. 1401/24/76-Est. (RR) dated 22 May, 1979 for facilitating the drafting of recruitment rules and amendments thereto, the Committee find that paragraph 3-16 of these instructions stipulates for inclusion of a saving clause in the recruitment rules to read as under :—

The Military Lands and Cantonments Service (Class I and Class II) Rules, 1951 and have since been repealed by the following Rules :

- (i) The Military Lands and Cantonments Service (Group 'A') Rules 1981;
- (ii) The Military Lands and Cantonments (Cantonment / Executive Officers) Service (Group B) Rules, 1983; and
- (iii) The Military Lands and Cantonments (Assistant Military Estate Officers) Service (Group B) Rules, 1983.

“Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes; the Schedu-

The corresponding rule 13 of the aforesaid Rules contains the requisite savings provisions regarding reservations, relaxation

of age limit and other concessions to be provided for the Scheduled Castes, Scheduled Tribes and other special categories of persons.

led Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard."

The Committee feel that the Ministry should have no difficulty in amending the rules suitably on the lines of the aforesaid instructions with a view to bringing out the underlying intention clearly.

21. Tenth Report  
(Seventh Lok Sabha)

34

24-12-1981

(i) Requisite guidelines have accordingly been issued by the Central Board of Excise and Customs *Vide* their Circular No. 15/78-CX. 6 dated 4 May, 1978. [F. No. 302/20/74-CX. 6 Vol. II]

(ii) Rule 51 of the Central Excise Rules, 1944 has accordingly been amended *Vide* G. S. R. 483 dated 29 May, 1982.

The Committee desire the Ministries of Finance (Department of Revenue) to amend the Central Excise Rules on the lines already suggested by them in paragraph 34 of their First Report (Sixth Lok Sabha).

\*The Committee note that the Ministry of Finance (Department of Revenue and Banking) are examining the whole matter afresh in view of the many representations received in that regard. The Committee also note the assurance of the Ministry that the suggestions of the committee in regard to (i) laying down of criteria/guidelines for grant of exemption from Rule 51; and (ii) recording of reasons in writing for granting exemption would be kept in view while making modifications in Rules, if any. The Committee desire the Ministry to amend the Rules on the suggested lines at an early date.

[Para 32, IR (6LS)]

22. Tenth Report  
(Seventh Lok Sabha)

43

24-12-1981

The Ministry of Finance (Department of Economic Affairs) have since added the following proviso to sub-rule (i) of rule 10 of the National Savings

The Committee will like to make it clear that they did not want to interfere with the practice followed by the Ministry of Finance (Department of Economic Affairs) in paying interest at Post office Savings

Certificates (V Issue) Rules, 1973 *Vide* G.S.R. 532-E dated 21 August, 1982 :-

" Provided that where the Central Government is satisfied that such purchase or acquisition of a certificate is due to a bona fide error on the part of the holder thereof, it may authorise payment of simple interest on the face value of the certificate at the same rate as admissible for the time being in force for the type of savings accounts which such holder is entitled to open under the provision of the Post Office Savings Accounts Rules, 1981."

Bank rates on irregular holdings of National Saving Certificates (V Issue) wherever it is found that the irregular investment is attributable to a genuine error on the part of depositor. The sole purpose of the committee in asking the Ministry to incorporate the practice in the National Savings Certificates (V Issue) Rules had been to provide a legal sanction to the practice followed and to ensure that the power to pay interest was not put to any arbitrary use by the authorities concerned. The Committee did not also intend to make a provision in the rules for payment of interest at Post Office Savings Bank rates in all cases of ineligible investments. As such, the fear of developing complacency and slackness on the part of the Departmental official or causing loss to the depositors is not tenable.

The Committee, therefore, reiterate their earlier recommendation made in paragraph 71 of the Seventh Report (Sixth Lok Sabha) and desire the Ministry to do the needful without further loss of time.

\*The Committee note that the Ministry of Finance have conceded in their reply that there is a possibility issue of certificates under the aforesaid Rules to Institutions etc. by Post Offices due to an element of human error. The Committee further note that even though there is no statutory provision to this effect cases of institutions etc. holding certificates are being considered on merit and generally interests at Post Office Savings Bank rates is also allowed to them. The Committee feel that in view of this practice being already there, the Ministry should have no difficulty in bringing it on a statutory footing.

[Para 71, 7R (6LS)]

The Ministry of Defence have since amended Rule 11(6) of the Defence Research and Development Service Rules, 1978 to the desired effect vide S.R.O. 1982 dated 14 August, 1982.

The Committee note the practical difficulties pointed out by the Ministry of Defence in specifying the names of the courses of training/instructions, and accept the suggestion of the Ministry to add the following sentence at the end of the existing Rule 11 (6) of the Defence Research and Development Service Rules, 1978, so as to make the intention clear :—

“This training will be a part of training/preparation of the officer to undertake the projects assigned to him.”

The Committee desire the Ministry to notify the proposed amendment at an early date.

The Ministry of Defence have since amended the Defence Research and Development Service Rules 1978 vide S.R.O. 1982 dated 14 August, 1982.

**TWELFTH REPORT**  
(Seventh Lok Sabha)  
38  
28-7-1982

**TWELFTH REPORT**  
(Seventh Lok Sabha)  
42  
28-7-1982

**TWELFTH REPORT**  
(Seventh Lok Sabha)  
34-37  
28-7-1982

23.

21.

25.

(i) The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have issued necessary instructions vide their Office Memorandum No. CSL. 14017/1/82-Est. (RR) dated 3 August, 1982 to all Ministries/Departments of the Government of India so as to issue the required amendments to

54. The Committee note that the Department of Personnel and Administrative Reforms have since issued necessary instructions regarding relaxation of upper age limit for government servants for appointment to Group 'A' and Group 'B' posts in various Ministries/Departments vide their Office Memorandum No. 4/474-Est. (D) dated 9 April, 1981.

54.

55. The Committee desire the concerned Ministries/Departments to amend the various Recruitment Rules with which they are administratively concerned so as to indicate therein the extent of exact relaxation of upper age limit for Government servants for appointment to Group 'A' and Group 'B' posts in accordance with the instructions issued by the Department of Personnel and Administrative Reforms in this behalf.

56. The Committee need hardly emphasize that these instructions should be followed in letter and spirit by all Ministries/Departments while making appointments to these posts with a view to maintaining uniformity of procedure till the Recruitment Rules are actually amended in this regard.

57. The Committee are constrained to observe that although their recommendation made in paragraph 55 of Twelfth Report (Fifth Lok Sabha) was made available to the Department of Personnel and Administrative Reforms soon after the presentation of the Report to the House in May, 1974, that Department took a long period of seven years in coming to a decision in the matter. As a result, hundreds of Recruitment Rules, issued during this period, did not contain the requisite provisions. A good number of references on the issue made by the Committee during the period could also not be disposed of by various Ministries/Departments. This, besides holding up the schedule of work of the Committee, resulted in infructuous and prolonged correspondence between the Committee and the Ministries on the one hand, and between the Department of Personnel and Administrative Reforms and the rest of the Ministries on the other. The Committee cannot but deprecate such an inordinate delay in implementing their recommendation. The Committee hope that in future the Ministries/Departments would be more responsive to their recommendations.

recruitment rules within one month from the date of issue of these instructions

(ii) The Department of Parliamentary Affairs have brought the recommendations/observations of the Committee to the notice of all Ministries/Departments of the Government of India for information and guidance vide their Office Memorandum No. F. 32 (3)/82-R & C dated 9 November, 1982.

Do.

46 Sixteenth Report (Seventh Lok Sabha) 12  
3-3-1983

A number of instances have also come to the notice of the Committee wherein the words 'or posts' have been included in the relaxation provisions as is borne out by the illustrative list of such Orders given in Appendix II.\* It clearly shows that the provisions of the model relaxation clause set out by the Department of Personnel and Administrative Reforms have not been applied to various recruitment rules by the Ministries while framing those rules. The Committee are of the opinion that relaxing a rule otherwise suspending its operation with respect to a post or posts is tantamount to an amendment of the such rule without resorting to the formality of actually amending the statutory rules. With this end in view as also for the sake of uniform practice in the matter of relaxation provisions in the recruitment rules, the Committee desire all Ministries/Departments to omit the words 'or posts' wherever they occur in the 'power to relax' clause of various recruitment rules. The Committee further desire the Department of Personnel and Administrative Reforms to impress upon all concerned once again to follow their instructions in this regard scrupulously in future.

The Department of Personnel and Administrative Reforms have brought the recommendation of the Committee to the notice of Ministries/Departments for compliance vide their Office Memorandum No. GSL. 14017/1/80-Estt (RR) dated 20 April, 1983.



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**MINUTES**

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**APPENDIX IX**

(*Vide* para 7 of the Report)

**LXIX**

**MINUTES OF THE SIXTY-NINTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)—  
(1982-83)**

The Committee met on Thursday, 17 March, 1983 from 15.30 to 16.30 hours.

**PRESENT**

Shri Mool Chand Daga—*Chairman*

**MEMBERS**

2. Shri Mohamad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Dalbir Singh (Madhya Pradesh)
5. Shri Ramanna Rai
6. Shri Ebbrahim Sulaiman Sait

**SECRETARIAT**

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee took up for consideration the following two Memoranda:

- (1) Memorandum No. 163 regarding implementation of recommendations of the Committee on Subordinate Legislation—cases of failure on the part of the Ministries|Departments to intimate implementation of Committee's recommendations.
- (2) Memorandum No. 164 regarding recommendations of the Committee on Subordinate Legislation awaiting impenmentation for want of introduction of a comprehensive legislation for amendment of the relevant Acts—Cases of one to two years old recommendations.

I. *Recommendations of the Committee on Subordinate Legislation in respect of which Ministries|Departments failed to intimate action taken thereon to the Committee—(Memorandum No. 163)*

3. The Committee considered Memorandum No. 163 containing 10 cases where Ministries|Departments of the Government of India failed to intimate the implementation of recommendations of the Committee. The observations made by the Committee in respect of each case were as follows:

(i) *The Requisitioning and Acquisition of Immovable Property Act, 1952.*

4. The Committee noted that in implementation of their recommendation contained in paragraphs 34 and 35 of their Sixth Report (Sixth Lok Sabha) for amendment of sub-section (3) of Section 22 of the Requisitioning and Acquisition of Immovable Property Act, 1952 in relation to laying of rules before Parliament, a Bill seeking amendment to the said Act was passed by Lok Sabha on 19-3-1980 and by Rajya Sabha on 26-3-1980. However, even after a second reminder to the Ministry on 20-2-1980, the Ministry had not cared to intimate the action taken by them to implement the recommendation. The Committee observed with distress that it was the bounden duty of the Ministry to apprise the Committee about the action taken by them on the recommendation made by the Committee. Failure to do so amounted to disrespect towards and contempt of a Parliamentary Committee. It was also not in keeping with the provisions of Direction 108(1) of the Directions by the Speaker.

(ii) *The Interest-tax Rules, 1974 (S.O. 740—E of 1974).*

5. The Committee noted that the Ministry of Finance had implemented their recommendation made in paragraph 43 of their Sixth Report (Sixth Lok Sabha) as far back as 29-10-1979. The Committee observed that despite the fact that the Ministry was asked on 26-2-1980 and 10-4-1981 to intimate the action taken by them, no reply was sent in the matter. It was only when the matter was taken up at the level of the Secretary of the Ministry through a D.O. letter dated 27-8-1982 that the Ministry intimated the action taken by them. The Committee noted that the Ministry had not only failed to intimate to the Committee the action taken by them but they had not even cared to take notice of the communications dated 26-2-1980 and 10-4-1981 sent to them in that regard. In this connection, the displeasure of the Chairman of the Committee over the scant regard shown to the recommendations of the Committee and the state of affairs in the Ministry had been conveyed to the Secretary of the Ministry on 14-10-1982. The Committee desired that the matter ought to be brought to the notice of the House specifically through their Report.

(iii) *The Central Excise (Nineteenth Amendment) Rules, 1977 (G.S.R. 554—E of 1977).*

6. The Committee noted that the recommendation made by them in paragraph 28 of their Eleventh Report (6th Lok Sabha) became infructuous after Rule 11 of the Central Excise Rules, 1944, commented upon by the Committee, had been omitted with effect from 17-11-1980 as intimated by the Ministry of Finance (Department of Revenue) vide their O.M. dated 31-8-1982. The Committee observed that the Ministry should have informed them *suo moto* about that position soon after the Rule was omitted. The Committee also observed that the displeasure of the Chairman of the Committee over the indifferent manner in which the implementation of recommendation of the Committee was reported by the Ministry, had been conveyed to the Secretary of the Ministry vide letter dated 24-9-1982. In view the regret expressed by the Ministry vide their reply dated 2-11-1982 about lapse on their part to intimate to the Committee in regard to omission of Rule 11 from the Central Excise Rules. The Committee decided not to pursue the matter further.

- (iv) (1) *The Posts and Telegraphs Department Technician (Higher Grade) and Technician (Telephones, Telegraphs, Carrier and Wireless) Recruitment Rules, 1975 (G.S.R. 2689 of 1975); and*
- (2) *The Posts and Telegraphs (Wireless) Recruitment (Amendment) Rules, 1975 (G.S.R. 591 of 1975).*

7. The Committee noted that even though the Ministry of Communications had amended the above-mentioned Rules as desired by them in paragraphs 33 to 37 of their Tenth Report (Sixth Lok Sabha) as far back as October, 1980 and January, 1982, they had failed to intimate to the Committee the action taken by them. The Committee also noted that the reminders issued by this Secretariat on 6-3-1980 and 30-9-1980 for pursuing the implementation of the recommendations were ignored by the Ministry. The Committee felt that there seemed to be no satisfactory arrangements in the Ministry to attend to the communications sent by the Committee. The Committee desired the Department of Parliamentary Affairs to lay down some well defined and satisfactory procedure for guidance of Ministries/Departments of the Government of India.

- (v) *The Khadi and Village Industries Commission (Amendment) Regulations, 1976, (G.S.R. 1307 of 1976).*

8. The Committee noted that the Ministry of Industry had implemented their recommendation contained in paragraph 42 of their Nineteenth

Report (Sixth Lok Sabha), within 6 months of the presentation of the Report. The Committee would have taken note of prompt action taken by the Ministry but due to failure of the Ministry to intimate to the Committee about the action taken by them, the matter could not be reported to the House as per Direction 108 of the Directions by the Speaker. The Committee's Secretariat had to pursue the matter from time to time. The Committee felt that the omission on the part of the Ministry in replying to the communications from the Committee had marred the otherwise commendable work done by them by implementing the Committee's recommendation in time.

(vi) *The Central Vigilance Commission (Staff) Amendment Rules, 1976* (G.S.R. 1385 of 1976).

9. The Committee noted that the Department of Personnel and Administrative Reforms had implemented one of the Committee's recommendations contained in paragraph 52 of their Nineteenth Report (Sixth Lok Sabha) by issuing instructions to all Ministries/Departments for compliance on 22-5-1979, i.e. within one month of the presentation of the Report. About the other recommendation which related to amendment of rule 3 of the Central Vigilance Commission (Staff) Rules, 1964, the Department kept the Committee informed of the progress being made for the amendment of the rules. Their last letter in the matter was received on 4-9-1980, the Committee observed that although the rule in question was amended on 25-10-1980, no intimation was sent to the Committee. It was only after the matter was taken up with the Secretary of the Department that the Committee came to know of the implementation of their recommendation. The Committee while appreciating the prompt implementation by the Department of one of the Committee's recommendations deplored the failure on their part to intimate the Committee about the other recommendation which had already been implemented as far back as 25-10-1980.

(vii) *The Assam Wild Life (Transactions and Taxidermy) Rules, 1977* (G.S.R. 35-E of 1977)

10. The Committee noted that the requisite amendment to sub-rule (1) of rule 4 of the Wild Life (Transactions and Taxidermy) Rules, 1977 had since been notified in the Gazette vide G.S.R. 401-E dated 22-6-1981, as desired by them in paragraph 81 of their Fifth Report (Seventh Lok Sabha). The Committee, however, observed that no intimation to that effect was sent to them by the Ministry. The Committee, therefore, impressed upon the Ministry that they must in variably intimate the Commit-

tee as and when an amendment was made in any rule in pursuance of their recommendation.

(viii) *The Law officers (Conditions of Service) Amendment Rules, 1977 (G.S.R. 1319 of 1977).*

11. The Committee noted that although rule 9 of the Law Officers (Conditions of Service) Rules, 1972 was amended *vide* G.S.R. 1108 dated 29-12-1981 in compliance with the recommendation contained in paragraph 11 of their First Report (Seventh Lok Sabha), the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) had not intimated that fact to the Committee's Secretariat. The Committee exhorted the Ministry that, in future, after an amendment to a rule in pursuance of the Committee's recommendation had been carried out, the Ministry should intimate the fact to the Committee forthwith without awaiting a reminder from the Committee.

(ix) *The Seamen's Provident Fund (Amendment) Scheme, 1977 (G.S.R. 1591 of 1977).*

12. The Committee noted that as desired by them in paragraph 45 and 46 of their Seventeenth Report (Sixth Lok Sabha) the Ministry of Shipping and Transport (Transport Wing) had since amended paragraph 58-E(4) of the Seamen's Provident Fund Scheme, 1966 *vide* G.S.R. 881 dated 23-8-1980. The Committee, however, observed that after their O.M. of 13 May, 1980 the Ministry had neither cared to send a copy of the notification nor had they sent any intimation regarding amendment having been carried out by them. The Committee deplored the failure of the Ministry in that regard.

(x) *Indication of incorrect entry in Col. 13 of the Schedule appended to Recruitment Rules regarding circumstances in which Union Public Service Commission is to be consulted in making recruitment.*

13. The Committee noted that although in pursuance of their recommendation contained in paragraph 71 of their Twenty-First Report (Sixth Lok Sabha) the Mica Mines Labour Welfare Fund Organisation (Class I and Class II Posts) Recruitment Rules, 1976 were amended in 1979 *vide* G.S.R. 108 to read as Labour Welfare Organisation, Ministry of Labour (Group 'A' and 'B' Posts) Recruitment Rules, 1979 and published in the Gazette dated 20-11-1979, the Ministry had failed to intimate that fact until a d.o. reminder was issued to them in January, 1983 in that connection. The Committee observed that such neglect on the part of the Ministry reflected the casual manner in which the Ministry treated their recommendations.

**General Observations**

14. The Committee observed that the cases spelt out above showed the indifferent attitude of the Ministries/Departments to their recommendations as revealed from the following table:—

S. No.	Name of Act/Rule	Date of presentation of the Report	When the Act/Rule was amended	Date of intimation
(i)	The Requisitioning and Acquisition of Immovable Property Act, 1962	17-3-1978	10-3-1980 (Lok Sabha) 26-3-1980 (Rajya Sabha)	30-4-1981
(ii)	The Interest-tax Rules, 1974. . . . .	18-3-1978	29-10-1979	27-8-1982
(iii)	The Central Excise (Nineteenth Amendment) Rules, 1977	24-8-1978	17-11-1980	31-8-1982
	(a) The Posts and Telegraphs Department Technician (Higher Grade) and Technician (Telephone, Telegraphs, Carrier and Wireless) Recruitment Rules, 1975 (G.S.R. 2689 of 1975) ; and	25-7-1978	13-10-1980	15-12-1982
	(b) The Posts and Telegraphs (Wireless) Recruitment (Amendment) Rules, 1975 (G.S.R. 591 of 1975)	Do.	30-1-1982	Do.
(v)	The Khadi & Village Industries Commission (Amendment) Regulations, 1976	25-4-1979	21-8-1979	3-9-1982
(vi)	The Central Vigilance Commission (Staff) Amendment Rules, 1976.	25-4-1979	25-10-1980	18-9-1982
(vii)	The Assam Wild Life (Transaction & Taxidermy) Rules, 1977	19-3-1981	22-6-1981	..
(viii)	The Law Officers (conditions of Service) Amendment Rules 1977	15-7-1980	29-12-1981	..
(ix)	The Seamen's Provident Fund (Amendment) Scheme, 1977	22-3-1979	23-8-1980	..
(x)	Indication of Incorrect entry in Column 13 of the Schedule appended to Recruitment Rules regarding circumstances in which UPSC is to be consulted in making Recruitment.	17-5-1979	20-1-1979	25-2-1983

II. Recommendations of the Committee on Subordinate Legislation awaiting implementation for want of introduction of a comprehensive legislation for amendment of the relevant Acts.

15. The Committee considered Memorandum No. 164 containing five cases in respect to which Government had been contemplating introduction of a comprehensive legislation in Parliament but had miserably failed to do so. The observations made by the Committee in each case were as follows:—

(i) *Amendment in the Companies Act, 1956*

16. The Committee noted that they had made their recommendation *vide* paragraph 41 of their Second Report (Seventh Lok Sabha) and that a period of more than two years had elapsed since the presentation of their Report in that regard. The Committee, therefore, desired the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) to bring forth a specific amendment for the amendment of Section 396(3) of the Companies Act, 1956 to implement their recommendation in case the proposed comprehensive legislation for the amendment of the said Act was likely to take long time.

(ii) *Amendment in the Central Excises and Salt Act, 1944*

17. The Committee noted that a period of more than two years had already elapsed since their Third Report (Seventh Lok Sabha) containing their recommendations in paragraph 34 thereof, was presented to the House.

18. The Committee further noted that the Ministry of Finance (Department of Revenue) had given an assurance that the draft Central Excise Bill was likely to be introduced in the Monsoon Session, 1981 but they had not done it. They intimated later that it would be introduced in the Winter Session, 1981 which was also not done and the Ministry were still and unable to indicate precisely the time by which the Bill would be introduced. The Committee could not help observing that it indicated unsatisfactory state of affairs and lack of proper planning. The Committee decided to impress upon the Ministry the need for making concerted efforts to bring forth the Comprehensive Bill at a very early date, preferably during the current Budget Session, 1983 failing which the Ministry should bring forward the amending legislation exclusively for the purpose of implementing their recommendations in that regard.

(iii) *Amendment in the Indian Boilers Act, 1923*

19. The Committee observed from the draft Summary prepared by the Ministry of Industry (Department of Industrial Development) for amend-



ment of various provisions of the Indian Boilers Act, 1923 for the Cabinet that a provision for laying of regulations framed under the said Act had also been proposed to give effect to the recommendation of the Committee contained in paragraph 42 of their Fifth Report (Seventh Lok Sabha). The draft Summary sent on 29 May, 1981 to the Ministry of Law (Department of Legal Affairs) for their concurrence was stated to be still under their consideration. The Committee deprecated the delay in the Ministry of Law as it resulted in non-finalisation of the comprehensive legislation by the Ministry concerned. Observing further that it was already more than two years since the Committee had made their recommendation, the Committee urged the Ministry to get clearance from the Ministry of Law by holding mutual discussions among higher officers of both the Ministries instead of pursuing the matter by issuing reminders. Thereafter the Cabinet's approval should also be obtained without any further delay. In case the clearance was likely to take more time, the Department ought to introduce the Amendment Bill specifically for the purpose of making provision for laying of rules. In that connection, the Committee drew the attention of the Ministry to the following recommendation of the Committee, contained in paragraph 9 of their Eighth Report (Seventh Lok Sabha):—

“...In cases where finalisation of other amendments is likely to take some more time, the Ministries should bring forward the amending legislation exclusively for the purpose immediately.”

20. The Committee also took note of the fact that for incorporating a provision regarding laying of rules on the Table, Government did have an opportunity to amend incorporate specific sections in the amending Bill introduced by the Ministry of Law in the Rajya Sabha on 5 November, 1982.

21. The Ministry of Law, in their O.M. No. F.1(39)/82-Leg.I dated 23 November, 1982 had conceded that in at least 150 Acts 'laying of Rules' provision would have to be incorporated. The Committee recommended that, at least, so far as 'laying of Rules' provision was concerned, it must be ensured that the second proposed Bill on the subject should be exhaustive so as to cover all those cases in which the Committee had recommended to make such a provision and no case should be left out on the plea that a comprehensive legislation was intended to be brought forth in that regard.

(iv) *Amendment to the University Grants Commission Act, 1956*

22. The Committee noted that Government had already introduced a comprehensive Bill in Parliament to amend Acts, of the Seven Central Universities to provide, *inter alia*, therein a provision for laying before Parliament the statutes, Ordinances or Regulations framed by those Universities. The Bill had since been passed by Rajya Sabha on 7-10-1982 and it was pending in Lok Sabha. The Committee observed that an amendment

to the University Grants Commission Act, 1956 had not, however, been included in the aforesaid comprehensive Bill on Delegated Legislation Provisions. The Committee could not help deploring the gap between the intentions of the Ministry and their actual translation into action. The Ministry should at least now ensure that the second comprehensive Bill about delegated legislation, which the Law Ministry proposed to introduce, should also include the UGC Act.

- (v) *Amendment to the Cantonments Act, 1924; Agriculture Produce Grading and Marking Act, 1937 Narcotics Laws—(a) the Dangerous Drugs Act, 1930; (b) the Opium Act, 1857 and 1878; and (c) the Central Reserve Police Force Act, 1949.*

(a) *Cantonments Act, 1924—Ministry of Defence*

23. The Committee noted that the Ministry of Defence had since introduced the Cantonment (Amendment) Bill, 1982 and that Government had tabled a notice of amendment to that Bill for incorporating the requisite laying provision therein in compliance with the Committee's recommendation, contained in paragraph 9 of their Eighth Report (Seventh Lok Sabha). The Committee decided to record their appreciation for Government's action though belatedly, for implementing their recommendation in that regard.

- (b) *Agriculture Produce Grading and Marking Act, 1937 Ministry of Agriculture and Irrigation (Department of Rural Development) now Ministry of Rural Development.*

24. The Committee noted that atleast Government had brought forward the long awaited comprehensive Bill on the provisions of Delegated Legislation in compliance with their recommendation in that regard which covered a number of Acts including the Agriculture produce Grading and Marking Act, 1937. The Committee, however, desired the Ministry of Law who had introduced the comprehensive Bill to bring forth another comprehensive Bill at a very early date which might cover all those remaining Acts which did not have such a provision.

- (c) *Narcotics Laws—(i) the Dangerous Drugs Act, 1930 and (ii) Opium Act, 1857—Ministry of Finance (Department of Revenue)*

25. The Committee noted that the two Acts on Narcotics Laws—(i) the Dangerous Drugs Act, 1930 and (ii) Opium Act, 1857 had been included in the Bill introduced by the Ministry of Law on the subject and that the Ministry of Finance were also alive to the Committee's recommendation made earlier in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) for incorporating of a provision for laying of Rules before Parliament in other Acts with which they were concerned but did not contain

such a provision. The Committee, however, desired the Ministry of Finance to see that the Opium Act, 1878 which had not been included in the present Delegated Legislation Provisions (Amendment) Bill was positively included in the next Delegated Legislation Amendment Bill proposed to be introduced by the Ministry of Law soon.

(d) *The Central Reserve Police Force Act, 1949—Ministry of Home Affairs.*

26. On scrutiny of the comprehensive Legislation Bill since introduced in the Rajya Sabha, the Committee notice that the Central Reserve Police Force Act had not been included therein which showed clear lack of coordination between the Ministry of Law and the Ministry of Home Affairs. Since the Ministry of Law were proposing to introduce another amendment to provide for laying provision in nearly 150 remaining Acts, the Committee hoped that the CRPF Act would also be included in the proposed Delegated Legislation Bill.

*General Observations:*

27. The Committee deprecated a general neglect towards providing of 'laying of rules' provision in the Bills. While the comprehensive bill on the subject introduced in the Rajya Sabha on 5 November, 1982 and further contemplation of the Law Ministry to introduce another similar Bill was to be welcomed; it had to be deprecated that the Government responded to such suggestions only after having been pointed out by the Committee.

28. During their scrutiny of various Bills introduced in Parliament, the Committee found that the following three Bills did not include the provisions for laying of rules therein:—

- (i) Marriage Laws (Amendment) Bill, 1981;
- (ii) The Pharmacy (Amendment) Bill, 1981; and
- (iii) The Indian Railways (Amendment) Bill, 1982.

29. In the case of the Marriage Laws (Amendment) Bill, 1981, the Ministry, in their O.M. dated 13 April, 1981 regretted the omission and promised to comply with the Committee's recommendation by moving an official amendment to the desired effect at the time of consideration of the Bill. The Committee hoped that that would be done.

30. As regards the Pharmacy (Amendment) Bill, 1981, the Ministry of Health and Family Welfare stated that the Pharmacy (Amendment) Bill, 1981 had a limited scope in regard to extending the time limit prescribed in the second proviso to sub-section 1 of Section 42 of the Pharmacy Act, 1948, as explained in the statement of objects and reasons appended to the

Bill. It was, however, proposed to bring a comprehensive bill for amending the Pharmacy Act wherein the recommendation of the Committee on Subordinate Legislation for making provision in the Act that rules and regulations framed thereunder should also be laid before the Parliament, would also be taken into account.

31. The Committee observed that this was again an illustration of the piecemeal thinking of the Government and indifference so far as the laying provision was concerned. Ministry could have provided for the same by including the Pharmacy (Act) Bill, 1981 in the Delegated Legislation (Amendment) Bill introduced in Rajya Sabha on 5 November, 1982 but that was not done by them.

32. In regard to the Indian Railways (Amendment) Bill, 1982 it was observed that sections 56(E) and 82J of the Principal Act which conferred rule-making power on the Central Government contained the requisite formula for laying and modification of such rules by Parliament, but sections 22, 47, 71E and 84 which also conferred rule-making power did not have corresponding provisions for laying and modification of such rules by Parliament.

33. The Ministry of Railways, with whom the matter was taken up on 30 March, 1982 had stated that the Indian Railways Act, 1890 was under comprehensive revision. The draft Bill seeking to revise the Railways Act was likely to be brought before Parliament shortly and Clause 225 of that Bill incorporated the necessary provisions for laying copies of the rules framed thereunder on the Tables of the two Houses. The Committee hoped that the comprehensive Bill would be introduced soon.

34. The Committee also noted that in their communication (O.M. No. F.16/50/77-BO.I dated 4 January, 1983), the Ministry of Finance had indicated that they were taking parallel action to introduce a common amendment Bill to amend the following Acts for the purpose of providing for laying of rules therein:

- (i) The Banking Regulation Act, 1949;
- (ii) The State Bank of India Act, 1955;
- (iii) Deposit Insurance and Credit Guarantee Corporation Act, 1961;
- (iv) The Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970;
- (v) The Regional Rural Bank Act, 1976;
- (vi) The State Bank of India (Subsidiary Banks) Act, 1959; and
- (vii) The Banking Companies (Acquisition and Transfer of undertaking) Act, 1980.

35. From the Committee's point of view there might not be any objection to such a separate common amendment Bill but the same Ministry could atleast ensure that other Wings of that Ministry also equally acted promptly. The above communication said that in so far as other enactments, which were being administered by the Ministry of Finance, were concerned, necessary information would be sent to the Secretariat of the Committee by the Departments of Revenue, Expenditure and Economic Affairs (Economic Division) and Bureau of Public Enterprises, Defence Division and Insurance Division etc. direct.

36. The Committee observed that one of the arguments advanced by most Ministries was (where it related to laying of rules provision or any other provision) that Government were contemplating to introduce a comprehensive legislation. Usually, as observed by the Committee; such comprehensive legislation was delayed over three years to four years from the dates of recommendations made by the Committee in their Reports. The Committee noticed that in a number of cases (will be given in Report). Government had introduced and got passed Bills to amend only one or two specific sections. When the Government could, thus, *suo-motu*, initiate legislation to amend only one of two specific sections of the statute, the Committee expressed their surprise and displeasure at the lackadaisical manner in which their recommendations for amending specific sections of the statutes, had been attended to by Ministries. The Committee emphasised the need for reducing delay to the minimum and also desired that where introduction of such comprehensive Bills was likely to take a long time, Bills for making specific amendments in implementation of the Committee's recommendations, should invariably be introduced in Lok Sabha at the next earliest occasion immediately after presentation of their Reports.

*The Committee then adjourned.*

LXXI

MINUTES OF THE SEVENTY-FIRST SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA  
1982-83)

The Committee met on Thursday, 31 March, 1983 from 15.30 to 16.15 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammed Asrar Ahmad
3. Shri N. E. Horo
4. Shri Ashfaq Husain
5. Shri C. D. Patel
6. Shri R. S. Sparrow

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer.*

2. The Committee took up for consideration the following two Memoranda:

- \*            \*            \*            \*            \*
- (2) Memorandum 167 regarding interim replies received from Ministries/Departments in the matter of implementation of recommendations of the Committee on Subordinate Legislation which are more than one year and two years old.

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

II. Interim replies received from Ministries/Departments in the matter of implementation of recommendations of the Committee on Subordinate Legislation which are more than one and two years old.

33. The Committee considered Memorandum No. 167 containing 19 cases in respect of which Government furnished interim replies in the matter of implementation of various recommendations of the Committee. The observations made by the Committee in each case were as follows:

- (i) The General Insurance (Rationalisation and Revision of Pay Scales and other conditions of service of Supervisory, clerical and subordinate staff) Third Amendment Scheme, 1978 (S.O. 1410 of 1978).

34. The Committee noted that their Fourth Report (Seventh Lok Sabha) containing the recommendation in paragraphs 35 to 39 thereof was presented about 2 years ago. The Committee observed that the appeal of the employees of the Insurance Industry lying in the Supreme Court had nothing to do with the recommendation of the Committee made in the aforesaid Report. The Committee asked the Ministry of Finance (Department of Economic Affairs) to bring an amendment bill in the Parliament for incorporating a provision in the enabling Act, namely the General Insurance Business (Nationalisation) Act, 1972, for validating the Rules already made and given retrospective effect. Such an amendment to the Act would not be effected by the fact that the Amendment Order issued *vide* their Notification dated 30 September, 1980 was *subjudice*.

- (ii) (a) The Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Amendment Rules, 1978 (G.S.R. 646 of 1978);
- (b) The Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Amendment Rules, 1978 (G.S.R. 647 of 1978).

35. The Committee noted that although a period of more than 2 years had elapsed since a copy of their Fourth Report (Seventh Lok Sabha) was forwarded to the Ministry of Shipping and Transport (Transport Wing) for implementation of their recommendation contained in paragraph 48 thereof, the Ministry had not been able to finalise the required amendment so far. The Committee were surprised to know that it was on the Ministry stating that the reasons for curtailing or extending the period of probation by the concerned authority were being recorded in writing that the Committee had recommended placing the same on a statutory footing by amending the

rules. The Committee further noted that except for their first reply dated 14 April, 1981 other replies were received *only after* the issue of reminders at each stage. The Committee, however, asked the Ministry to finalise the matter without any further delay and notify the amendment as recommended by them.

- (iii) The Aircraft (Fourth Amendment) Rules, 1976 (G.S.R. 1202 of 1976).

36. The Committee noted that although a period of about 2 years had passed since the Ministry of Tourism and Civil Aviation had intimated *vide* their O.M. dated 22 April 1981 that action was being initiated to notify the proposed amendment, as approved by the Committee in paragraph 69 of their Fifth Report (Seventh Lok Sabha) to sub-rule (10) of Rule 133B and sub-rule (9) of Rule 155A of the Aircraft Rules, 1937, it had not yet been done.

37. From the latest reply dated 9 March, 1983, the Committee observed that the Ministry obviously did not send the proposal to the Ministry of Law for vetting the final notification immediately after receipt of the objections/suggestions from the public on the draft rules which resulted in re-publication thereof. The Committee expressed their distress/unhappiness at the delay in implementing the recommendation. The Committee directed the Ministry to notify the rules without any further delay under intimation to them.

- (iv) The Seaward Artillery Practice Rules, 1978 (S.R.O. 26 of 1978).

38. The Committee noted that the action taken note of the Ministry of Defence in regard to recommendations contained in paragraphs 17 and 18 of their Sixth Report (Seventh Lok Sabha) had since been included in their Sixteenth Report (Seventh Lok Sabha) presented to the House on 3 March, 1983.

39. As regards paragraph 19 thereof, the Committee noted that though the Ministry had since received necessary information from all Maritime States the matter was stated to be under consideration of the Ministry of Law for approval of a S.R.O. in that regard. As a period of about 2 years was going to be elapsed since the Report of the Committee was presented to the House, the Committee directed the Ministry to finalise the matter quickly by issue of a requisite S.R.O. under intimation to them. The Committee while deploring the inordinate delay in implementing their recommendation desired the Ministry to reduce such delays to the minimum in future.



(v) **The Oil Industry Development Employees (General Conditions of Service) Rules, 1978 (G.S.R. 428 of 1978).**

(A) *Sub-rules (2), (3) & (4) of Rule 3.*

40. The Committee while observing that the work relating to framing of compact set of rules was a time consuming job and the Department of Petroleum appeared to be making efforts in completing the work as early as possible as was observed from their various communications received from time to time in the Secretariat intimating the progress made in the matter and then requests for extension of time on two occasions, granted further extension of time for completing the job positively by the end of August, 1983 as a special case.

(B) *Sub-rule (2) of Rule 4*

41. In view of the specific reply of the Ministry that sub-section (3) of Section 31 of the Oil Industry (Development) Act, 1974 provided that every rule made by the Central Government should be laid before Parliament as soon as after it is made, the Committee on reconsideration did not like to pursue their earlier recommendation contained in paragraph 21 of their Seventh Report (Seventh Lok Sabha) to incorporate a provision in the Oil Industry Development Board Employees (General Conditions of Service) Rules, 1978.

(vi) **The Indian Civil Accounts Service (Group 'A') Recruitment Rules, 1977.**

42. The Committee deprecated the inordinate delay in implementing their recommendation which was first made in paragraphs 49 to 51 of their Eleventh Report (Sixth Lok Sabha) and reiterated in Paragraph 61 of their Seventh Report (Seventh Lok Sabha).

43. However, in view of the latest reply of the Ministry dated 10 December, 1982 the Committee hoped that the Ministry would finalise the matter early in consultation with the Department of Personnel and Administrative Reforms and issue the necessary amendments to the ICAS (Group 'A') Recruitment Rules, 1977 to the desired effect. The Committee also hoped that as intimated by Government in the Ministry of Finance (Department of Expenditure), the standard provision laying down principles of Seniority would be incorporated in all recruitment Rules by the Department of Personnel and Administrative Reforms.

(vii) **The Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 (S. O. 2125 of 1977).**

44. The Committee deplored the delay in amending the IARI (Allotment of Residences) Rules, 1977 as desired by them in paragraph 38 of their Eighth Report (Seventh Lok Sabha). The Committee observed that

it was only after the issue of reminders on 4 November, 1982 and 29 January, 1983 that the Ministry of Agriculture (Indian Council of Agricultural Research) furnished their reply on 18 February, 1983 and that too an interim one. The Committee stressed that instead of waiting for the reminders from the Committee the Ministry should have acted *suo-moto* to finalise the matter. However, in view of their reply, the Committee hoped that the requisite amendment would be issued with the least possible delay in the near future.

(viii) *The Indian Boiler (Fifth Amendment) Regulations 1978*  
(G.S.R. 192 of 1978).

45. The Committee noted that in compliance with their recommendation contained in paragraph 10 of their Seventh Report (Seventh Lok Sabha), the Ministry of Industry (Department of Industrial Development) had since taken certain steps in order to streamline the procedure to avoid delay in processing the amendment to the Indian Boiler Regulations, 1950.

46. As regards their recommendation contained in paragraph 9 of the Report *ibid* regarding laying down suitable guidelines, the Committee noted that although a period of more than one and a half years had passed since their report was presented to the House and a copy thereof was sent to the Ministry, the sequence of the efforts made by the Ministry showed that there was no slackness on their part. The Committee hoped that the Ministry would place the matter before the Centre Boilers Board at its meeting which might be held early and amend the Regulations so as to provide therein suitable guidelines as already suggested.

(ix) *The Aircraft (Amendment) Rules, 1976* (G.S.R. 69 of 1976).

47. The Committee noted that except for an interim information received in September, 1981, the Ministry of Tourism and Civil Aviation had not stated anything further in the matter even after issue of a reminder in November, 1982 and D.O. letter in February, 1983. The Committee deplored the calous attitude of the Ministry.

48. As a period of more than one and a half years had since elapsed since the Committee had made their recommendations in paragraph 50 to 52 of their Eighth Report (Seventh Lok Sabha), the Committee desired the Ministry to fix responsibility for the lapse. The Committee further desired that the Ministry should notify the amendment without any further delay as recommended by them.

49. The Committee, however, noted that the Department of Parliamentary Affairs had issued necessary instructions to all Ministries/Departments of the Government of India for their information and guidance *vide*

their O.M. dated 6 February, 1982 as desired by them in paragraph 52 of the Report *ibid.*

(x) *The Allotment of Residences Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 (S.R.O. 308 of 1978).*

50. While observing that a period of more than a year and a half had already passed since the Committee had made their recommendation in paragraph 42 of their Eighth Report (Seventh Lok Sabha) the Committee directed the Ministry of Defence to issue the requisite amendment to Rule 17(1) of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 at an early date under intimation to them.

(xi) *The University Grants Commission (Terms and Conditions of Service of Employees) Amendment Rules, 1972 (G.S.R. 1070 of 1972).*

51. The Committee observed that the recommendation made in paragraph 74 of their Twelfth Report (Fifth Lok Sabha) was reiterated in paragraphs 92 to 94 of their Sixteenth Report (Fifth Lok Sabha). The Committee further observed that the Committee had granted extension of times to the Government to implement their recommendations only upto the end of September, 1978. The Committee noted that as on 30-3-1983, the Ministry of Education were yet to issue the revised Rules. Thus, in spite of the lapse of 7 years the Ministry had been seeking extension of time off and on. The Committee also observed that although they had accepted the recommendations in actual practice the Ministry were not willing to implement them quickly. The Committee desired the Ministry to go into each stage of delay. However, in view of the latest reply the Committee hoped that the Ministry would not delay any further in notifying the requisite Rules.

(xii) *The Explosives (Amendment) Rules, 1971 (G.S.R. 1077 of 1971).*

52. The Committee observed that there had been a fundamental change since the Committee had re-iterated their earlier recommendation in paragraph 151 of their 13th Report (Fifth Lok Sabha) wherein the Committee had desired the Ministry to amend Rule 93 of the Explosives Rules, 1940 so as to provide an opportunity of being heard to the licensee before his licence was cancelled. The Committee, however, further observed that in 1978 the Indian Explosives Act had been amended (though not yet enforced) and under that Act statutory powers had been given to the authorities mentioned in Section 6E thereof to vary, suspend

or revoke licences granted under that Act, which would not now be dependent on Rules.

53. However, the Committee objected to the fact that between 1974 and 1978, the Ministry of Industry (Department of Industrial Development) had taken no action to amend the Rule as recommended by them. In fact the first action taken reply was received on 5 June, 1980. The Committee deplored this delay in the strongest words possible and desired the Ministry to fix responsibility therefor.

(xiii) *The Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257 of 1975).*

54. The Committee did not appreciate the way their recommendation made in paragraphs 10 and 11 of their Fourteenth Report (Sixth Lok Sabha) had been linked with the extension of Pension Scheme resulting in an inordinate delay in its implementation. The Committee observed that such extraneous considerations and arguments resulting in delay in implementing the recommendations of the Committee had been brought to their notice earlier also. The Committee, therefore, desired the Department of Parliamentary Affairs to issue instructions to all Ministries/Departments that the recommendations of the Committee should be considered on their own merits and extraneous issues should not come in the way of implementation thereof.

55. As a period of more than 4 years had already elapsed since the Committee had desired to amend regulations 4(2) of the K&VIC Employees (Gratuity) Regulations, 1975, the Committee decided to ask the Ministry to finalise the matter early and issue the requisite amendment within a period of 3 months of the presentation of their Report.

(xiv) *The High Speed Diesel Oil and Light Diesel Oil (Restriction on Use) Order, 1974 (G.S.R. 263-E of 1974).*

56. The Committee noted with surprise and concern that inspite of the Ministry having been exhorted in their earlier recommendation contained in paragraph 31 of their Eighteenth Report (6th Lok Sabha) for not having paid due attention to the communications sent to them, the then Ministry of Petroleum and Chemicals had repeated the same thing by not replying to any of the communications sent to them after the presentation of their aforesaid Report till a D.O. reminder to the Secretary of the Ministry was issued on 22-1-1983. In reply to this D.O. they had pleaded non-traceability of revelant papers and some of the staff being on election duty in Assam, for the delay.

57. The Committee expressed their distress over the attitude of the Ministry adopted in that regard. The least that they expected from the

Ministry was that, in their reply received as late as in February, 1983, they should have come forth regretting for not having replied to the earlier communications sent to them. The Committee, however, desired the Ministry to issue the amendment as desired by them within three months of the presentation of the Report in the matter.

(xv) (a) The Border Roads Engineering Service Group 'A' Rules, 1977 (GSR 1554 of 1977);

(b) The Border Roads Engineering Service Group 'B' Rules, 1977 (GSR 1555 of 1977).

58. The Committee observed that after more than 2 years of the presentation of their First Report (Seventh Lok Sabha) in which the Committee had made their recommendation in paragraphs 14 and 16 thereof, the Ministry of Shipping and Transport had now stated that rule 12 of Border Roads Engineering Service Group 'A' Rules 1977 and the Border Roads Engineering Service Group 'B' Rules, 1977 would be amended only after the Ministry had received approval of UPSC in regard to rule 27 of the Central Engineering Services (Roads) Rules, which had also been recommended by the Committee in paragraph 37 of their Fifth Report (Sixth Lok Sabha) which also dealt with the same matter.

59. The Committee however observed with distress that so simple a recommendation of the Committee made as far back as in 1978 contained in paragraph 37 of their Fifth Report (Sixth Lok Sabha) could not be implemented so far resulting in non-implementation of their later recommendation made in paragraph 14 to 16 of their First Report (Seventh Lok Sabha).

60. The Committee, however, desired the Ministry to finalise the matter at an early date and notify the requisite amendment to the desired effect.

(xvi) The Sugarcane (Control) Amendment Order, 1975 (GSR 492-E of 1975).

61. The Committee noted that the Ministry of Agriculture (Department of Food), in pursuance of the Committee's observation made in paragraph 99 of their Twentyfirst Report (Sixth Lok Sabha) had addressed a circular letter dated 29 May, 1979 to all Sugar Producing State Governments/Union-territory Administrations on the subject as a result of which the State Government/Union-territory Administrations except the State Government of Madhya Pradesh had furnished information to the Ministry regarding action taken by them.

62. The Committee, while expressing their satisfaction at the prompt action taken in the matter, desired the Ministry to pursue the matter with

the State Government of Madhya Pradesh till they got requisite information from them also and to intimate action taken finally.

63. The Committee observed that the essence of their recommendation, however, lay in pursuing with the State Governments to make provisions in their laws for enquiry into the circumstances leading to failure on the part of the growers to supply the agreed quantity of sugarcane. It was not clear to the Committee what replies had been received from the States mentioned above. To that extent the reply of the Ministry could be called. The Committee, however, urged the Ministry to inform them of the precise position in respect of these States within 3 months of the presentation of their Report.

(xvii) (a) The Central Government Health Scheme (Bangalore) Rules, 1976 (SO 992 of 1976);

(b) The Central Government Health Scheme (Hyderabad) Rules, 1976 (SO 994 of 1976).

64. The Committee observed that the reply to the clarification whether in pursuance of the Committee's recommendation contained in paragraph 32 of their Twenty-first Report (Sixth Lok Sabha) Rule 2 from both CGHS (Bangalore and Hyderabad) Rules, 1976 (S.O. Nos. 992 and 994) had since been deleted, was cryptic. The Committee deplored the delay of more than a year in replying to the clarification.

65. The Committee further observed that the Ministry of Health and Family Welfare (Department of Health) were of the view that since CGHS Rules were framed for each city, and notified before extending the CGHS to those cities, there was now no need to issue the executive instructions superseding the Rules as per advice of the Law Ministry. If so, the Committee observed that the Ministry should have no objection in deleting Rule 2 from both the Rules under which the executive instructions were enforceable even if they were contrary to certain earlier rules on that subject. The fact that the Ministry had deleted the words "the Secretary of States" Services (Medical Attendance) Rules, 1938" from the notifications, was not of any relevance from the point of Committee's recommendation. The Committee, therefore, desired the Ministry to amend both the Rules accordingly at an early date as about a period of about four years had since elapsed.

(xviii) The International Airports Authority of India (Condition of Service of Chairman and other whole-time Members) Rules, 1973 (S.O. 717 of 1973).

66. The Committee observed that in paragraph 34 of their Fourteenth Report (Fifth Lok Sabha) presented on 20 December, 1974, they had

desired the Ministry of Tourism and Civil Aviation either to enforce the rules from the date of their publication in the Gazette or to amend the International Airports Authority Act 1971 so as to empower the Government to give retrospective effect to the rules. The International Airports Authority Act not having been amended as suggested, the Committee had expressed their concern and recommended again in paragraph 70 of their Fourteenth Report (Sixth Lok Sabha) to incorporate the necessary amendment in the Act without any further delay and in no case later than 3 months of the presentation of the Report.

67. The Committee further observed that although a period of more than 8 years had passed since the Committee had for the first time recommended amendment of the Act, the Ministry somehow, had not been able to finalise the requisite amendment so far. Consequently the amendment to Rule 7 of the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 which could only be taken up by the Ministry after the relevant Act had been amended, was also pending implementation of Committee's recommendation made in paragraph 71 of their Fourteenth Report (Sixth Lok Sabha). The Committee, while deploring the inordinate delay in implementing their recommendation which was first made in 1974 and re-iterated in 1978, exhorted the Ministry for the lapse on their part and asked them to amend the Act and the Rules as recommended earlier without any further delay.

(xix) Indication of incorrect entry in column 13 of the schedule appended to Recruitment Rules regarding circumstances in which UPSC is to be consulted in making recruitment.

68. While noting that the Ministry of Agriculture (Department of Agriculture) have since revised two Recruitment Rules viz., (a) the Department of Agriculture (Deputy Director of Accounts) (Fertiliser) and Accounts Officer (Budget) Recruitment Rules, (G.S.R. 191 of 1977); and (b) The Department of Agriculture, Deputy Commissioner (Fertiliser) Recruitment Rules, 1977 (GSR 805 of 1977) as desired by the Committee in paragraph 71 of their Twenty-first Report (Sixth Lok Sabha), the Committee desired the Ministry to amend the remaining Recruitment Rules namely: (a) The Central Poultry Breeding Farms (Group A Posts) Recruitment Rules, 1976 (GSR 1702 of 1976); (b) The Integrated Fisheries Project (Mate Grade II) Recruitment Rules, 1976 (GSR 1929 of 1976); (c) The Delhi Milk Scheme (Class I and Class II Posts) Recruitment (Amendment) Rules, 1977 (GSR 494 of 1977) at an early date as a period of about 4 years was going to be elapsed since the Report of the Committee viz., Twenty-first Report (Sixth Lok Sabha) was presented to the House.

69. The Committee also asked the Ministry of Home Affairs to amend the Office of the Registrar General and ex-officio Census Commissioner

(Map Officer) Class I Recruitment Rules, 1977 (GSR 661 of 1977) with which they were concerned at an early date if not already done.

70. The Committee also observed with satisfaction that the Department of Personnel and Administrative Reforms *vide* their O.M. No. 39017/4/80-Est.(B) dated 24 May, 1980 had since issued instructions.

*The Committee then adjourned.*



MINUTES OF THE SEVENTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1982-83)

The Committee met on Thursday, 5 May, 1983 from 15.30 to 16.15 hours.

## PRESENT

Shri Mool Chand Daga—*Chairman*

## MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Dalbir Singh (Madhya Pradesh)
4. Shri Satish Prasad Singh
5. Shri R. S. Sparrow

## SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee considered their draft Eighteenth Report and adopted it without any amendment.

3. \* \* \* \* \*

4. The Committee authorised the Chairman, and in his absence, Shri R. S. Sparrow to present this Eighteenth Report to the House on their behalf on 9 May, 1983.

5. \* \* \* \* \*

6. The Committee then decided to hold their next sittings on 21 and 23 May, 1983, to consider (i) Memoranda on the remaining old implementation cases for inclusion in the next Report dealing with outstanding recommendations; and (ii) to hear oral evidence of the representatives of the Ministry of Industry (Department of Industrial Development), Ministry of Commerce and Ministry of Communications as decided by them during consideration of Memorandum No. 165 at their sitting held on 30-3-1983.

*The Committee then adjourned.*

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