

COMMITTEE ON SUBORDINATE LEGISLATION

(TENTH LOK SABHA)

FIRST REPORT

**[Action taken by Government on the Recommendations/Observations
of the Committee]**

(Presented on 20 December, 1991)



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1991 / Agrahayana, 1913 (Saka)

Price: Rs. 10.00

CONTENTS

	PARA No.	PAGE No.
COMPOSITION OF THE COMMITTEE		(iii)
INTRODUCTION	1—4	(v)
REPORT	1—3	1

APPENDICES

I. Statement showing the action taken by Government on the recommendations of the Committee.....	3
II. Minutes of the sittings of the Committee.....	35

COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(1991-92)

1. Shri Somnath Chatterjee—*Chairman*
2. Shri E. Ahamed
3. Shri R. Dhanuskodi Athithan
4. Shri Chetan P.S. Chauhan
5. Shri Chhitubhai Gamit
6. Dr. K.D. Jeswani
7. Shri Ram Singh Kashwan
8. Shri Guman Mal Lodha
9. Shri Ram Niwas Mirdha
10. Shri Shravan Kumar Patel
11. Shri A. Venkata Reddy
12. Shri Mohan Singh
13. Shri Shivendra Bahadur Singh
14. Shri Tara Singh
15. Kumari Frida Topno

SECRETARIAT

1. Shri S.C. Gupta—*Joint Secretary*
2. Shri R.K. Chatterjee—*Deputy Secretary*
3. Shri Ram Kumar—*Assistant Director*

INTRODUCTION

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

2. This Report relates to the implementation of the recommendations of the Committee made in their Sixteenth Report (Fifth Lok Sabha); Twenty-first, Twenty-third and Twenty-sixth Reports (Seventh Lok Sabha); and Third, Fourth, Sixth, Thirteenth, Seventeenth, Nineteenth, Twenty-first and Twenty-fourth Reports (Eighth Lok Sabha).

3. The Committee considered and adopted this Report at their sitting held on 18 December, 1991.

4. The Minutes of the First and Second sittings of the Committee are appended to the Report.

NEW DELHI;
18 December, 1991

27 Agrahayana, 1913 (Saka)

SOMNATH CHATTERJEE
*Chairman,
Committee on Subordinate Legislation.*

REPORT

Under Direction 108(1) by the Speaker, the Ministries are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports and on the assurances given by the Ministries in the course of their correspondence with the Committee. With a view to ensure speedy implementation of their recommendations, the Committee, in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. If in any particular case it had not been possible to adhere to this time-limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendation. Still, the cases of delay continue to occur. As would be seen from the statement appended to this Report, it has taken the Government almost a period of 15 years in issuing a final notification pursuant to the Committee's recommendation made in respect of the Delhi School Education Rules, 1973. No amount of explanation can justify such unconscionable delays on the part of the Government. The Committee take a strong view of the unexplained and enormous delay on the part of the Government in the implementation of the recommendations of the Committee in a large number of cases.

2. In this context, the Committee cannot but reiterate their earlier recommendation made in paragraph 221 of their Twentieth Report (Seventh Lok Sabha) which is reproduced below:

"It is needless to point out that such long delays in implementing the recommendations of the Committee defeat the purpose... The Committee had, therefore, desired the Department of Parliamentary Affairs to impress upon all Ministries/Departments of the Government of India to adhere to the time-limit of six months fixed by them for implementing their recommendations. The Committee feel that, in fact, the Ministries should endeavour to implement their recommendations within a period of three months of the presentation of their Report as the period of six months fixed by the Committee is the maximum period within which the recommendations must be implemented."

3. It is expected that there will be due compliance with the above recommendation in future.

NEW DELHI;
18 December, 1991

SOMNATH CHATTERJEE,
Chairman,
Committee on Subordinate Legislation.

27 Agrahayana, 1913 (Saka)

APPENDIX I

Statement showing the action taken by Government on the recommendations of the Committee

S.No.	Reference to Para No. of Report and date of its presentation	Summary of Recommendation/ Observation	Gist of Government reply
(1)	(2)	(3)	(4)

The Delhi School Education Rules, 1973

(1)	Sixteenth Report (Fifth Lok Sabha) 9-5-1975 — 15	The Committee are not satisfied with the reply of the Ministry of Education and Social Welfare (Department of Education) that the instructions to be issued under the Rules by the Director of Education are of executive nature and need not be published or laid on the Table of Parliament. The Committee note that the Delhi School Education Act under which the Rules have been framed does not empower the Director of Education to issue instructions on any matter. The Act envisages rules to be framed on certain matters which, under the rules, are sought to be covered by instructions.	In accord with the recommendations of the Committee, rules 64, 69 (a), 77(3), 86, 100(c), 149(4) and 150(2) of the Delhi School Education Rules, 1973 have since been amended omitting the provisions which empowered the Director of Education to issue executive instructions <i>vide</i> the Delhi School Education (Amendment) Rules, 1990 [Published by the
(2)	16	The Committee desire the Ministry of Education and Social Welfare to delete all rules empowering the Director of	

(1)	(2)	(3)	(4)
		<p>Education to issue instructions. In case the Ministry consider it necessary to empower the Director to issue instructions on any matter, necessary amendment should be made in the Act. The Committee further desire that till such time as the act is amended, the matters sought to be covered by instructions should be provided for in the Rules which are published and are also required to be laid before Parliament.</p>	<p>Delhi Administration (Education Department) under Notification No. 1339/Act dated 23 February, 1990 in the Delhi Gazette, Part IV, dated 8 March, 1990]</p>

The Court Liquidator (Class I Posts) (High Court of Calcutta) Recruitment Rules, 1976

(3)	<p>Twenty-first Report (Seventh Lok Sabha) 9-12-83</p>	<p>The Committee observe that Rule 6 of the Court Liquidator (Class I Posts) (High Court of Calcutta) Recruitment Rules, 1976 referred to by the Ministry does not apply to direct recruitment under normal circumstances under the provisions of these Rules. The Committee further observe that the provisions, as they stand in column 13 of the Schedule to the Amendment Recruitment Rules, 1978, are apt to give an impression that consultation with the Union Public Service Commission is necessary only while making promotion and appointing an officer from the State Judicial Service and in no other case. The Committee, therefore, desire the Ministry to amend column 13 of the</p>	<p>The Court Liquidator (Class I Posts) (High Court of Calcutta) Recruitment Rules, 1976 have since been superseded by issue of fresh recruitment rules viz., the Court Liquidator (Group 'A' posts) (High Court of Calcutta) Recruitment Rules, 1989 (G.S.R. 722 dated 30 September, 1989). The corresponding provisions in column 14 of the Schedule to the new rules provide for consultation with UPSC</p>
-----	--	--	--

(1)	(2)	(3)	(4)
		Schedule appended to the Amendment Rules to provide for consultation with the Union Public Service Commission in the case of direct recruitment also.	while making direct recruitment and selecting an officer for appointment on deputation.
<i>The Shipping Development Fund Committee (Chief Accounts Officer and Cost Accounts Officer) Recruitment Rules, 1981</i>			
(4)	Twenty-third Report (Seventh Lok Sabha) 19-12-1983 27	The Committee note from the reply of the Ministry of Shipping and Transport that it would not be correct to presume that if the existing provisions in Column 13 of the Schedule are retained, the Shipping Development Fund Committee with the approval of the Central Government could make appointment to the post of the Chief Accounts Officer / Cost Accounts Officer in total disregard of the provisions of the Recruitment Rules.	
(5)	28	The Committee are inclined to feel that the existing provisions in Column 13 of the Schedule could more appropriately be incorporated in the main body of the Recruitment Rules as these confer a general power on the Committee to make appointment of personnel as may be necessary for the discharge of its functions and another suitable entry on the following lines could be thought of by the Ministry on the analogy of similar provisions in the recruitment rules of the Central Government employees relating to consultation with the Union Public Service Commission:—	The Shipping Development Fund Committee (Chief Accounts Officer and Cost Accounts Officer) Recruitment Rules, 1981 have accordingly been amended vide G.S.R. 1058 of 1985.

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

Appointment on each occasion shall be made with the previous approval of the Central Government.

The Committee, therefore, desire the Ministry of Shipping and Transport to amend the Recruitment Rules to the desired effect at an early date.

The Posts and Telegraphs Department/Tradesmen (Skilled and Semi-Skilled Recruitment Rules, 1979)

(6) 67

The Committee note from the reply of the Indian Posts and Telegraphs Department that the provisions are intended to meet the exigencies like re-organisation or delimitation of territorial jurisdiction of Circles necessitating transfer of staff from one recruiting unit to another. The Committee, however, feel that the provisions of Rule 4 are not precisely worded and may lead to unintended consequences. The Committee, therefore, desire the Ministry of Communications (P&T Board) to amend Rule 4 of the Posts and Telegraphs Department [Tradesmen (Skilled and Semi-Skilled)] Recruitment Rules, 1979 so as to substitute the words 'administrative reorganisation including delimitation of territorial jurisdiction of Circles' for 're-organisation or for any administrative reasons', with a view to render the rule free from ambiguity

Rule 4 of the Posts and Telegraphs Department [Tradesmen (Skilled and Semi-Skilled)] Recruitment Rules, 1979 has accordingly been amended *vide* GSR 225 of 1990.

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

The Defence Aeronautical Quality Assurance Service Rules, 1978

- | | | |
|---------|--|---|
| (7) 168 | <p>The Committee note that the Ministry of Defence have agreed to amend Rule 9 of the Defence Aeronautical Quality Assurance Service Rules, 1978, in consultation with the Department of Personnel and the Union Public Service Commission so as to provide for recording of reasons in writing while extending or curtailing the period of probation, and discharging or reverting a person to his substantive post. The Committee desire the Ministry to notify the amendment at any early date.</p> | <p>The Defence Aeronautical Quality Assurance Service Rules, 1979 have already been amended to the desired effect <i>vide</i> S.R.O. 292 of 1983.</p> |
|---------|--|---|

The Coast Guard Naviks (General Duty) Recruitment Rules, 1982

- | | | |
|--|---|--|
| <p>(8) Twenty-Sixth Report (Seventh Lok Sabha)
3-8-1984
13</p> | <p>The Committee find that no uniform norms have been laid down to determine the upper age limit of retired Defence/Police personnel for entry into the Coast Guard Service. As a consequence, the upper age could be any thing upto 55 years which is the retiring age for the Coast Guard personnel upto the rank of Commandant. The Committee feel that with the experience gained over the past few years, it should have been possible for the authorities to lay down the maximum limit of age upto which re-employment could be considered. The Committee, therefore, recom-</p> | <p>The Coast Guard Naviks (General Duty) Recruitment Rules, 1982 have since been amended to the desired effect <i>vide</i> S.R.O. 230 of 1985.</p> |
|--|---|--|

(1)	(2)	(3)	(4)
		<p>mend that the Ministry of Defence should take early steps to suitably amend the Coast Guard Naviks (General Duty) Recruitment Rules, 1982 so as to specify the precise upper age limit of the retired Defence/Police personnel for re-employment in the Coast Guard Service with a view to obviate any discrimination in this regard.</p>	

The Tea Board (Amendment) Bye-laws, 1981

- | | | | |
|------|----|--|---|
| (9) | 20 | <p>The Committee note that, on being pointed out, the Ministry of Commerce have agreed to introduce a new section in the Tea Act, 1953 so as to provide for laying of the Bye-laws framed thereunder before each House of Parliament. The Committee hope that the Ministry would bring forth the proposed amending legislation before Parliament at an early date.</p> | <p>A new sub-section (4) has accordingly been inserted in section 50 of the Tea Act, 1953 <i>vide</i> Item 38 of the Schedule to the Delegated Legislation Provisions (Amendment) Act, 1986 (Act No. 4 of 1986)</p> |
| (10) | 21 | <p>The Committee further note that the Ministry are taking action to amend the provisions in the Tea Board Bye-laws regarding the power to write-off losses. The Committee recommended that the Ministry should take early steps to omit the provisions of Bye-law 52</p> | <p>To impart validity to the provisions of Bye-law 52 of the Tea Board Bye-laws, 1955, a new section 28A regarding writing off of losses by the Tea Board has since</p> |

(1)	(2)	(3)	(4)
		regarding the power to write off losses as irrecoverable, which was without proper authorisation to that effect in the enabl- ..	been inserted in the Tea Act, 1953 and consequential amendment also made in sub-section (2) of

Committee on
Subordinate Legislation
1991

10th L.S.

No 1

(English)

P.L.

207

ction
lingly
d in
f the
s pro-
ing of
before
de the
egisla-
visions
d Act,
4 of

the Tea
has ac-
been
de GSR
6.

Ministry to please ...
ment expeditiously and to notify
it in the Gazette of India with-
out delay.

(1)	(2)	(3)	(4)
(13)	17	<p>The Committee note that, on the matter being pointed out by them, the Ministry of Commerce have agreed to amend the Tea Act, 1953 so as to remove an anomaly which had crept in regard to collection of duty due to divergent references in section 25 of the Tea Act and rule 33 of the Tea Rules. The Committee desire the Ministry to bring forward the amending legislation at an early date.</p>	<p>The Tea Customs Act, 1878 and the Land Customs Act, 1923 have been repealed <i>vide</i> section 160(1) of the Customs Act, 1962. Further, the tea cess was no longer collected through Customs Authorities. Hence, Rule 33 of the Tea Rules, 1954 has become obsolete and accordingly omitted <i>vide</i> GSR 1081 of 1986. [Ministry of Commerce O.M. No. K-11012(2)/77-Plant. A dated 16 April, 1986]</p>

The Department of Electronics (Departmental Competitive Examination for Recruitment to Stenographer Grade III) Regulations, 1984

(14)	60	<p>The Committee are gratified to note that on being pointed out by them, the Department of Electronics have agreed to amend Regulations 5 and 11 of the Department of Electronics (Departmental Competitive Examination for recruitment to Stenographer Grade III) Regulations, 1984, on the lines indicated in the recommendation as contained in para 18 of the</p>	<p>The Department of Electronics (Departmental Competitive Examination for Recruitment to Stenographer Grade III) Regulations, 1984 have since been superseded by the Department of Electronics</p>
------	----	--	---

(1)	(2)	(3)	(4)
		<p>Fourth Report (Third Lok Sabha) of the Committee on Subordinate Legislation so as to avoid any impression that the jurisdiction of the courts was being barred in any manner. The Committee desire the Department of Electronics to issue the necessary amendment to the Regulations at an early date.</p>	<p>(Stenographer Grade III Departmental Competitive Examination) Regulations, 1986 (G.S.R. 494 dated 28 June, 1986). Corresponding regulations 9 and 10 of the new Regulations of 1986 conform to the observations of the Committee made in this respect.</p>

The Banking Regulation (Co-operative Societies) Amendment Rules, 1983

<p>(15) Fourth Report (Eighth Lok Sabha) 18-12-1985 31</p>	<p>The Committee feel that the whole matter had been treated by the Ministry of Finance with an amount of laxity and no serious attention or importance had been paid to expedite the process of delegated legislation at each stage thereof. The plea that the staff of the Agricultural Credit Section in the Ministry was not conversant with the procedures and other minor details is not tenable and is not acceptable to the Committee.</p>	<p>The observations of the Committee have been noted by the Ministry of Finance (Department of Economic Affairs-Banking Division) vide their O.M. No. 8-7-85-AC dated 11 February, 1986.</p>
<p>(16) 32</p>	<p>The Committee desire the Ministry to take specific steps in future to avoid delays between the publication of draft rules</p>	<p>The Ministry of Finance (Department of Economic Affairs) have circu-</p>

(1)	(2)	(3)	(4)
		<p>and their final notification in the Gazette. In this connection, the Committee would like to draw attention of the Ministry to their earlier recommendation contained in paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha) presented to the House on 21 December, 1983 wherein the Committee had <i>inter alia</i> desired that in cases where no objection/suggestion on the draft rules were forthcoming the final rules should be published within a period of 3 months and in cases where a large number of objections/suggestions were received, the gap should not be more than 6 months. The Committee would also like to stress that these recommendations and guidelines should be observed by the Ministry scrupulously in all such cases with a view to minimise the gap between the publication of draft rules and their final notification.</p>	<p>lated the observations of the Committee to all officers and sections in the Banking Division etc. for future guidance and compliance <i>vide</i> their O.M. No. 8-7-85-AC dated 4 February, 1986.</p>

The Prevention of Food Adulteration (Amendment) Rules

- | | | |
|--|--|---|
| <p>(17) Sixth Report
(Eighth Lok
Sabha)
16-4-1986
65</p> | <p>The Committee are distressed to note that instances of delay in the final publication of Rules continue to occur in the Ministry of Health and Family Welfare inspite of their categorical assurance given to the Committee as far back as 1975 that the existing procedure regarding</p> | <p>(i) The observations of the Committee have since been circulated to the Ministry of Law (Legislative Department—Official</p> |
|--|--|---|

(1)	(2)	(3)	(4)
		<p>framing of subordinate legislation in their Ministry, would be streamlined in order to check such delays. On being pointed out that such delays could be eliminated by advance planning and coordination, the Ministry while regretting the delay have informed the Committee about the proposal to adopt corrective measures for the purpose, by maintaining a chart-board at the stage of drafting the notification itself and adopt a time Schedule at each stage of process. They also propose to have a monthly review of cases regarding framing of Subordinate Legislation.</p>	<p>Language Wing), Directorate of Printing and Ministries/Departments concerned with the finalisation of notification, for compliance.</p> <p>(ii) A Progress Chart to expedite Gazette Notifications has been prepared in the Ministry of Health and Family Welfare.</p> <p>(iii) The Ministry have stated that 'efforts will be made to reduce the time taken in finalisation of the notification to the extent possible'. [See Ministry of Health & Family Welfare O.M. No.H.11013/2/88 DMS&PFA dated 18 July, 1989.]</p>
(18)	66	<p>The Committee hope that with the adoption of the measures proposed for expedition in the</p>	<p>Same as against para 65</p>

(1)	(2)	(3)	(4)
		<p>matter of subordinate legislation and sincere efforts by the Ministry to programme a plan of action in the matter, the delays which had been persistent in the final notification of Rules would be reduced to the minimum, if not totally eliminated. In this connection, the Committee would like to reiterate their earlier recommendation made in paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983 that where a large number of objections/suggestions were received, the time gap between the notification of the draft rules and their final publication should not be more than six months. Where the objections/suggestions are few, efforts should be made to reduce this period further to the barest minimum without imparting the fruitfulness of subordinate legislation.</p>	
(19)	67	<p>The Committee observe that another factor for the delay, is the corrigendum to be issued to the Gazette copies of the Rules. The Committee feel that the Gazette copies of the Rules after its publication in the Gazette of India are not being checked properly. The Committee would like to stress that the responsibility of the administrative Ministry does not cease with sending the notifications of Rules, Orders etc. either in draft or final form to the Press</p>	<p>Same as against para 65.</p>

(1)	(2)	(3)	(4)
		<p>for publication. It is also their responsibility to examine the Gazette copies after its publication to see whether these are correctly published and take expeditious steps to issue corrigenda etc., if necessary. The Committee would like to impress upon all Ministries/Departments not to neglect or over-look this important aspect and ensure prompt action in this regard in all cases.</p>	
(20)	68	<p>The Committee further observe that in the case of First Amendment Rules under reference, the main reason for delay in the finalisation of Rules is attributed to the time consumed in referring and gross referring of the matter between the department dealing with the Agmark and Marketing Divisions. In such cases the Committee would like to observe that these delays could be reduced by having inter-departmental meetings of senior officers to sort out the matters across the table and come to definite conclusions speedily.</p>	<p>Same as against para 65</p>
(21)	69	<p>The Committee note that the Ministry of Urban Development took a little more time in making the Gazette copies available to the Public. The Ministry have conceded that this delay could have been reduced and are pleased that it was due to the time taken in printing, binding etc. The Committee would like to point out that the delay in making the Gazette copies of</p>	<p>Same as against para 65.</p>

(1)	(2)	(3)	(4)
		<p>draft rules available to public, adds to the delay in further processing of the Rules etc. and their publication in the final form. They desire the Ministry of Urban Development to take some suitable remedial steps in this direction for reducing such delays in future.</p>	
(22)	70	<p>The Committee observe that in the case of Prevention of Food Adulteration (Second Amendment) Rules under reference, the main reason for delay of about four and half months was due to Examination of the suggestions/objections received on the draft Rules. Taking note of the fact that rules related to sensitive matter of far reaching effect concerning the health of the public at large, the Committee would like to reiterate their observation made in para 68 above that the Ministry can expedite their decision by having inter-departmental meetings of senior officers for the purpose, instead of resorting to protracted correspondence on files. The point that Committee would like to emphasise is that such important matters as rules regarding adulteration of food stuffs which affect health should be dealt with by all concerned with deep sense of urgency as any delay would be detrimental to the very existence of millions of people of our Country.</p>	<p>Same as against para 65.</p>
(23)	76	<p><i>The Drugs and Cosmetics (First Amendment) Rules, 1984</i> The Committee regret to observe that it is a clear case of</p>	<p>The Ministry of Health and Family</p>

(1)	(2)	(3)	(4)
		<p>delay on the part of the Ministry of Health and Family Welfare in processing the subordinate legislation. They feel that no initiative has been shown by the Ministry for conclusive action at every stage in finalising the rules and undue time has been consumed by procedural delays. The Committee express their displeasure over the complacent attitude displayed by the Ministry.</p>	<p>Welfare have intimated in reply as under: ".....on the basis of the recommendations/observations made by the Committee this Ministry is already making all possible efforts to implement the assurance given during the evidence as referred to in para 79 of the Sixth Report of the Committee on Subordinate Legislation (8th Lok Sabha).</p>
(24) 77		<p>The Committee observe that much time has been taken in inter-departmental references and consultations. In this regard the Committee have already observed in para 68 of this report that in each cases the Ministry should sort out the matter across the table by holding meetings of senior officers and come to definite conclusions speedily instead of solving the issue by way of regular correspondence.</p>	<p>Matters concerning technical points of reference between the Ministry of Law and this Ministry are now being sorted out through personal contacts and discussions. Formal reminders are being issued to the Ministry of Law/ their O.L. Wing and also the Government of India Press, wherever references made to them overstep the time limit. To watch the progress of each</p>

(1)	(2)	(3)	(4)
			<p>notification a fortnightly/monthly review is being done at the level of Secretary (Health). All files containing notifications will now carry time-schedule charts to facilitate checks on procedural delays.</p>
(25) 78		<p>The Committee would like to reiterate their earlier recommendation contained in para 68 of their Twenty-Fourth Report (Seventh Lok Sabha), presented on 21 December, 1983 wherein they had emphasised the imperative need to reduce the time lag between the publication of the draft Rules and their final notification in the Gazette without impairing the fruitfulness of such piece of legislation.</p>	<p style="text-align: center;">** **</p> <p>Copy to DDC(I), with the request that the finalization of all notifications regarding amendments to Drugs and Cosmetics Rules may please be given top priority because delay in such cases is viewed very seriously by the Committee on Subordinate Legislation." [Ministry of Health and Family Welfare D.M. No. X.11013/8/81-DMS & PFA dated 27 June, 1986]</p>
(26) 79		<p>The Committee note the assurance given by the Ministry during their evidence, that in future they would function more cautiously and show greater initiative and expedition in the disposal of the cases of subordinate legislation. The Committee would like to watch the result of this assurance for some time.</p>	

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

The Forest (Conservation) Rules, 1981

- (27) Thirteenth Report (Eighth Lok Sabha) 20-4-1987 11
- There is no denying the fact that the Central Government did not exercise rule-making power conferred upon them under Section 41A of the Indian Forest Act, 1972 despite Committee's repeated exhortations for framing the rules as soon as possible after the commencement of the Act and in no case this period should exceed six months. Admittedly, the provisions of Section 41 were introduced through an amendment in 1937 with a view to confer power on the Central Government to provide for regulation of movement of timber or other forest-produce into or from the territories within the country and across the customs frontiers but the underlying purpose of the legislature in conferment of such a power was allowed to remain unfulfilled for half a century.

The Ministry of Environment and Forests have noted the observations made by the Committee *vide* their Office Memorandum No. 5-5/86-FC dated 13 January, 1988.

The Committee feel that with a view to obviate any arbitrary use of the discretion conferred upon the Chairman of the Advisory Committee under rule 3(2) of the Forest (Conservation) Rules, suitable guidelines may be evolved to serve as a guidance for the Chairman in the matter of fixing meetings outside Delhi.

Sub-rule (2) of rule 3 of the Forest (Conservation) Rules, 1981 has been amended to the necessary effect *vide* G.S.R. 14 of 1988.

(1)	(2)	(3)	(4)
(29) 23	<p>The Committee note from the reply that the Ministry of Environment and Forests have agreed to prescribe the contingencies under which papers can be circulated to the members of the Advisory Committee for eliciting opinion on any matter. The Committee desire the Ministry to take early steps to do the needful in this regard.</p>		<p>Sub-rule (4) of rule 3 of the Forest (Conservation) Rules, 1981 has been amended to the necessary effect <i>vide</i> G.S.R. 14 of 1988.</p>
(30) 41	<p>As per reply of the Ministry of Environment and Forests, some 91 cases involving diversion of very small areas of qualitatively poor forests were disposed of by Government without making reference to the Advisory Committee. During evidence, the representative of the Ministry stated that cases involving 2 acres of land were being disposed of by Government to obviate delays on that score. The Committee, however, find that no cases remained pending with the Advisory Committee which recommended the case either for approval or disapproval. Thus the contention of the Government in disposing of cases involving 2 acres of land directly to obviate delays is not fully borne out by the above facts. The Committee are of the opinion that when an Advisory Committee has already been constituted for the purpose, the Government should exercise self-restraint in the matter of disposing of any cases directly without making reference to the said Committee except for very exceptional and compelling reasons.</p>		<p>Sub-rule (1) of rules 5 of the Forest (Conservation) Rules, 1981 has been amended to the necessary effect <i>vide</i> G.S.R. 14 of 1988.</p>

(1)	(2)	(3)	(4)
<i>Air-India Employees' Provident Fund Regulations, 1954</i>			
(31)	Seventeenth Report (Eighth Lok Sabha) 9-12-1987 8	The Committee are not satisfied with the reasons advanced by the Ministry of Civil Aviation for not specifying in the regulation the purpose for which the funds in the 'Lapsed Accounts' can be utilised. The Committee are of the view that the term 'utilised for such objects as may be decided by the Board of Trustees' needs to be defined precisely. The Committee desire that the Ministry should clearly state the purpose for which the funds in Lapsed Account can be utilised and incorporate the same in the Regulation itself for information and guidance of all concerned.	Regulation 20 (3) of the Air India Employees' Provident Fund Regulations, 1954 has since been amended to the desired effect <i>vide</i> AIR INDIA Notification No. HQ/66-1, published in the Gazette of India, Part III, Section 4, dated 18 March, 1989.
<i>Air-India Employees' Service Regulations</i>			
(32)	83	The Committee are happy to note that on being pointed out by them, the Ministry are considering an amendment to the regulation which would entitle an employee to accumulate sick leave upto 120 days with full pay. The Committee, however, desire that the Ministry should also clearly define the term 'in special cases of serious and prolonged illness' so that it may not be interpreted differently by different persons.	Regulation 24 (ii) of the Air India Employees' Service Regulations has since been amended to the desired effect <i>vide</i> AIR INDIA Notification No. HQ/63-3, published in the Gazette of India, Part III, Section 4, dated 23 May, 1987.
(33)	87	The Committee desire that the quantum of compensation payable to the employees in the event of death or disablement caused to an employee by an accident while on duty or for	The Ministry of Civil Aviation and Tourism have prescribed the limits for insurance coverage and compensation

(1)	(2)	(3)	(4)
		<p>the loss or damage to the personal belongings while on duty may be prescribed after ascertaining the principles followed in this regard by other public undertakings such as Indian Airlines and Railways etc. The Committee would like to be apprised of the action taken in the matter at an early date.</p>	<p>to Air India employees which were revised in 1983 after agreements signed with the Flying Crew and Cabin Crew increasing the quantum of compensation payable in Air India.</p> <p>[Ministry of Civil Aviation & Tourism O.M. No. H. 11013/6/86-AA dated 11 July, 1989]</p>

The Calcium Carbide Rules, 1987

- (34) Nineteenth Report (Eighth Lok Sabha) 4-5-1988 12
- The Committee are happy to note that on being pointed out to them, the Ministry of Industry (Department of Industrial Development) have agreed to delete the proviso to rule 3 of the Calcium Carbide Rules, 1987 which confers discretionary powers on the Chief Controller of Explosives. The Committee desire that the Ministry should amend the Rule at an early date.
- Proviso to rule 3 of the Calcium Carbide Rules, 1987 has accordingly been omitted *vide* G.S.R. 109(E) of 1990.
- (35) 20
- The Committee are not convinced with the reply of the Ministry of Industry (Department of Industrial Development) that it is difficult for them to foresee all possible situations under which carbide may have to be imported by land or
- Rules 17 and 18 of the Calcium Carbide Rules, 1987 have been amended to the necessary effect *vide* G.S.R. 109(E) of 1990.

(1)	(2)	(3)	(4)
		<p>air. The Committee are of the view that on the basis of their past experience, Government should be in a position to spell out the conditions under which importation of carbide by land or air may be allowed. Similarly the restrictions, if any, imposed on imports by land or air need to be incorporated in the Rules so as to make them more informative. The Committee, therefore, desire that the phrase "under such conditions and restrictions" appearing in Rules 17 and 18 may be suitably amended.</p>	
(36)	24	<p>The Committee note from the reply of the Ministry of Industry (Department of Industrial Development) that the conditions under which transportation of carbide in receptacles capable of containing more than 100 kilogrammes can be permitted is contained in the proviso to rule 20 of the calcium Carbide Rules, 1987. The Committee are of the view that since the two provisos under rule 20 envisage transportation of carbide in receptacles of more than 100 kg. capacity only for charging into an acetylene generator, the wordings of the two provisos should be made very specific and unambiguous. The stipulation regarding transportation of carbide in larger receptacles can straightaway be included in the</p>	<p>Proviso to rule 20 of the Calcium Carbide Rules, 1987 has been recast so as to make it specific and unambiguous <i>vide</i> G.S.R. 109(E) of 1990.</p>

(1)	(2)	(3)	(4)
		rule itself. The Committee desire that necessary amendment to the rules may be carried out expeditiously.	
(37) 28		The Committee are not at all convinced with the reply of the Ministry of Industry (Department of Industrial Development) in the matter. They feel that under-staffing in the office of the Chief Controller of Explosives can hardly be a valid ground for not laying down the time-limit for granting licences to the applicants after completion of the requisites formalities. The Committee would like the Ministry of Industry (Department of Industrial Development) to take necessary remedial steps to amend the Calcium Carbide Rules to the desired effect at an early date.	A new sub-rule (2) to rule 30 of the Calcium Carbide Rules, 1987 has been added to provide for grant of licence within a period of three months from the date of the receipt of the duly completed documents <i>vide</i> GSR 109(E) of 1990.

IAS/IPS/IFS (Appointment by Competitive Examination) Regulations

(38) 41		The Committee note the amendments now proposed to be made by the Department of Personnel and Training to sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the IAS (Appointment by Competitive Examination) Regulations. The Committee approve of these amendments subject to the following modifications:—	Regulation 11 of the IAS/IPS/IFS (Appointment by Competitive Examination) Regulations has accordingly been amended <i>vide</i> G.S.R. 680/681/682 dated 16 September, 1989.
		(1) sub-regulation (i) of regulation 11 of the Indian Ad-	

(1)	(2)	(3)	(4)
		<p>ministrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'obtaining support for his candidature by any undesirable means including' be substituted to read as 'obtaining support for his candidature by the following methods'; and</p>	
		<p>(2) In sub-regulation (vi) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'resorting to any irregular or improper means' be substituted to read as 'resorting to the following means'.</p>	
(39) 42		<p>The Committee desire that the corresponding regulation in the IFS/IPS (Appointment by Competitive Examination) Regulations may also be amended accordingly.</p>	
<i>The Merchant Shipping (Continuous Discharge Certificate-) Rules</i>			
(40) 49		<p>The Committee are happy to note that the Ministry of Transport (Department of Surface Transport) are now convinced that the Merchant Shipping Act, 1958 did not contain any provision enabling the Ministry to levy fees, as contemplated under Rules 12(2) and 3(2) of the Merchant Shipping (Continuous Discharge Certificates) Rules. Thus the powers assumed under Rules of 1960 for</p>	<p>(i) Sub-rule (2) of rule 12 of the Merchant Shipping (Continuous Discharge Certificate) Rules, 1968 has accordingly been omitted <i>vide</i> G.S.R. 312 of 1990.</p> <p>(ii) Sub-rule (2) of rule 3 of the</p>

(1)	(2)	(3)	(4)
		levying a fee of Rs. 2 for issue of a CDC and those under Rules of 1978 for charging a fee of Rs. 4 for issue of a duplicate certificate are without any legal authority and are, therefore, unauthorised. Such infirmities in the rules cannot be allowed to continue any further. The Committee recommend that no fee for the issue of original certificate or a duplicate certificate should be levied until and unless necessary authorisation is obtained by means of an amendment to the Merchant Shipping Act, 1958. The Committee further recommend that the provisions in the relevant rules, under which a fee of Rs. 4 is being levied for the issue of a duplicate Continuous Discharge Certificate should be deleted forthwith.	Merchant Shipping (Continuous Discharge Certificate) Rules, 1960 has been amended to the necessary effect <i>vide</i> G.S.R. 312 of 1990. (iii) Consequent amendment also made in form I omitting the words and figures "on payment of Rs. 4" <i>vide</i> GSR 312 of 1990.
(41)	50	The Committee would like to be apprised of the action taken in this behalf within three months.	
<i>The Central Warehousing Corporation Rules</i>			
(42)	Twenty first Report (Eighth Lok Sabha) 17-3-89 12	The Committee note with satisfaction that on being pointed out by them, the Ministry of Food and Civil Supplies have agreed to suitably amend rules 12(a) and 17(3) of the Central Warehousing Corporation Rules, 1963 so that the language used in these rules does not give an impression that jurisdiction of courts of law is being	Sub-rule(9) of rule 12 and sub-rule (3) of rule 17 of the Central Warehousing Corporation Rules, 1963 had already been amended to the desired effect <i>vide</i> GSR 1196(E) dated 23 December, 1988.

(1)	(2)	(3)	(4)
			ousted. The Committee would like the Ministry to issue the requisite amendment at an early date.
(43)	19	The Committee are happy to note that on being pointed out to them, the Ministry of Food and Civil Supplies (Department of Food) have agreed to amend rules 36 and 37 of the Central Warehousing Corporation Rules, 1963 with a view to provide that at the time of service of a notice to a defaulting shareholder for payment and of call money or instalments, definite time limit would be specified to facilitate such payments. The Committee desire the Ministry to issue the necessary amendment at an early date.	Rules 36 and 37 of the Central Warehousing Corporation Rules, 1963 had already been amended to the desired effect <i>vide</i> GSR 1196(E) dated 23 December, 1988.
<i>The Central Warehousing Corporation (Staff) Regulations, 1986</i>			
(44)	23	The Committee note with satisfaction that at their instance the Ministry of Food & Civil Supplies (Department of Food) have agreed to lay down suitable guidelines for the guidance of the appointing authority for taking decision regarding extension of probation period. The Committee desire the Ministry to issue the requisite guidelines expeditiously.	The requisite guidelines have accordingly been issued by the Central Warehousing Corporation to the various appointing authorities. [Ministry of Food & Civil Supplies (Department of Food) O.M. No. F. 6-34/87-SG dated 21 August, 1990]
(45)	27	The Committee note from the reply furnished by the Ministry of Food and Civil Supplies (De	Clause (iv) of regulation 24 of the Central Ware-

(1)	(2)	(3)	(4)
		<p>partment of Food) that the Selection Committee records the reasons while making the recommendations for grant of advance increments under regulation 24. The Committee are of the view that the Ministry should have no difficulty in putting the existing practice on a statutory footing by amending the relevant Rules under reference.</p>	<p>housing Corporation (Staff) Regulations, 1986 has accordingly been amended to the necessary effect <i>vide</i> Notification No. CWC/DIV-4/Rectt. dated 21 December, 1990 (Published in the Gazette of India: Extraordinary Part III, Section 4, dated 21 December, 1990).</p>
(46)	31	<p>The Committee note that provisions contained in Regulation 56 are based on the lines of similar provision contained in Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The Committee however, find that following proviso indicated under Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 has not been included in the above Regulation:</p> <p>“Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case.”</p>	<p>The requisite proviso has accordingly been added to sub-regulation (iv) of regulation 56 of the Central Warehousing Corporation (Staff) Regulations, 1986 <i>vide</i> Notification No. CWC/XIV-4/Rectt. dated 21 December, 1990 (Published in the Gazette of India: Extraordinary, Part III-Section 4, dated 21 December, 1990).</p>

(1)	(2)	(3)	(4)
(47)	32	<p>The Committee desire that the Ministry of Food and Civil Supplies (Department of Food) may amend Regulation 56 at an early date so as to bring it in line with Rule 10 of the Central Civil Services . (Classification, Control and Appeal) Rules, 1965.</p>	

The Post Office Savings Bank General Rules, 1981

(48)	<p>Twenty-fourth Report (Eighth Lok Sabha) 9-5-1989 1.7</p>	<p>The Committee note that consequent upon discontinuance of mintage of 1, 2 and 3 paise coins by Government and the gradual withdrawal of these coins from circulation, instructions were issued by the Department of Economic Affairs that all financial transactions, whether public or private, should be in the multiples of 5 paise. The step to round off transactions to nearest five paise was taken to avoid any inconvenience to the public resulting from shortage of small coins in circulation due to discontinuance of their minting. Since the intention was not to legally enforce the requirement, financial transactions of private companies, individuals etc. continued to be in fractions of a rupee and not necessarily in multiples of 5 paise. This has given rise to cases where cheques etc. issued by companies and individuals for amounts containing fractions of a rupee have not been accepted by Post</p>	<p>The Reserve Bank of India has since issued instructions to all Banks in the matter of rounding off financial transactions to the nearest multiple of 5 paise. As a result of this, the Banks are already accepting cheques/drafts in fraction of 5 paise i.e. 31 paise, 32 paise etc. [Ministry of Finance (Department of Economic Affairs) O.M. No. 1/2/89—Coin. I dated 26 February, 1990]</p>
------	---	--	---

(1)	(2)	(3)	(4)
		<p>Offices resulting in avoidable inconvenience to general public. Instructions for rounding off of all financial transactions to the nearest five paise should therefore, be reviewed with a view to see how best these can be enforced.</p>	
(49)	1.12	<p>The Committee note that according to the rules as they stand a cheque is accepted as a mode of deposit in Post Office Savings Accounts. However, after the issue of an amendment on 2nd January, 1987 according to which deposits/withdrawals in Post Office Savings Account should be in multiples of 5 paise, the cheques for amounts containing fraction of a rupee are not being accepted by the Post Offices. This causes avoidable inconvenience and hardship to the depositors. The Committee appreciate the spirit behind the issue of instructions regarding rounding off of all financial transactions to the nearest 5 paise. However, these instructions can work smoothly only when they are enforced in all financial transactions including those of companies and private individuals etc. Therefore, till such time as private individuals and companies etc. do not adopt the practice of rounding off to the nearest 5 paise in their day to day transactions and continue to issue cheques</p>	<p>Sub-rule (7) of rule 5 of the Post Office Savings Account Rules, 1981 has since been amended to the necessary effect <i>vide</i> G.S.R. 695-E dated 17 July, 1989.</p>

(1)	(2)	(3)	(4)
		<p>for amounts containing fractions of a rupee, Post Offices will have to accept such cheques for deposits in the Savings Bank Accounts. The Committee are glad that at their intervention, the Department of Economic Affairs have agreed to amend the rules for accepting cheques even if such cheques are not in multiples of 5 paise. The Committee desire that the requisite amendment to the rules may be issued at an early date.</p>	
(50)	1.16	<p>The Committee note that under the Post Office Savings Bank General Rules, 1981, a 'Dividend Warrant' was not indicated as a mode of deposit and hence these warrants were not acceptable for deposit in the Savings Bank Account. After the matter was taken up by the Committee with the Department of Economic Affairs, it was stated that the question of accepting Dividend Warrants as a mode of deposit was under consideration of the Government. The Committee have now been informed that it has been decided that the dividend warrant will be accepted as a mode of deposit in the Post Office Savings Bank / Sub-Savings Bank. The Committee desire that all Post Offices in which savings accounts can be operated through cheques should be instructed to accept Dividend Warrants as a mode of deposit.</p>	<p>(i) Rule 5 of the Post Office Savings Bank General Rules, 1981 has since been amended to the desired effect <i>vide</i> G.S.R. 1000-E dated 8 November, 1989.</p> <p>(ii) Rule 5 of the Post Office Savings Account Rules, 1981 has also been amended to provide for acceptance of deposits not in multiple of 5 paise <i>vide</i> G.S.R. 695-E dated 17 July, 1989.</p>

(1)

(2)

(3)

(4)

Akin to Dividend Warrants are the 'Interest Warrants' and 'Refund Orders' issued by companies. The Committee desire that these instruments should also be accepted as mode of deposit, if these are not already covered under the Post Office Savings Bank General Rules, 1981.

The Committee would also like that instructions may simultaneously be issued to the effect that just like cheques, Dividend Warrants etc. will also be accepted even if they contain fractions of a rupee. The Committee may be apprised of the action taken in this behalf at an early date.

MINUTES

I

MINUTES OF THE FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1991-92)

The Committee met on Thursday, 5 December, 1991 from 15.30 to 16.15 hours.

PRESENT

Shri Somnath Chatterjee — *Chairman*

MEMBERS

2. Shri E. Ahmad
3. Shri R. Dhanuskodi Athithan
4. Shri Chetan P.S. Chauhan
5. Dr. K.D. Jeswani
6. Shri Ram Singh Kashwan
7. Shri A. Venkata Reddy
8. Shri Tara Singh
9. Kumari Frida Topno

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri R.K. Chatterjee — *Deputy Secretary*
3. Shri Ram Kumar — *Assistant Director*

2. The Chairman in his inaugural address (Annexure) welcomed the members of the Committee and explained to them broadly the scope and functions of the Committee.

• • •

The Committee then adjourned

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

ANNEXURE

[Vide para 2 of the Minutes]

INAUGURAL ADDRESS BY THE CHAIRMAN TO THE MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1991-92)

(5 December, 1991)

Hon'ble Members,

It is my pleasant duty to welcome you today to this first sitting of the newly constituted Committee on Subordinate Legislation. I extend my heartiest congratulations to all the hon'ble Members appointed on this Committee.

2. As you are aware, with the growing range and complexity of the governmental activity in a welfare State like ours, legislation is no longer a simple affair and the laws which are enacted necessarily relate to different subjects and matters which concern the citizens, even in their day to day lives. Hence, the legislation that has to be approved by the Legislature is today so vast and varied that it has become almost impossible for any body of legislators to deliberate upon, discuss and approve in minute detail the legislation that may be necessary for proper administration. Apart from the pressure on Parliamentary time, the factors like the technicality of the subject-matter, the need to meet unforeseen contingencies, the requirement of flexibility, etc. compel the sovereign Legislature to resort to delegation of legislative power to a subordinate authority. Parliament can at best, lay down the broad policy, and principles of an enactment, leaving the details to be worked out by the executive in the form of rules, regulations, bye-laws etc. within those parameters.

3. Delegation of legislative power, inevitable and indispensable as it is, has certain risks inherent in it. Often, Parliamentary statutes tend to become skeletal, containing only the barest principles. Sometimes, such delegated powers may be so wide as to subject the citizen to a harsh or unreasonable action by the administration or may be open to a restrictive construction limiting the rights of the intended beneficiaries. Or the powers may so loosely defined that the intended areas of operation may not be vividly known. As Members of this Committee, a responsibility is cast upon us to evolve suitable safeguards against all such risks.

4. As a safeguard against assumption of the arbitrary powers by the executive through the instrument of subordinate legislation, this Committee has consistently maintained that all rules, regulations, etc. framed in exercise of the authority conferred by Parliament, should necessarily be laid before the Houses of Parliament who should have the power to annul or modify them. To this end, the Committee had in 1971 approved the following standard formula for incorporation in all Acts/Bills providing for delegation of legislative power:

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

[Paras 33-34 Second Report (SLS)]

5. As hon'ble Members might be aware that, at the instance of the Committee, Parliament has already enacted two comprehensive pieces of legislation viz., the Delegated Legislation Provisions (Amendment) Act, 1983 and 1986 incorporating the requisite laying provisions in more than 140 old Acts which did not previously contain them. Whenever a new Bill is introduced in the Lok Sabha or transmitted from the Rajya Sabha, which contains provision regarding making of rules, it is examined by the Secretariat whether it includes suitable provisions for laying of such rules etc. if the delegate happens to be the Central Government or any other agency subordinate to it. Under Direction 103A, the hon'ble Speaker may also refer a Bill involving delegation of legislative power, to the Committee to examine the extent of power sought to be delegated. If the provisions of the Bill seeking to delegate legislative power are found to be not in order and need to be annulled wholly or in part or amended in any respect, the Committee may report that opinion and the grounds thereof to the House before the Bill is taken up for consideration. A special responsibility is thus cast upon the Members of this Committee to be ever watchful. If they find that any Bill seeks to make excessive or abnormal delegation of legislative power, they may raise the matter in the House or approach the hon'ble Speaker for referring it to this Committee.

6. Another important function of the Committee is "to scrutinise and report to the House whether the powers to make regulations, rules, sub-rules by-laws, etc. conferred by the Constitution or delegated by Parliament are being properly exercised within such delegation". The broad principles governing their examination are contained in Rule 320. The initial scrutiny of these rules etc. is carried out by the Lok Sabha Secretariat soon after these are published in the official Gazette, irrespective of whether these have been laid on the Table of the House or not. Important points are culled out and sent for eliciting comments of the administrative Ministry concerned. If any point or points are considered worth reporting to the Committee, self-contained memoranda are prepared

and, after approval of the Chairman, placed before the Committee. The procedure does not preclude the Members from examining the 'Orders' *suo motu* and making suggestions of their own. For this purpose, copies of all 'Orders' that are laid on the Table of the House are circulated to the Members of the Committee from time to time in convenient batches. Members might study these 'Orders' and bring to the notice of the Chairman or the Secretariat any cases where they feel the executive has gone beyond the powers delegated to it by the parent statute or overthrown the canons of natural justice or it causes unnecessary hardship, harassment or inconvenience to the public at large or where there may be any other infirmity in the Rules which requires to be considered by the Committee.

7. In its approach, the Committee is not content merely with the legality of the 'Order'. It aims far beyond for the ultimate goal of legislation (including subordinate legislation) is the maximum public good. As the general public consists mainly of laymen, it is considered imperative that the intention behind the subordinate legislation is expressed in simple language which can easily be understood by the common man without much difficulty. To achieve this objective, the Committee always upholds the need that the statutory 'Orders' should be precise, free from ambiguity and not cryptic, sketchy or skeletal. It further ensures that such legislation does not come in conflict with the general objects of the Constitution or the statute pursuant to which it is made.

8. Another important point which the Committee bears in mind is that the Government does not resort to issuing executive orders or administrative instructions to regulate the matters which should have been provided through the statutory rules. Once the need for issue of executive orders has arisen, it should be incumbent on the executive to frame rules, regulations, as the case may be, in accordance with the relevant statute. In this connection, the Committee has categorically observed that 'administrative instructions are no substitute for statutory rules because such instructions are not published in the Gazette and as such they do not come to the notice of the Committee to judge their fairness or otherwise'.

9. The root-cause of abuse of subordinate legislation lies in unfettered and unguided discretionary powers conferred upon the executive. Therefore, a primary duty of the Committee is to ensure that adequate built-in safeguards are provided against possible abuse of such powers. The committee has, in the past, made valuable recommendations to this end.

10. It is well known that the parties which are affected by a given set of rules are always in a better position to say how the rules work in actual operation. Like-wise, persons who have to deal with the working of rules in their professional capacity, such as lawyers, accountants, actuaries, etc. have some special knowledge that can be profitably made use of by the Committee. The Committee, therefore, welcome comments/suggestions from the non-official organisations in regard to the subject selected by them for examination.

11. Since its inception in December, 1953, the Committee has presented 128 Reports to the House covering a varied range of subjects. The Committee has been able to make a distinct impact on administration in that it has always to keep in mind the possible reactions of Parliament and the Committee while drafting a rule. Before I conclude, I would like to emphasize that the decisions of the Committee are unanimous and party considerations do not enter into its deliberations. Also, in the discharge of our duties in the Committee, we shall not be acting in hostility to the executive. Our aim is to implement the will of Parliament as expressed through its statutes and our efforts in this direction should be complementary to those of the executive. I am confident that the above traditions will be followed by the Members of the present Committee also.

12. Hon'ble Members, I look forward to you for your earnest co-operation and active participation in the proceedings of the Committee and for your valuable suggestions to make our collective efforts more effective and purposive.

Thank you.

II

MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1991-92)

The Committee met on wednesday, 18 December, 1991 from 1530 to 1600 hours.

PRESENT

Shri Somnath Chatterjee — *Chairman*

MEMBERS

2. Shri E. Ahmad
3. Shri Chetan P.S. Chauhan
4. Shri Chhitubhai Gamit
5. Dr. K.D. Jeswani
6. Shri Ram Niwas Mirdha
7. Shri Shravan Kumar Patel
8. Shri A. Venkata Reddy
9. Shri Shivendra Bahadur Singh

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri R.K. Chatterjee — *Deputy Secretary*
3. Shri Ram Kumar — *Assistant Director*

2. The Committee considered the draft First Report and adopted it.
3. The Committee authorised the Chairman and in his absence, Shri Shravan Kumar Patel, M.P. to present the Report to the House on 20 December, 1991.

• • •

The Committee then adjourned

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