

COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTH LOK SABHA)

EIGHTH REPORT

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

(Presented on the 26th April, 1978)



LOK SABHA SECRETARIAT
NEW DELHI

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LOK SABHA SECRETARIAT

**CORRIGENDA TO THE EIGHTH REPORT OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA)**

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (1977-78)

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2. Shri Bhagirath Bhanwar
3. Shri Somjibhai Damor
4. Shri Durga Chand
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15. Shri Sachindralal Singha

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

REPORT

I

INTRODUCTION

1. The Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this their Eighth Report on the action taken or proposed to be taken by Government on certain recommendations of the Committee on Subordinate Legislation made during the Fifth Lok Sabha.

2. The matters covered by this Report were considered by the Committee at their sittings held on the 15th September, 1975, 17th September and 21st December, 1976, 29th November, 1977, 28th January, 1st and 14th March, 1978.

At their sitting held on the 28th January, 1978, the Committee heard oral evidence of the representatives of (i) the Ministry of Industry (Department of Industrial Development), and (ii) the Ministry of Agriculture and Irrigation (Department of Agriculture). The Committee wish to express their thanks to the officers of the two Ministries for appearing before the Committee and furnishing the information desired by them.

3. The Committee considered and adopted this Report at their sitting held on the 19th April, 1978.

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

4. A statement showing the summary of recommendations/observations of the Committee is also appended to the Report.

II

IMPLEMENTATION OF RECOMMENDATIONS MADE IN PARAS 23-24 OF EIGHTEENTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING DELAY IN EXERCISE OF RULE-MAKING POWER UNDER THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960.

5. Section 38 of the Prevention of Cruelty to Animals Act, 1960, which was brought into force on 28th October, 1960, empowers the

Central Government to make rules to carry out the purposes of the Act. It was noticed from the information supplied by the Ministry of Agriculture and Irrigation (Department of Agriculture) that in the case of three sets of rules, viz,—

- (1) the Committee for Controlling and Supervising experiments on Animals (Administration) Rules, 1965;
- (2) the Experiments on Animals (Control and Supervision) Rules; 1968; and
- (3) the Performing Animals Rules, 1973;

Government had taken 5 years, 7 years and 8 months and 12 years and 7 months, respectively, to make these rules. The Committee had also heard oral evidence of the representatives of the Ministry of Agriculture and Irrigation (Department of Agriculture) in this case. In reply to a point arising out of evidence whether all the matters enumerated in sub-section (2) of section 38 of the Act had been covered by the rules framed so far, the Ministry had stated in their written reply dated 16th September, 1975 as under:

“(a) With the framing of 7 sets of rules already, the following further rules remain to be framed under the provisions of the Act:—

- (i) Transport of Animals Rules [Section 38(2) (h)]
- (ii) Capture of Animals Rules [Section 38(2) (g)]
- (iii) Animal House Licensing Rules [Section 38(2) (i)]
- (iv) Overcrowding of Animals Rules [Section 38(2) (c)]
- (v) Use of fines realized under the Act [Section 38(2) (k)]

While rules at (i) above are expected to be notified by the end of September, 1975 calling objections, proposals are still awaited from Animal Welfare Board in respect of (ii), (iii), (iv) and (v).

* * *

6. In a further communication dated the 8th October, 1975, the Ministry had stated as follows:—

“The draft notification relating to 38(2) (h) i.e., Transport of Animals Rules had already been examined by Ministry of Law and Justice and certain clarifications required therein have been furnished. It is expected that the notification inviting objections will be issued shortly.

In regard to the remaining matters, the Animal Welfare Board, which was established under Section of the Act and is

primarily responsible for implementation of the Act, had been requested to suggest the rules. The Board is considering proposals in this regard and will suggest rules after these are discussed at the next annual general meeting of the Board in February, 1976. It is, therefore, requested that approval of the Committee on Subordinate Legislation to the framing and notifying of these rules by the 31st March, 1976 may kindly be obtained and intimated to us."

7. After considering the above reply of the Ministry, the Committee on Subordinate Legislation (Fifth Lok Sabha) had made the following observations in paras 23-24 of their Eighteenth Report, which was presented to the House on 12th January, 1976.

"In para 34 of their Fifth Report (Second Lok Sabha), presented to the House on 5th May, 1959, the Committee had desired that ordinarily rules should be framed under an Act as soon as possible after the commencement of an Act and in no case this period should exceed six months. The Committee note that in case of three sets of rules, viz., (1) the Committee for Controlling and Supervising Experiments on Animals (Administration) Rules, 1965, (2) the Experiments on Animals (Control and Supervision) Rules, 1968, and (3) the Performing Animals Rules, 1973, framed by the Ministry of Agriculture and Irrigation (Department of Agriculture) under the Prevention of Cruelty to Animals Act, 1960, there had been delays of 5 years, 7 years and 8 months and 12 years and 5 months respectively. The Committee are not satisfied with the explanation of the Ministry for delays in these cases. They feel that with a will and sense of urgency on the part of Government the delays in these cases could have been considerably reduced. In particular, the Committee do not find any justification for the delay of 12 years and 5 months in framing the Performing Animals Rules, 1973. A more distressing fact is that even though more than 15 years have elapsed since the Act was brought into force, five sets of rules are still to be framed.

The Committee note that out of these 5 cases, in one case, viz., —Transport of Animals Rules, the draft notification is under issue for inviting suggestions/objections from the public. In the case of remaining four matters the Ani-

mals Welfare Board has been requested to suggest rules and extension of time up to 31st March, 1976, has been asked for from the Committee. While granting this extension, the Committee desire that all out efforts should be made by the Ministry to finalise the rules by the extended date."

8. In their action taken note dated 16-7-1977, the Ministry, while requesting for further extension of time up to 30-9-1977, stated as under:—

"...the Transport of Animals Rules have since been circulated to all State Governments|Union Territories for inviting their objections. The rules pertaining to use of fines realised under the Act are under issue. The rules pertaining to (i) Capture of Animals Rules and (ii) Animal Housing Licencing Rules are also under active process and will be notified soon, and the Lok Sabha Secretariat will be informed accordingly.

In view of the position explained above, it is requested that the time limit for framing the rules may kindly be extended up to 30-9-77."

9. In a further O.M. dated the 31st December, 1977, the Ministry have stated the latest position as under:—

"...the draft Transport of Animals Rules and draft Application of Fines Rules, 1977 have since been notified in the Gazette of India.

The draft rules pertaining to Capture of Animals Rules are being referred to Ministry of Law for vetting before these are notified. The draft rules for Registration of Cattle Premises have been sent to Official Language Commission for Hindi translation of these rules so that these are notified.

In view of the position explained above, it is requested that the time limit for framing the rules may kindly be extended upto 31-3-78."

10. At their sitting held, on the 29th November, 1977, the Committee decided to hear oral evidence of the Ministry of Agriculture and Irrigation (Department of Agriculture) regarding delay in framing rules in respect of the matters sepecified in clauses (c), (g), (h), (i) and (k) of sub-section (2) of Section 38 of the Prevention of Cruelty to Animals Act, 1960.

11. At their sitting held on the 28th January, 1978, the Committee examined the representatives of the Ministry of Agriculture and

Irrigation (Department of Agriculture) regarding delay in exercise of rule-making power by the Central Government under section 38 of the Prevention of Cruelty to Animals Act, 1960.

12. Explaining the reasons for delay in framing rules under Section 38 of the Prevention of Cruelty to Animals Act, 1960, the representatives of the Ministry pointed out that the Ministry had to consult the Animal Welfare Board at every stage. The Board met once in three to four months and the Ministry could not hustle them. The Law Ministry had also to be consulted at every stage and the rules were then sent to the Official Language Commission for Hindi translation. The Official Language Commission, who had to push through a number of legislations, had their own order of priorities. The witness, however, admitted that there had been some delay in the matter but pleaded that it was a State subject and they had to carry with them the State Governments who were ultimately responsible for implementation of the rules.

13. When asked to state the latest position with regard to framing the rules under the Act in question, the representative stated that the Transport of Animals Rules and the Draft Application of Fines Rules had already been notified in April and October, 1977 respectively, for eliciting public opinion. The subject of 'Overcrowding of animals' was also covered by the Transport of Animals Rules. The Draft Registration of Cattle Premises Rules were waiting for Hindi translation. Thereafter, they would be notified for eliciting public opinion. In reply to a question, the witness stated that these rules would be finalised within a maximum period of six months.

14. Regarding the Capture of Animals Rules, the witness stated that it was not only a technical matter but required a lot of practical experience. One difficulty was regarding appliances to be used for capturing animals without causing undue or unnecessary pain to them. Certain clarifications in this regard sought from the Animal Welfare Board were stated to have been received and the matter referred to the Ministry of Law.

15. When asked as to how long it would take the Ministry to finalise the rules, the representative of the Ministry stated that it was difficult to specify a precise time-limit but added that the period could be reduced by personal contacts with other Ministries/ Departments.

16. The Committee then desired to be furnished with a note regarding the time taken at each stage in finalising the rules. The re-

quisite note has since been received from the Ministry and is at Appendix II.

17. The Committee are not happy over the manner in which the Ministry of Agriculture and Irrigation (Department of Agriculture) have acted in this case. As far back as May, 1959, the Committee on Subordinate Legislation in para 34 of their Fifth Report (Second Lok Sabha) had urged that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. The Committee, however, regret to observe that more than 17 years after the coming into force of the Prevention of Cruelty to Animals Act, 1960, final rules in respect of five matters—specified in clauses (c), (g), (h), ((i) and k) of sub-section(2) of Section 38 of the Act—are still to be issued. Whatever the reasons for the failure of the Ministry before the examination of the matter by the Committee in August, 1975, the Committee find no justification whatever for such failure after the examination of the matter by the Committee. In para 24 of their Eighteenth Report (Fifth Lok Sabha), the Committee had urged the Ministry to make all-out efforts to finalise the rules by the 31st March, 1976—the target date indicated by the Ministry themselves. The fact that even more than two years after the elapse of the said target date, not even a single set of final rules has so far been issued indicates that the Ministry have not dealt with the matter with the seriousness it deserved. From a statement furnished by the Ministry (Appendix II), the Committee find that there has been a lack of due sense of urgency both on the part of the Ministry as well as the Animal Welfare Board. The Committee will now like the Ministry to act with greater expedition in the matter and see to it that final rules in respect of all the five aforesaid matters, the primary object of which is prevention of cruelty to animals, are issued latest within six months from the presentation of this Report. For this purpose, the Ministry may, if necessary, sort out matters with other agencies concerned with the finalisation of rules by personal contacts or hold inter-Departmental meetings, instead of making frequent time-consuming to and fro references and waiting for their replies to be received in due course. They may also, if necessary, send draft rules to all the concerned agencies simultaneously, instead of sending them to one agency at a time and waiting for their reply to be received before taking further action in the matter. Like-wise, in order that the final publication of the rules is not delayed on account of delay in receipt of Hindi translation from the Official Languages Commission, the Ministry may, instead of sending the entire rules at a time, send them in batches to the Official Languages Commission for translation.

III

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN
 PARA 75 OF FOURTEENTH REPORT OF COMMITTEE ON
 SUBORDINATE LEGISLATION (FIFTH LOK SABHA) IN
 CONNECTION WITH THE TYRES AND TUBES (PRICE
 CONTROL) ORDER, 1973.

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

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

19. It was, however, seen that the prices in force on 20th November, 1973 had not been mentioned in the Order.

20. The erstwhile Ministry of Industrial Development, with whom the matter was taken up, stated as under:—

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

21. The Committee on Subordinate Legislation (1974-75), which considered the above reply of the erstwhile Ministry of Industrial

*Rescinded vide S.O. 272 (E) dated 29-4-1974.

Development, observed as follows in para 75 of their Fourteenth Report (Fifth Lok Sabha):—

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

22. In regard to the implementation of the above recommendation, the Secretary of the erstwhile Ministry of Industrial Development in his D.O. Letter to Secretary-General, Lok Sabha dated the 23rd May, 1975 stated as under:—

“It is possible that the facts and circumstances leading to the issue of the Tyres and Tubes (Price Control) Order, 1973 in terms in which it was done were not fully explained and placed before the Committee, and I would like to take the liberty of explaining the position in some detail even at this stage. For a number of years prior to 1971, an arrangement had been in force, under which there was an informal control of the prices of tyres and tubes, and the industry was required to obtain Government's prior concurrence before effecting any increase in the prices. While this arrangement had worked satisfactorily for long and price increases had been agreed to from time to time certain difficulties cropped up in 1973 when the industry sought to increase the prices beyond a level considered reasonable by Government. Government had also received representations that the tyre industry were making exorbitant profits, particularly as most of them were foreign companies. The Government, therefore, requested the Bureau of Industrial Costs and Prices to examine whether the increases proposed by the companies were reasonable and to make other appropriate recommendations. The report of the BICP revealed that the magnitude of the increases proposed by the industry was not fully justified. While the report of the BICP was still under considera-

tion, the industry decided unilaterally to increase the prices of various categories of tyres with effect from 26th November, 1973. It was in these circumstances that Government was compelled to take immediate statutory action to ensure that the prices of certain critical categories of automotive tyres and tubes were not increased. The objective of the Government at that time was not so much to fix any specific prices, but to freeze the prices at the levels which prevailed at that time, and to prevent the industry from effecting increases which were not justified.

The question whether, in issuing such an order, the specific prices, which were sought to be frozen, should not be enumerated was in fact raised by the Law Ministry, and carefully considered by us. There were serious practical difficulties in enumerating in the order the specific prices for a large number of categories and sizes of automotive tyres and tubes. *While the Government had information as to what the industry had indicated as the prices being charged by them from time to time, it did not have in its possession immediately authentic data which could have been attached to the Control Order.* It would thus have been rather risky to have relied solely on the information furnished by the tyre industry, and timely action was of the essence in this case. While we agree in principle that it would have been desirable to specify the prevailing prices clearly wherever possible, circumstances sometimes compel Government to take recourse to such immediate action considered necessary in the larger public interest.

The Committee has recommended that the Ministry should be careful about such matters in future. While we fully share the spirit of the recommendation of the Committee, and it will always be the endeavour of this Ministry to comply with the recommendations of the Committee, I think it is fair, and also our duty, to submit that the circumstances which compelled the Government to promulgate an order of this nature recurring in the future cannot be ruled out. For example, during the 1965 emergency, we had to issue a directive to firms stipulating that their consumption of certain scarce metals should not exceed previous levels, though such levels could not be specified individually. This was necessary, as a precautionary measure, so as to ensure that such stocks of metals as existed in the country were reserved for strategic requirements, without detriment to continuing levels of civilian production. I may also add that sometimes Government regu-

lates prices in terms of certain norms, such as utilisation of capacity, consumption of materials, return on capital employed etc. so that it is possible to keep price trends within a regulated frame. Indeed, fixation of norms, rather than specific prices, is more effective in times of uncertainty and change.

It is appreciated that when the actual prices are not explicitly stated in the order, we do have a greater responsibility in the matter of producing evidence while prosecuting any violation. This, no doubt, makes our task somewhat more difficult, but this has to be accepted.

* * * * *

I would.....like to assure the Committee.....that it will be the endeavour of this Ministry to be as definitive as circumstances permit in any control order that may be promulgated. I will be most grateful if you could kindly apprise the Charman of the Committee on Subordinate Legislation of the above facts and circumstances and request the Committee to allow some flexibility in implementing its recommendations."

23. The Committee on Subordinate Legislation (Fifth Lok Sabha) considered the matter at their sitting held on the 15th September, 1975 and decided to hear oral evidence of the erstwhile Ministry of Industrial Development in the matter.

24. The Committee heard the oral evidence of the representatives of the Ministry of Industry (Department of Industrial Development) in the matter at their sitting held on the 28th January, 1978.

25. Explaining the background for not mentioning the prevailing prices of tyres and tubes as on the 20th November, 1973 in the 'Order' which froze the prices on that day, the representative of the Ministry stated that in 1955, the tariff Commission went into the tyre prices, examined costs of production and recommended certain standard norms for pricing of tyres. The prices indicated by the Tariff Commission were accepted and were made applicable till 1957. After this, there was an understanding with the tyre industry that they would not bring about any price increase without prior consultation with the Government. Between 1957 and 1966, price increases were agreed to by Government on seven occasions. On each of the seven occasions, the price increases agreed to by Government were lower than those asked for by the industry. In 1973, the tyre industry again approached Government for an increase in the prices of tyres. Government expressed the view that there should be no price increase and that small increases in cost should be absorbed by the Industry, the last meeting with the industry on the matter was held

on 20-11-73. On 26-11-73, the industry informed the Government unilaterally, that they were unable to absorb the cost increases and, therefore, they would increase the prices. Government had to act quickly and on 29-11-73 they issued an order freezing the prices as on 20-11-73. This order covered three types of tyres and tubes—truck tyres and tubes, rear tractor tyres and tubes and off the-road tyres and tubes. In these three categories, there were as many as hundred sizes and varieties of tyres and tubes. In the circumstances, it would have taken time to collect information about the prevailing prices lists available with the various dealers for different sizes of tyres and tubes covered by the Control Order. At the same time, it was felt that these price lists were known to the tyre manufacturers and it was an order more to the tyre manufacturers to see that they did not put up prices beyond the level prevailing on 20-11-73.

26. The representative of the Ministry further submitted that the matter had since been reviewed, and the recommendation of the Committee that in similar situations, wherever possible, prices should be appended to the price Control Order, was acceptable to Government.

27. In reply to a question whether Government could not have published an addendum to the Order within a reasonable time setting out the prices prevailing as on 20-11-73 so that the consumers could know the precise prices they had to pay, the representative of the Ministry stated that at that time Government thought that the Order would serve the purpose and it was adequate. It was not issued with a sense of inadequacy which had to be made up in the next few days.

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 sub-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 Ministry in their reply, unless the frozen prices are actually mentioned in the order, it becomes difficult for Government 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 recommendation 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—

IV

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAS 69—71 OF THE FOURTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING THE DELHI DEVELOPMENT AUTHORITY (ISSUE AND MANAGEMENT OF BONDS) REGULATIONS, 1970 (S.O. 1135 OF 1972).

30. The Delhi Development Authority (Issue and Management of Bonds) Regulations, 1970 were issued on 25-9-1970 but were published in the Gazette of India dated the 20th May, 1972 after a delay of about two years. The delay in publication, according to the Ministry of Works and Housing, was partly because the regulations were notified in the Gazette only after the Lok Sabha/Rajya Sabha Secretariats had pointed out that they could not be laid on the Table unless they were published in the Gazette.

31. It was noticed that while Section 58 of the Delhi Development Act 1957 required all regulations issued thereunder to be laid before each house of Parliament, there was no provision in the Act requiring their publication in the Gazette.

32. The Ministry of Works and Housing with whom the matter was taken up had, *inter alia*, stated as under:—

“The Ministry of Law have stated that since there is no provision in the enactment that the Regulations should be published in the Gazette as such, such publication is only an administrative action and has no legal consequence as regards the commencement of the Regulations..... this Ministry has no objection to making a provision in the Delhi Development Act requiring publication of the Regulations in the Official Gazette, as in the case of Rules under Section 56(i).”

33. Commenting upon the above reply of the Ministry of Works and Housing, the Committee on Subordinate Legislation in paras 69—71 of their Fourteenth Report (Fifth Lok Sabha) observed as under:

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

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

* * * *

34. In their action taken note dated August, 1977, on the above recommendation, the Ministry of Works and Housing have stated as under:—

“...consequent on the recommendations made by the Committee on Subordinate Legislation this Ministry was left with option to take either of the following actions:—

- (i) To amend Section 57 of the Delhi Development Act, 1957 so as to confer powers on the DDA to frame DDA (Issue of Bonds) Regulations.
- (ii) The Central Government themselves framing DDA (Issue of Bonds) Rules. In this case necessity for amending Delhi Development Act, 1957 does not arise.

Either of the aforesaid actions meets with the recommendations made by the Committee on Subordinate Legislation. The Ministry of Law, Justice and Company Affairs, who were consulted in the matter, advised that the best course in the circumstances would be to frame the Rules by the Central Government themselves. Accordingly, steps were taken and the Rules have been framed. These will be notified in the Gazette soon after the copies of the Hindi translation are made available.”

35. The Committee note that the Ministry of Works and Housing have decided in consultation with the Ministry of Law that the Central Government may themselves frame the Delhi Development Authority (Issue of Management of Bonds) Rules under Section 56(2)(mm) of the Delhi Development Act, 1957 and publish them in the Official Gazette, instead of amending the Delhi Development Act, 1957 for the conferment of power on the Delhi Development

Authority to frame the regulations on the subject, and to publish them in the Official Gazette. The Committee agree with the above decision of the Ministry of Works and Housing and desire them to finalise and notify the said rules in the Official Gazette without losing any further time.

V

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN
 PARA 28 OF THE SEVENTEENTH REPORT OF THE COM-
 MITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK
 SABHA) REGARDING THE COMPENSATION TRIBUNAL
 ORDER, 1974 (G.S.R. 149-E OF 1974).

36. The Compensation Tribunal Order, 1974 was framed under the Defence of India Rules, 1971. The Defence of India Rules are required to be laid on the Table of Lok Sabha *vide* Section 35 of the Defence of India Act. It was felt that when the Defence of India Rules are required to be laid on the Table, the Compensation Tribunal Order which had been framed under the Defence of India Rules should also be laid on the Table. In para 28 of their Seventeenth Report (Fifth Lok Sabha) presented to the House on the 7th January, 1976, the Committee on Subordinate Legislation observed as under in this regard:

“The Committee are not convinced by the reply of the Ministry of Home Affairs that the Compensation Tribunal Order, 1974, is not required to be laid before Parliament as section 35 of the Defence of India Act, 1971, requires only the rules made under the Act to be laid before Parliament; and that orders either executive or statutory made under the Defence of India Rules are not required to be laid before Parliament. The Committee are of the view that when the principal rules are required to be laid before Parliament, all statutory orders made under the rules should also be laid on the Table. The Committee note in this connection that in the case of regulations framed under the Rules made under the All India Services Act, 1951, relying on the judgement of Supreme Court in *Narendra Kumar vs. Union of India* (1960, SCR Vol. II, 375), the Ministry of Law had advised the Ministry of Home Affairs that regulations made by the Central Government should be taken to form an integral part of the rules under the All India Services Act, and as such they

were required to be laid before Parliament. The Committee, therefore, recommend that all statutory orders made under the Defence of India Rules should also be laid before Parliament."

37. In their action taken note dated 8-2-77 on the above recommendation, the Ministry of Home Affairs have stated as under:

".....the matter has been examined in detail in consultation with the Ministry of Law. Some difficulty is felt in implementing this recommendation totally. The statutory orders issued from time to time under various rules of the Defence and Internal Security of India Rules, 1971 consist of two types, viz.,

- (1) Orders which constitute executive action under the powers provided for in the Rules; and
- (2) Orders which are in the nature of providing further powers, or modifying the existing powers as was the case in the issue of the Compensation Tribunal Order, 1974.

This Ministry is of the view, with which the Ministry of Law agree, that in pursuance of the recommendation of the Committee on Subordinate Legislation, only orders of the second type need be laid before the Houses of Parliament. If this interpretation is accepted by the Committee on Subordinate Legislation, this Ministry may take either of the following two alternative courses of action in implementing the recommendations:—

- (1) Collecting all the orders so far issued since 1971 by the various Ministries of the Central Government as also the State Governments so as to examine them and determine which of the orders fall in the second category so that all of them could be laid before Lok Sabha.

OR

- (2) Taking steps to ensure that all orders issued henceforth which fall in the second category mentioned above are laid before Parliament, with reference to Section 35 of the Defence and Internal Security of India Act, 1971.

Lok Sabha Secretariat may kindly seek the advice of the Committee on Subordinate Legislation and inform this Minis-

try if the interpretation indicated in the preceding para is correct and if so, whether the second alternative suggested may be followed."

38. The Committee have given a careful thought to the matter. They desire that all statutory orders issued by the Government under the Defence of India Rules since 1st January, 1975, and which are still in force, should be laid before Parliament at the earliest.

VI

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 8 OF THE TWENTIETH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING CONDUCT OF ELECTIONS (AMENDMENT) RULES, 1974 (S.O. 286-E OF 1974).

39. Rule 39-A of the Conduct of Election Rules, 1961, *inter alia* provides as follows:

"39A. Maintenance of secrecy of voting by electors within polling station and voting procedure.

* * *

(2) The elector on receiving the ballot paper shall forthwith—

- (a) proceed to one of the voting compartments;
- (b) record his vote in accordance with sub-rule (2) of rule 37A with the article supplied for the purpose;
- (c) fold the ballot paper so as to cancel his vote;
- (d) insert the folded paper into the ballot box; and
- (e) quit the polling station.

* * *

(5) If an elector to whom a ballot paper has been issued, refuses, after warning given by the presiding officer to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.

* * *

- (8) Without prejudice to any other penalty to which an elector, from whom a ballot paper has been taken back under sub-rule (5), may be liable, vote, if any, recorded on such ballot paper shall not be counted."

40. It was felt that cancellation of a ballot paper taken back from a voter amounted to penalty for which authority should flow from the parent Act, the Representation of the People Act, 1951.

41. In the opinion of the Ministry of Law, Justice and Company Affairs (Legislative Department), with whom the matter was taken up, it was "not correct to construe the cancellation of a ballot paper under sub-rule (8) of Rule 39A of the Conduct of Elections Rules, 1961, as imposition of a penalty".

42. The Committee on Subordinate Legislation did not agree with the above opinion of the Ministry of Law, and observed as follows in para 8 of their Twentieth Report (Fifth Lok Sabha):

"The Committee do not question the need for the provision enshrined in Rule 39A that in cases where a voter fails to observe the prescribed procedure for recording of votes, his vote shall be liable to be cancelled. The limited point raised by the Committee is that the provision for cancellation of a ballot paper amounts to a penal provision for which the authority should flow from an express provision in the parent Act. The view of the Ministry of Law that the cancellation of a ballot paper should not be construed as a penalty is not acceptable to the Committee. The expression "any other penalty" used in sub-rule (8) of Rule 39A lends support to the Committee's view that the cancellation of a vote is tantamount to a penalty. Even otherwise, the Committee feel that the cancellation of the vote of a citizen is a substantial matter, authority for which should flow from an express provision in the parent Act. The Committee, therefore, desire that Government should take early steps for the amendment of the Representation of the People Act, 1951 to include a provision therein for cancellation of a ballot paper when the voter fails to observe the prescribed procedure for recording his vote."

43. In their action taken note date 21-2-77 on the above recommendation, the Ministry of Law (Legislative Department) stated that the recommendation of the Committee has been implemented

by the insertion of a new section 132-A in the Representation of the People Act, 1951 by section 7 of the Representation of the People the ballot paper issued to him shall be liable for cancellation."

"132A. If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation."

44. In their further reply dated the 6th May, 1977, the Ministry have stated as under:—

".....a decision has been taken not to replace the Representation of the People (Amendment) Ordinance, 1977 by an Act of Parliament. However, the recommendation of the Committee on Subordinate Legislation relating to the provision to be made in the Representation of the People Act, 1951, for penalty towards failure to observe voting procedure will be implemented when that Act is taken up for amendment in due course. It is requested that the Committee on Subordinate Legislation may be apprised of the position."

45. The Committee note that in pursuance of the recommendation of the Committee made in para 8 of their Twentieth Report (Fifth Lok Sabha), Government promulgated on the 2nd February, 1977, the Representation of the People (Amendment) Ordinance, 1977, inserting a new Section 132-A in the Representation of the People Act, 1951 providing for the cancellation of the vote of an elector who failed to observe the prescribed procedure for recording his vote. In the opinion of the Committee, after having promulgated the Ordinance, the next logical step for the Ministry was to bring a Bill before the House for the replacement of the Ordinance. This unfortunately was not done by the Ministry who have now informed the Committee that a decision has been taken by them not to replace the above Ordinance by an Act of Parliament. The Ministry have, however, assured that the recommendation of the Committee will be implemented as and when the Act is next taken up for amendment in due course. The Committee observe that with the lapse of the Ordinance, the amendment inserted in the Act has ceased to be in effect and the position is where it was before the promulgation of the Ordinance. The Committee feel that the implementation of their recommendation in such an important matter ought not be postponed for an indefinite period, and that early steps should be taken by Government for the amendment of the Act to the necessary end.

VII

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 100 OF THE SEVENTEENTH REPORT OF THE COM- MITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING THE BORDER SECURITY FORCE RULES, 1969. (S.O. 2336 OF 1969—PARA 45 OF FIRST RE- PORT—FIFTH LOK SABHA).

46. Rule 170 of the Border Security Force Rules, 1969 provided that a court of inquiry shall consist of an officer as presiding officer and at least two members who may be either officers or subordinate officers or both.

47. Commenting upon the above provision, the Committee on Subordinate Legislation in para 45 of their First Report (Fifth Lok Sabha) observed as follows:

“The Committee note that under rule 170 of the Border Security Force Rules, 1969, there is no bar to the appointment of an officer of the same rank or a rank lower than that of the officer being proceeded against as a member of the court of inquiry. In the opinion of the Committee, it is wrong in principle to appoint a junior officer to go into the conduct of a senior officer; for, apart from the fact that such an inquiry cannot command the confidence it deserves, it is apt to put both the inquiry officer and the officer being proceeded against in an embarrassing position. The Committee, therefore, reiterate their earlier recommendation made in para 22 of their Sixth Report (Fourth Lok Sabha) that inquiries should be conducted by an officer who is sufficiently senior to the officer being proceeded against. The Committee desire that Government should amend the rule in question accordingly.”

48. The above recommendation of the Committee on Subordinate Legislation was not accepted by the Ministry of Home Affairs who in their communication dated 16-10-1973 *inter alia* urged as follows:

“In so far as the amendment of the Border Security Force Rules, 1969 is concerned,.....the matter has been

reconsidered in all its aspects. The nature of duties performed by the Border Security Force is very much akin to Army and the circumstances under which Courts of Inquiry are ordered are also similar.

* * * *

...notwithstanding what has been stated above the normal practice when the character and reputation of a person is known to be involved in the incidents sought to be inquired into by the Court of Inquiry only Officers senior to such a person are detailed as members except when having due regard to the exigencies of public service such officers are not available as in the case when the Border Security Force units were committed to the border during the recent Indo-Pakistan conflict.

As the Court of Inquiry is only a fact finding body, at the time of ordering such an Inquiry it may not be possible to know the involvement of Supervisory Officers in the incident to be enquired and if the contention of the Committee on Subordinate Legislation is accepted in all cases bringing out facts against the Supervisory Officers the previous Courts of Inquiry may have to be dissolved in each case and fresh Court of Inquiry consisting of officers higher in rank than the seniormost supervisory officer who will generally be the Commandant of a Unit, have to be constituted. Looking to the wide area of deployment of the Force, it may become impossible to collect higher officers at any one place for holding the proceedings of the Court of Inquiry.

Apart from the expense and the weakening of command and control due to frequent absence of senior officers which would result from constituting such Courts of Inquiry, it may be difficult to order Court of Inquiry proceedings freely in order to ascertain facts on account of the difficulties of forming a board of officers having the appropriate ranks. This will tell on the discipline of the force. Even routine enquiries involving administrative matters may be inordinately delayed."

49. The above reply of the Ministry of Home Affairs was considered by the Committee on Subordinate Legislation (1975-76) who

in para 100 of their Seventeenth Report (Fifth Lok Sabha), presented to the House on the 7th January, 1976, observed as follows:

“The Committee have given a careful thought to the Ministry’s reply. They note that, according to the normal practice followed by the Border Security Force, when the character and reputation of a person are known to be involved in the incidents sought to be enquired into by the Courts of Inquiry, only officers senior to such a person are detailed as members except when having due regard to the exigencies of public service such officers are not available as in the case of a War. The Committee feel that in other cases also, not involving the character and reputation of the officers concerned courts of inquiry should as far as possible be manned by senior officers. In case, however, in any particular case it is not possible to man the court wholly by senior officers, at least the presiding officer of the court should be sufficiently senior to the officer being proceeded against. The Committee desire that early action should be taken by the Ministry of Home Affairs to amend Rule 170 of the Border Security Force Rules, 1969, to the above effect.”

50. In their action taken note dated 26-7-76 on the above recommendation, the Ministry of Home Affairs have stated as under:

“...the Committee has expressed its views that even in cases not involving the character and reputation of an officer, the Court of Inquiry should, as far as possible, be manned by senior officers. It appears that we have not been able to put across the case clearly before the Committee. The Presiding Officer of a Court of Inquiry is always a senior officer holding the rank of not less than an Assistant Comdt/Dy. S. P. Though the constitution of a Court of Inquiry is obligatory in certain cases as per BSF Rule 174(2), the proceedings of a Court of Inquiry are not in the nature of disciplinary proceedings. The Court of Inquiry is only a fact finding body making a sort of a preliminary investigation. In a disciplinary case, a court of Inquiry is normally ordered only when it is not known as to who has committed the offence or as to what offence has been committed. If the offender and the offence committed are known, a Record of Evidence against the accused could be ordered and a Court of Inquiry is not required to be constituted. In such cases, trial proceedings commence in accordance with rules 43 to 45 of the BSF Rules. A court of Inquiry is, therefore, altogether different from

a departmental enquiry. A DE commences with the framing of a charge sheet against an accused on the other hand there is no such charge sheet and no accused in a Court of Inquiry. Each person appearing before it is examined as a witness only. After hearing the witnesses, a Court of Inquiry may recommend disciplinary action against a defaulter. Thereafter, disciplinary/trial proceedings may commence. No sentence can be passed merely on the basis of the finding/recommendation of a Court of Inquiry. Even the statement of a witness against whom disciplinary action is initiated subsequently on the recommendation of a Court of Inquiry, cannot be used against him at his subsequent trial in view of rule 173(9) of the B.S.F. Rules. Whereas DE is a disciplinary proceeding which results in either acquittal or conviction of an accused.

In view of the foregoing, it is requested that the Committee may please reconsider the matter and allow the rule to stand as it is. The Committee is, however, assured that executive instructions would be issued by the Government for implementing the recommendation of the Committee while constituting a Court of Inquiry, as far as possible, under the circumstances. It is further requested that the Committee may permit the Chief Law Officer of the B.S.F. to explain the matter in detail orally."

51. In paragraph 100 of their Seventeenth Report (Fifth Lok Sabha), the Committee on Subordinate Legislation had desired that a Court of Inquiry should as far as possible be manned by officers senior to the person being proceeded against. However, in any particular case if it is not possible to man a Court wholly by senior officers, at least the presiding officer of the Court should be sufficiently senior to the officers being proceeded against. The Committee note that while the Ministry of Home Affairs have expressed certain practical difficulties in amending Rule 170 of the Border Security Force Rules, 1969 to the above effect, they have assured that necessary executive instructions will be issued for implementing the above recommendation of the Committee while constituting a Court of Inquiry, as far as possible, under the given circumstances. The Committee desire the Ministry to issue necessary instructions to the above effect without delay. The Committee hope that the Ministry of Home Affairs will ensure that the instructions issued by them are followed in letter and spirit by the formations and that, save in exceptional circumstances, the afrosaid recommendation of the Committee will normally be implemented.

VIII

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

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

IX

NON-RECEIPT OF FINAL REPLIES FROM MINISTRIES/DEPARTMENTS REGARDING ACTION TAKEN OR PROPOSED TO BE TAKEN ON THE OUTSTANDING RECOMMENDATIONS OF COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA).

53. In respect of the following recommendations made by the Committee on Subordinate Legislation during the Fifth Lok Sabha, final replies are still awaited:—

S. No.	Para No.	Ministry/Department concerned
1	2	3
		<i>Sixth Report (Presented on 7-5-1973)</i>
1.	Para 9	Law, Justice & Company Affairs (Legislative Department)
2.	Para 13	Communications (D.G., P & T).
3.	Para 14	Do.
4.	Para 15	Do.
5.	Para 70	Defence.
		<i>Seventh Report (Presented on 25-7-1973)</i>
6.	Para 24	Commerce.
7.	Para 25	Commerce.
8.	Para 26	Commerce.
		<i>Eighth Report (Presented on 30-8-1973)</i>
9.	Para 8	Commerce.
10.	Para 16	Commerce.
11.	Para 20	Commerce.
12.	Para 115	Chemicals & Fertilizers (Drugs Division).
13.	Para 120	Labour.

1	2	3
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Eleventh Report (Presented on 9-5-1974)

14. Para 40 Law, Justice & Company Affairs (Department of Company Affairs)
 15. Para 119 Steel & Mines (Department of Mines).

Twelfth Report (Presented on 10-5-1974)

16. Para 55 Defence.
 17. Para 98 Agriculture & Irrigation (Department of Rural Development)

Thirteenth Report (Presented on 12-8-1974)

18. Para 139 Ministry of Industry (Department of Industrial Development)
 19. Paras 63-64 Department of Personnel and Administrative Reforms.
 20. Para 71 Law, Justice & Company Affairs (Legislative Department)
 21. Para 72 Department of Personnel and Administrative Reforms
 22. Para 74 Department of Personnel and Administrative Reforms.

Fourteenth Report (Presented on 20-12-1974)

23. Para 16 Railways (Railway Board)
 24. Para 17 Do.
 25. Para 19 Do.
 26. Para 34 Tourism and Civil Aviation.
 27. Para 40 Tourism and Civil Aviation.
 28. Para 97 Health and Family Welfare (Department of Health).

Sixteenth Report (Presented on 9-5-1975)

29. Para 11 Education and Social Welfare (Department of Education).
 30. Para 15 Do.
 31. Para 16 Do.
 32. Para 20 Do.
 33. Para 21 Do.
 34. Para 22 Do.
 35. Para 26 Department of Supply.
 36. Para 42 Department of Parliamentary Affairs.
 37. Para 65 Home Affairs.
 38. Para 69 Home Affairs.
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39. Para 77 Home Affairs.
 40. Paras 92 & 94 Ministry of Education and Social Welfare (Department of Education).
 41. Para 100 Communications (D.G., P. & T.).

Seventeenth Report (Presented on 7-1-1976)

42. Para 13 Department of Personnel and Administrative Reforms.
 43. Para 21 Industry (Department of Heavy Industry).
 44. Para 59 Labour.
 45. Para 60 Labour.

Eighteenth Report (Presented on 12-1-1976)

46. Para 57 Health and Family Welfare (Department of Health).
 47. Para 58 Do.
 48. Para 59 Do.
 49. Para 128 Information and Broadcasting.
 50. Para 129 Do.
 51. Para 143 Department of Personnel and Administrative Reforms.
 52. Para 144 Do.
 53. Para 147 Health and Family Welfare (Department of Health).
 54. Para 148 Do.

Nineteenth Report (Presented on 15-4-1976)

55. Para 31 Petroleum, Chemicals & Fertilizers (Department of Petroleum).
 56. Para 36 (i) Department of Culture.
 (ii) Law, Justice and Company Affairs (Legislative Department).
 57. Para 44 Shipping and Transport (Transport Wing).
 58. Para 48 Law, Justice and Company Affairs (Legislative Department).
 59. Para 49 Do.
 60. Para 50 Do.
 61. Para 54 Finance (Department of Revenue).
 62. Para 58 Do.
 63. Para 62 Railways.
 64. Para 65 Railways.
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1	2	3
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65. Para 73 Steel and Mines (Department of Mines).
 66. Para 93 Shipping and Transport (Transport Wing).

Twentieth Report (Presented on 3-11-1976)

67. Para 15 Communications (D.G., P. & T.).
 68. Para 27 Works and Housing.
 69. Para 31 Works and Housing.
 70. Para 38 Works and Housing.
 71. Para 45 Health and Family Welfare (Department of Health).
 72. Para 56 Shipping and Transport (Transport Wing).
 73. Para 65 (i) Defence.
 (ii) Education and Social Welfare (Department of Education).
 74. Para 93 Shipping and Transport.
 75. Para 94 Energy.
 76. Para 95 Energy.
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54. The Committee feel concerned about inordinate delays in receipt of action-taken replies from the Ministries/Departments. In para 93 of their Sixteenth Report (Fifth Lok Sabha), the Committee had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. The Committee regret to observe that in respect of as many as 76 recommendations of the Committee made during the Fifth Lok Sabha, final replies have not yet been received from the Ministries|Departments concerned. The delay in these cases ranges from 17 months to over 4 years and 11 months. Unconscionable delays such as these, the Committee may point out, hardly bring any credit to the Ministries|Departments concerned, for, they are only indicative of a lack of proper sense of urgency on the part of the Ministries|Departments concerned. Also, such delays result in unnecessary prolongation of infirmities or inequities in rules, having a bearing on the public. The Committee desire the Ministries/Department_s concerned to furnish final replies to the recommendations enumerated in the preceding

paragraph within a maximum period of three months from the presentation of this Report. Henceforth, the Committee will take a serious view of such delays.

SOMNATH CHATTERJEE,
Chairman,
Committee on Subordinate Legislation.

NEW DELHI;
April 19th, 1978.

APPENDIX I

(Vide para 4 of the Report)

Summary of main recommendations/observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1	17	<p>The Committee are not happy over the manner in which the Ministry of Agriculture and Irrigation (Department of Agriculture) have acted in the present case. As far back as May, 1959, the Committee on Subordinate Legislation in para 34 of their Fifth Report (Second Lok Sabha) had urged that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. The Committee, however, regret to observe that more than 17 years after the coming into force of the Prevention of Cruelty to Animals Act, 1960, final rules in respect of five matters specified in clauses (c), (g), (h), (i) and (k) of sub-section (2) of Section 38 of the Act—are still to be issued. Whatever the reasons for the failure of the Ministry before the examination of the matter by the Committee in August, 1975, the Committee find no justification whatever for such failure after the examination of the matter by the Committee. In para 24 of their Eighteenth Report (Fifth Lok Sabha), the Committee had urged the Ministry to make 'all-out efforts' to finalise the rules by the 31st March, 1976—the target date indicated by the Ministry themselves. The fact that even more than two years after the elapse of the said target date, not even a single set of final rules has so far been issued indicates that the Ministry have not dealt with the matter with the seriousness it deserved. From a statement furnished by the Ministry (Appendix II), the Committee find that there has been a lack of due sense of urgency both on the part of the Ministry as well as the Animal Welfare Board. The Committee will now like the Ministry to act with greater expedition in the matter and see to it that final rules in respect of all the five aforesaid matters, the primary object of which is prevention of cruelty to animals, are issued latest within six months from the presentation of this Report. For this purpose the Ministry may, if necessary, sort out matters with other agencies concerned with the finalisation of rules by personal contacts or hold inter-Departmental meetings, instead of making frequent time-consuming to and fro references and waiting for their replies to be received in due course. They may also, if necessary, send draft rules to all the concerned agencies simultaneously, instead of sending them to one agency at a time and waiting for their reply to be received before taking further action in the matter. Like-wise, in order that the final publication of the rules is not delayed on account of delay in receipt of Hindi translation from the Official Languages Commission, the Ministry may, instead of sending the entire rules at a time, send them in batches to the Official Languages Commission for translation.</p>

(1)	(2)	(3)
2	28-29	<p>(i) 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 sub-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 mentioned in the order, it becomes difficult for Government 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.</p> <p>(ii) The Committee are glad to note that Government have since reviewed the matter and decided that in similar situations wherever possible, the recommendation 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.</p>
3	35	<p>The Committee note that the Ministry of Works and Housing have decided in consultation with the Ministry of Law that the Central Government may themselves frame the Delhi Development Authority (Issue of Management of Bonds) Rules under Section 56(2) (mm) of the Delhi Development Act, 1957 and publish them in the Official Gazette, instead of amending the Delhi Development Act, 1957 for the conferment of power on the Delhi Development Authority to frame the regulations on the subject and to publish them in the Official Gazette. The Committee agree with the above decision of the Ministry of Works and Housing and desire them to finalise and notify the said rules in the Official Gazette without losing any further time.</p>
4!	38	<p>The Committee have given a careful thought to the Ministry of Home Affairs' reply dated the 9th February, 1977. They desire that all statutory orders issued by the Government under the Defence of India Rules since 1st January, 1975, and which are still in force, should be laid before Parliament at the earliest.</p>
5	45	<p>The Committee note that in pursuance of the recommendation of the Committee made in para 8 of their Twentieth Report (Fifth Lok Sabha), Government promulgated on the 2nd February, 1977, the Representation of the People (Amendment) Ordinance, 1977 inserting a new Section 132-A in the Representation of the People Act, 1951 providing for the cancellation of the vote of an elector who failed to observe the prescribed procedure for recording his vote. In the opinion of the Committee, after having promulgated the Ordinance, the next logical step for the Ministry was to bring a Bill before the House for the replacement of the Ordinance. This unfortunately was not done by the Ministry who have now informed the Committee that a decision has been taken by them not to replace the above Ordinance by an Act of Parliament. The Ministry have, however, assured that the recommendation of the Committee will be implemented as and when the Act is next taken up for amendment in due course. The Committee observe that with the lapse of the Ordinance, the amendment inserted in the Act has ceased to be in effect and the position</p>

is where it was before the promulgation of the Ordinance. The Committee feel that the implementation of their recommendation in such an important matter ought not be postponed for an indefinite period, and that early steps should be taken by Government for the amendment of the Act to the necessary end.

- 6 51 In paragraph 100 of their Seventeenth Report (Fifth Lok Sabha), the Committee on Subordinate Legislation had desired that a Court of Inquiry should as far as possible be manned by Officers senior to the person being proceeded against. However, in any particular case if it is not possible to man a Court wholly by senior officers, at least the Presiding Officer of the Court should be sufficiently senior to the Officers being proceeded against. The Committee note that while the Ministry of Home Affairs have expressed certain practical difficulties in amending Rule 170 of the Border Security Force Rules, 1969, to the above effect, they have assured that necessary executive instructions will be issued for implementing the above recommendation of the Committee while constituting a Court of Inquiry, as far as possible under the given circumstances. The Committee desire the Ministry to issue necessary instructions to the above effect without delay. The Committee hope that the Ministry of Home Affairs will ensure that the instructions issued by them are followed in letter and spirit by the formations and that, save in exceptional circumstances, the aforesaid recommendation of the Committee will normally be implemented.
- 7 52 The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix III.
- 8 54 The Committee feel concerned about inordinate delays in receipt of action-taken replies from the Ministries/Departments. In para 93 of their Sixteenth Report (Fifth Lok Sabha), the Committee had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. The Committee regret to observe that in respect of as many as 76 recommendations of the Committee made during the Fifth Lok Sabha, final replies have not yet been received from the Ministries/Departments concerned. The delay in these cases ranges from 17 months to over 4 years and 11 months. Unconscionable delays such as these, the Committee may point out, hardly bring any credit to the Ministries/Departments concerned, for, they are only indicative of a lack of proper sense of urgency on the part of the Ministries/Departments concerned. Also such delays result in unnecessary prolongation of infirmities or inequities in rules, having a bearing on the public. The Committee desire the Ministries/Departments concerned to furnish final replies to the recommendations enumerated in para 53 of the Report within a maximum period of three months from the presentation of this Report. Henceforth, the Committee will take a serious view of such delays.
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APPENDIX II

(Vide Paras 16-17 of the Report)

Statement showing time taken at each stage in framing certain rules under section 38(2) of the Prevention of Cruelty to Animals Act, 1960.

(a) Transport of Animals Rules

1. Draft rules received from Animal Welfare Board	31-1-70
2. Referred to Ministry of Law	27-2-70
3. Received back from Ministry of Law	11-3-70
4. Referred back to Animal Welfare Board for re-examination in the light of observations of Ministry of Law	6-4-70
5. Reply from Animal Welfare Board	23-7-70
6. Referred to Ministry of Law again	9-12-70
7. Received back from Ministry of Law	21-1-71
8. Referred back to Animal Welfare Board for clarification on points raised by Ministry of Law	23-1-71
9. Comments received from Animal Welfare Board	2-3-71
10. Again referred to Ministry of Law	3-3-71
11. Received back from Ministry of Law	21-4-71
12. Again referred to Ministry of Law	21-2-72
13. Animal Welfare Board was asked to furnish comments on points raised by Ministry of Law	6-3-72
14. Referred back to Ministry of Law	26-4-72
15. Received back from Ministry of Law	5-5-72
16. Again referred to Animal Welfare Board alongwith comments of Ministry of Law	12-6-72
17. Reply from Animal Welfare Board Received after reconsideration	15-12-73
18. Case referred to Ministry of Law	12-3-74
19. Received back from Ministry of Law	8-4-74
20. Animal Welfare Board was again requested for comments	21-4-74
21. Reply received back from Animal Welfare Board	19-2-75
22. Referred to Ministry of Law	1-9-75
23. Returned back from Ministry of Law	1-12-75
24. State Govts. addressed for comments	27-4-76
25. Draft rules were notified inviting public opinions	29-4-77

26. Govt. of West Bengal raised certain points for clarification 14-6-77
 27. Clarification sought by West Bengal Govt. given 21-9-77
 28. Gazette notification for enforcing these rules approved and is under issue 25-1-78

(b) Prevention of cruelty to animals (Application of fines) Rules

1. Processed and sent to Ministry of Law for advice and vetting Draft Rules 18-10-76
 2. Received back from Ministry of Law after vetting of Draft Rules 30-3-77
 3. Sent to Hindi Section for Hindi Translation 28-7-77
 4. Received back from Hindi Section 8-8-77
 5. Again referred to Ministry of Law for vetting of Hindi set of rules 26-8-77
 6. Received back from Ministry of Law duly vetted 9-9-77
 7. Referred to Hindi Section for stencils of Hindi version of rules 17-5-77
 8. Received back from Hindi section with Hindi Stencils 20-9-77
 9. Gazette notification issued for calling objections 18-10-77
 10. Gazette notification enforcing the rules after 45 days waiting period
 Approved and is under issue. 25-1-78

(c) Prevention of cruelty to animals (Registration of cattle premises) Rules

1. It was referred to Ministry of Law for concurrence 15-10-76
 2. Received back from Ministry of Law 30-3-77
 3. Reference was made to Animal Welfare Board, Madras for comments 13-4-77
 4. Reply received from the Animal Welfare Board, Madras 9-6-77
 5. File was further referred to the Ministry of Law for concurrence 26-7-77
 6. File was received back from the Ministry of Law 3-8-77
 7. A reference was received from Animal Welfare Board that the word
 'Cattle' may be substituted for 'Animals' in rule 5 18-8-77
 8. File was further referred to official language unit of Ministry of Law
 for Hindi translation 24-11-77
 9. This file has been withdrawn today from official Language for oral
 evidence 27-1-78
 10. File sent to O.L.C. for translation of draft notification 3-2-78

(d) Prevention of cruelty (Capture of Animals) Rules

1. Draft rules were framed and sent by the Animal Welfare Board to
 this Department Oct. 76
 2. Referred to Ministry of Law for advice 18-10-76
 3. Received back from Ministry of Law 30-10-76
 4. Again referred to the Ministry of Law 1-2-77
 5. Further referred to Ministry of Law for discussion
 6. Received back from Ministry of Law 1-4-77

- 7. Reference was made to Animal Welfare Board, Madras for comments 14-4-77
- 8. Received incomplete reply from Animal Welfare Board 12-5-77
- 9. Animal Welfare Board was reminded 27-5-77
6-8-77
- 10. Reply received from Animal Welfare Board (with revised draft rules) 24-8-77
- 11. File was again referred to Ministry of Law 5-1-78
- 12. This was further received back from Ministry of Law with certain remarks,
which are being examined in the Ministry 24-1-78

APPENDIX III

(Vide Para 52 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	Summary of Recommendations/Assurances	Gist of Government's reply
1	2	3	4
1	Fourth Report (Fifth Lok Sabha) 23	<p>The Committee would like to invite the attention of the Ministries/Departments of Government to the former* provision governing seniority of officers appointed to the Indian Railway Service of Signal Engineers otherwise than through competitive examination, which has been held to be invalid by the Allahabad High Court on the ground that it gave unguided power to Government to fix seniority in their discretion and could thus enable them to discriminate among officers similarly placed. The Committee would like the Ministries/Departments to examine whether they have any Rules containing a similar seniority provision giving unguided power to Government, and if so, to amend it in the light of the observations of the Allahabad High Court.</p>	<p>The Department of Personnel and Administrative Reforms have, after ascertaining from all Ministries/Departments of Government of India, stated that recruitment rules/seniority rules applicable to various posts do not contain any provision which gives unguided power to Government to fix the seniority of Officers in their discretion <i>vide</i> their O. M. No F. 4/6/65-Estt. (D) dated 28-11-1973 and D.O.S. No. 2/10/72-Estt. (D) dated 25-2-1975 and 12-12-1975.</p>

2 Sixth Report
(Fifth Lok Sabha)
66

While the Committee appreciate the Ministry of Railways, difficulty to lay down the proportion of posts to be filled by each method of recruitment under the Railway Protection Force (Superior Officers) Recruitment Rules, 1968, they find it difficult to understand why it should not be possible for the Ministry to lay down a precise *inter se* order of priority of the various modes of recruitment. The Committee do not see much force in the Ministry's argument that laying down precise *inter se* Order of priority would not be feasible from the administrative point of view, as almost in every recruitment rule where more than one method for recruitment are prescribed, such an order of priority is given. The Committee, therefore, urge the Ministry of Railways (Railway Board) to amend the Rules suitably.

3 Seventh Report
(Fifth Lok Sabha)
12

The Committee regret to note the large number of cases in which non-cadre officers whose names were either not included in the Select List or were not next in order in Select List officiated in the cadre posts, under the proviso to Regulation 8 of the I.A.S./I.P.S. (Appointment by Promotion) Regulations, 1955. The Committee feel that once a Select list comes into force, it should be followed scrupulously in making appointments to cadre posts except when administrative exigencies require a deviation in a short term vacancy.

4 Seventh Report
(Fifth Lok Sabha)
13

In order to have a check on the State Governments ignoring Select List Officers in appointments to cadre posts, the Committee desire that instructions be issued to all State Governments to report to the Central Government even those cases where non-Select List Officers or Select List Officers not next in order in the Select List officiate in cadre posts for less than three months and the Rules be amended accordingly.

5 Seventh Report
(Fifth Lok Sabha)
14

The Committee also desire the Department of Personnel and Administrative Reforms to take early action for substituting the present proviso to Regulation 8 by a more detailed provision specifying the conditions in which a junior Select List Officer may be appointed to a cadre post even though his senior has not so been appointed.

The Rules have since been amended suitably by the Ministry of Railways (Railway Board) (See G.S.R. No. 832 of 1974, dt. 3-8-1974).

(i) Necessary instructions have since been issued by Department of Personnel and Administrative Reforms to all the State Governments *vide* their Circular letter No. 11-3-73-IAS(1) dated 20-3-1974.

(ii) Needful has been done (See G.S. Rs. 1461-66 of 1976, dt. 16-10-1976).

6. Seventh Report
(Fifth Lok Sabha) 59

The Committee do not agree with the contention of the Ministry of Commerce that since the Export Inspection Council Contributory Provident Fund Rules, 1969 had been laid on the Table, it might be taken for granted that they were approved by both the Houses with retrospective effect. The Export Inspection Council Provident Fund Rules, 1969 were laid on the Table for a period of 30 days as required by Section 17(3) of the Export Quality Control and Inspection Act, 1963. In para 8 of their Fifth Report (Second Lok Sabha) the Committee on Subordinate Legislation had observed laying of Rules on the Table of the House for a specified period did not amount to their approval which could only be achieved by bringing forth an affirmative motion in the House in that behalf. Therefore, the presumption made by the Ministry of Commerce that the Rules had been approved by the House is not correct. The Committee desire that necessary instructions should be issued to all Ministries/Departments of Government to make it clear to them that mere laying of Rules on the Table for a specified period does not amount to their approval by the House.

7. Seventh Report
(Fifth Lok Sabha) 99

The Committee do not agree with the opinion of the Law Ministry that an order issued by the President under Regulation 22 of the U.P.S.C. (Members) Regulations would itself qualify as regulation under Article 318 (a) of the Constitution, as it is specifically provided in Article 318 (a) that the conditions of service of the U.P.S.C. Members should be determined by Regulations. Even otherwise, Regulation 22 does not appear to be necessary as it is always open to the President to provide for unanticipated contingencies by amending or amplifying the Regulations under Article 318(a). The Committee feel this course would also have the added advantage that the Regulations would be a self-contained code dealing with all matters relating to the conditions of service of U.P.S.C. Members. The Committee, therefore, desire the Department of Personnel (Cabinet

The Department of Parliamentary Affairs have drawn attention of all Ministries/Departments to the recommendation of the Committee *vide* their O.M. No. 32 (51)/73-R&C dt. 9-11-1973, for their information and necessary action.

Regulation 22 of the Union Public Service Commission (Members) Regulations has since been omitted (See G.S.R. 614 of 1975, dt. 24-5-1975).

Secretariat) to amend the Regulations suitably so that the conditions of service in residuary matters also are governed by Regulations.

8. Seventh Report
(Fifth Lok Sabha)
103

In paras 28-29 of their Fourth Report (First Lok Sabha), the Committee on Subordinate Legislation had recommended reprinting of Rules etc. whenever there were extensive amendments to them so that the general public as also the Departments of the Government could refer to them without any inconvenience. The Committee had also observed that the question of economy in such cases should be balanced against the convenience to the persons for whose use the Rules are made. The Committee regret to observe that the Ministry of Defence have failed to comply with the above recommendation of the Committee by not reprinting the Military Lands and Cantonnments Service (Class I and II) Rules even though they have been amended several times. The Committee desire the Ministry to reprint the Rules without any further delay. The Committee will also like to stress upon all Ministries/Departments of Government the need for strict compliance with their afore-mentioned recommendation.

9. Eighth Report
(Fifth Lok Sabha)
90

The Committee note with satisfaction that the Ministry of Commerce have accepted their suggestions and have agreed to issue amendments to the Export of Dried Fish (Inspection) Rules, 1970 so as to provide therein the time limit within which certificate of export worthiness would be issued or the refusal to issue the same and the grounds therefor would be communicated to the exporter. The Committee further note with satisfaction that the Ministry have also agreed to amend the Rules to provide for 2/3rd non-officials in the panel of experts. The Committee desire the Ministry to issue necessary amendments to the Rule at an early date.

10. Eighth Report
(Fifth Lok Sabha)
92

The Committee note with satisfaction that the Ministry of Commerce have accepted their suggestions and agreed to amend (i) Export of Steel Tubes and Tubulars (Quality Control and Inspection) Rules, 1970 (S.O. 2743 of 1970); (ii) Export of Pesticides and their formulations (Inspection) Rules, 1970 (S.O. 3311 of 1970); and (iii) Export of Jute Products (Quality Con-

(i) The Military Lands and Cantonnments Service (Class I and II) Rules, 1951 have since been reprinted (See S.R.O. 112 of 1975, dt. 15-3-1975).

(ii) The Department of Parliamentary Affairs have drawn attention of all Ministries/Departments to the recommendation of the Committee vide their O.M. No. 32(51)/73-R&C dt. 9-11-1973, for their information and necessary action.

The needful has been done in the case of all the Inspection Rules excepting four cases in respect of which, the Committee had concurred with the suggestion of Government for waiving the condition. (See Ministry of Commerce O.M. No. 1(20)/73/EI; EP dt. 14-6-1976 and 10-8-1976)

rol and Inspection) Rules, 1970 (S.O. 3996 of 1970) suitably. They desire the Ministry to examine other Quality Control and Inspection Rules framed in respect of several other commodities and to make amendments in cases where provisions on the above lines do not exist.

11 Eighth Report
(Fifth Lok Sabha)
111

The Committee note with satisfaction that the Ministry of Shipping and Transport (Transport Wing) have accepted their suggestion and agreed to amend paragraph 17 of the PEPSU Road Transport Corporation (Re-organisation) Order, 1972 so that it may not convey the impression that jurisdiction of courts is being ousted. They desire the Ministry to amend the Rules at an early date.

The needful has since been done (See S.O. 711 of 1977, dt. 5-3-1977).

12 Ninth Report
(Fifth Lok Sabha)
70

The Committee note with satisfaction that the Ministry of Finance (Department of Expenditure) have no objection to amending rule 16(3) of the General Provident Fund (Central Services) Rules, 1960, so as to provide therein for the house being leased for any period in excess of three years as provided in the existing rule, or its being mortgaged in favour of a Housing Board L.I.C. or other Government bodies which advance loans for making addition etc. without obtaining permission and also to provide for the service of a show cause notice to the subscriber before an order of recovery of the amount is issued by the sanctioning authority. The Committee desire the Ministry to take early steps to amend the Rules accordingly.

The General Provident Fund (Central Services) Rules have since been amended suitably (See S.O. 1728 of 1974, dt. 13-7-1974).

13 Ninth Report
(Fifth Lok Sabha)
106

The Committee note the assurance given by the Minister of Communications that the Indian Telegraph Act will be amended to implement the recommendation and the amending Bill will be brought up before Parliament some time in 1974 along with some other important amendments to the Act. The Committee, however, desire the Ministry to discontinue the levy of

The Indian Telegraph Act has since been amended suitably [See The Indian Telegraph (Amendment) Act, 1974 (Act No. 48 of 1974)]

Rs. 10.00 per application form till such time an express authorisation for the same is made in the principal Act.

14 Ninth Report
(Fifth Lok Sabha)
122

The Post Office Savings Banks Rules have since been amended suitably (See G.S.R. 590 of 1974, dt. 1-6-1974).

The Committee approve the draft amendment, deleting the words "whether by a departmental employee or by an outsider" from rule 18(2) of the Post Office Savings Banks Rules, 1965 and desire the Ministry of Finance (Department of Economic Affairs) to take early steps to amend the Rules accordingly.

15 Tenth Report
(Fifth Lok Sabha)
7

The Department of Parliamentary Affairs have drawn attention of all Ministries/Departments of Government of India to the recommendations of the Committee vide their O.M. No. F. 32(3)/74-R&C dt. 18-4-1974 for their information and compliance in future.

The Committee are glad to report that as a result of their pursuance, action on 28 recommendations has been taken by Government to their satisfaction. A statement showing final action taken by Government on 15 outstanding assurances/recommendations was included in the Ninth Report of the Committee presented on 19th November, 1973 vide para 123, Appendix IX to that Report. A similar statement containing final replies received from Government on 13 more outstanding assurances/recommendations has been included in this Report vide para 149, Appendix V.

16 Tenth Report
(Fifth Lok Sabha)
8

Although necessary action in 28 cases has been taken by Government, the Committee are constrained to observe that the delay involved in implementation/intimation of action taken on these cases was unjustifiable. In some cases, the Ministries had taken action long back but they failed to inform the Committee. The Committee would like to stress that Direction 108(1) casts a duty on Government to inform them the action taken or proposed to be taken on the recommendations of, and assurances given to, the Committee. They expect that in future the Ministries will abide by this Direction.

17 Tenth Report
(Fifth Lok Sabha)
10

The Committee are distressed that Government should not have taken any action to implement the recommendations of the Committee even after lapse of several years in most cases. The error is particularly regrettable in cases, where after giving assurances to the Committee, the Ministries concerned did not move in the matter till the matter was again taken up with them in 1972. The error is also regrettable because it is observed that Government in five cases [vide Chapter III - (i), (ii), (iii), (vi) and (xv)] had difference of opinion with the Committee. In

such cases, they should have placed their viewpoint before the Committee, instead of merely keeping quiet. The Committee stress upon all the Ministries/Departments to be prompt in future in implementing their recommendations and sending action taken statements thereon within a period of six months from the presentation of the Report. In case, any Ministry/Department are not in a position to implement, or feel any difficulty in giving effect to, a recommendation made by the Committee, the Ministry/Department should place their views before the Committee rather than keep silent for years.

18 Tenth Report
(Fifth Lok Sabha)
11

The Committee desire the Department of Parliamentary Affairs to bring the above observations of the Committee to the notice of all Ministries/Departments for strict compliance in future.

19 Tenth Report
(Fifth Lok Sabha)
106

The Committee note that the reason given by the Ministry of Works and Housing for delay in implementing the recommendation of the Committee in regard to amendment of the Delhi Development Act, 1957, was that they had not received the recommendation of the Committee earlier (vide para 103 of the Report). The Committee are unable to accept this explanation. They feel that it is the duty of each Ministry/Department to keep themselves informed of the recommendations of the Committee and to take early action thereon, as the Reports become public on presentation to the House.

20 Tenth Report
(Fifth Lok Sabha)
29

The Committee are not satisfied with the reply of the Ministry of Steel and Mines (Department of Mines) that in the absence of a provision in the rules under which the principles have been made, they do not consider it obligatory to pre-publish and lay them before Parliament. The Committee note, in this connection, that having regard to the observations of the Supreme Court in *Narendrakumar Vs. Union of India*, the Ministry of Law had advised the Ministry of Home Affairs (who were not

The Coal Mines (Conservation and Safety) Rules, 1954 have since been repealed. Government have, however, noted the recommendation for future compliance. Government have also regretted the lapses in the past and promised to ensure prompt action in the matter *vide* Ministry of Energy (Department of

laying the Regulations before Parliament that the Regulations framed under the All-India Services Rules made under the All-India Services Act, 1951, should be taken to form an integral part of the Rules, and as such they are also required to be laid before Parliament. Accordingly, Government have not been laying the Regulations also before Parliament. The Committee, therefore, feel that the principles made under rule 41 of the Coal Mines Conservation and Safety Rules, 1954, should not be considered on a separate footing than the Rules. When the Rules are required to be pre-published and laid, the principles made thereunder should also be subject to the same conditions as laid down in the parent Act. The Committee desire the Ministry to either incorporate the principles issued by them in the Rules or pre-publish them in the Gazette and lay them before Parliament also as is being done in the case of Rules.

The Committee regret to note that the Ministry did not care to send any reply for the last 16 years till the matter was again taken up with them in November, 1972, and final reply was received from them only after the displeasure of the Committee was conveyed in May, 1973. The Committee will like the Ministry to send prompt replies to them in future.

21 Tenth Report
(Fifth Lok Sabha)
30

22 Tenth Report
(Fifth Lok Sabha)
79

The Committee are, however, not convinced with the reply of the Ministry in regard to laying of rules and their approval by Parliament. While it is true that under Section 40(3) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, no affirmative vote is required before the Rules come into force, it is also not correct to contend that Parliament are deemed to have approved the rules, when they are laid before both the Houses for a period of 30 days. The Committee, therefore, reiterate their earlier observation made in a similar case relating to the Ministry of Commerce, in para 59 of Seventh Report (Fifth Lok Sabha) that the presumption made by that Ministry that rules had been approved by the House is not correct. The Ministry of Labour should note it for their future guidance.

Government have noted the observation for future guidance *vide* Ministry of Supply and Rehabilitation (Department of Rehabilitation) O.M. No. 13(15)/74-D1/S.S. II dt. 8-3-1976.

- 23 Tenth Report
(Fifth Lok Sabha) 107
- The Committee desire the Ministry of Works and Housing to expedite amendment to the Delhi Development Act, 1957, in implementation of their recommendation* made in 1960 and complete the necessary action within six months. They further desire the Ministry to report the compliance to them.
- The Delhi Development Act, 1957, has since been amended suitably [See the Delhi Development (Amendment) Act, 1976 (Act No. 4 of 1976)].
- 24 Tenth Report
(Fifth Lok Sabha) 117
- The Committee regret to note that the Ministry of Communications (D.G.P. & T.) have neither implemented the recommendations made in 1961, nor cared to inform the Committee as to the difficulty in doing so during the last 13 years. They deplore the delay on the part of the Ministry in not implementing the recommendations of the Committee.
- The Indian Telegraph Rules have since been amended suitably [See G.S.R. 933 of 1976, dt. 26-6-1976].
- 25 Tenth Report
(Fifth Lok Sabha) 118
- The Committee are also not satisfied with the reply of the Ministry of Communication (D.G.P. & T.) now received (vide para 116 of the Report). They are of the opinion that if the provision contained rule 416 of the Indian Telegraph Rules, 1951, has never been made use of, it does not take away the basic need of requiring the P. & T. Department to give due notice to the subscriber before his telephone or similar service is withdrawn. The Committee reiterate their earlier recommendations made in para 7 of Twelfth Report (Second Lok Sabha) and desire the Ministry to amend rule 416 accordingly, without any further delay.
- The Seeds Rules have since been amended suitably [See G.S.R. 211(E) of 1975, dt. 29-4-1957].
- 26 Tenth Report
(Fifth Lok Sabha) 137
- The Committee are satisfied with the proposed amendments and desire the Ministry of Agriculture (Department of Agriculture) to take early action to incorporate them in the Seeds Rules, 1968.
- The Indian Standards Institution (Certification Marks) Act, 1952, has since been amended to the necessary effect [See the Indian Standards Institution (Certification Marks) Act, 1952, being laid before Parliament. They desire
- 27 Tenth Report
(Fifth Lok Sabha) 143

the Ministry to take early action to amend the Act for incorporating therein the laying clause as approved by them, *vide* paras 33-34 of Second Report (Fifth Lok Sabha).

28 Eleventh Report
(Fifth Lok Sabha)
37

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

29 Eleventh Report
(Fifth Lok Sabha)
58

The Committee note that on being pointed out the Ministry of External Affairs have agreed to amend proviso to Rule 6 of the Passport Rules, 1967 to indicate that for seeking exemption from financial guarantee, the applicant abroad has to furnish to the passport authority documentary evidence to establish that he has sufficient means to maintain himself abroad. The Committee desire the Ministry of External Affairs to take early steps to amend above Rules accordingly.

30 Eleventh Report
(Fifth Lok Sabha)
98

The Committee note with satisfaction the assurance of the Ministry of Information and Broadcasting that revised recruitment rules for the post of Supervisor, which are under consideration, would on finalisation be notified as an amendment to the Directorate of Advertising and Visual Publicity (Class II posts) Recruitment Rules, 1971. They desire the Ministry of Information and Broadcasting to take necessary action at an early date.

Government have noted the observations of the Committee for future guidance and compliance *vide* Ministry of Supply and Rehabilitation (Department of Rehabilitation) O.M. No. 12(223) Adm. II/D.O.R./S.W./75 dt. 9/16-8-1976.

Necessary amendments to the Passport Rules have since been made. [See G.S.R. 537 (E) of 1975, dt. 23-10-1975].

The Directorate of Advertising and Visual Publicity (Class II Posts) Recruitment Rules have since been amended suitably (See G.S.R. 1317 of 1976, dt. 11-9-1976).

*The Committee had recommended that an express provision authorising the rule-making authority to provide for regulation and payment of daily and mileage allowances to non-official members of the Advisory Council by means of rules be made in the Delhi Development Act, 1957 which the Act was amended next *vide* para 8 of their Eighth Report (Second Lok Sabha) presented to the House on 29-4-1960.

31 Eleventh Report
(Fifth Lok Sabha)
103

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

The Port Health Organisation, Kandla (Allotment of Residential Quarters) Rules, 1971, have since been amended to the necessary effect. [See The Port Health Organisation, Kandla (Allotment of Residential Quarters) Amendment Rules, 1976 (G.S.R. 140 of 1976, dated 31-1-1976)]

32 Eleventh Report
(Fifth Lok Sabha)
104

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

33 Eleventh Report
(Fifth Lok Sabha)
111

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

The Employees Provident Fund Staff (Classification, Control and Appeal) Rules have since been amended suitably (See G.S.R. 277 of 1977, dt. 26-2-1977).

34 Eleventh Report
(Fifth Lok Sabha)
115

The Committee note with satisfaction that the Ministries concerned have agreed to amend the 'Orders' mentioned in para 112 of this Report, so as to indicate therein the minimum rank of persons to be authorised by the Government to conduct search/seizure. The Committee desire the Ministries concerned to amend the Orders at an early date.

All the six 'Orders' in question have since been amended to the necessary effect vide S.O. 449, 511(E) and 978 of 1974, G.S.R. 194(E), S.O. 592(E) and 593(E) of 1975.

35 Twelfth Report
(Fifth Lok Sabha)
19

The Committee are glad to note that the Ministry of Communications have agreed to amend Rule 510-A(2) of the Indian Telegraph Rules so as to bring it in line with Clause 12 of the Agreement

The Indian Telegraph Rules have since been amended suitably (See G.S.R. 196 of 1975, dt. 8-2-1975).

which used to be entered into earlier with Telex subscribers. The Committee desire the Ministry to amend this rule accordingly at an early date.

36 Twelfth Report (Fifth Lok Sabha) 202.

The Committee are not satisfied with the explanation given by the Ministry of Works and Housing for giving retrospective effect to the Allotment of Government Residences (General Pool in Delhi) Fifth Amendment Rules, 1972 (S.O. 3117 of 1972). The Committee feel that the Ministry should have sent the Notification to the Government Press along with a covering letter asking them to furnish it by the particular date.

37 Twelfth Report (Fifth Lok Sabha) 203

When the Notification was not published by the specified date and consequently the Ministry inserted Rule 1(a) regarding retrospective effect, they should have simultaneously attached an explanatory note as to the circumstances in which the retrospective effect was being given. The Committee desire the Ministry of Works and Housing to be careful in this regard in future.

38 Thirteenth Report (Fifth Lok Sabha) 20

The Committee are alarmed at the very large number of categories of posts for which Recruitment Rules had not been framed till 1-4-1973. The Constitutional provision regarding framing of statutory Rules came into operation in 1950. It is shocking that in spite of nearly 25 years having elapsed, recruitment rules in respect of 3403 categories of services/posts covering one lakh eight thousand eight hundred and seventy three persons as on 1-4-73 remain to be notified. The position regarding framing of statutory Recruitment Rules in the attached/subordinate offices is much worse than in the Secretariat itself. It appears that the Administrative Ministries/Departments have failed to emphasise upon the attached and subordinate offices the need for urgent framing of statutory Recruitment Rules.

39 Thirteenth Report (Fifth Lok Sabha) 21

The Committee had called for evidence only 10 out of 25 Ministries/Departments. But the progress reported by these Ministries is a fair indication of the total progress achieved in the matter after 1-4-1973. The Committee regret to note that except in the case of Ministry of Tourism and Civil Aviation the progress made has been painfully slow and halting.

Government have noted the observation of the Committee for information and future compliance *vide* Ministry of Works and Housing O. M. No. H-11017/45(4)/74-Coord. dated 8-2-1977.

The Department of Parliamentary Affairs have communicated the recommendations of the Committee to the Ministry of Home Affairs/Ministry of Law, Justice & Company Affairs/Department of Personnel & Administrative Reforms (Department of Personnel with copies endorsed to all other Ministries/Departments for information and necessary action *vide* D.P.A. O.M. No. F. 32(10)/74-R&C dated 27-9-74.

- 40 Thirteenth Report (Fifth Lok Sabha) 53
 It is clear from the evidence of certain selected Ministries tendered before the Committee as also from the material subsequently furnished by them that in most cases the delay in framing Recruitment Rules occurred because of initial inaction on their part, the Ministries/Departments have been depending too much on the initiation of proposals by the subordinate/attached officers, which the latter were slow to submit.
- 41 Thirteenth Report (Fifth Lok Sabha) 54
 The Committee decried the tendency of postponing finalisation of rules every time there was slightest change in circumstances in the hope of their making a perfect rule. Proviso to Article 309 does not bar amendments to Statutory Recruitment Rules if situation warrants. In most of the cases referred to above the Committee are of the opinion that the Ministries/Departments should have finalised Recruitment Rules by now. As observed earlier the representatives of the Ministries/Departments who appeared before the Committee themselves admitted that the delay could have been avoided in most cases.
- 42 Thirteenth Report (Fifth Lok Sabha) 55
 Barring the cases where the further processing of the rules had to be shelved on account of the matters going to the Court (as for example in the case of the Income-tax service Class I and the Hindi Officer) in other cases the Committee are not convinced of the reasons advanced by the Ministries/Departments for delay in framing of Recruitment Rules.
- 43 Thirteenth Report (Fifth Lok Sabha) 56
 In the opinion of the Committee too much time was allowed for consultations to be made with the U.P.S.C. Department of Personnel and Law Ministry etc. The Committee are far less convinced of some of the other explanations given by some of the Ministries while forwarding statistics of pending rules as on 1-4-1973 such as (i) awaiting Model Recruitment Rules ; (ii) work studies being carried out by the Staff Inspection Unit ; (iii) the posts lying vacant ; (iv) anticipated changes in the light of Pay Commission's Report ; (v) ever since the appointment of persons to the post no vacancy arose ; (vi) lapse of a Bill in Lok Sabha

due to dissolution and (vii) the Ordnance Factory to which the posts are related has been in project stage.

44 Thirteenth Report (Fifth Lok Sabha) 57

The Constitution of India came into operation in 1950. Nearly 25 years have elapsed since then. This is sufficiently a long period to frame Statutory Recruitment Rules under proviso to article 309 in most cases. The Committee are constrained to observe that sufficient attention was not paid to the Scheme of article 309 and the proviso thereto. The Committee would stress upon all Ministries/Departments to bear in mind the scheme of article 309 and the proviso thereto and until such time as Parliament enacts laws for various services/posts, frame Recruitment Rules under the proviso where they have not been framed so far and if drafts have already been prepared, to finalise them at an early date.

45 Thirteenth Report (Fifth Lok Sabha) 58

Almost all the representatives who appeared before the Committee agreed that the period of finalisation of Recruitment Rules should not normally be more than one year. The Ministry of Tourism and Civil Aviation have shown that with drive, the rules pending for many years could be finalised and notified in about a fortnight. The Committee would like all the Ministries/Departments to finalise the rules pending with them within six months as proposed by the Department of Personnel.

46 Thirteenth Report (Fifth Lok Sabha) 66

The Committee are not convinced by the argument advanced by the representatives of some of the Ministries that even though there were no statutory recruitment rules each of the posts was being regulated by draft recruitment rules or executive instructions. The Committee need hardly stress that draft recruitment rules or executive instructions are no substitute for statutory recruitment rules framed under proviso to article 309 of the Constitution as unlike statutory rules they are not published in the Gazette and do not come to the notice of the public at large. The Committee are also unable to examine draft Recruitment Rules or executive instructions with a view to see whether any provision therein can be so used by the executive as to favour or discriminate against an individual. The absence of statutory rules may also lead to discontentment among the persons who may be or are likely to be adversely affected as a result of such absence.

47 Thirteenth Report (Fifth Lok Sabha) 67

The representatives of the Ministry of Finance while arguing that since detailed instructions in the matter of Recruitment existed during the evidence, referred to the Supreme Court decision in the case of S.G. Jaishighani Vs. Union of India and others, according to which even if there were no statutory rules governing conditions of service, executive instructions/Orders issued under the power derived from article 309 had the force of law and were binding on the Government. The Planning Commission also drew attention to the Supreme Court decision in Nagarajan Vs. State of Mysore where it was held by the Court that "it is not obligatory under proviso to article 309 to make rules of recruitment before service can be constituted or post created or filled". The Committee would like to make it clear that it is not their contention that recruitment to a Government service/post cannot be validly made through "Departmental instructions". Even if it is legally permissible to regulate recruitment to a service/post through departmental instructions, the Committee desire that for the reasons given in para 66 above, recruitment to Government services/posts should be regulated either through Acts of Parliament or through statutory rules.

48 Thirteenth Report (Fifth Lok Sabha) 73

The Committee also endorse the suggestion of the Ministry of Defence that within each Ministry there should be a cell to process the proposals emanating from subordinate/attached officers and to deal, with inter-Ministerial consultations. The Ministry of Defence are stated to hold weekly meeting of Secretary with Joint Secretaries to review the progress made in finalisation of recruitment rules. The Ministries of Health and Family Planning and Works and Housing have proposed that hereafter finalisation of the Recruitment Rules, would receive the personal attention of Joint Secretary in-charge of the administration, who would review the situation once in every month and Additional Secretary would also keep a watch from time to time. These examples should be emulated by other Ministries/Departments according to their requirements.

49 Thirteenth Report (Fifth Lok Sabha) 79

The Committee regret to note that there has been undue delay on the part of the Ministries/Departments mentioned in para 75

of the Report in furnishing information regarding non-framing of Recruitment Rules. The information was sent by them only after their representatives had been called for evidence. The Committee are not convinced with the reasons given by them for the delay. The Committee feel that if the matter had been looked into at a higher level in the Ministry, the delay could have been avoided. The Committee strongly desire all Ministries/Departments to be careful in future and send the prompt replies to the communications from the Committee.

50 Thirteenth Report (Fifth Lok Sabha) 93

The Committee regret to note that delay should have occurred in laying Notifications on the Table of the House on account of delay in receipt of their Hindi version from the Official Language (Legislative) Commission. The Committee feel that in most cases it could have been avoided if proper judgement had been exercised in according priority to the translation work in the Commission. The Committee trust that with the new instructions issued to the officers and staff of the Commission, such cases of delay would not occur in future and sufficient precaution will be taken to get the translation in Hindi in time to avoid such delay on this account.

51 Thirteenth Report (Fifth Lok Sabha) 94

The Committee are unhappy to note that the Ministry of Finance (Department of Rev. & Ins.) did not ascertain the facts regarding the delay in laying of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Under-takings) Insurance (Amendment) Scheme, 1972, on the Table of the House and attributed to it the delay in preparation of Hindi versions. The fact is that Hindi versions of these Notifications had been made available to the Ministry on the 25th March, 1972 whereas they were laid on the Table on the 26th April, 1972. In their explanatory statement for delay in laying the Notifications, the Ministry should have explained the subsequent delay of one month, after the receipt of Hindi versions from the Law Ministry. The Committee desire the Ministry of Finance (Deptt. of Rev. & Ins.) to be careful about these matters in future. The Committee also desire the Department of Parliamentary Affairs to issue instructions to all Ministries in this regard.

The Department of Parliamentary Affairs have communicated the recommendations to all Ministries/Departments for information and necessary action *vide* their O.M. No. F. 32(10)/74-R&C dt. 27-9-74.

- 52 Thirteenth Report (Fifth Lok Sabha) 105 The Committee have gone through the revised administrative instructions proposed to be issued requiring the Heads of Circles to apply the restrictions only in night post offices and mobile post offices. While the Committee have no objection to the contents of these instructions, they desire that they should be put on statutory footing by incorporating them in the Post Office, Rules, so as to mitigate the effect of S.O. 3656 of 1971.
- 53 Thirteenth Report (Fifth Lok Sabha) 135 The Committee note with satisfaction that Regulation 13 of the I.A.S./I.P.S. (Appointment by Competitive Examination) Regulations, 1955 as proposed to be amended makes clear the scope of inquiry to be made thereunder. The Committee desire the Department of Personnel and Administrative Reforms to issue the amendment at an early date.
- 54 Thirteenth Report (Fifth Lok Sabha) 143 The Committee are not satisfied with the reasons advanced for delay in laying 'Orders' on the Table within the prescribed period of 15 days from the date of their publication in the Gazette. In para 35 of their Ninth Report (5th Lok Sabha), the Committee had drawn attention to the new procedure introduced by the Controller of Printing and Stationery for supply of G.S.R. Number etc. *vide* his O.M. No. H 11013/1/72-P dt. 9-2-72 addressed to all Ministries/Departments. The new procedure *inter alia* provides that the Ministries/Departments should not wait for supply of spare copies of the Notifications by the Press for laying them on the Table of the House. They should obtain the G.S.R. or S.O. number of the notification by making request in writing in duplicate one day after the date of publication of the Notification in the case of Extraordinary issues and on Mondays, in the case of Notifications published in the Weekly Gazette. The Committee desire the Department of Parliamentary Affairs also to bring the new procedure to the notice of all Ministries/Departments and emphasise upon them the necessity of adhering to the time-limit of 15 days in laying Notifications on the Table.
- 55 Thirteenth Report (Fifth Lok Sabha) 144 The Committee are distressed to note that in 19 cases out of 30,

Rule 61(3) of the Indian Post Office Rules, 1933 has since been amended with effect from 5-7-75 (*see* G.S.R. 896 dated 19-7-75).

The Indian Administrative Service/Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 have since been amended *vide* G.S.R. 416(E) dt. 10-10-1974.

The Department of Parliamentary Affairs have communicated the recommendations to all Ministries/Departments for information and necessary action *vide* their O.M. No. F32(10)/74-RXC dt. 27-9-74.

the Ministries have not laid the statements showing reasons of delay along with the Order. The Committee wish to re-emphasise that statements showing reasons for delay should be laid on the Table alongwith the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reasons whatsoever, the Committee desire all Ministries/Departments to strictly comply with the recommendation of the Committee in this regard.

56 Fourteenth Report
(Fifth Lok Sabha)
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The Department of Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries/Departments of the Government of India for information and compliance vide their O.M. No. 32(12) /74—R & C dated the 5th February, 1975.

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

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

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

58 Fourteenth Report
(Fifth Lok Sabha)
22

The Committee concede that in a remote way the power to frame the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971 is derived from section 67. But it would have been better if at least sub-section 2 of Section 67 had listed "Classification of Goods" as one of the matters in regard to which Central Government may frame Rules. It cannot be denied that the direct authority for framing the rules in

The Ministry of Law, Justice & Company-Affairs (Legislative Department) have decided to adopt the first alternative recommended in para 29 by the Committee in all the future Bills which may be introduced on or after 1-1-76, i.e. sub-section (2) of the section relating to

(4) power to make rules will also contain references to the relevant provisions of the Act expressly conferring the powers. (vide their O.M.No. F. 4(2)75-L1 Dt. 15-11-75).

(3)

(2)

(1)

question is contained in Explanation II of clause (d) of section 2. That being so, it would have been desirable, if the preamble of the aforesaid rules referred to section 2 of the Act for a better appreciation of the source of authority.

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

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

The Committee do appreciate that sub-section (2) is not restrictive of sub-section (1) as indeed is expressly stated by the words "without prejudice to the generality of the powers conferred by sub-section (1)". But it is sound common sense that at least all those matters on which rules have to be framed under various sections of the same statute are enumerated in sub-section (2). This would be in conformity with the Ministry's own

59 Fourteenth Report
(Fifth Lok Sabha)
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60 Fourteenth Report
(Fifth Lok Sabha)
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61 Fourteenth Report
(Fifth Lok Sabha)
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observation that "inclusion of sub-section (2) in the rule-making power section is intended to focus attention on the several matters in respect of which rules are clearly contemplated by the Act." The Committee also feel that such an enumeration will not interfere with the flexibility of the rule-making power.

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

63 Fourteenth Report
(Fifth Lok Sabha)
54

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

The needful has since been done by the Department of Culture vide G.S.R. No. 194 dt. 12-2-1977 and G.S.R. 383 dt. 19-3-1977.

64 Fourteenth Report
(Fifth Lok Sabha)
55

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

65 Fourteenth Report
(Fifth Lok Sabha)
65

The Committee are not satisfied with the reply of the Ministry of Shipping and Transport that under the Delhi Transport Corporation (Members) Rules, 1973, it is open to fix not only uniform rates of remuneration to the members of a Road Transport Corporation or other persons associated with the Corporation under section 10 of the Road Transport Corporations Act, 1950 but also to lay down a general mode of determination of the remuneration of these persons subject to any

The Ministry of Shipping and Transport (Transport Wing) have amended the Rules indicating actual remuneration payable vide S.O. 1961 dated 31-5-1973.

maximum limits in the matter. The Committee feel that rule 9 of the Delhi Transport Corporation (Members) Rules, which empowers the Corporation to fix the remuneration to be paid to associated persons within the prescribed limits is not authorised under the Road Transport Corporation Act, 1950. Under clause (b) of sub-section (2) of Section 44 of the said Act, it was the State Government (Central Government in case of Delhi) which is empowered to make the rules, regarding remuneration, allowance, etc. As such there is unauthorised delegation of power by rule 9 *ibid*. The Committee desire the Ministry of Shipping and Transport either to delete rule 9(i) or make suitable amendment in the Act to empower the Corporation to determine the amount of remuneration.

66 Fourteenth Report
(Fifth Lok Sabha)
71

The Ministry of Law, Justice & Company Affairs (Legislative Department) have circulated it to all Ministries Departments for information compliance *vide* O.M. No. F. 4 (2) /75 Leg. I dated 19-4-1975.

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

67 Fourteenth Report
(Fifth Lok Sabha)
78

Government have agreed to evolve the form of returns and lay down the time-limits within which the information is to be furnished in the Price Control Orders to be issued in future *vide* Department of Industrial Development D.O. No. 51D/75-148 dated 23-5-1975.

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

68 Fourteenth Report
(Fifth Lok Sabha)
81

The Ministry of Finance (Department Expenditure) have noted the observation of the Committee for future guidance.

The Committee are not satisfied with the explanation given by the Ministry of Finance for the lapse of 23 years in substituting the word 'President' for the words 'Governor-General in Council',

or 'the Secretary of State in Council'. They are of the view that this anachronism should have been removed soon after the country became a Republic in 1950 and Government need not have awaited the revision of rules for such a fundamental change.

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

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

The Committee desire that the composition of the Departmental Promotion Committees should be given in the Directorate of Technical Development and Production (Air) Organisation Class III Technical, Scientific and other No-Ministerial Posts Recruitment Rules, 1972 as has been done in the case of the Defence Science Service Rules.

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

(i) The rules have been amended suitably by the Ministry of Defence vide S.R.O No. 248 and 249 dated 5-10-1976.

(ii) The Department of Personnel & Administrative Reforms have Circulated the recommendations to all Ministries/Departments vide their O.M. No. 14017/1/75-Estt. (D) Cell dt. 27-11-75.

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Fourteenth Report
(Fifth Lok Sabha)
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Fourteenth Report
(Fifth Lok Sabha)
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Fourteenth Report
(Fifth Lok Sabha)
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Fourteenth Report
(Fifth Lok Sabha)
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- 73 Fourteenth Report
(Fifth Lok Sabha)
112
- The Committee are not convinced by the reasons advanced by the Ministry of Works and Housing for issuing two separate amendments to the same set of rules viz., that the juxta-position together of the two amendments might give to casual readers an impression that the two are directly related to each other and what is laid down by one rule is being taken by another.
- (i) The Ministry of Works & Housing have noted the observation of the Committee for compliance in future.
- 74 Fourteenth Report
(Fifth Lok Sabha)
113
- The Committee desire the Cabinet Secretariat (Department of Personnel and Administrative Reforms) who are a coordinating agency in regard to framing of recruitment rules etc. to issue necessary instructions to all Ministries/ Departments for consolidating all amendments to the same set of the rules if these are finalised simultaneously.
- (ii) The Department of Personnel & Administrative Reforms have circulated the recommendation to all Ministries Departments for compliance *vide* their O.M. No. 14017/1/75-Estt. (D) Cell dt. 28-9-77.
- 75 Fourteenth Report
(Fifth Lok Sabha)
120
- The Committee note with satisfaction that, on being pointed out, the Ministry of Finance (Department of Expenditure) have agreed to amend the Department of Expenditure Staff Inspection Unit Recruitment Rules, 1965 to prescribe the age-limits and educational qualifications for direct recruitment to the posts of Senior and Junior Analysts in the Staff Inspection Unit and to delete reference to the post of Research-cum-Training Officer. They desire the Ministry to amend the rules at an early date.
- The rules have since been amended by the Ministry of Finance (Department of Expenditure) *vide* S.O.1543 dt. 22-6-74.
- 76 Fourteenth Report
(Fifth Lok Sabha)
123
- The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to amend S. R. 317—XXVI AC-14 of the Overseas Communications Service (Allotment of Residences) Rules, 1971 so as to give an opportunity of being heard to the allottee before action is taken against him. They desire the Ministry to issue the amendment at an early date.
- The Ministry of Communications have since amended the rules to the necessary effect *vide* G.S.R. No. 361 dated 15-3-75.
- 77 Fourteenth Report
(Fifth Lok Sabha)
125
- The Committee note with satisfaction that on being pointed out, the Ministry of Communications have agreed to amend S. R. 317—XXVI—AC—19 of the Overseas Communications Service (Allotment of Residences) Rules, 1971 so that its word-

ing do not give an impression that it seeks to oust the jurisdiction of Courts. They desire the Ministry to issue the amendment at an early date.

78. Fourteenth Report
(Fifth Lok Sabha) 128

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

79. Fourteenth Report
(Fifth Lok Sabha) 137

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

80. Fourteenth Report (Fifth Lok Sabha) 141

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

81. Fourteenth Report (Fifth Lok Sabha) 142

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

The Ministry of Information and Broadcasting have since amended the explanatory memorandum *vide* G.S.R. No. 1945 dated 14-12-1974.

(i) Ministry of Commerce have amended the rules (S. No. 1 of Appendix VII) *vide* S. O. Nos. 1813 & 1814 dated 14-6-75.

(ii) Ministry of Labour have amended the rules (S. No. 2 of Appendix VII) *vide* G.S.R. 908 dated 24-8-74.

(iii) Ministry of Shipping & Transport wing have amended the rules (S.No. 3 of Appendix VII) *Vide* S.O. No. 2468 dated 14-7-75.

(iv) Ministry of Defence have already issued the corrigendum.

(v) Ministry of Shipping & Transport (Transport Wing) have issued corrigendum (S. No. 6 of Appendix VII) *vide* Notification No. SECE-6(17)/74-IPT/14575 dated 23-9-74 of Delhi Administration Gazette.

82 Fourteenth Report (fifth Lok Sabha) 147

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

83 Fourteenth Report (Fifth Lok Sabha) 148

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

84 Fourteenth Report (Fifth Lok Sabha) 152

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

85 Fourteenth Report (Fifth Lok Sabha) 153

The Ministry of Industrial Development have stated that there are sufficient safeguards for the licence holders as the licensing officer has to publish the notices/Orders calling for information/returns from the licence in Official Gazette or any other media which will

(i) Ministry of Labour have issued corrigendum (S. No. 3 of Appendix VIII) *vide* G.S.R. No. 123 dated 24-1-76 & G.S.R. No. 149 dated 31-1-76.

(ii) Ministry of Home Affairs have issued amendment (S. No. 4 of Appendix VIII) *vide* G.S.R. Nos. 2238 to 2241 dated 16-8-75.

(iii) The D.P.A. have circulated the recommendation of the Committee to all Ministries/Departments *vide* their O. M. No. 32(12)/74-R&C dated 5-2-75.

The Ministry of Industry (Department of Industrial Developments) have amended the Coconut husk Control Order, 1973 to provide that licensing Officer may by Order to be published in the Gazette direct the holder of Licence or permission to submit to him returns indicating the amount of husks in his daily stock, the source of their acquisition the price paid therefor & the mode of their disposal *vide* S.O. No. 2168 dated 26-6-76.

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reach the person concerned. The Committee note that there is nothing in Clause 13 that the order of the licensing officer will be published in the Gazette. The Committee, therefore, desire the Ministry of Industrial Development to issue necessary amendment to clause 13 of the Coconut Husks Control Order so as to specifically provide therein that special or general order to be issued by licensing Officer would be published in the Gazette for the information of all concerned.

86 Fourteenth Report (Fifth Lok Sabha) 158

The Committee are not convinced by the reasons advanced by Ministries/Departments for delay in laying Orders on the Table within prescribed period. In para 35 of their Ninth Report (Fifth Lok Sabha) the Committee had drawn attention to the Ministries/Departments to the new procedure introduced by the Controller of Printing and Stationery for supply of G.S.R. Numbers etc. *vide* his O.M. No. H. 11012/1/72-P. dated 9-8-72 addressed to all Ministries/Departments. The new procedure *inter alia* provides that the Ministries/Departments should not wait for supply of spare copies of the Notifications by the Press for laying them on the Table of the House. They should obtain the G.S.R. or S.O. Number of the Notification by making a request in writing in duplicate one day after the date of Publication of the Notification in the case of extraordinary issues and on Mondays, in the case of Notifications published in the weekly Gazette. In para 143 of their Thirteenth Report (Fifth Lok Sabha), the Committee emphasised upon all Ministries/Departments the necessity of adhering to this new procedure. The Committee regret to note that this new procedure is not being followed by the Ministries/Departments of Government. They desire all Ministries/Departments to strictly follow this new procedure in order to avoid delay in getting the G.S.R. No./printed copies of Gazette notifications from Government of India Press.

87 Fourteenth Repo r1 (Fifth Lok Sabha) 159

The Committee are unhappy to note that in 15 cases out of 40, the Ministries/Departments concerned have not laid the statements showing reasons for delay along with the Order. They desire all Ministries/Departments to strictly comply with the recommenda-

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(i) The Department of Parliamentary Affairs have circulated the recommendations of the Committee to all Ministries / Departments *vide* their O.M. No. 32(12)/74-R&C dated 5-2-75.

(ii) The Ministry of Finance (Department of Economic Affairs) have regretted the delay. The Ministry of Agriculture and Irrigation (Department of Food) have laid on the Table the reasons for delay.

tion of the Committee in this regard and statements showing reasons for delay should invariably be laid on the Table along with the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reasons whatsoever.

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

Seven 'Orders' dealt within this Report relate to the years 1969 to 1972. Barring one case, the Committee could not report on these 'Orders' earlier due to inordinate delay in receipt of replies from the Ministries. In one case, reference was made to the Ministry of Finance (Department of Expenditure) on the 6th November, 1971 and their final reply was received on the 18th May, 1974 after a time-lag of 2 years and 6 months. In other cases, there was a time-lag of about one year. In all these cases, final replies were received only after the displeasure of the Committee had been conveyed to the Ministries and the matter was reported to the House through the Eleventh and Twelfth Reports. Even in this Report (para 9), the Committee have pointed out that replies had not been received from the Ministries of Finance and Agriculture. The Committee are very unhappy over this. Such delays, they need hardly point out, not only hamper the work of the Committee but also result in unnecessary prolongation of infirmities in rules. The Committee desire that, save in exceptional circumstances, final replies to references made by the Committee should be given within a period of three months. In cases where it is not possible to adhere to this time-limit, the reasons for the inability of the Ministry to do so should be communicated to the Committee before the expiry of the said time-limit.

The Department of Parliamentary Affairs have circulated the observation of the Committee to all Ministries/Departments *vide* their O. M. No. 32(12)/74-R&C dated 5-2-75.

88 Fourteenth Report (Fifth Lok Sabha) 160

89 Fourteenth Report (Fifth Lok Sabha) 161

90 Fifteenth Report (Fifth Lok Sabha) 42

(i) Necessary amendment to the Representation of the people Act, 1950, has since

been made by the Amendment Act of 1976 (Act No. 88 of 1976).

- (ii) The Representation of the People (Amendment) Bill, 1973 lapsed on the dissolution of the Fifth Lok Sabha. Government have, however, assured for amending the Representation of the People Act, 1951, on the similar lines when the Act is amended next. [See Ministry of Law, Justice and Company Affairs (Legislative Department) O.M. No. F.7 (30)/71-Leg. II, dated 19-5-1977]

92 Fifteenth Report (Fifth Lok Sabha) 116 The Committee note that no one has been adversely affected as a result of retrospective effect given to the three sets of rules referred to in paras 116-117 of the Report. The Committee however, observe that the Ministry of Home Affairs had failed to give an explanatory memorandum saying that no one would be affected adversely, as recommended by the Committee in para 10 of their Second Report (Fifth Lok Sabha). Had the Ministry done so earlier, there would have been no need for the Committee to express any objection. The Committee desire that the Ministry of Home Affairs should be careful in future and give the necessary explanatory memorandum whenever retrospective effect is given to a set of rules.

92 Sixteenth Report (Fifth Lok Sabha) 8 The Committee note with satisfaction that on being pointed out, the Ministry of Agriculture and Irrigation (Department of Agriculture) propose to amend sub-rule (3) of rule 9, sub-rule (4) of rule 10 and sub-rule (a) of rule 12 of the Insecticides Rules, 1971, so as to incorporate therein the conditions subject to which the licences are issued. The Committee desire the Ministry to issue the amendment at an early date.

The Ministry of Home Affairs have asked all sections in that Ministry to note the recommendation for guidance *vide* their circular No. H. 11013/20/75-Parl., dated 20-3-1976.

The Ministry of Agriculture & Irrigation (Department of Agriculture) have amended the Insecticides Rules, 1971 *vide* G.S.R. 474 (E) published in the Gazette of India, Extraordinary Part II Section 3(i), dated 24-7-76.

*Reply from the Ministry of Finance has been received but no reply from the Ministry of Agriculture and Irrigation (Department of Agriculture) has been received so far.

93 Sixteenth Report (Fifth Lok Sabha) 25

The Committee are not convinced of the reply given by the Department of Supply for deleting the provision requiring specification in the Notice of the number of vacancies to be filled on the result of the examination. The Committee feel that this is a salutary provision which enables the prospective candidates to assess their chances of success in the examination and should be retained in the Indian Supply Service/Indian Inspection Service (Class I—Recruitment by Competitive Examination) Rules. To meet the requirement of this provision, the Committee desire the Ministry/Department concerned with the examination to intimate to the Union Public Service Commission at least an approximate number of vacancies to be filled before the Notice of examination is issued by the Commission.

The Department of Personnel & Administrative Reforms have issued instructions to all Ministries/Departments *vide* their O.M. No. 39034/12/75-Estt. (b) dated 7-4-1976, to the effect that the number of vacancies to be filled by recruitment through examination should be included in the Notice for that examination.

94 Sixteenth Report (Fifth Lok Sabha) 31

The Committee are not convinced by the arguments given by the Ministry of Law, Justice and Company Affairs (Legislative Department) for not specifying matters in Clause 24 of the Additional Emoluments (Compulsory Deposit) Bill, 1974 in respect of which rules are to be framed thereunder. In para 29 of their Fourteenth Report (Fifth Lok Sabha), the Committee while commenting upon the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules had recommended that either the rule-making power section should enumerate all matters on which rules have to be framed under various sections of a statute and quote the section to which that matter relates or in the alternative the preamble to the rules should refer not only to the general rule-making power of section of the Act but also other sections of the Act under which the rules have been framed. The Committee desire the Ministry of Finance to adopt either of these two alternatives in the case of the Additional Emoluments (Compulsory Deposit) Bill, 1974 also which has already been brought on the statute book.

The Ministry of Finance (Department of Economic Affairs) have intimated *vide* their O.M. No. F. 1(28)-CD/74, dated 21-6-75 that they accept the second alternative suggested by the Committee in their recommendation. If any rules are framed under Section 24 of the Act, the Preamble to the rules will refer not only to the Act but also other Sections of the Act under which the rules have been framed.

Sixteenth Report (Fifth Lok Sabha) 38

The Committee are distressed to note that in spite of their repeated exhortation from time to time to avoid delay in laying 'Orders' such cases of delay continue to occur. The reasons given by the

The Department of Parliamentary Affairs have brought the recommendation of the Committee to the notice of all

Ministries/Departments of the delay are not convincing.

Ministries/Department for compliance
vide D.P.A. O.M.No. F. 92 (4)/75-R&C
 dated the 6th June, 1975.

96. Sixteenth Report (Fifth Lok Sabha) 39
- One of the main reasons for delay given by the Ministries Departments is late receipt of G.S.R. Nos. from the Press. In this connection, the Committee wish to draw the attention of all Ministries/Departments to their recommendation made in para 35 of their Ninth Report (Fifth Lok Sabha) and reiterated in their Thirteenth and Fourteenth Reports, in regard to the new procedure introduced by the Controller of Printing and Stationery for obtaining G.S.R. Nos. of notification. The Committee desire all Ministries/Departments to follow the new procedure scrupulously. Difficulties, if any, in obtaining G.S.R. Nos. under the new procedure should be sorted out in consultation with the Controller of Printing and Stationery.
97. Sixteenth Report (Fifth Lok Sabha) 40
- The Committee find it difficult to appreciate another explanation for delay given by the Ministry of Steel and Mines (Department of Mines) and the Ministry of Energy (Department of Coal) that the parent Act under which the Rules had been framed did not specify any limit for laying of Rules on the Table of the House. True, under the Act the Rules are required to be laid before the Houses of Parliament as soon as may be after they are made. But the Committee on Subordinate Legislation, after putting a reasonable construction of the words 'as soon as may be' had recommended as early as in September, 1954 that rules etc. should be laid on the Table of the House within a period of 7 days after their publication in the Gazette (*vide* paras 31-32 of Second Report (First Lok Sabha). Later, in view of the difficulties experienced by the Government in complying with this recommendation, the Committee raised the period from 7 days to 15 days *vide* para 72 of Second Report (Second Lok Sabha) since then, the Committee, have been repeatedly stressing the need of laying orders on the Table within a period of 15 days after their publication in the Gazette.)
98. Sixteenth Report (Fifth Lok Sabha) 41
- The Committee are surprised at the explanation given by the Ministry of Agriculture and Irrigation (Department of Agriculture) that the Wild Life (Stock Declaration) Rules, 1974 (G.S.R. 365 of 1974) were not rules but only a Notification issued under

The Ministry of Agriculture and Irrigation
 (Department of Agriculture) have circulated the recommendation of the Committee to all Sections in the Ministry for guidance/

sub-section (3) of section I of the Wild Life (Protection) Act, extending the Act to the State of Orissa. In this connection, the Committee wish to invite the attention of the Ministry to the preamble to the Rules which clearly indicates that they were issued under Section 63(1)(a) of the Act. The short title of the Notification also shows that they are rules which are required to be laid on the Table. The Committee desire the Ministry to be careful about such matters in future.

necessary action [Ministry of Agriculture
O.M. No. 9-3/75/Parl. dated 26th May,
1975.

99. Sixteenth Report (Fifth Lok
Sabha) 46

The Committee are not satisfied with the reasons given by the Ministry of Communications for not specifying the period of training in the Engineering Supervisors (Recruitment) Rules, 1974. The Committee feel that indication of a definite period of training is necessary to obviate any scope of discriminatory treatment between different batches of candidates of the same category.

The Ministry of communications (P & T Board) have made necessary amendments to the Engineering Supervisors (Recruitment) Rules, 1974, vide their Notification No. 41-35/74-NCG dated the 12th March, 1976.

100. Sixteenth Report (Fifth Lok
Sabha) 47

If the Ministry feel that direct recruits being engineering graduates, science graduates, or engineering diploma holders require comparatively lesser period of training then the departmental candidates, they can lay down on the basis of their past experience, separate periods of training for the two categories of candidates. In cases where it becomes necessary to vary the period of training to meet emergency situations, the Ministry can do so by relaxing the relevant provision of the rules under rule 7. The Committee desire the Ministry to amend the Rules on these lines at an early date...

101. Sixteenth Report (Fifth Lok
Sabha) 51

The Committee are not convinced with the reply of the Ministry of Communications regarding the use of discretionary power by the D.G.P. & I. for relaxing age of departmental candidates. The Committee desire that either the maximum limit upto which age would be relaxed should be given in the rules or in the alternative, the Note below Explanation 4 of the Engineering Supervisors (Recruitment) Rules, 1974 should be deleted. The Committee also desire that in all cases where the upper age limit

is relaxed, the reasons for doing so should be recorded in writing.

102. Sixteenth Report (Fifth Lok Sabha) 55

The Ministry of Defence have issued necessary amendments to the notification imposing tax on a divertments in St. Thomas Mount cum-Pallavaram Cantonment vide S.R.O. 14 published in the Gazette of India, Part II Section 4 dated the 31st January, 1976.

103. Sixteenth Report (Fifth Lok Sabha) 59

The Committee note with satisfaction that, on being pointed out, the Ministry of Defence proposed to amend paragraph 3(c) of the above Bye-laws so as to delete the expression 'and no fee' be charged in respect of such 'permission' which is superfluous. The Committee desire the Ministry to issue the amendment at an early date.

104. Sixteenth Report (Fifth Lok Sabha) 85

The Committee note with satisfaction that the Ministry of Defence propose to issue corrigendum for rectifying their mistake in issuing amendment to Rules which had already been superseded. The Committee desire the Ministry to issue the necessary corrigendum at an early date and devise a Procedure whereby such mistakes are avoided in future.

The Ministry of Defence have issued necessary corrigendum to the notification vide S.R.O. No. 98 published in the Gazette of India Part II Section 4 dt. the 8th March, 1975.

105. Sixteenth Report (Fifth Lok Sabha) 88

The Committee are glad to note that the Ministry of Home Affairs have accepted in principle their recommendation made as far back as in September, 1954 that the rules framed by a subordinate authority under the Salaries and Allowances of Ministers Act, 1952 should be operative only after an affirmative vote of the House has been obtained. The Committee desire the Ministry to amend the Act accordingly at an early date.

The Salaries and Allowances of Ministers Act, 1952 has since been amended vide Act 37 of 1977 so as to provide that no rule framed under the Act after the commencement of Act 37 of 1977 shall come into force until it has been approved by each House of Parliament and published in the Official Gazette.

106. Sixteenth Report (Fifth Lok Sabha) 93

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

The Department of Parliamentary Affairs have brought the recommendation of the Committee to the notice of all Ministries/Departments for compliance vide Depart-

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.

ment of Parliamentary Affairs O.M. No. 32(4)/75-R&C dated June 6, 1975.

107. Sixteenth Report (Fifth Lok Sabha) 103

The Committee feel satisfied with the reply given by the Ministry of Law, Justice and Company Affairs (Department of Company Affairs). Had this position been explained earlier, the need for a comments by the Committee made in para 8 of their Sixth Report (Fifth Lok Sabha) would not have arisen.

The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have noted the contents of para 103 of the Report for future guidance and their O.M. No. 52/71/74-CAB dt. 30-10-75.

108. Seventeenth Report (Fifth Lok Sabha) 8

The Committee are not satisfied with the reply of the Ministry of Finance (Department of Revenue and Insurance). They note that section 8 of the Emergency Risks (Undertakings) Insurance Act, 1971 gives very wide powers to the 'authorised' person in the matter of calling for information, inspection of books and other documents. It also empowers him to enter any premises comprising or containing the property and inspect such premises etc. The Committee desire that the Ministry of Finance (Department of Revenue and Insurance) should amend the Emergency Risks (Undertakings) Insurance Scheme so as to indicate therein the minimum rank of officers to be authorised to exercise the powers under para 20 of the Scheme. The Committee would in this connection like to draw the attention of the Ministry of Finance (Department of Revenue and Insurance) to sections 133 and 134 of the Income-tax Act, 1961, under which an officer of the rank of at least an Income-tax Officer has been empowered to call for information, inspect registers of companies, etc.

The Ministry of Finance (Department of Economic Affairs) have amended the Scheme suitably *vide* S.O. No. 2213 dt. 3-7-76.

109. Seventeenth Report (Fifth Lok Sabha) 25

The Committee are happy to note that on being pointed out, the Ministry of Home Affairs have agreed to delete provisions for fees levied under paras 7 and 19 of the Compensation Tribunal Order 1974, which have been considered by the Ministry of Law as not

The Ministry of Home Affairs have since issued the necessary amendment to the Order *vide* G.S.R. No. 71-E, dt. 9-2-77.

legally tenable. They desire that the Ministry should issue necessary amendment to this effect at an early date.

110. Seventeenth Report (Fifth Lok Sabha) 39

The Committee note with satisfaction that on being pointed out, the Department of Personnel and Administrative Reforms have agreed to amend regulation 8 of the Central Secretariat Service Assistants' Grade (Limited Departmental Competitive Examination) Regulations, 1974, to indicate therein the nature of enquiry to be conducted thereunder. They desire that the Department of Personnel and Administrative Reforms should issue necessary amendment at an early date.

The Department of Personnel and Administrative Reforms have issued the necessary amendment to the Regulations vide G.S.R. No. 932 dt. 2-8-75.

111. Seventeenth Report (Fifth Lok Sabha) 45

While the Committee note that printing errors in the case of the Telhan Vikas Nidhalaya (Directorate of Oil Seeds Development) Hyderabad (Class I and Class II Posts) Recruitment (Second Amendment) Rules, 1974 and the Indian Economic Service (First Amendment) Rules, 1974 have since been rectified they cannot help taking note of the fact that in one case this was done nearly a year after the publication of the relevant rules, and in the second case more than six months after such publication. In both the cases, the Departments concerned had not taken any action till the errors were pointed out by the Committee. The Committee are not happy over such state of affairs. The Committee will like to reiterate their earlier recommendation made in para 36 of their Fourth Report (Fifth Lok Sabha) that the responsibility of a Ministry/Department should not cease with the sending of a notification to the Press. After the rules/regulations, have been published in the Gazette, the Ministries/Departments concerned should take immediate steps to examine whether the same have been correctly printed, and if necessary, to issue corrigendum thereto. The Committee trust that this recommendation will be strictly complied with by the Ministries/Departments of Government of India in future.

(i) The Ministry of Agriculture and Irrigation (Department of Agriculture) and the Department of Personnel have noted the recommendation for compliance in future.

(ii) The Department of Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries/Departments vide their O.M. No. F.32(1)/76-R&C dt. 26-2-76.

112. Seventeenth Report (Fifth Lok Sabha) 51

The Committee note with satisfaction that on being pointed out, the Ministry of Defence have agreed to amend the Ambala Cantonment (Regulations of Registration and Classification of Contractors) Bye-Laws, 1974, to indicate therein that the registration amount of Rs. 100/- and Rs. 50/- required to be deposited by Class A and Class B contractors respectively with the Cantonment

The Ministry of Defence have amended the Bye-Laws suitably vide S.R.O. No. 328 dt. 29-9-75.

Board are deposits which are refundable, and not fees as now mentioned in the bye-laws. They further note that the Ministry have also agreed to make a provision in the bye-Laws to indicate that a cash deposit of 5 per cent of the estimated cost of works deposited by a tenderer towards security for proper performance of the contract under bye-law 7(ii) will be refundable to the tenderer, after the successful completion of the work. The Committee desire the Ministry of Defence to issue necessary amendments to the above effect at an early date.

113. **Seventeenth Report (Fifth Lok Sabha) 55** The Committee note that there is no positive provision in the Victoria Memorial Act, 1903, regarding the casting vote of the Trustee presiding at a meeting. The Committee, therefore, desire the Department of Culture to delete Rule 7 of the Victoria Memorial Rules, as the same is not authorised by the parent Act.
114. **Seventeenth Report (Fifth Lok Sabha) 60** The Committee desire the Ministry of Labour to amend Col. 11 of the Schedule to the Mica Mines Labour Welfare Fund Organisation (Class I & II Posts) Recruitment Rules so as not to give an impression that direct recruitment could be made without the consultation of the Union Public Service Commission. They also desire that the Ministry of Law, Justice and Company Affairs (Legislative Department) while vetting such rules in future should ensure that the rules, as drafted, clearly spell out the intention of Government and do not give a wrong impression.
115. **Seventeenth Report (Fifth Lok Sabha) 73** The Committee note with satisfaction that on being pointed out, the Ministry of Labour have agreed to make clauses 7, 8 and 9 of the Bombay Unregistered Dock Clearing and Forwarding Workers (Regulation of Employment) Scheme, 1973, self-contained by providing therein the responsibilities and duties of the Board in meeting the Chairman and the Deputy Chairman. They desire that the Ministry of Labour should issue the necessary amendment at an early date.
- The Department of Culture have deleted Rule, 7 *vide* G.S.R. No. 797 dt. 5-6-76.
- The Ministry of Law, Justice and Company Affairs (Legislative Department) have noted the recommendation of the Committee for compliance. *vide* their O.M. No. F-4 (i) /76-LI dt. 12-8-77).
- The Ministry of Shipping and Transport (Transport Wing) have amended the Scheme suitably *vide* S.O. No. 2568 dt. 19-8-75.

- 116 **Seventeenth Report (Fifth Lok Sabha)** 77
 The Committee note with satisfaction that on being pointed out, the Ministry of Labour have agreed to delete the provision regarding charging of fees for re-examination by the Medical Board from clause 19(1) of the Bombay Unregistered Dock Clearing and Forwarding Workers (Regulation of Employment) Scheme, 1973 as it is not authorised by the Dock Workers (Regulation of Employment) Act under which the Scheme has been framed. They desire the Ministry of labour to issue the necessary amendment at an early date.
- 117 **Seventeenth Report (Fifth Lok Sabha)** 80
 The Committee note with satisfaction that on being pointed out, the Ministry of Labour have agreed to delete the proviso to clause 25 of the Bombay Unregistered Dock Clearing and Forwarding Workers (Regulation of Employment) Scheme, 1973 regarding reduction of disengagement money paid in case of workers who are subject to the piece rate system of wages. They desire the Ministry of labour to issue the necessary amendment at an early date.
- 118 **Seventeenth Report (Fifth Lok Sabha)** 83
 The Committee note with satisfaction that on being pointed out, the Ministry of Labour have agreed to amend clause 38(1) and (2) of the Bombay Unregistered Dock Clearing and Forwarding Workers (Regulation of Employment) Scheme, 1973 by making a provision for giving of an opportunity of being heard to the persons concerned before action is taken against them. They desire the Ministry of Labour to amend the Scheme at an early date.
- 119 **Seventeenth Report (Fifth Lok Sabha)** 87
 The Committee note with satisfaction that on being pointed out, the Ministry of Education and Social Welfare (Department of Education) have agreed to amend the Department of Education (Senior Exhibition Assistant) Recruitment Rules, 1973, to indicate therein that the power of relaxation under rule 5 thereof will be exercised in consultation with the Union Public Service Commission. They desire the Department of Education to issue the necessary amendment to the above effect at an early date.
- 120 **Seventeenth Report (Fifth Lok Sabha)** 92
 The Committee note with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend the Kandla Unregistered Dock Workers (Regulation

The Ministry of Education and Social Welfare (Department of Education) have issued the necessary amendment to the rules *vide* G.S.R. No. 8, dt. 4-1-75.

The Ministry of Shipping and Transport (Transport Wing) have amended the Scheme suitably *vide* S.O. No. 4102 dt. 30-9-75

of Employment) Scheme so as to omit therefrom the Provision for charging of fee for re-examination by a Medical Board of a Worker initially found medically unfit. The Committee desire that the Ministry of Shipping and Transport should take early steps to amend the said Scheme.

121 Seventeenth Report (Fifth Lok

Sabha) 95

The Ministry of Information and Broadcasting have deleted rule 4 *vide* G.S.R. No. 837 dt. 12-6-76.

122 Seventeenth Report (Fifth Lok

Sabha) 105

The Committee observe that the Ministry of Home Affairs have failed to give the distinctive number of the amendment in the short title to the Delhi Sikh Gurdwara Management Committee (Registration of Electors) amendment Rules, 1973, as recommended by the Committee on Subordinate Legislation in paragraph 44 of their First Report (Third Lok Sabha). This is not just a solitary instance. In para 141 of their Fourteenth Report (Fifth Lok Sabha), the Committee have commented upon a number of similar cases. The Committee would like to impress the Ministries/Departments to keep a constant check over the amendments to rules that were effected from time to time and ensure that the exact number was inserted before it was published so that such errors do not recur. The Committee also desire the Ministry of Law, Justice and Company Affairs (Legislative Department) to issue necessary instructions to all Ministries/Departments in this regard.

(i) The Ministry of Home Affairs have noted the recommendations of the Committee for compliance in future.

(ii) The Ministry of Law, Justice and Company Affairs (Legislative Department) have circulated the recommendations of the Committee to all the Ministries/Departments for necessary action *vide* their O.M. No. F.4(1)76-Leg. I, dt., 27-5-76.

123 Eighteenth Report (Fifth Lok

Sabha) 30

While the Committee note that all the matters enumerated in sub-section (2) of section 22 and sub-section (2) of section 23, of the National Cooperative Development Corporation Act, 1962, are covered by the rules and regulations framed by Government National Cooperative Development Corporation they cannot

Government have opted the observations of the Committee for future guidance and have also advised the National Cooperative Development Corporation to ensure their compliance strictly. (34)

accept the argument advanced by the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) that as the National Cooperative Development Corporation General Regulations, 1966, and the National Cooperative Development Corporation Service Regulations, 1967, were to be framed by the Corporation and not by the Central Government these stood on a different footing from the rules. The Committee will like to make it clear that the time-limit of six months laid down by the Committee in para 34 of their Fifth Report (Second Lok Sabha) applies as much to statutory regulations to be framed by subordinate bodies as to statutory rules to be framed by the Central Government.

124 Eighteenth Report (Fifth Lok Sabha) 31

It was also urged during the course of evidence that as, in terms of the National Cooperative Development Corporation Act, 1962, the regulations framed under an earlier Act, were to continue to operate, there had been no delay in framing the regulations in question. The Committee are unable to accept this argument also. They will like to point out that saving provisions such as these are only of a transitional character and do not take away the need for early framing of comprehensive rules and regulations under new Acts.

125 Eighteenth Report (Fifth Lok Sabha) 44

The Committee note that all the matters specified in section 23(2) of the Enemy Property Act, 1968, in respect of which rules are required to be framed are covered by the Enemy Property (Custody and Registration Order, 1962, made under Defence of India Rules, 1962, which, in terms of section 24 of the said Act, shall be deemed to continue in force and to have been made under the said Act. As the said Act only provided for the continued vesting of the enemy property already vested in the Custodian of Enemy Property, no need for framing fresh rules under this Act had arisen. The Committee, however, fail to understand why in their reply to the Committee's communication of August, 1974, the Ministry of Commerce had not brought all the facts to the notice of the Committee. The aforesaid reply of the Ministry made no mention of the Order issued under the Defence of India Rules, 1962; on the other hand, it stated that the Custodian "had been able to carry on the management of the property under the various sections of the Act". Had the Ministry, *ab initio*, given all the facts, there would have been no need to take oral evidence

erstwhile Ministry of Industry & Civil Supplies (Department of Civil Supplies and Cooperation) O.M. No. L-12011/71-75-ACMP dt., 20-2-1976.]

Government have noted the recommendation of the Committee for future guidance *vide* Ministry of Commerce O.M. No. 12(42)/75-EI & EP dated 6-6-1977.

of the representatives of the Ministry. The Committee desire the Ministry to note for their future guidance that the replies sent for consideration of the Committee are complete in all respects so that infructuous work is avoided.

126 Eighteenth Report (Fifth Lok Sabha) 50

The Committee note that while admitting that considerable time was taken by Government to finalise the import Manifest (Vessels) Regulations, 1971, the Ministry of Finance (Department of Revenue and Insurance) have contended that as the forms prescribed by the respective Collectors under the Sea Customs Act, 1878, remained in force in terms of section 160(3) of the Customs Act, 1962, there had been no delay as such, which had caused prejudice either to the Government or to the public. The Committee can hardly accept this explanation. As pointed out by the Committee in an earlier case, saving provisions for continuing the operation of rules and regulations framed under the repealed enactments are in the nature of transitional provisions, which do not take away the need for early framing of comprehensive rules and regulations under new Acts.

Government have noted the observation of the Committee for future guidance *vide* Ministry of Finance (Department of Revenue and Insurance) O.M. No. 450/85/75-Cas.IV-pt. dt. 26/28-2-1976.

127 Eighteenth Report (Fifth Lok Sabha) 51

The Committee are distressed at the lackadaisical manner in which the Departmental machinery had acted in this case. Certain difficulties were pointed out by the Collector of Customs, Cochin. These were looked into by the Ministry, who asked the Directorate of Inspection to frame draft regulations on 31-10-1964. The Directorate took over 3 years to frame the draft regulations and sent these to the Ministry on 16-11-1967. For another 2½ years these remained with the Customs Study Team and were discussed in the Conference of Collectors on 9-4-1970. It took the Ministry one more year to finally publish the regulations on 17-4-1971. It is not known how the difficulties pointed out by the Collector of Customs, Cochin, in 1964, were dealt with during the intervening period of about 7 years. The Committee desire the Ministry to show more promptness in future, particularly in cases where difficulties in the working of rules and regulations are pointed out by the field formations.

128 Eighteenth Report (Fifth Lok Sabha) 52

The Committee also note that some of the matters enumerated in sub-section (2) of section 157 of the Customs Act, 1962, are still being regulated by Orders issued under the Sea Customs Act, 1878. In order to streamline the position, the Ministry propose to frame regulations in respect of these matters in 'about six months'. The Committee desire the Ministry to frame the proposed regulations within the contemplated period of 6 months.

The needful has since been done (See G.S.R. 1548 to 1555 of 1976, dt. 30-10-1976).

129 Eighteenth Report (Fifth Lok Sabha) 65

The Committee regret to note that rules to carry out the purposes of the Official Languages Act, 1963, are yet to be issued. The delay in framing the rules exceeds 10 years, even if, as urged by the representative of the Ministry of Home Affairs in evidence, the delay is counted from 1965. The Committee are not satisfied with the explanation of the Ministry for delay in framing the rules. Even granting that the matter was a sensitive one and some time had to elapse before the Ministry could proceed with the framing of rules, the Committee feel that a period of over 8 years for the purpose is too long. In the opinion of the Committee, the gap between the time-limit laid down by the Committee in para 34 of their Fifth Report (Second Lok Sabha) and the time taken by the Ministry in framing the rules is so wide as to lead the Committee to the conclusion that the Ministry had practically paid no heed to the recommendation of the Committee.

The needful has since been done (See G.S.R. 1052 of 1976, dt. 17-7-1976).

130 Eighteenth Report (Fifth Lok Sabha) 66

While assuring the Committee that the rules in question were nearing finalisation, the representative of the Ministry urged in evidence that as a Parliamentary Committee would soon be seized of the whole question of the development of Official Language, it would be better if the present position was allowed to continue for some time more. The Committee are unable to accept this plea. They desire that the rules in question should be issued without any further delay. It is open to Government to make any amendments to the rules it may consider necessary to give effect to the recommendations of the Parliamentary Committee proposed to be constituted.

131 Eighteenth Report (Fifth Lok Sabha) 74

The Committee are unhappy over the casual manner in which the Ministry of Home Affairs had dealt with the communication of the

Government have noted the observations of the Committee for future guidance *vide*

Ministry of Home Affairs O.M. No. 16016/
3/76-S.R. dt. 22-3-1976.

Committee sent in August, 1974. Had the Ministry explained the position in their reply to the said communication of the Committee, there would have been no need to take the oral evidence of the representatives of the Ministry in this case. The Committee desire the Ministry to note for future guidance that the replies given are complete in all respects so that the time of the Committee is not unnecessarily wasted.

132 Eighteenth Report (Fifth Lok Sabha) 82

The Committee are not satisfied with the explanation of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs), for the delays of 5 years and 9 months in framing the Companies (Preservation and Disposal of Records) Rules, 1966, and the Companies (Public Trustees) Rules, 1973, respectively. They cannot help expressing regret over the casual manner in which the Department had proceeded in these 2 cases. In the former case, the rules were not framed through oversight for 4 years and in the latter case, necessary action was initiated 3 years after the commencement of the amending Act. The Committee are surprised how the executive could be indifferent for years to matters to regulate which they had obtained specific sanction of Parliament by getting the principal Act amended. The Committee desire the Department of Company Affairs to take care to see that such cases of inordinate delay do not recur.

Government have noted the observations of the Committee for future guidance *vide* Ministry of Law, Justice and Company Affairs (Department of Company Affairs) 7/8/77-CL-V dt. 8/12-7-1977.

133 Eighteenth Report (Fifth Lok Sabha) 89

The Committee regret to note that the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have taken more than five years to frame the two sets of rules viz., (1) the M.R.T.P. Commission (Conditions of Service of Director of Investigation) Rules, and (2) the M.R.T.P. Commission (Conditions of Service of Registrar/Deputy/Assistant Registrars) Rules. In the opinion of the Committee, the time taken by Government in framing these rules is too long, even allowing for the fact that various other Government agencies had to be consulted. The Committee note in this connection that

necessary action to frame one of the two sets of rules in question—the M.R.T.P. Commission (Conditions of Service of Director of Investigation) Rules, 1975, was initiated more than two years after the Act had come into force. The Committee need hardly emphasise that the Ministries/Departments should initiate necessary action to frame rules, regulations, etc., immediately after an Act comes into force.

134 Eighteenth Report
(Fifth Lok Sabha)
101

Government have noted the observations of the Committee for future guidance *vide* Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) O.M. No. 8(6) 76-I.C. dt. 6-4-1976.

The Committee note that the power to make rules was conferred on Government in May, 1964, by the Advocates (Amendment) Act, 1964. They are surprised why the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) did not explain the factual position in their reply to the communication of the Committee sent in August, 1974. The Committee like the Ministry of Law to be more careful while sending replies to the communications of the Committee in future.

135 Eighteenth Report
(Fifth Lok Sabha)
102

The Committee observe that the Ministry had taken a period of more than one and a half years in framing the Admission as Advocates (Exemption from Training and Examination) Rules, 1965, and a period of nearly four years in framing the Admission as Advocates (Training and Examination) Rules, 1968. The time taken by the Ministry in framing the two sets of rules was far in excess of the time prescribed by the Committee for the purpose. The Committee will like the Ministry to take care to see that the time-limit laid down by the Committee in this regard is strictly adhered to in future.

136 Eighteenth Report
(Fifth Lok Sabha)
114

Government have noted the observations for their guidance and drawn attention of all the State Governments /Administration for their compliance *vide* Ministry of Agriculture and Irrigation (Department of Food) O.M. No. 3 (Genl.) (11/76) D&R (I) dt. 28-2-1976.

The Committee are not satisfied with the explanation of the Ministry of Agriculture and Irrigation (Department of Food) that the Wheat (Price Control) Order, 1974, was issued at very short notice and there was no time to consult the State Governments concerned about the minimum ranks of officers of these Governments who might be authorised to exercise the powers of search and seizure. The Committee note that the Order in question has since been rescinded by Government on 31-3-1975 and no further action is called for in so far as this particular case is concerned. They, however, desire that the Ministry of Agriculture and Irrigation should, while issuing such 'Orders' in

future, bear in mind the recommendation of the Committee regarding specifying minimum rank of officers who might be authorised to conduct searches/seizures made in para 15 of their Fifth Report (Third Lok Sabha) and reiterated several times in their subsequent Reports.

While the Committee agree that the broad criteria on the basis of which categorisation is to be done are given in paragraphs 5(2) and (3), there is scope for the Chairman-cum-Managing Director using his discretion under paragraph 5(4) of the General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974. The Committee are of the opinion that if an employee feels aggrieved by the decision of the Chairman-cum-Managing Director, it will meet the ends of natural justice if he is given an opportunity to represent against that decision and ask for its review in the light of the facts stated in his representation. The Committee desire the Ministry of Finance (Department of Revenue and Insurance) to take early steps to amend the Scheme accordingly.

The Committee are not satisfied with the reply of the Ministry of Home Affairs. It is apparent from the reply that the Ministry is labouring under an impression that publication of explanatory memorandum in regard to retrospective operation of rules does away with the necessity of a specific provision in the Act empowering the Government to give retrospective effect to the Rules framed thereunder. This impression of the Ministry is not correct.

The Committee will like to make it clear that the purpose of an explanatory note is not to provide legal authority for giving retrospective effect, where it does not exist. The Committee have made this recommendation to ascertain that retrospective effect is given only in unavoidable circumstances and that nobody is adversely affected as a result thereof.

The General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974, has since been amended suitably (See S.O. 4466 of 1976, dt. 27-11-1976).

(i) The Salaries and Allowances of Ministers Act, 1952 has since been amended vide Act No. 37 of 1977 so as to validate all rules framed under the Act with retrospective effect before the commencement of Act 37 of 1977, though the Central Government had no power to make such rules retrospectively.

(ii) The Department of Parliamentary Affairs have circulated the recommendations to all Ministries/Departments for information and compliance *vide* their O.M. No. 32 (4)/76-R&C dt. 29-5-1976.

137 Eighteenth Report
(Fifth Lok Sabha)
118

138 Nineteenth Report
(Fifth Lok Sabha)
9-11

139 Nineteenth Report
(Fifth Lok Sabha)
9

In para 49 of their Seventh Report (Fourth Lok Sabha), the Committee had drawn the attention of the Ministry of Home Affairs to the observation of the Attorney-General that no subordinate legislation can have any retrospective effect unless the Act under which it is framed itself empowers such legislation to be operative retrospectively. As, according to the Ministry of Home Affairs own admission, the Salaries and Allowances of Ministers Act, 1952, does not confer a specific power on the Government to give retrospective effect to the rules to be framed thereunder, the Committee feel that retrospective effect to the Rules in question had been given without due legal authority.

140 Nineteenth Report
(Fifth Lok Sabha)
10

The Committee, therefore, desire the Ministry of Home Affairs either to give prospective effect to the Rules or alternatively to incorporate a provision in the Act which may empower the Government to give retrospective effect to the Rules.

141 Nineteenth Report
(Fifth Lok Sabha)
11

The Committee further desire that the above observations of the Committee should also be brought to the notice of all Ministries/Departments so as to make it clear that retrospective effect to subordinate legislation cannot be given without an express authorisation therefore in the parent Act, and that the purpose of appending an explanatory memorandum to subordinate legislation is not to provide legal authority for retrospective effect but to apprise the public of the circumstances in which retrospective effect has been given.

142 Nineteenth Report
(Fifth Lok Sabha)
14

The Committee are not satisfied with the reply given by the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) that beyond laying down the broad principles in sub-rules (2) and (3) of Rule 9 of the National Cooperative Development Corporation Rules, 1975 for determining the salary and allowances of the Managing Director, it is neither practicable nor advisable to incorporate in the Rules the precise terms about the actual pay scales, allowances, pension, etc., as these would necessarily vary according to the status, experience and seniority of the person holding the post. The Committee note in this connection that the broad principles contained in Rule 9 *ibid* pertain only to such matters as leave,

The National Cooperative Development Corporation Rules, 1975 have been amended vide G.S.R. No. 1499 dt. 23-10-1976 providing the pay scale etc. of the Managing Director of the Corporation (Ministry of Civil Supplies and Cooperation O.M. No. L. 12011/5/76-ACMP dt. 6-4-1977).

salary, gratuity etc. and not the scale of pay and other conditions of service. Section 22(a)(c) of the National Co-operative Development Corporation Act, 1962 envisages framing of Rules to govern the conditions of Service and the scale of pay of the Managing Director. The Rules however, leave it to the Central Government to fix any salary in their discretion. In view of the express provision of the Act, this amounts to unauthorised delegation of powers.

143 Nineteenth Report
(Fifth Lok Sabha)

15

The Committee feel that in case the Ministry experience any difficulty in specifying the salary of the Managing Director in the rules, they should get the power to fix the salary through an amendment of the Act. The Committee desire the Ministry either to amend the Rules so as to specify the salary therein or get the Act amended suitably.

144 Nineteenth Report
(Fifth Lok Sabha)

20

The Committee note the circumstances in which retrospective effect had been given to the Indian Coinage Rules, 1974. They also note the assurance give by the Ministry of Finance (Department of Economic Affairs) that to obviate recurrence of such cases in future, they would publish the Gazette Notifications before the date on which they become effective or otherwise the notification would be published in the Gazette Extraordinary. However, in view of the legal position that no subordinate legislation can have retrospective effect without a specific authority for it in the parent Act, the retrospective effect in this case, *albeit* unintended, was without due authority of law. The Committee, therefore, desire that to regularise the retrospective effect already given in this case, the Ministry should either amend the Indian Coinage Act so as to incorporate a provision therein empowering the Government to give retrospective effect to the Rules made thereunder or give effect to the rules in question from the date of their publication in the Official Gazette.

The Ministry of Finance (Department of Economic Affairs) have amended the Indian Coinage Rules so as to bring them into effect from the date of their publication in the Official Gazette. *vide* their Notification No. 1/17/76-Coin dated 22-5-1976.

145 Nineteenth Report
(Fifth Lok Sabha)
24

The Committee are not satisfied with the reply given by the Ministry of Works and Housing for not issuing fresh notice for meeting adjourned under Rule 3(6) or 6(5) of the Central Board for the Prevention and Control of Water Pollution (Procedure for transaction of Business) Rules, 1975. They feel that a fresh notice is necessary to enable the absentee members to attend the meeting at which the business of the adjourned meeting is proposed to be transacted. The Ministry have admitted in their reply that a fresh notice should be given if there is sufficient time gap between the meeting and the adjourned date. The Committee desire the Ministry to amend Rules 3(6) and 6(5) *ibid* to provide for a fresh notice in cases where the meeting is adjourned from one day to another. In case, however, meeting is adjourned from day to day, provision should be made for fresh notice to the local members either on telephone or through special messenger.

The Ministry of Works and Housing have issued necessary amendment to the Central Board for the Prevention and Control of Water Pollution (Procedure for transaction of Business) Rules, 1975 (*vide* G.S.R. 1489 published in the Gazette of India Part II Section 3(1) dt. 16-10-76 [Ministry of Works and Housing O.M. No. Q-15015/16/74-EPC dt. 3-11-76].

146 Nineteenth Report
(Fifth Lok Sabha)
27

The Committee are not convinced by the reply given by the Ministry of Works and Housing. They feel that a provision seeking to protect the proceedings of a meeting for which procedure regarding notice has not been followed should more appropriately be incorporated in the Act and not in Subordinate Legislation. The Committee desire the Ministry to delete Rule 3(7).

147 Nineteenth Report
(Fifth Lok Sabha)
40

The Committee are not convinced by the reply of the Department of Culture that the power to make rule 19 of the Victoria Memorial Rules providing for tickets for admission to the Museum is derived from Section 5(2)(d) of the Victoria Memorial Act. They observe that section 5(2)(d) only empowers the Central Government to make rules for providing the conditions under which the public shall have access to the Museum. In the opinion of the Committee, imposition of ticket is not merely a condition for entry into the Museum but a sort of a fee involving financial burden. Such a financial burden should be specifically authorised by the Act. The Committee desire the Department to amend the Act so as to incorporate a specific provision therein empowering the Government to impose ticket for entry into the Museum.

The Department of Culture has decided to amend the Victoria Memorial Act, 1903 suitably so that the power for levying fee on the visitors to the Museum are derived direct from the Act and not from the Rules [Department of culture O.M. No. 13-5-76 CAI (5) (part) dt. 18-4-1977].

148 Nineteenth Report
(Fifth Lok Sabha)
69

The Committee note with satisfaction that the Ministry of Shipping and Transport (Transport Wing) have agreed to amend Rule 8 of (i). The Board of Trustees of the Port of Bombay (Procedure at Board Meetings) Rules, 1975; (ii) The Board of Trustees of the Port of Calcutta (Procedure at Board Meetings) Rules, 1975; and (iii) The Board of Trustees of the Port of Madras (Procedure at Board Meetings) Rules, 1975 so as to provide for intimation of the date of adjournment of a meeting to absentee members in cases where the President announced at the meeting itself the date to which the meeting was adjourned. The Committee desire the Ministry to issue the necessary amendments at an early date.

149 Nineteenth Report
(Fifth Lok Sabha)
97

The Committee note that the Ministries of Shipping and Transport (Transport Wing), Labour and Commerce have regretted their lapse in not giving particulars regarding publication of draft rules in the preamble to the final rules. The Committee also note the reply of the Ministry of Defence that the requisite information is being given by them since July, 1972. The Committee desire these Ministries to be careful about such matters in future.

150 Nineteenth Report
(Fifth Lok Sabha)
98

The Committee reiterate their recommendations made in para 28 of their First Report (Fourth Lok Sabha), para 49 of their Fifth Report (Fifth Lok Sabha) and para 33 of their Eighth Report (Fifth Lok Sabha) that adequate opportunity should be given to the public to go through the draft rules and offer their comments. To ensure this, the particulars about (i) the date of the Gazette in which the draft rules were published; (ii) the date on which the Gazette copies containing the draft rules were made available to the public; and (iii) the last date fixed for receipt of public comments thereon, should invariably be given in the preamble to the final rules/bye-laws.

151 Nineteenth Report
(Fifth Lok Sabha)
99

The Committee also desire the Ministries/Departments to allow, to be on the safe side, 45 days instead of 30 days as at present the date of publication of Gazette for inviting comments/ob-

The Ministry of Shipping and Transport (Transport Wing) have issued necessary amendments to the Rules *vide* G.S.R. Nos. 1480-1481 published in the Gazette of India dated the 16th October, 1976 and G.S.R. 925-E published in the Gazette of India dated the 16th December, 1976.

(i) The Department of Parliamentary Affairs have circulated the recommendations to all Ministries/Departments for information and compliance *vide* their O.M. No. 32(4)/76-R&C dt 29-5-1976.

(ii) The Ministry of Labour have circulated the observations made by the Committee to the Sections concerned in the Ministry for future guidance [Ministry of Labour O.M. No. H. 11013/5/76 P.U. dt. 11-5-1976].

jections from the public as generally there is a time-lag between the date of a publication of a Gazette and the date on which its copies are made available to the public.

152 Twentieth Report
(Fifth Lok Sabha)
19

The Ministry of Health & Family Welfare have deleted the provision regarding seizure from the rules *vide* G.S.R. No. 1387 dt. 15-10-77.

The Committee note that the Ministry of Law, Justice and Company Affairs have admitted that the power of seizure was a substantial power, which should more appropriately flow from the parent Act. As the Medical Termination of Pregnancy Act, 1971, under which the Medical Termination of Pregnancy Rules, 1975, have been framed, does not contain an express provision conferring the power of seizure on the Chief Medical Officer, the Committee desire that either the Act should be amended so as to expressly confer the power of seizure on the Chief Medical Officer, or in the alternative, the provision for seizure should be omitted from the rules.

153 Twentieth Report
(Fifth Lok Sabha)
35

The Committee note with satisfaction that on being pointed out, the Ministry of Works and Housing have agreed to amend Rule 9 (5) of the Water (Prevention and Control of Pollution) Rules, 1975, so as to provide therein a time-limit within which the cases in which payments have been withheld would be placed before the Central Board. The Committee desire the Ministry to issue the amendment at an early date.

The Ministry of Works & Housing have amended the rules suitably *vide* G.S.R. No. 352 dt. 6-3-76.

154 Twentieth Report
(Fifth Lok Sabha)
42

The Committee note with satisfaction that, on being pointed out the Ministry of Works and Housing have agreed to amend Rule 12 of the Water (Prevention and Control of Pollution) Rules, 1975, to provide for giving of an opportunity of representation to the consulting engineer before his services are terminated under this Rule. They desire the Ministry to issue the necessary amendment at an early date.

The Ministry of Works and Housing have amended the rules suitably *vide* G.S.R. No. 352 dt. 6-3-76.

155 Twentieth Report
(Fifth Lok Sabha)
49

The Committee note the argument advanced by the Ministry of Agricultural and Irrigation (Department of Food) that if the rates of House Rent Allowance were prescribed in the Central Warehousing Corporation (Staff) Regulations, 1966, they would be subject to the provisions of the House Rent Allowance Regulation suitably *vide* S.O. No. 3159 dt. 15-10-77.

* Replies from the Ministries of Shipping and Transport (Transport Wing) and Commerce are awaited.

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would have to be amended every time there was a change in the House Rent Allowance. In the opinion of the Committee, the above argument advanced by the Ministry is and argument based merely on expediency. The Committee would like to draw the attention of the Ministry to Section 42(a) of the Wherehousing Corporation Act, 1962, which envisages the conditions of service and the remuneration payable to the Officers and other employees of the Corporation to be regulated through regulations. In view of this, the Committee desire that the rates of the House Rent Allowance should be laid down in the Regulations.

156 Twentieth Report
(Fifth Lok Sabha)
61

The Committee note that the Ministry of Health and Family Planning (Department of Health) have admitted in their reply that Rule 134A of the Drugs and Cosmetics Rules, 1945, was relatable to section 10 and Rule 144A, *ibid.*, was relatable to section 18 of Drugs and Cosmetics Act, 1940. As the subject-matter of these rules was not mentioned in the relevant rule-making power sections 12 and 33, the Committee feel that, in accordance with the recommendation of the Committee contained in paragraph 29 of their 14th Report (Fifth Lok Sabha), sections 10 and 18 should also have been cited in the preamble to the above Rules for facility of referencing. Unfortunately, the Ministry of Health and Family Planning (Department of Health) failed to do this. The Committee would like to stress their earlier recommendation made in para 29 of their Fourteenth Report (Fifth Lok Sabha) that either the rule-making power section should enumerate all matters on which rules have to be framed under various sections of the Act, or, in the alternative, the preamble to the rules should refer not only to the rule-making power section but also to other sections of the Act which relate to the subject-matter of the rules framed thereunder.

The Ministry of Health and Family Welfare (Department of Health) have noted the recommendation of the Committee for compliance in future. (*vide* O. M. No. H-11013/6/76-D & MS Dt. 22-3-77).

157 Twentieth Report
(Fifth Lok Sabha)
71

The Committee are not satisfied with the explanation of the Ministry of Finance (Department of Expenditure) that the requisite explanatory memorandum was added to the Supplementary

(1) The Ministry of Finance (Department of Expenditure) have noted the recommendation of the Committee for

(Second Amendment) Rules, 1972, while sending them to the Press, but it was not printed along with the rules in the Gazette. The Committee need hardly re-emphasise their earlier recommendation made in para 36 of their Fourth Report (Fifth Lok Sabha) that the responsibility of Ministry/Department does not cease with their sending an 'Order' to the Press. After an 'Order' has been published in the Gazette, the Ministry/Department concerned should take immediate steps to examine whether it has been correctly printed, and if necessary, to issue a corrigendum thereto.

158 Twentieth Report (Fifth Lok Sabha) 74

The Committee note that the explanation of the Ministry of Finance (Department of Revenue, and Banking) for not appending the requisite explanatory memorandum to the Income-tax (Third Amendment) Rules, 1975, is that 'section 295(1) of the Income Tax Act, 1961, which empowers the Central Board of Direct Taxes to give retrospective effect to the rules to be framed thereunder also provides that, unless the contrary is permitted (whether expressly or by necessary implication no retrospective effect shall be given to any rule so as to prejudicially affect the interests of the assessors. In the opinion of the Committee, the above provision of the Income-tax Act, which they consider as a salutary one, does not take away the need for appending the requisite explanatory memorandum to the rules, when retrospective effect is given. They would in this connection like to make it clear that the purpose underlying the appending of the explanatory memorandum is not only to assure the public that no one is likely to be adversely affected as a result of retrospective effect being given to the rules but also to apprise them of the circumstances in which the retrospective effect has become necessary. The Committee, therefore, desire that explanatory memorandum should be appended in all cases where retrospective effect is given to the rules, irrespective of whether the parent Act contains a provision on the lines contained in section 295 (4) of the Income-tax Act. The Committee also desire the Department of Parliamentary Affairs to bring this recommendation of the Committee to the notice of all the Ministries/Departments of Government of India for guidance and strict compliance in future.

compliance in future. (vide O. M. No. F. 12 (49)—E (coord) 76 Dt. 17-1-77.

(ii) The Department of the Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries Departments for information & compliance vide their O.M. No. F.32(1)76 R & C dt. 31-1-77.

(i) The Department of Revenue and Banking (Revenue Wing) have noted the recommendation of the Committee for guidance & compliance in future. vide O. M. No. F.155(27)/76-TPL Dt. 22-11-56.

(ii) The Department of Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries / Departments for information & compliance vide their O.M. No. F.32(1) 76-R & C dt. 31-1-77.

159 Twentieth Report
(Fifth Lok Sabha)
77

The Committee note that the 'Rules' referred to in the entry under column 13 of the Schedule to the National Test House, Calcutta and Bombay Assistant Director (Admn.) (Grades I & II) Recruitment Rules, 1975, are the 'Union Public Service Commission (Exemption from Consultation) Regulations, 1958'. The Committee desire the Ministry of Supply and Rehabilitation (Department of Supply) to amend the entry under column 13 so as to specifically mention these Regulations. The Committee further desire that if, while framing sub-ordinate legislation, the Ministries/Departments find it necessary to refer to other rules, they should invariably mention the precise names of such rules, so that the public are not kept aguessing as to the identity of the rules to which a reference has been made.

(i) The Department of Supply have amended column 13 of the Schedule to the rule suitably *vide* G.S.R. No. 765 dt. 18-6-77.

(ii) The Department of Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries /Departments for information and compliance *vide* their O.M. No. F. 32(1)/76-R&C dt. 31-1-77.

160 Twentieth Report
(Fifth Lok Sabha)
82

The Committee are not happy over the casual manner in which the Ministry of Education and Social Welfare (Department of Education) had acted in this case. Although the National Fitness Corps Directorate (Class I and Class II Posts) Recruitment Rules were framed by the Ministry in 1964, these were notified only in 1972—after a time-lapse of nearly 8 years.

The Ministry of Education and Social Welfare (Department of Education) have noted the recommendations of the Committee for future guidance and compliance (*vide* O.M.No. F. 23-10-73-NSI (3)—NFC Dt. 12-1-77).

In the meantime, the matters were apparently regulated by executive orders. The Ministry have ascribed the delay in the notification of the rules to the impending winding up of the National Fitness Corps Directorate, but ironically the rules were notified only shortly before the Directorate was wound up, and even when the notification was issued, the Ministry did not take care to see whether the rules, which had been framed 8 years back, took note of the changed conditions. The Committee feel that this was a case of gross carelessness.

161 Twentieth Report
(Fifth Lok Sabha)
83

In the opinion of the Committee, the proper course for the Ministry of Education and Social Welfare (Department of Education) was to notify the rules after these had been approved by the U.P.S.C. and to modify or annual them, as and when the necessity arose. This unfortunately was not done. The Committee trust that the Ministry of Education and Social Welfare will take care to avoid such lapses in future.

- 162 Twentieth Report
 (Fifth Lok Sabha)
 98
- The Committee regret to note that in spite of their repeated recommendations, short titles were not given to the 14 'Orders' mentioned in Appendix IV. As the 'Orders' in question were issued as early as 1971-72, the Committee feel that no purpose will be served by issuing the amendments at this stage for giving short titles to these 'Orders'. They would, however, like the Department of Parliamentary Affairs to re-emphasise on all the Ministries/Departments of Government of India the need of invariably giving short titles to rules, whether principal or amending, for facility of reference and tracing by all concerned.
- 163 Twentieth Report
 (Fifth Lok Sabha)
 109
- The Committee note the assurance given by the Ministry of Law that in case of ordinary revisions, the Election Commission will in no case fix a period of less than 15 days for lodging a claim for inclusion of a name in the electoral roll or lodging an objection to an entry therein. The Committee desire the Ministry of Law to amend the rules at an early date for placing this assurance on a statutory footing.
- 164 Twentieth Report
 (Fifth Lok Sabha)
 110
- As regards special revisions, the Committee are not convinced by the argument advanced by the Ministry of Law that fixation of a minimum period for a lodging claims and objections would better the statutory discretion vested in the Election Commission by Section 21(3) of a Representation of the People Act, 1950, which empowers the Commission, for reasons to be recorded in writing, to direct at any time a special revision of an electoral roll "in such manner as it may think fit". In the opinion of the Committee, the discretionary power vested in the Commission by section 21(3) cannot be construed to empower the Commission to deny to a citizen an opportunity of lodging claims and objections.
- 165 Twentieth Report
 (Fifth Lok Sabha)
 111
- A distinction has been sought to be made between the power of Government to provide for (ordinary) revision "in the prescribed manner" under section 21(1) of the Representation of the People Act, 1950, and the power of the Election Commission to direct a special revision "in such manner as it may think fit" under section 21(3) of the said Act. The Committee would like to point out that both the powers are delegated powers, and their exercise by the delegates should not only be in consonance

The Ministries/Departments concerned have noted the recommendations of the Committee for compliance in future and the Department of Parliamentary Affairs have also circulated the recommendation of the Committee to all Ministries/Departments for information and compliance *vide* their O.M. No. F. 32 (1)/76-R&C dt. 31-1-77

The Ministry of Law, Justice and Company Affairs (Legislative Department) have amended rule 12 of the Registration of Electors Rules by providing that every objection to electoral an entry in the roll shall be lodged within a period of thirty days from the date of publication of all roll in draft under rule 10, or such shorter period of *not less than 15 days as may be fixed by the Election Commission in this behalf.*

As regards special revisions of electoral roll under oral Section 21 (3) of the Representation of the People Act, 1950, the Election Commission has assured that period of lodging claims and objections will *in no case be fixed for a period of less than 7 days* while ordering special revision of the electoral rolls.

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with the objects of the parent law but should also conform to the principles of natural justice. The Committee note that in one case, the Election Commission have reduced the period allowed for lodging claims and objections to just one day. In the opinion of the Committee, this has not been a proper exercise of the delegated power by the Election Commission. The Committee desire that in case of the special revisions under section 21(3) of the Representation of the People Act, 1950, the period allowed for lodging claims and objections should not be less than 7 days.

MINUTES

IV
MINUTES OF THE EIGHTY-THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA) (1975-76)

The Committee met on Monday, the 15th September, 1975 from 11.00 to 12.00 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri R. N. Barman
3. Smt. Premalabai Dajisaheb Chavan
4. Shri K. Chikkalingaiah
5. Smt. Marjorie Godfrey
6. Shri Md. Jamilurrahman
7. Shri Dinesh Joarder
8. Shri Ram Singh Bhai
9. Shri M. S. Sanjeevi Rao
10. Shri M. Satyanarayan Rao
11. Shri Tayyab Hussain
12. Shri Shiv Shankar Prasad Singh

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 326 to 332 on the following subjects:—

S. No.	Memo. No.	Subject
1	2	3
*		*
4.	329	Implementation of recommendations contained in paras 75 and 78 of Fourteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) in connection with the Tyres and Tubes (Price Control) Order, 1973.
	*	*

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

* * * * *

- (iv) Implementation of recommendations contained in paras 75 and 78 of Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) in connection with the Tyres and Tubes (Price Control) Order, 1973 (Memorandum No. 329).

The Committee considered the above Memorandum and decided to hear oral evidence of the representatives of the Ministry of Industrial Development in the matter.

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The Committee adjourned to meet again on Monday, the 6th October, 1975.

**MINUTES OF THE HUNDRED THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA) (1976-77)**

The Committee met on Friday, the 17th September, 1976 from 11.00 to 12.00 hours.

PRESENT

Shri C. M. Stephen—*Chairman.*

MEMBERS

2. Shri R. V. Bade
3. Shri R. N. Barman
4. Shri Ram Singh Bhai
5. Shri Annasaheb Gotkhinde
6. Shri Dinesh Joarder
7. Shri I. H. Khan
8. Shri H. M. Patel
9. Ch. Ram Prakash
10. Shri P. Ganga Reddy
11. Shri P. Ranganath Shenoy
12. Shri Satyendra Narayan Sinha
13. Shri Karan Singh Yadav

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered Memorandum Nos. 385 to 388, 223, 320 and 329 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
*	*	*
7.	329	Implementation of recommendations contained in paras 75 and 78 of Fourteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) in connection with the Tyres and Tubes (Price Control) Order, 1973.

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

* * * * *

(vii) Implementation of recommendations contained in paras 75 and 78 of Fourteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) in connection with the Tyres and Tubes (Price Control) Order, 1973 (Memorandum No. 329).

9. The Committee considered the above Memorandum for some time and endorsed the decision of the Committee of 1975-76 to hear the oral evidence of the representatives of the Ministry of Industrial Development in the matter.

The Committee then adjourned.

MINUTES OF THE HUNDRED AND SEVENTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)

(1976-77)

The Committee met on Tuesday, the 21st December, 1976, from 11.00 to 12.15 hours.

PRESENT

Shri C. M. Stephen—*Chairman*

MEMBERS

2. Shri R. V. Bade
3. Shri R. N. Barman
4. Shri Ram Singh Bhai
5. Shri Annasaheb Gotkhinde
6. Shri Dinesh Joarder
7. Shri I. H. Khan
8. Shri H. M. Patel
9. Ch. Ram Prakash
10. Shri P. Ganga Reddy
11. Shri S. A. Shamim
12. Shri P. Ranganath Shenoy
13. Shri Satyendra Narayan Sinha
14. Shri Karan Singh Yadav

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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Cases of evidence

(a) * * * * *

- (b) Implementation of recommendations contained in paras 75 and 78 of Fourteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) in connection with the Tyres and Tubes (Price Control) Order, 1973.

11. The Committee desired that the lists of Points regarding the above cases should be sent to the Ministries concerned for sending replies thereto. They also authorised the Chairman to decide whether, in the light of the replies received, it was still necessary to hear the oral evidence of the representatives of the Ministries concerned in regard to these cases.

The Committee then adjourned.

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

**MINUTES OF THE SEVENTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1977-78)**

The Committee met on Tuesday, the 29th November, 1977 from 16.00 to 16.45 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman.*

MEMBERS

2. Shri Bhagirath Bhanwar
3. Shri Durga Chand
4. Shri Ram Sewak Hazari
5. Shri K. T. Kosalram
6. Shri Trepan Singh Negi
7. Kumari Maniben Vallabhbhai Patel

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 43 to 52 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
*	*	*
8.	50	Implementation of recommendations made in paras 23-24 of Eighteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) regarding delay in exercise of rule-making power under the Prevention of Cruelty to Animals Act, 1960.
*	*	*

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

* * * * *

(vii) Implementation of recommendations made in paras 23-24 of Eighteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) regarding delay in exercise of rule-making power under the Prevention of Cruelty to Animals Act, 1960. (Memorandum No. 50).

15. The Committee considered the above Memorandum and decided to hear oral evidence of the Ministry of Agriculture & Irrigation (Department of Agriculture) regarding delay in framing rules in respect of the matters specified in clauses (c), (g), (h), (i) & (k) of sub-section (2) of Section 38 of the Prevention of Cruelty to Animals Act, 1960.

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The Committee then adjourned.

**MINUTES OF THE ELEVENTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1977-78)**

The Committee met on Saturday, the 28th January, 1978 from 11.00 hours to 13.30 hours.

PRESENT

Shri Somnath Chatterjee—Chairman

MEMBERS

2. Shri Bhagirath Bhanwar
 3. Shri Somjibhai Damor
 4. Shri Durga Chand
 5. Shri Santoshrao Gode
 6. Chaudhary Hari Ram Makkasar Godara
 7. Shri Tarun Gogoi
 8. Shri Ram Sewak Hazari
 9. Shri K. T. Kosalram
 10. Shri N. Sreekantan Nair
 11. Shri Trepan Singh Negi
 12. Shri Saeed Murtaza
- I. * * * * *
- II. **Representatives of the Ministry of Industry (Department of Industrial Development).**
1. Shri G. V. Ramakrishna, Additional Secretary.
 2. Shri I. Mahadevan, Joint Secretary.
 3. Shri Yogesh Chandra, Director.
 4. Shri I. N. Murthy, Chief Controller of Explosives, Nagpur.
- III. **Representatives of the Ministry of Agriculture and Irrigation (Department of Agriculture).**
1. Shri G. V. K. Rao, Secretary.
 2. Smt. Anna R. Malhotra, Additional Secretary.
 3. Shri B. B. Kapur, Deputy Secretary.

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

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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The Tyres and Tubes (Price Control) Order, 1973

12. The Committee then heard oral evidence of the representatives of the Ministry of Industry (Department of Industrial Development) regarding implementation of recommendations contained in para 75 of the Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) in connection with the Tyres and Tubes (Price Control) Order, 1973 (Memo. No. 76).

13. Explaining the background for not mentioning the prevailing prices of tyres and tubes as on the 20th November, 1973 in the 'Order' which froze the prices on that day, the representative of the Ministry stated that in 1955, the Tariff Commission went into the tyre prices, examined costs of production and recommended certain standard norms for pricing of tyres. The prices indicated by the Tariff Commission were accepted and were made applicable till 1957. After this, there was an understanding with the tyre industry that they would not bring about any price increase without prior consultation with the Government. Between 1957 and 1966, price increases were agreed to by Government on seven occasions. On each of the seven occasions, the price increases agreed to by Government were lower than those asked for by the industry. In 1973, the tyre industry again approached Government for an increase in the prices of tyres, Government expressed the view that there should be no price increase and that small increases in cost should be absorbed by the industry. The last meeting with the industry on the matter was held on 20-11-73. On 26-11-73, the industry informed the Government, unilaterally, that they were unable to absorb the cost increases and, therefore, they would increase the prices. Government had to act quickly and on 29-11-73 they issued an order freezing the prices as on 20-11-73. This order covered three types of tyres and tubes—truck tyres and tubes, rear tractor tyres & tubes and off-the-road tyres & tubes. In these three categories, there were as many as hundred sizes and varieties of tyres and tubes. In the circumstances, it would have taken time to collect information about the Prevailing Price lists available with the various dealers for different sizes of tyres and tubes covered by the control order. At the same time, it was felt that these price lists were known to the tyre manufacturers and it was an order more to the tyre manufacturers to see that they did not put up prices beyond the level prevailing on 20-11-73.

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

14. The representative of the Ministry further submitted that the matter had since been reviewed, and the recommendation of the Committee that in similar situations, wherever possible, prices should be appended to the Price Control Order, was acceptable to Government.

15. In reply to a question whether Government could not have published an addendum to the order within a reasonable time setting out the prices prevailing as on 20-11-73 so that the consumers could know the precise prices they had to pay, the representative of the Ministry stated that at that time Government thought that the order would serve the purpose and it was adequate. It was not issued with a sense of inadequacy which had to be made up in the next few days.

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(The witnesses then withdrew).

Delay in exercise of rule-making power under the Prevention of Cruelty to Animal Act, 1960.

27. The Committee then examined the representative of the Ministry of Agriculture & Irrigation (Department of Agriculture) regarding delay in exercise of rule-making power under the Prevention of Cruelty to Animals Act, 1960 (Memo. No. 78).

28. Explaining the reasons for delay in framing rules under Section 38 of Prevention of Cruelty to Animals Act, 1960, the representative of the Ministry stated that they had to consult the Animal Welfare Board and then notify the rules in draft form for public comments. The Law Ministry had also to be consulted at every state and after this, these were sent to the Official Languages Commission for Hindi translation. The witness admitted that there had been some delay in the matter but pleaded that it was a State subject and they had to carry the State Governments with them in respect of the implementation of the rules. Consultations had also to be made with the Animal Welfare Board at every stage. The Board met once in three to four months; and the Ministry could not hustle them. Like-wise, the Official Languages Commission, who had to push through number of legislations, had their own orders of priorities.

29. As regards the latest position, the Witness stated that the Transport of Animals Rules and the Draft Application of Fines Rules had already been notified in April and October, 1977 respectively, for eliciting public opinion. The subject of 'Overcrowding of Animals' was covered by the Transport of Animals Rules.

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30. The Draft Registration of Cattle Premises Rules were waiting for Hindi translation. Thereafter, they would be notified for eliciting public opinion. In reply to a question, the witness stated that these rules would be finalised within a maximum period of six months.

31. Regarding Capturing of Animals Rules, the witness stated that it was not only a technical matter but a matter requiring a lot of practical experience. One difficulty was regarding the appliances which had to be used for capturing animals without causing undue or unnecessary pain. Certain clarifications sought from the Animal Welfare Board had been received and the matter referred to the Ministry of Law.

32. When asked how long it would take to finalise the rules, the representative of the Ministry stated that it was difficult to specify the time-limit but the period could be reduced by personal contacts with other Ministries|Departments.

33. The Committee desired the Ministry to send a note regarding the time taken at each stage in finalising the rules. The representative of the Ministry promised to furnish the requisite information.

(The witnesses then withdrew).

The Committee then adjourned.

**MINUTES OF THE THIRTEENTH SITTING OF THE COM-
MITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1977-78)**

The Committee met on Wednesday, the 1st March, 1978 from 15.30 to 16.15 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Bhagirath Bhanwar
3. Shri Somjibhai Damor
4. Shri Durga Chand
5. Shri Santoshrao Gode
6. Chaudhary Hari Ram Makkasar Godara
7. Shri Trepan Singh Negi
8. Kumari Maniben Vallabhbhai Patel
9. Shri Sachindralal Singha

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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4. The Committee considered Memoranda Nos. 89 to 95 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
*	*	*
*	*	*
6.	94	Implementation of recommendation contained in para 28 of the Seventeenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha)

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

(1)

(2)

(3)

regarding the Compensation Tribunal Order, 1974
(G.S.R. 149-E of 1974).

7. 95 Implementation of recommendation contained in para 100 of the Seventeenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Border Security Force Rules, 1969 (S.O. 2336 of 1969)—(Para 45 of First Report—Fifth Lok Sabha).

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(vi) Implementation of recommendations contained in para 28 of the Seventeenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Compensation Tribunal Order, 1974 (G.S.R. 149-E of 1974). (Memorandum No. 94).

10. The Committee considered the above Memorandum and were of the view that as the Defence of India Rules dealt primarily with emergency, it was necessary that there should be widest publication of the same. The Committee desired that all statutory orders, issued under the Defence of India Rules since 1st January, 1975 and which were still in force, should be laid before Parliament at an early date. The Committee also desired that a list of all such orders which have been revoked may be furnished for their information.

(vii) Implementation of recommendations contained in para 100 of the Seventeenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Border Security Force Rules, 1969 (S.O. 2336 of 1969) para 45 of First Report (Fifth Lok Sabha) (Memorandum No. 95).

11. The Committee considered the above Memorandum and noted the assurance of the Ministry of Home Affairs that they would issue executive instructions for implementing the recommendations of the Committee while constituting a Court of Inquiry, as far as possible under the circumstances. The Committee hoped that the recommendations made by them in para 100 of their Seventeenth Report (Fifth Lok Sabha) would normally be implemented save in extraordinary circumstances.

The Committee then adjourned.

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

**MINUTES OF THE FOURTEENTH SITTING OF THE COM-
MITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1977-78)**

The Committee met on Tuesday, the 14th March, 1978 from 15.00 to 15.45 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman.*

MEMBERS

2. Shri Somjibhai Damor
3. Shri Durga Chand
4. Shri Santoshrao Gode
5. Chaudhary Hari Ram Makkasar Godara
6. Shri Ram Sewak Hazari
7. Shri P. Rajagopal Naidu
8. Shri Trepan Singh Negi
9. Kumari Maniben Vallabhbbhai Patel

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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4. The Committee considered Memoranda Nos. 96 to 102 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)

* * * * *

(v)	101	Implementation of recommendations contained in paras 69—71 of the Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Delhi Development Authority (Issued and Management of Bonds) Regulations, 1970 (S.O. 1135 of 1972).
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*Omitted portions of the Minutes are not covered by this Report.

1	2	3
(vii)	102	Implementation of recommendation contained in para 8 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding Conduct of Elections (Amendment) Rules, 1974 (S.O. 286-E of 1974).
		* * * * *
	(vi)	Implementation of recommendations contained in paras 69—71 of the Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Delhi Development Authority (Issue and Management of Bonds) Regulations, 1970 (S.O. 1135 of 1972)—(Memorandum No. 101).

10. The Committee considered the above Memorandum and decided to agree with the suggestion of the Ministry of Works and Housing that the Central Government might themselves frame the Delhi Development Authority (Issue and Management of Bonds) Rules under Section 56(2) (mm) of the Delhi Development Act, 1957, and publish them in the Gazette. The Committee desired the Ministry to frame and notify the said rules in the Gazette at a very early date.

(vii) Implementation of recommendation contained in para 8 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Conduct of Elections (Amendment) Rules, 1974 (S.O. 286-E of 1974)—(Memorandum No. 102).

11. The Committee considered the above Memorandum and noted that, in pursuance of the recommendation of the Committee on Subordinate Legislation made in para 8 of their Twentieth Report (Fifth Lok Sabha), Government had inserted a new section 132-A in the Representation of the People Act, 1951 by section 7 of the Representation of the People (Amendment) Ordinance, 1977. Subsequently, however, a decision had been taken by Government not to replace the Representation of the People (Amendment) Ordinance, 1977, by an Act of Parliament. The Ministry of Law had now stated that the recommendation of the Committee on Subordinate Legislation would be implemented when that Act was taken up for amendment *in due course*. The Committee decided to urge the Ministry of Law to take early action for the amendment of the Act to the necessary end.

The Committee then adjourned.

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

MINUTES OF THE SEVENTEENTH SITTING OF THE COM-
MITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1977-78)

The Committee met on Wednesday, the 19th April, 1978 from 15.30 to 16.05 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman.*

MEMBERS

2. Shri Bhagirath Bhanwar
3. Shri Durga Chand
4. Shri Santoshrao Gode
5. Chaudhary Hari Ram Makkasar Godara
6. Shri Ram Sewak Hazari
7. Shri Trepan Singh Negi
8. Kumari Maniben Vallabhbhai Patel
9. Shri Saeed Murtaza
10. Shri Sachindralal Singha

SECRETARIAT

Sfiri Y. Sahai—*Chief Legislative Committee Officer.*

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

3. The Committee authorised the Chairman and, in his absence, Kumari Maniben Vallabhbhai Patel to present the Eighth Report to the House on their behalf on the 26th April, 1978.

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The Committee then adjourned.