

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(EIGHTH LOK SABHA)

TWELFTH REPORT

(Presented on 3 December, 1986)



**LOK SABHA SECRETARIAT
NEW DELHI**

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Corrigenda to the Twelfth Report of the
Committee on Subordinate Legislation
(Eighth Lok Sabha) presented on
3 December, 1986

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION**

(1986-87)

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SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

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 their Twelfth Report.

2. The matters covered by this Report were considered by the Committee (1984-85) and (1986-87) at their sittings held on 25 June, 1984, 16 May, 25 June and 11 September, 1986.

3. The Committee took evidence of the representatives of (i) Ministry of Industry (Department of Industrial Development) on 11 September, 1986, and (ii) Ministry of Defence on 27 October, 1986. The Committee wish to express their thanks to the Officers of the Ministries for appearing before the Committee and furnishing the information desired by them.

4. The Committee considered and adopted this Report at their sitting held on 27 November, 1986. The Minutes of the sittings relevant to this Report are appended to it.

5. For facility of reference and convenience, recommendations/ observations of the Committee have been printed in thick type in the body of the report and have also been reproduced in a consolidated form in Appendix I to the Report.

**THE TRADE AND MERCHANDISE MARKS (AMENDMENT)
RULES, 1985 (S.O. 171-E OF 1985)**

(A)

6. The Trade and Merchandise Marks Draft Amendment Rules were published in the Gazette of India dated 22 October, 1983. The above Rules were published in the final form in the Gazette of India dated 1 March, 1985 after a time gap of about 14 months.

7. The then Ministry of Food and Civil Supplies (Department of Civil Supplies) were requested to state the reasons for the time-gap of more than 14 months between the publication of the rules in the draft and the final forms including the period of about two months given to the public for inviting their objections/suggestions thereon.

8. The Ministry of Food and Civil Supplies (Department of Civil Supplies) in their reply dated 3 September, 1985 stated as under:—

- (a) Draft rules were published in the Gazette dated 22-10-83 inviting objections/suggestions upto 22-12-1983.
- (b) On the draft rules a large number of objections/suggestions were received from Associations, advocates, trade mark attorneys, etc. which were forwarded to the Trade Marks Registry, Bombay in the months of December, 1983 and January, 1984 for examination and comments.
- (c) The final comments of the Trade Marks Registry were received in the month of September, 1984. The Registry has intimated that the time taken by it was mainly due to the absence of the Controller General of Patents, Designs and Trade Marks (Registrar of Trade Marks for the purposes of the Trade and Merchandise Marks Act, 1958) on a regular basis and the delay in getting a formal concurrence from the Joint Controller of Patents and Designs, Calcutta who was vested with the powers of Controller General of Patents, Designs and Trade Marks.
- (d) It took about 3½ months time to secure clearance and vetting of draft from the Ministry of Law about final

notification. That Ministry raised certain objections which were got cleared in consultation with the Trade Marks Registry. Further about 3 weeks' time was taken by the Legislative Department for Hindi translation of the notification. Thus it took more than 4 months in completing these two exercises.

9. The Ministry further informed that the Trade & Merchandise Marks (Amendment) Rules, 1985 under reference, involved about 184 amendments to various rules and schedules of the Trade and Merchandise Marks Rules, 1959. A large number of objections/suggestions were received which were examined in consultation with the Registrar of Trade Marks and Ministry of Law. In view of the enormous nature of work, more time was taken in examination of the various matters involved before final publication of the rules. It was also mentioned in this connection that the Trade and Merchandise Marks (Second Amendment) Rules, 1985, which involved only one amendment, was finally notified in less than 4 months' time after the last date for inviting objections/suggestions.

10. At their sitting held on 16 May, 1986, the Committee considered the matter and decided to hear oral evidence of the Ministry of Industry (Department of Industrial Development).

11. On 11 September, 1986, the representative of the Ministry appeared before the Committee and tendered evidence in connection with the delay in final notification of the Trade and Merchandise Marks (Amendment) Rules, 1985 (S.O. 171-E of 1985). The representatives were asked to state the procedure being followed in the Ministry for dealing with such rules and how and when the suggestion to amend the rules were originally mooted. In reply, the representative of the Ministry explained that in the past, the Trade and Merchandise Marks (Amendment) Rules and the Trade Marks Act of 1959 had been under the administrative control of the Food and Civil Supplies Department and it was only in February, 1986 that the relevant records were passed on to them. Although the Ministry could well justify the reasons, the delay of 14 months in this case was however, an incontrovertible fact. The representative of the Ministry regretted the lapse on the part of the Government.

12. While tracing the origin of these amendments, the representative of the Ministry informed the Committee that the suggestions to amend the rules of 1980 were received in June, 1982 from the Registrar of Trade Marks, Bombay. In toto, 184 proposals were made

as a result of perception of working of the Act and various representations received. The purpose of the amendments was mainly to enhance the fee prescribed under the Rules and to simplify the procedure for applying for registration of trade marks.

13. With regard to general procedure adopted for processing amendments to rules, the Committee were informed that the amendments emanated from the Head of the Department and thereafter examined in the Secretariat. The Officers involved in the process of rule making were from the attached offices, subordinate offices and then the Ministry where officials at various levels were involved in the final stage of processing the rules. To the suggestions as to whether the matters could be expedited by adopting a process of general discussion at a meeting of the concerned officers from the level of the Desk Officer to that of the Joint Secretary in the Ministry, the representative admitted that even in the existing case the Joint Secretary concerned had been to Bombay to hold discussions. The representative did not, however, respond favourably to the suggestion to eliminate the role of the Desk Officer who in the absence of totally computerised services, had to collect the earlier references and submit the note. With regard to submission of files from the Desk Officer to the Joint Secretary directly, the representative informed that the Administrative Reforms Commission were seized of the matter.

14. During the course of evidence, the Committee had desired to be furnished with a comprehensive note containing the chronological history of events identifying the various stages involved in the process of amendments and the time taken at each stage in processing upto the stage of final notification of the amendments in question. The Ministry of Industry later on furnished a chronological statement (Appendix II). From the statement furnished by the Ministry the Committee draws following conclusions:—

- (1) Controller General of Patents, Designs and Trade Marks, Bombay has taken four months to give clarifications asked for by the Ministry.
- (2) Controller General has taken 46 days to furnish upto date copies of the principle rules.
- (3) Department of Legal Affairs took 53 days in examining and asking further clarifications.
- (4) Administrative Department took 34 days to examine legal opinion.

- (5) Examination of opinions/reactions of the Legal Affairs Department on comments of the Controller General by the Ministry of Industry and sending of modified proposals by the Ministry to the Legal Affairs Department took 5 months and 18 days.
- (6) Controller General took 8 months to furnish comments of suggestions/objections of the advocates.
- (7) Ministry of Law took 54 days to vet upto date rules.

15. The above reveals a very sorry state of affairs and the casual manner in which the matter has been dealt with at all stages. The Committee are very unhappy over the long time taken by the Ministry right from the initial stage of considering the amendments suggested by the Controller General of Patents, Designs and Trade Marks and inexplicable delays at various stages even after publication of the rules in the draft from upto their publication in the final form. This case should act as an eye opener and proper lessons should be drawn at the ministerial level to streamline their machinery and also the procedure adopted in dealing with such matters in order to eliminate completely the delays that occur in publication of the rules in the final form. In this connection the Committee would like to draw attention of the Ministry to their recommendation made in para 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented to the House on 21 December, 1983 wherein the Committee had observed that where a large number of objections/suggestions are received, the gap between the publication of the draft rules and their final notification should not exceed 6 months and where the objections/suggestions received are few, efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. Where no suggestions/objections are forthcoming on the draft rules, the final rules should be notified within a period of 3 months. The Committee hope that the Ministry will realise the tremendous difficulties and suffering to which the public in general and affected interests in particular are put to by long delays in finalisation and promulgation of amendments to various rules and that the aforesaid recommendation of this Committee will be followed in letter and spirit by the Ministry in future.

(B)

16. Note in the Sixth Schedule appended to the Trade and Merchandise Marks (Amendment) Rules, 1965 reads as under:—

“The rates of subsistence allowance and travelling allowance for witnesses shall vary according to the status of the witnesses subject to the maximum prescribed above.”

17. The Ministry of Food and Civil Supplies (Department of Civil Supplies) were asked to state whether they had any objection to specifying the status of the witnesses in the Note in the Sixth Schedule, regarding rates of subsistence allowance and travelling allowance for witnesses appearing in the proceedings before the Registrar in order to avoid any ambiguity in the matter of fixing the rates of allowances to them. The Ministry in their reply dated 3 September, 1965 stated as under:—

“As regards the point pertaining to the Note below the Sixth Schedule for the Rules, this Department has no objection to specifying the status of the witnesses in the Note itself to avoid any ambiguity in the matter of fixing the rates of subsistence allowance and travelling allowance to them.”

18. Asked to indicate the format of the said Note, the Ministry of Industry (Department of Industrial Development) (to whom the subject had since been transferred) informed as follows:—

“The following revised format of the note is to be incorporated below the Sixth Schedule of the Trade and Merchandise Marks (Amendment) Rules, 1965:—

‘For eligibility for higher travelling allowance and subsistence allowance the annual income of the witness shall be at least Rs. 16,000/- or more.’”

19. The Committee note with satisfaction that on being pointed out by them, the Ministry of Industry (Department of Industrial Development) have agreed to specify the status of witnesses in the Note below Sixth Schedule appended to the Trade and Merchandise Marks (Amendment) Rules, 1965, regarding rates of subsistence allowance and travelling allowance for witnesses appearing in the proceedings, before the Registrar in order to avoid any ambiguity in the matter of fixing the rates of allowances to them.

III

THE NAVY (PENSION) AMENDMENT REGULATIONS, 1982 (S. R. O. 139 of 1982)

20. Regulation 200-B(b) and (c) of the Navy (Pension) Regulations, 1964, relating to suspension, discontinuance or withholding of pension procedure of naval personnel, as inserted by the above Amendment read, as under:—

“200-B(b) The competent authority shall decide in consultation with the Controller of Defence Accounts (Pensions) and if necessary, with the civil authorities also, whether the offence is a serious one and if so, he shall order the removal of the prisoner's name from pension list, from the date of the commencement of his imprisonment, Pension there upon shall cease to be payable from that date.

(c) If the competent authority decides that the offence is not so serious as to justify the removal of the pensioner's name from the pension list, it shall not be removed; the payment of arrears of pension due from the date of last payment before imprisonment shall be made on release from prison.”

21. The above provision empowered the competent authority to decide about the seriousness of the offence and if found necessary for the removal of the pensioner's name from the pension list. Hence, it was felt that some guidelines might be necessary for the competent authority to decide whether the offence was serious enough for removal of the pensioner's name from the pension list.

22. The Ministry of Defence to whom the matter was referred in their reply dated 29 April, 1983, stated as under:—

“.....Sub-Rule*(h) of Rule 200-B, stipulates that in the case of conviction of a pensioner by a Court of Law for a serious crime, the question of withholding or otherwise of pension/gratuity shall be decided by the competent authority, in the light of the judgement of the Court. This provision takes care of the need to grade various offences according to their degree, or depending on the judgement. This provision has been made because there might be

*See Appendix III.

occasions when the same offence might be viewed differently in different circumstances. Apart from this, the range of offences for which imprisonment may be awarded under the various statutes is very large and any attempt to classify those would not be all embracing.

In view of the above, it is considered that there is neither any need nor is it possible to lay down any guidelines for the competent authority to decide whether the offence is serious or not. Nevertheless, a safeguard against any erroneous exercise of discretion on the part of the competent authority already exists in Regulations 200E* wherein a provision for appeal against the decision of the competent authority, has been made."

23. At their sitting held on 25 June, 1984, the Committee considered the above reply of the Ministry of Defence and directed that the Ministry might be asked to furnish the following further information in the matter:—

"Whether the Navy Pension Regulation provided for—

- (i) pension to a person committing an offence during his service period;
- (ii) pension to a pensioner when the offence is committed after retirement; and
- (iii) pension to a pensioner when any offence committed by him (while in service) comes to surface after his retirement."

24. The Ministry of Defence in their reply dated 30 July, 1984 furnished the requisite information as under:—

"(i) *Pension to a person committing an offence during service period:*

GENERAL

As per Regulation 5 of the Navy (Pension) Regulations, 1964, the full rate of pension or gratuity admissible under the regulations shall not be granted to a person unless the service rendered by him has been satisfactory.

As per Regulation 8 of the Navy (Pension) Regulations, 1964, the competent authority, in special specified circumstances, may withhold, suspend or discontinue in full or in part the pension (including commuted value of pension thereof which has not been paid), children allowance or gratuity

(including DCRG), to be granted or granted to an individual. The special circumstances under which this Regulation can be invoked are specified in Regulation 8(b) of the Navy (Pension) Regulations, 1964.

OFFICERS

As per Regulation 15(1) of the Navy (Pension) Regulations, 1964 no pension shall be granted to an officer who is dismissed with disgrace from service.

In the case of an officer who is dismissed otherwise than with disgrace from the service the question whether any pension shall be granted and if so, the rate of such pension shall be decided by the Central Government provided that the pension, if granted, shall not exceed the rate which would have been admissible to him if he had retired on the same date.

An officer who is discharged from service or is called upon to retire or to resign or, in the event of his refusing to do so, is retired from the service, may, at the discretion of the Central Government, be granted a pension at a rate not exceeding that which would have been admissible to him if he had retired on the same date.

SAILORS

As per Regulation 69 a Sailor who is dismissed under the Act becomes ineligible for pension or gratuity in respect of the service rendered by him before his dismissal. However, in exceptional cases, pension or gratuity can be granted at the discretion of the President. A Sailor who is discharged under the Act and the Regulations made thereunder remains eligible for pension or gratuity.

(ii) Pension to a pensioner when the offence is committed after retirement:

As per Regulation 4 of the Navy (Pension) Regulations, 1964, future good conduct is an implied condition of every grant and continuance of pension or any other allowance under the Regulations.

The provisions of Regulation 8, referred to in part (i) above, can also be invoked where the offences are committed after retirement.

Further, as per Regulations 200-B and 200-C inserted vide SRO 139, pension can be withheld, suspended or discontinued in case a pensioner is convicted of a crime of political nature by a Court of Law in India or by a foreign Court (in case of crimes of a political nature the conviction should be by a Court of friendly foreign country). However, pension continues to be paid in case of imprisonment for debt.

(iii) Pension to a pensioner when an offence committed by him (while in service) comes to surface after his retirement:

As per Section 80 of the Navy Act, 1957, when an offence specified in chapter 8 of the Act is committed by any person while subject to Naval Law and such person has, since the commission of the offence ceased to be subject to Naval Law, he may be taken into and kept in custody, tried and punished under the Act for such offence in like manner as he may have been taken into and kept in custody, tried and punished if he had continued subject to Naval Law, provided that he shall not be tried of such an offence except in the case of an offence of mutiny or desertion, unless the trial commences within six months after he has ceased to be so subject. In case the offence, other than mutiny and desertion, comes to notice after a period of six months of the individuals' retirement/discharge, the trial can only be held in a civil court. On conviction, the provisions of the Regulations mentioned above can be invoked."

25. At their sitting held on 25 June, 1986, the Committee considered the replies received from the Ministry and decided to hear oral evidence of the representatives of the Ministry of Defence, to elicit further clarification in the matter.

26. During the evidence before the Committee on 27 October, 1986, the representative of the Ministry when asked to explain the term "Serious Offence" appearing in regulation 200-B as also whether the said term had been defined in the Act or Regulation or any guidelines issued for the purpose, stated that an exercise to issue guidelines in the matter had been made by them but found not feasible in view of the complications involved and the possibility of adversely affecting the pensioners thereby. According to him, an amount of flexibility was necessary in taking decisions on such issues whereas guidelines tend to be applied rigidly at the lower level.

27. The Committee then drew attention of the representative of the Ministry to the provisions in Regulations 200-B and 200-C whereby pension could be withheld, suspended or discontinued in case of a pensioner convicted of a crime of a political nature and desired to know whether there were any norms to define such a crime. The Committee were informed that the genesis of this provision was particularly in the context of pensioners in foreign countries, where the matter regarding payment of pension had to be decided in consultation with the foreign Government. Decision in these matters were governed not by an Act of Parliament but by the circumstances of the case and the policy of Government in this regard.

28. The Committee while not objecting to the policy of Government in the matter, desire the Ministry of Defence to re-examine the Navy (Pension) Regulations in detail and lay down suitable guidelines, where necessary, for the competent authority to exercise discretion to hold whether a particular offence is serious or not and in withholding pension of Naval personnel on account of their conviction for committing various offences in order to avoid arbitrary decisions.

IV

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

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

New Delhi;

November 27, 1986.

Agrahayana 6, 1908 (Saka)

MOOL CHAND DAGA

Chairman,

Committee on Subordinate

Legislation

APPENDIX I

(Vide Paragraph 5 of the Report)

Summary of main recommendations|observations made by the
Committee

S. No.	Para No.	Summary
1	2	3
1 (i)	15	<p>The Committee are unhappy over the long time taken by the Ministry right from the initial stage of considering the amendments suggested by the Controller General of Patents, Designs and Trade Marks and inexplicable delays at various stages even after publication of the rules in the draft form upto their publication in the final form. This case should act as an eye opener and proper lessons should be drawn at the ministerial level to streamline their machinery and also the procedure adopted in dealing with such matters in order to eliminate completely the delays that occur in publication of the rules in the final form. In this connection the Committee would like to draw attention of the Ministry to their recommendation made in para 68 of their Twenty-Fourth Report (Seventh Lok Sabha), presented to the House on 21 December, 1983 wherein the Committee had observed that where a large number of objections/suggestions are received, the gap between the publication of the draft rules and their final notification should not exceed 6 months and where the objections/suggestions received are few, efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. Where no suggestions objections are forthcoming on the draft rules, the final rules should be notified within a period of 3 months.</p>

1	2	3
1(ii)	19	<p>The Committee note with satisfaction that on being pointed out by them, the Ministry of Industry (Department of Industrial Development) have agreed to specify the status of witnesses in the Note below the Sixth Schedule appended to the Trade and Merchandise Marks (Amendment) Rules, 1985, regarding rates of subsistence allowance and travelling allowance for witnesses appearing in the proceedings, before the Registrar in order to avoid any ambiguity in the matter of fixing the rates of allowances to them.</p>
2.	28	<p>The Committee while not objecting to the policy of Government in the matter, desire the Ministry of Defence to re-examine the Navy (Pension) Regulations in detail and lay down suitable guidelines, where necessary, for the competent authority to exercise discretion to hold whether a particular offence is serious or not and in withholding pension of Naval personnel on account of their conviction for committing various offences in order to avoid arbitrary decisions.</p>
3.	29	<p>The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix IV.</p>

APPENDIX II

[Vide para 14 of the Report]

(DEPARTMENT OF INDUSTRIAL DEVELOPMENT PP&C SECTION)

Chronological history of the case relating to the Trade and merchandise Marks (Amendment) Rules, 1985.

Sl. No.	Date	Events	Time Taken	Remarks
(1)	(2)	(3)	(4)	(5)
1.	1-2-82	Receipt of the Controller General of Patents, Designs and Trade Marks Bombay letters dated 29-1-82 forwarding amendments for consideration.		
2.	8-2-82	Receipt of CG's letter dt. 5-2-82 sending additional information in relation to (1) above.		
3.	1-3-82	Issued letters to CG Seeking clarification	23 days (from 8-2-82)	Handeled by the Desk Officer
4.	25-3-82	Reminder to CG in relation to (3) above	24 days	Do.
5.	10-5-82	Receipt of CG's letters dt. 5-5-82. He furnished the requisite information in the prescribed proforma and redrafted the proposal to amend rule 8.	70 days (from 1-3-82)	
6.	5-6-82	Notings on the reply received from the CG at Sl.No. (5)	26 days	Desk Officer
7.	21-6/24-6-82	Clearance of the proposal of D.O. to refer the file to the Deptt. of Legal Affairs.	19days	Dy. Secretaries
8.	1-7-82	Receipt of the file back from the Ministry of Law, Legislative Deptt. They advised that the legal points may be got cleared from the Deptt. of Legal Affairs.	5 days	

(1)	(2)	(3)	(4)	(5)
9.	(i) 12-7-82	(a) Issue of letter to CG asking him to furnish upto date copies of the principal rules and (b) notings suggesting reference to the Deptt. of Legal Affairs.	12 days	Desk Officer
	(ii) 13-7-82	Approval by the Dy Secretary	1 day	Dy. Secretary
	(iii) 17-7-82	Reference to Min. of Law after approval	4 days	
10.	27-8-82	Receipt of letter of CG dt. 29-7-82; sent copies of the notifications	46 days (from 12-7-82 Pl. see Sl. No. 9)	The letter of CG though dt. 29-7-82 was recd. in the Deptt. on 27-8-82 only.
11.	7-9-82	Receipt of the file back from the Deptt. of Legal Affairs-seeking further clarifications.	53 days (from 18-7-82 Please see Sl. No. 9).	
12.	(i) 13-10-82	Legal opinion of the Deptt. of Law examined.	34 days	Desk Officer
	(ii) 16-10-82	Approval by Dy. Secretary of the suggestion of Do.	3 days	Dy. Secretary
	(iii) 18-10-82	Approval by Jt. Secretary of the suggestion of D.O.	2 days	Jt. Secretary
13.	18-10-82	Issue of letter to CG informing him that JS would discuss the matter with him on 30-10-82 at Bombay.		
14.	4-11-82	Receipt of CG's comments on the advice of the Deptt. of Legal Affairs.	4 days	
15.	(i) 22-11-82	Notings on the comments of the CG suggesting that the file be referred to the Deptt. of LA	18 days	Desk Officer
	(ii) 23-11-82	Approval by the Dy. Secretary	1 day	Dy. Secretary
	(iii) 24-11-82	File referred to the Law Ministry	1 day	..
16.	30-11-82	Receipt of the file back from the Deptt. of LA	6 days	..

17. (i)	11-4-83	File resubmitted for orders after examination	4 months & 11 days	Desk Officer The post of DO remained vacant during Dec. 82-Jan-83. New DO work time in the study of the case.
(ii)	19-4-83	Approval by DS	8 days	Dy. Secretary
18.	19-4-83	JS deaired discussion with CG in Delhi
19.	5-5-83	Discussed With CG	16 days (from 19-4-83 see SI No. 18)	..
20. (i)	13-5-83	Modified proposals were put up for being sent to the Deptt. of LA	8 days	Desk Officer
(ii)	18-5-83	Approval by DS	5 days	Dy. Secy.
(iii)	18-5-83	Approval by JS	-	Jt. Secretary
21.	27-5-83	Receipt back of the file from the Deptt. of LA	9 days	-
22. (i)	17-3-83	For obtaining the approval of the Secy to the proposal	19 days	Desk Officer
(ii)	21-6-83	Approval by JS	4 days	Jt. Secy.
(iii)	22-6-83	Approval by Secy.	1 day	Secy.
23.	27-6-83	File referred to the Deptt. of Legal Affairs for vetting the draft	4 days	-
24.	2-7-86	File recd back from Leg. Deptt.	5 days	-
25. (i)	18-7-83	Copies of the draft as amended got retyped and file submitted	16 days	Desk Officer
(ii)	29-7-83	Approval by DS	11 days	Dy. Secy.
(iii)	29-7-83	Approval by JS	-	Jt. Secy.
26.	25-7-83	CG was asked to furnish copies of notifications	-	-

27.	5-8-83	Reminded	-	-	-
28.	17-9-83	Receipt of notifications from the CG	23 days	-	-
29.	18-9-83	Official Language wing was requested to furnish Hindi translation	1 days	-	-
30.	14-9-83	File received back from the official Language wing and Hindi Section was requested to fair the copies	27 days	-	-
31.	21-9-83	Fair copies made	7 days	-	-
37.	(i) 3-10-83	Notification submitted to Jt. Secy. after thorough checking	13 days	-	Desk Officer
	(ii) 4-10-83	Approval by DS	1 day	-	Dy. Secy.
	(iii) 6-10-83	Approval by JS	2 days	-	Jt. Secretary
33.	7-10-83	Notification sent to the press for issue, inviting objections/suggestions upto 20-12-83	-	-	-
34.	8-12/12-12-83	Suggestions/objections Recd. from 2 Advocates	-	-	-
35.	15-12-83	Comments of the CG asked on the suggestions at Sl. No. 33.	-	-	-
36.	15-12-83 to 26-12-83	Suggestions/objections received	-	-	-
37.	28-12-83	Suggestions/objections at Sl. No. 35 sent to the CG for comments	2 to 13 days	-	Desk Officer
38.	30-12-83	Suggestions recd. and sent to the CG on 4-1-84	4 days	-	Desk Officer

39-	20-9-84 3-9-84	CG was reminded to expedite his comments.	-	Desk Officer/Economic Adviser
	8-5-84 24-5-84			
	8-6-84, 21-6-84, 17-7-84 & 30-8-84			
40.	14-9-84	Receipt of the CG comments	8½ months (from 4-1-84 Sl. No. 38	Desk Officer/Economic Adviser
41.	14-9-84	Notings on the CG comments. It was decided that E.A. will discuss the amendments with the CG at Bombay.	-	
42.	18/19-9-84	EA discussed the amendments with the CG at Bombay	4 days	-
43.	22-9-84	Receipt of additional information from the CG.	3 days	-
44	(i) 1.10.84 (ii) 1.10.84 (iii) 5.10.84	Notings on the final draft notification of the amendments Approval by EA Approval by Secretary	9 days 1 day 4 days	Desk officer E.A. Secretary
45	10.10.84	File referred to the Deptt. of LA	5 days	Desk officer
46.	31-10-84	File received back from the Deptt. of Legislation asking for updating the rules	-	-
67.	6-11-84	CG was asked to update the Rules as desired by the Leg. Deptt.	6 days	Desk Officer
48.	15-11-84	CG was reminded	-	Desk Officer
49.	24-11-84	Updated Rules received from the CG	18 days (from 6-11-84) Sl. No. No. 47	-
50.	24-11-84	Notings on the Rules suggesting that the file may be referred to the Min. of Law	4 days	Desk Officer E.A.

51.	29-11-84	File referred to the Min. of Law	-		Desk Officer
52.	21-1-85	File received back from the Min. of Law	54 days (from 29-11-84) Sl. No. 51		-
53.	(i) 25-1-85	Notings on advice of the Min. of Law for obtaining the approval of M(F&CS)	4 days		Desk Officer
	(ii) 25-1-85	Approval by Economic Adviser	-		Economic Adviser
	(iii) 28-1-85	Approval by Secretary	3 days		Secretary
	(iv) 31-1-85	Approval by M(F&CS)	3 days		M(F&CS)
54.	4-2-85	Official Language Wing was requested to provide Hindi translation	2 days		Desk Officer
55.	20-2-85	Official Language Wing was reminded	-		Desk Officer
56.	27-2-85	Hindi translation received from the Official Language Wing	23 days (from 4-2-85) Sl. No. 54		-
57.	1-3-85	Notification was sent to the Govt. Press for publication on 1-3-85 as desired by CG	-		Desk Officer
58.	2-5-85	Authenticated copies of the Amended Rules were sent to the Lok Sabha Sect./Rajya Sabha Sect. for laying them on the Table of the House.	-		Desk Officer EA Sect./ M(F&CS)
59.	7-5-85	Rules were laid on the Table of the Lok Sabha by the L.S. Sect.	-		-
60.	21-5-85	Rules were laid on the Table of the Rajya Sabha by the R.S. Sect.	-		-

APPENDIX III

(Vide para 22 of the Report)

*Extract of Regulations 200B(h) and 200-E of the Navy
(Pension) Regulations, 1964*

200-B(h)

* * * * *

Where an individual pensioner is convicted to a serious crime by a court of law, action to withhold or withdraw gratuity and pension or a part thereof shall be taken by the competent authority in the light of the judgement of the court and other provisions of this Chapter.

200-E

Suspension, discontinuance or withholding of pension of a pensioner. (1) Before passing orders under these regulations regarding suspension, discontinuance or withholding of the whole or part of pension (including commuted value there of which has not been paid) children allowance or gratuity (including Death-cum-retirement Gratuity), the competent authority shall serve upon the individual pensioner, a notice specifying the action proposed to be taken and calling upon his/her to submit within thirty days of the receipt of the notice for such further time not exceeding thirty days as may be allowed by the competent authority such representations as he/she may wish to make against the proposal.

(2) The competent authority shall, after considering the representation if any made by the pensioners under sub-regulation (1) decide and issue orders in writing to suspend, discontinue or withhold the whole of pension, children's allowance and gratuity or part thereof, including whether the orders in the case of pension and children allowance will apply permanently or only for a specified period.

(3) An appeal against the decision of the competent authority in cases falling under regulation 8 can be made to the Appellate authority. Appellate authority shall be the President in the case of the commissioned officers. In the case of sailors, the appeal shall lie

to the Flag Officer Commanding-in-Chief of the Naval Command or the Flag Officer Commanding of the Naval Area concerned. The appeal will be made through the Captain, Bureau of Sailors, Bombay.

(4) In the case of personnel below the officer's rank the competent Authority/Appellate Authority will consult the Controller of Defence Accounts Pensions while passing the final orders. In the event of difference of opinion between these authorities and the Controller of Defence Accounts (Pensions) the matter will be referred to the Government of India for orders.

APPENDIX IV

(vide paragraph 29 of the Report)

Statements showing the Action taken by Government on the Recommendations made by and assurances given to the Committee on Subordinate Legislation

Sl. Reference to para Nos. of report

Summary of Recommendations/Assurances

Govt of Government's reply

(1)

(2)

(3)

(4)

SEVENTEENTH REPORT
(SEVENTH LOK SABHA)
69-70

69. The Committee note from the reply of the Ministry of Defence that Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 has now become redundant as recruitment in the clerical cadre is now done through the Staff Selection Commission constituted under the Department of Personnel and Administrative Reforms vide Government Resolution No. 461 (S)/74-Estt. (B) dated 4 November, 1975.

The Ministry of Defence have since omitted Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 vide O.M. No. 17 (12)/78/II/D (FY.II) dated 17-9-1986.

70. In view of the position explained by the Ministry of Defence, the Committee do not like to pursue the matter further. The Committee, however, desire the Ministry to take early steps for the deletion of Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 and to notify the amendment in this regard in the Official Gazette at an early date.

*SRO 277 of 26-8-1986.

NINETEENTH REPORT,
(SEVENTH LOK SABHA)
19 & 20

19. The Committee observe that the draft amendment Rules which were published in the Gazette of India dated 15-7-78 were made available to them on 23-7-1980 after the Ministry was reminded in this regard. The Committee cannot help but to express their unappinness on the way their communications were being ignored.

The Ministry of Industry (Department of Company Affairs) have regretted the delay in making available to the Committee the draft Amendment Rules published in the Gazette of India dated 15-7-1978.

10-5-1983

(4)

The whole matter regarding classification of Goods under the Monopolies and Restrictive Trade Practices Act was examined in detail again in consultation with the Ministry of Law and finally the Ministry came to the conclusion that no useful purpose would be served by amending the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971, unless the proposed amended classification can be integrated with the Schedule Industries (Development and Regulation) Act, 1951 for the purpose of issue of industrial licences. With the concurrence of the Ministry of Law and approval of the Industry Minister, the said draft Rules were withdrawn by Government on 28-2-1986 by issue of a Notification No. GSR 344-E of 1986.

O.M. No. 73/3/85-CL. V dated 20-3-1986
atn 6-10-1986).

The Ministry of Food and Civil Supplies (Department of Civil Supplies - Weights and Measures) have since made necessary amendments to the Indian Institute of Legal Metrology Rules, 1980 as recommended by the Committee vide Notification G.S.R. No. 644(E) dated 17 April, 1986.
(O.M. No. WM 9 (6)/80 dated 16-9-1986)

(3)

20. The Committee further observe that a period of sixty days given for sending objections/suggestions from the date of publication of the draft rules expired on 14-9-1978. Since then nearly four and a half years have passed but final rules have not yet been published. The Ministry owe an explanation to the Committee for not publishing the final Amendment Rules so far. Now that the Monopolies and Restrictive Trade Practices Act has been amended, the Committee stress early implementation of their recommendation.

(2)

(1)

10. The Committee are not convinced of the reasons advanced by the Department of Civil Supplies and feel that as the Institute was set up as far back as in the year 1962, there is no justification in their argument to say, after a lapse two decades, that the scope and coverage of Legal Metrology in the country is still in a state of flux. The Committee desire that the details of the subjects in respect of the various long-term and short-term courts, that are imparted at the Institute, should be specified, to the extent possible, in the rule for the information and guidance of the trainees as in the case of a University prospectus.

TWENTY-FIFTH REPORT
(SEVENTH LOK SABHA)
10, 13, 16, 20, 24, 27, 31, 34,
37, and 40

7-5-1986

13. The Committee are not convinced of the reply of the Department of Civil Supplies. They feel that the actual duration and curriculum of the courses imparted at the institution should be spelt out in the rules to make them self-contained. The Committee therefore, desire the Department to amend the Sub-rule (5) of Rule 3 of the Indian Institute of Legal Metrology Rules, 1980 at an early date to the necessary effect.

16. The Committee are not satisfied with the reply of the Department of Civil Supplies and desire that suitable guidelines should be issued for safeguard against any arbitrary use of the discretionary powers vested in the Principal/Director of the Institute in the matter of admission to the Institute.

20. After considering the reply of the Department of Civil Supplies and the comments of the Ministry of Law regarding constitution of the Advisory Committee, the Committee approve the suggestion to substitute the word 'shall' for 'may' in sub-rule (1) of Rule 8 of the Indian Institute of Legal Metrology Rules, 1980. The Committee desire the Department to notify the amendment at an early date.

24. The Committee endorse the advice of the Ministry of Law that it is better if some guidelines are provided for co-opting members on the Advisory Committee. The Committee accordingly desire the Department of Civil Supplies to take necessary action on the suggested lines at an early date.

27. The Committee are not satisfied with the reply of the Department of Civil Supplies and desire that the provision for procedure, including the quorum at its meetings to be followed by the Advisory Committee, should be laid down in the rule itself instead of leaving it to the discretion of the said Committee.

31. The Committee, after considering the reply of the Department of Civil Supplies and the comments of the Ministry of Law in the matter desire the Department of Civil Supplies to specify in the sub-rule (6) of Rule 8 of the Indian Institute of Legal Metrology Rules, 1980 the outer limit of the period upto which the term of the Committee could be extended.

34. The Committee are not satisfied with the reply of the Department of Civil Supplies and feel that the period within which the resignation of a nominated member of the Advisory Committee should be accepted, be laid down in the rule itself. The Committee

(1) (2) (3) (4)

therefore, desire the Department to amend the Indian Institute of Legal Metrology Rules, 1980 to the desired effect.

37. The Committee observe that payment of honorarium is a substantive provision. The Committee have time and again emphasized that such provision should invariably flow from the enabling Acts. The Committee, therefore, desire the Ministry to bring forth the necessary amending legislation in the Standards of Weights and Measures Act, 1976 before Parliament in this regard or alternatively delete the relevant provisions from the Rules.

40. In view of the Government's reply that the fees to be charged shall be laid down in another set of statutory rules to be framed under the Weights and Measures Act, 1976, the Committee do not insist on specifying such fees in the Rule 10 of the Indian Institute of legal Metrology Rules, 1980 as a special case.

FIFTH REPORT
(EIGHTH LOK SABHA)
33 to 35
20-3-1986

33. The Committee note that at the initial stage, the Ministry of Shipping and Transport (Ports Wing) had agreed to amend Rule 2(4)(G) of the Port of New Mangalore (Regulation of the use of landing Places) Rules, 1977, as recommended by the Committee and also directed the Port Authorities to take steps for framing scale of rates and statement of conditions for the use of properties owned by the Port Trust. The Port authorities were also asked to include the provision for a right to appeal against resumption of possession of land by the lessor in the statement of conditions.

34. The Committee further note from the final reply of the Ministry dated 12 July, 1984, that the rules ~~had~~ were framed when the Port of

Action has been taken by Government as recommended by the Committee, to include the provision for the right to appeal against resumption of possession of land by the lessor, in the Statement of conditions under Section 52 of the Major Port Trusts Act, 1963.
(O.M. No. PR-16014/1/86-PG dated 17-11-1986)

New Mangalore was administered by the Indian Ports Act, 1908, but in April, 1980, the Port became a Major Port under the Major Port Trusts Act, 1963, and Section 49 of that Act provided for framing of the scale of rates and statement of conditions for the use of the properties owned by the Port Trust. As such there was no need to apply the Rules/Regulations under the Indian Ports Act, 1908 which were primarily applicable to minor Ports to the Port of New Mangalore.

35. The rules relating to the Port of New Mangalore (Regulations of the use of Landing Places), 1977 were considered by the Committee in the year 1981. Had the Ministry informed the Committee then that the New Mangalore Port had become a Major Port with effect from April, 1980 and that it was to be administered under the Major Port Trusts Act, 1963, the entire exercise of the Committee and their recommendation in this behalf could have been avoided. The Committee fail to understand the reasons as to why the Ministry of Shipping and Transport had not given the correct picture to the Committee in 1981 or the Committee should believe that it was not in the knowledge of the Ministry then that the Port of New Mangalore had been declared a Major Port in 1980. The Committee take a serious view of the matter. They are constrained to observe that either the Ministry had tried to mislead the Committee or the Ministry had poor knowledge and control over the affairs of the Port of New Mangalore. The Committee, however, desire the Ministry of Transport (Department of Surface Transport) to take immediate action for the insertion of the requisite provision in the Statement of conditions under Section 49 of the Major Port Trust Act, 1963 and publish them in the Official Gazette.

MINUTES

2639 LS-3.

MINUTES OF THE ONE HUNDRED AND SECOND SITTING OF
THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH
LOK SABHA) (1984-85)

The Committee sat on Monday, 25th June, 1984 from 11.00 to 12.30 hours.

PRESENT

Shri R. S. Sparrow—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmed
3. Shri Xavier Arakal
4. Shri Ashfaq Husain
5. Shri A. E. T. Barrow
6. Shri Amañ Datta
7. Shri Braja Mohan Mohanty
8. Shri A. T. Patil
9. Shri Nagina Rai
10. Shri Prabhunarain Tandon

SECRETARIAT

1. Shri N. N. Mehra —*Joint Secretary*

2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 262 to 267 as under:—

* * * * *

(vi) *The Navy (Pension) Amendment Regulations, 1982 S.R.O.*

139 of 1982—(*Memorandum No. 267*)

The Committee considered the above Memorandum at length and desired that in the context of the Amendments made to the Navy (Pension) Amendment Regulations, 1982 by S.R.O. 139 of 1982, the

*Omitted portions of Minutes are not covered by this Report

Ministry of Defence may be asked to furnish the following for the information of the Committee.

Whether the Navy Pension Rules provided for—

- (i) Pension to a personnal committing an offence during his service period;
- (ii) pension to a pensioner when the offence is committed after retirement;
- (iii) pension to a pensioner when any offence committed by him (while in service) comes to surface after his retirement.

The Committee then adjourned

MINUTES OF THE TWENTY-EIGHTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(1985-86)

The Committee sat on Friday, 16 May, 1986 from 15.00 to 15.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Dharam Pal Singh Malik
3. Shri I. Rama Rai
4. Shri Ram Swarup Ram
5. Shri K. S. Rao
6. Shri Dharamgaj Singh
7. Shri Yogeshwar Prasad Yogesh

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 44 and 45 as under:—

- (i) *The Trade and Merchandise Marks (Amendment) Rules, 1985 (S.O. 171-E of 1985)—(Memorandum No. 44)*

(A)

The Committee considered the above Memorandum (Part 'A') and noted from the facts furnished by the Ministry of Food and Civil Supplies (Department of Civil Supplies) that the main reason advanced by the Trade Marks Registry for delay in final publication of the Trade and Merchandise Marks (Amendment) Rules, 1985 was the absence of the Controller General of Patents, Designs and Trade Marks on regular basis. The Committee wanted to know in detail the reasons for keeping this post vacant

for long period and decided to hear oral evidence of the representatives of the Ministry of Food and Civil Supplies (Department of Civil Supplies) to elicit further clarifications in the matter.

(B)

The Committee noted with satisfaction that on being pointed out by them, the Ministry of Food and Civil Supplies (Department of Civil Supplies) had agreed to specify the status of the witnesses in the Note in the Sixth Schedule appended to the above mentioned Rules regarding rates of subsistence allowance and travelling allowance for witnesses appearing in the proceedings before the Registrar in order to avoid any ambiguity in the matter of fixing the rates of allowances to them as under:—

“For eligibility for higher travelling allowance and subsistence allowance, the annual income of the witness shall be at least Rs. 16,000/- or more.”

* * * *

The Committee then adjourned.

MINUTES OF THE THIRTY-FIRST SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(EIGHTH LOK SABHA)

(1986-87)

The Committee sat on Wednesday, 25 June, 1986 from 15.00 to 16.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri D. L. Baitha
3. Shri Anil Basu
4. Dr. (Shrimati) Phulrenu Guha
5. Shri Abdul Rashid Kabuli
6. Shri Dharam Pal Singh Malik
7. Shri Shantaram Naik
8. Shri Vakkom Purushothaman
9. Shri Mullappally Ramachandran
10. Shri Yogeshwar Prasad Yogesh

SECRETARIAT

Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 48 to 52 and took the following decisions thereon:—

- (i) *The Navy (Pension) Amendment Regulations, 1982 (S.R.O. 139 of 1982)—(Memorandum No. 48)*

The Committee considered the replies received from the Ministry of Defence and after some discussion, decided to

hear oral evidence of the representatives of the Ministry of Defence to elicit further clarifications in the matter.

* * * *

(v) *Action taken by Government on the recommendations made by, and assurances given to, the Committee on Subordinate Legislation—(Memorandum No. 52)*

The Committee considered the above Memorandum and desired that the action taken statements might be included, with minor modification, in the next Report of the Committee.

The Committee then adjourned.

MINUTES OF THE THIRTY-SEVENTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(EIGHTH LOK SABHA)
(1986-87)

The Committee sat on Thursday, 11 September, 1986 from 11.30 to 12.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri H. A. Dora
3. Dr. (Shrimati) Phulrenu Guha
4. Shri Dharam Pal Singh Malik
5. Shri Shantaram Naik
6. Shri Mullappally Ramachandran
7. Shri K. S. Rao
8. Shri Saleem I. Shervani
9. Shri Yogeshwar Prasad Yogesh

Representatives of the Ministry of Industry (Department of Industrial Development)

1. Shri P. Murari, Additional Secretary
2. Shri S. K. Lall, Joint Secretary
3. Shri P. R. Chandran, Director

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The representatives of the Ministry of Industry (Department of Industrial Development) appeared before the Committee to tender evidence in connection with the delay in final notification of the Trade and Merchandise Marks (Amendment) Rules, 1985 (S.O. 173-E of 1985). At the outset, the Chairman of the Committee enquired from the representatives whether they were aware of the require-

ment of framing the statutory rules within a maximum period of six months and if the rules were not framed within that time, the Ministry should have asked for extension of time from the Committee. Since the rules were given final shape after 14 months, the public suffered on that account. The representatives were asked to state the procedure being followed in the Ministry for dealing with such rules and how and when the suggestion to amend the rules was originally mooted. In reply, the representatives of the Ministry stated that in the past, the Trade and Merchandise Marks (Amendment) Rules and the Trade Marks Act of 1959 had been under the administrative control of the Food and Civil Supplies Department and it was only in February, 1986 that the relevant records were passed on to them. According to the witness, although the Ministry could justify the reasons, the delay of 14 months was an incontrovertible fact and he offered apology on behalf of the Government for the lapse. He added that the suggestions to amend the rules of 1959 were received in June, 1982 from the Registrar of Trade Marks, Bombay for the dual purpose of enhancing the prescribed fees and an overall simplification of the rules. In toto, 184 suggestions were made as a result of perception of working of the Act and various representations received. To the question as to whether suggestions were made by the public, the witness stated that the Head of the Department who had actually been doing the work and constantly interacted with public made the suggestions. He added that the *modus operandi* was to publish the draft rules in the Gazette to invite objections and opinions from the public. The witness also stated that the rules were revised from time to time and a revision was made in 1972. To a question as to how many suggestions were received upto the year 1974, the witness regretted that he did not have year-wise figures. The witness did not also have information about 1972 amendments.

3. When asked as to whether any note was submitted by the Officer, who proposed 184 amendments, mentioning that the amendments had become necessary on account of administrative difficulties or whether the public had made those suggestions, the witness read out certain excerpts from a letter dated 29 January, 1982 received by the Secretary in the Department of Civil Supplies in that connection. According to the note, almost all countries had revised the list twice and a stage had reached when it was necessary to increase revenues; the proposed increase was very moderate and would cause no hardship. It would rather eliminate inconvenience to the public and the delay in registration of trade marks.

4. With regard to the officers involved in the process of rule-making, the witness stated that they were actually the attached offices, subordinate offices and then the Ministry who were involved in the process. In the existing case, the Joint Registrar of Trade Marks initiated action; sent to the Controller General of Trade Marks and then to the Ministry. To a suggestion that the rule-making process be started from the level of Joint Secretary in place of the Desk Officer, the witness stated that the whole process started with the examination of rules. He explained that the amendments emanated from the Head of the Department, the Secretariat examined them. The agreement could be in toto or partial or after discussion with the Head of the Department there could be some modification and the agreed amendments were referred to the Law Department.

5. To the question as to whether the matters could be expedited by adopting a process of general discussion at a meeting of the concerned officers viz., the Desk Officer, the Under Secretary, the Deputy Secretary, the Joint Secretary, etc. of the Ministry, the witness submitted that even in the existing case, the Joint Secretary concerned had been to Bombay to hold discussions. The witness, however, felt that in the absence of totally computerised service, the Desk Officer will have to collect the earlier references and submit the notes. With regard to submission of files from the Desk Officer to the Joint Secretary straight away, the witness stated that the Administrative Reforms Commission was seized of the question.

6. The representatives of the Ministry promised to furnish a comprehensive note containing the chronological history of events identifying the various stages and the time taken at each stage in processing the final notification of the amendment rules in question.

[The witnesses then withdrawn.]

The Committee then adjourned.

MINUTES OF THE THIRTY-EIGHTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(EIGHTH LOK SABHA)

(1986-87)

The Committee sat on Monday, 27 October, 1986 from 15.00 to 16.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Anil Basu
3. Dr. (Shrimati) Phulrenu Guha
4. Shri Abdul Rashid Kabuli
5. Shri Dharam Pal Singh Malik
6. Shri Shantaram Naik
7. Shri Vakkom Purushothaman
8. Shri Mullapally Ramachandran

Representatives of the Ministry of Defence

1. Shri G. Asvathanarayan—*Additional Secretary*
2. Shri Dharendra Singh,—*Joint Secretary*
3. Shri S. R. Nafir,—*Deputy Secretary.*

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee heard the representatives of the Ministry of Defence regarding the Navy (Pension) Amendment Regulations, 1982 (S.R.O. 139 of 1982).

3. Asked to explain the term 'serious offence' appearing in Regulation 200-B(b) *ibid* and whether it had been defined in the Act or Regulation or any guidelines issued for the purpose, the representative of the Ministry stated that an exercise to issue guidelines in the matter had been made by them but found it difficult in view of the

complications involved and the possibility of adversely affecting the pensioners thereby. He felt that an amount of flexibility was necessary in taking decisions on such issues whereas guidelines tend to be applied rigidly at the lower level.

4. The Committee then invited the attention of the witness to the provision in Regulation 200-B and 200-C to withhold, suspend or discontinue the pension in case a pensioner is convicted of a crime of a political nature and desired to know whether there were any norms to define such a crime. The representative of the Ministry informed the Committee that the genesis of this provision was particularly in the context of pensioners in foreign countries where the matter regarding payment of pension had to be decided in consultation with the foreign government. Decision in these matters was governed, not by an Act of Parliament but by the circumstances and the policy of the Government in this regard.

5. The Committee while not objecting to the policy of the Government in the matter, desired that the Ministry should examine the matter in detail and lay down proper guidelines with regard to various offences appearing in the regulation in order to help the competent authority in exercising its discretion and to avoid taking decisions arbitrarily. The representative of the Ministry agreed to do so at an early date.

6. *The Committee then adjourned to meet again at 11.00 hours on 28 October, 1986.*

MINUTES OF THE FORTIETH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(EIGHTH LOK SABHA)

(1986-87)

The Committee sat on Thursday, 27 November, 1986 from 15.00 to 15.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Dr. (Shrimati) Phulrenu Guha
3. Shri Dharam Pal Singh Malik
4. Shri Vakkom Purushothaman
5. Shri K. S. Rao
6. Shri Bholanath Sen

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee considered the draft***and Twelfth Reports and adopted them.***

* * * * *

3. The Committee authorised the Chairman and, in his absence, Shri Vakkom Purushothaman, M.P. to present the*** Twelfth Report on 3 December, 1986.

The Committee then adjourned.

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