

COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

TENTH REPORT

(Presented on 24 December, 1981)



**LOK SABHA SECRETARIAT
NEW DELHI**

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CORRIGENDA TO THE TENTH REPORT OF THE
 COMMITTEE ON SUBORDINATE LEGISLATION
 (SEVENTH LOK SABHA) PRESENTED TO THE
 HOUSE ON 24 DECEMBER, 1981

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION**

(1981-82)

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14. Shri Chandrashekhar Singh

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
2. Shri Ram Kishore—*Senior Legislative Committee Officer.*

REPORT

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this their Tenth Report.

2. The matters covered by this Report, were considered by the Committee at their sitting held on 14 December, 1981.

3. The Committee considered and adopted this Report at their sitting held on 23 December, 1981.

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

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

II

THE MILITARY LANDS AND CANTONMENTS SERVICE (CLASS I AND CLASS II) AMENDMENT RULES, 1980 (S.R.O. 16 OF 1980)

6. Proviso to sub-rule (b) of Rule 6 of the Military Lands and Cantonments Service (Class I and Class II) Rules, as substituted by S.R.O. 16 of 1980, read as under:—

“Provided that the upper age limit may be relaxed in respect of such categories of persons as may, from time to time, be notified in this behalf by the Government to the extent and subject to the conditions notified in respect of each category.”

7. The intention behind the above proviso was not clear. The matter was taken up with the Ministry of Defence who, in their reply dated 8 September, 1980, stated as under:—

“The intention of rule 6(b) is that the age concessions should be given to the Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Government from time to time. It does not envisage relaxation of age limit for persons other than Scheduled Castes and Scheduled Tribes and other special categories.”

8. The Committee note from the reply of the Ministry of Defence that the proviso to sub-rule (b) of Rule 6 of the Military Lands and Cantonments Service (Class I and Class II) Rules is intended to provide for age concessions to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Government from time to time in this behalf. The Committee, however, feel that the intention is not fully borne out by the proviso as worded. On a reference to the consolidated instructions issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) vide their O.M. No. 14017/24/76-Estt. (RR) dated 22 May, 1979 for facilitating the drafting of recruitment rules and amendments thereto, the Committee find that paragraph 3.16 of these instructions stipulates

for inclusion of a saving clause in the recruitment rules to read as under:—

“Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.”

The Committee feel that the Ministry should have no difficulty in amending the rules suitably on the lines of the aforesaid instructions with a view to bringing out the underlying intention clearly.

THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES COMMISSION, OFFICE OF THE REGISTRAR OF RESTRICTIVE TRADE AGREEMENTS (OFFICERS AND STAFF) RECRUITMENT AMENDMENT RULES, 1980 (G.S.R. 582 OF 1980)

9. Sub-rule (2) of Rule 1 of the Monopolies and Restrictive Trade Practices Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules, 1980, published in the Gazette of India dated 31 May, 1980, provided that they "shall be deemed to have come into force on 5th July, 1978".

10. The reasons for giving retrospective effect to these amending Rules from 5 July, 1978, were stated in an Explanatory Memorandum appended to the Rules, as under:—

"The Monopolies and Restrictive Trade Practices Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules, 1980, are being given retrospective effect from 5-7-1978. These Amendment Rules framed under the powers conferred by the proviso to article 309 of the Constitution were proposed to be notified along with another set of Rules viz. the Monopolies and Restrictive Trade Practices Commission (Recruitment of Members of Group 'C' and 'D' Staff of the Director of Investigation) Amendment Rules, 1978. Both the Notifications were sent together to the Government of India Press with the same covering letter under the same file number. It so happened that of the two Notifications the one relating to the Monopolies and Restrictive Trade Practices Commission (Recruitment of Members of Group 'C' and 'D' Staff of the Director of Investigation) Amendment Rules, 1978 was notified in the Gazette of India dated 5-7-1978 and the other relating to the Monopolies and Restrictive Trade Practices Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules was left out inadvertently by the Press presumably under the impression that it was a duplicate copy.

To bring these Rules at par with the other rules already published, these Rules are being given retrospective effect from 5-7-1978. The interests of no one would be prejudicially affected by the reason of the retrospective effect being given to the MRTP Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules, 1980."

11. As the reasons given in the Explanatory Memorandum for late publication of the notification, which necessitated giving of retrospective effect to these rules, were found to be deficient, the matter was taken up with the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) for further elucidation. In their reply dated 6 October, 1980, the Ministry indicated the chronology of events leading to the publication of the aforesaid rules in the Gazette of India on 31 May, 1980, as under:—

- (i) The M.R.T.P. Commission (Recruitment of Members of Group 'C' and 'D' Staff of the Director of Investigation) Amendment Rules, 1978, and the M.R.T.P. Commission, Office of the Registrar, Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules, 1978 were sent together to the Government of India Press along with Hindi Version of both with this Department's letter number A-12011/4/74-Adm. I, dated the 5th July, 1978.....
- (ii) Government of India Press by its letter No. L-17020/13/Ptg. 75/575 dated the 24th July, 1978 informed this Department that the Hindi Version of one of the two sets of rules had not been received. As the reference was given as A-12011/4/74-Adm. I (i) we presumed that the Hindi Version of the M.R.T.P. Commission (Recruitment of Members of Group 'C' and Group 'D' Staff of the Director of Investigation) Amendment Rules had not been received as this was indicated as number (i) in this Department's letter dated 5-7-1978.....
- (iii) The Department forwarded the same to the Press with its letter of even number dated 9-8-1978.
- (iv) The Government of India Press by its letter No. L/17020/13/Ptg./78/687 dated 26-8-78 informed the Department that the M.R.T.P. Commission (Recruitment of Members of Group 'C' and Group 'D' Staff of the Director of Investigation) Amendment Rules, 1978 were published on

19-8-1978. No mention was made by them about the other set of Recruitment Rules relating to the Office of the Registrar of Restrictive Trade Agreements.

- (v) The Department in its letter of even number dated 13-12-1978....drew the attention of the Government of India Press to the fact that two sets of recruitment rules had been sent together for publication in the Gazette and it was not clear whether the M.R.T.P. Commission, Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules had been published or not. The Press was requested to indicate the GSR Number and date of publication of the notification. Subsequently 3 reminders were issued to the Press on 7-4-79, 21-4-1979 and 17-5-1979.
- (vi) Instead of clarifying the position regarding publication of the rules referred to in the preceding paragraph the Press by its letter No. L-17020/13/Ptg./79/867 dated 21-5-1979 indicated G.S.R. No. and date of the Gazette in which the other set of rules was published on 19-8-1978. The matter was, therefore, once again taken up with the Manager of the Press demi-officially on 17-9-1979.
- (vii) As no reply was received from the Press, one of the Assistants of this Department was deputed to the Government of India Press, on 17-1-1980 and on enquiries made by him, he was told that the Press had received only one Notification with this Department's letter dated 5-7-1978, and the same was published on 19-8-1978. The Press officials claimed that the second Notification relating to the office of the Registrar of Restrictive Trade Agreements had not been received by them.

Thereafter the Department initiated action to get the recruitment rules published along with an Explanatory Memorandum in consultation with the Legislative Department. The rules were finally published along with Explanatory Memorandum on 31-5-1980."

12. The Committee note that on 5 July, 1978, the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) forwarded two notifications to the Government of India Press for publication in the official Gazette. However, only one notification was published in the Gazette. The Committee observe that this is illustrative of the mismanagement in the Government of India

Press. The Committee cannot but emphasize that the Press should take due care in handling the statutory notifications which have a direct bearing on the public at large.

13. However, the fact remains that the Department of Company Affairs also did not pursue the matter in right earnestness after they had written to the Press on 13 December, 1978 to enquire the fate of their second notification. It took the Department nearly two years to get the rules published in the Gazette. Had the Department exercised due vigilance and care, the error could have been detected and rectified much earlier and the period of retrospective effect could have been curtailed. The Committee expect the Ministries/Departments to take due care of important legislative matters at all stages.

14. The Committee cannot help reiterating their oft-repeated recommendation that the Ministries/Departments should not rest content with merely sending the notifications to the Press. Instead they should ensure that the notifications are duly published in the Gazette. The Committee desire the Department of Company Affairs to streamline their procedure in order that such a lapse does not recur in future.

IV

THE DRUGS AND COSMETICS (FIRST AMENDMENT) RULES, 1980 (G.S.R. 430 OF 1980)

15. Preamble to the Drugs and Cosmetics (First Amendment) Rules, 1980 (G.S.R. 430 of 1980) stated that the draft rules were published in the official Gazette on 23 September, 1978 and copies thereof were made available to the public on 7 October, 1978 inviting objections/suggestions thereon within a period of 90 days. The final rules were, however, notified in the Gazette on 19 April, 1980 after more than 15 months from the last date for receiving objections/suggestions from the public.

16. The Ministry of Health and Family Welfare were asked to explain the reasons for the enormous time taken in notifying the final rules. Attention was also invited to the following observations of the Committee on Subordinate Legislation made in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha):—

"The Committee note the assurance given by the Ministry of Health and Family Planning (Department of Health) that the existing procedure regarding final publication of amendments would be streamlined and that efforts would be made to finalise an amendment within, at the most, a period of one year from the date of its publication for comments in the Gazette. The Committee would like to watch the working of the new procedure. They would also like the Ministry of Health and Family Planning to consider whether the time-lag between the publication of draft rules and publication of the final rules cannot be further reduced."

17. In their reply dated 20 September, 1980, the Ministry stated as under:—

".....the draft rules published in the Gazette of India on 23-9-1978 were made available to public on 7th October, 1978 for comments/suggestions within 90 days. After receipt of comments/suggestions these were considered and examined, it was found that the comments received

regarding the scale of sampling of condoms, the distribution of the samples for performing various tests (like water leakage test, air inflation test, determination of tensile strength, elongation at break and tension set) and sampling plan of different batch sizes were divergent and needed clarifications. Accordingly, it became necessary to consider the comments received on the draft amendment in a meeting with large scale manufacturers of condoms in the country as the success of the Family Planning Programme depends to a great extent on the quality of condoms manufactured in the country.

A meeting could be convened by D.C.(I) with the representatives of large-scale condom manufacturers and the Director, C.I.P.L., Ghaziabad only on the 24th July, 1979 to reconsider the comments received and necessary changes were made in the relevant paras of the draft amendment to Schedule R.

After finalisation of the draft amendment, these were referred to Ministry of Law for vetting on 17-8-79. The draft rules as vetted by the Ministry of Law were received back from Ministry of Law on 28-9-1979 and then sent to the Official Language Commission on 4-10-1979 for Hindi translation. As the proposed amendment was a lengthy document and contained a number of technical words, the Hindi version of the draft notification was received from Official Language Commission on 6-12-1979. The vetted/translated Hindi version of the draft Notification was sent to D.C.(I) on 13-12-1979 for verification. D.C.(I) returned the papers after necessary checking on 22-1-1980.

It took time to get the final draft notification approved by the Minister of State for Health because new Government at the Centre took over in January, 1980 and the final amendment was issued on 2-4-1980 after its approval by the Minister of State for Health.

The notification in question was sent to Government of India Press on 2-4-1980 and was published in the Gazette of India, dated 19-4-1980. Extra Printed copies were received in this Ministry on 29-5-1980 and after authentication by Minister on 28-6-1980 the copies were sent to Lok Sabha Secretariat on 4-7-1980. It will thus be seen that

the delay in finalising the amendment has occurred due to unavoidable reasons. However, every effort will be made in future to finalise the amendments to the Drugs and Cosmetics Rules within the stipulated period of one year."

18. The Committee find that the process of finalisation of the amendment to the Drugs and Cosmetics Rules took over 15 months after the receipt of the public comments in the Ministry of Health and Family Welfare (Department of Health) despite their earlier assurance to the Committee to streamline the procedure so as to reduce this period to one year. The Ministry have, however, reassured the Committee to finalise the amendments within the stipulated period of one year in future. The Committee trust the Ministry will keep their assurance in future and reduce the time-lag between the publication of draft rules and final rules to the minimum.

THE PREVENTION OF FOOD ADULTERATION (SECOND AMENDMENT) RULES, 1980 (G.S.R. 243 OF 1980)

19. Draft rules further to amend to Prevention of Food Adulteration Rules, 1955, were published in the official Gazette dated 21 January, 1978 and copies of the said Gazette were also made available to the public on 21 January, 1978. The final rules were, however, notified in the Gazette on 1 March, 1980 after a period of more than 2 years.

20. The Ministry of Health and Family Welfare were requested to state the reasons for the inordinate delay in notifying the final rules. In their reply dated 16 October, 1980, the Ministry stated as follows:—

“.....the draft rules published in the Gazette of India Part II Section 3, Sub-section (i) under G.S.R. 118 was made available to the public on 21 January, 1978. The date for receipt of comments/suggestions was subsequently extended from 7 March, 1978 to 15 April, 1978. The suggestions/comments received were compiled and these were considered by a special Sub-Committee viz., Food Laws Implementation Sub-Committee, a Sub-Committee of the CCFS at its meeting held on 18 November, 1978. The final draft Notification prepared by D.G.H.S. on the basis of recommendations of the Sub-Committee was sent to the Department of Health on 23 January, 1979. The Draft as vetted by Ministry of Law was received by the Department of Health on 13 February, 1979 and referred to D.G.H.S. on 15 February, 1979 for the checking of technical terms. D.G.H.S. sent back the papers on 17 March, 1979 which were referred to Official Language Commission on 3 April, 1979 for Hindi translation of the draft notification after obtaining some further clarifications from the D.G.H.S. The Official Language Commission asked for a copy of the Prevention of Food Adulteration Rules which was supplied to the Commission and the Hindi version of the draft notification was received from the Official Language Commission on 22 May, 1979. The papers were then referred to D.G.H.S. for preparing a

comparative statement, indicating the original rules, amendment proposed and the reasons for amendment of P.F.A. Rules for the submission of the case to Health Minister for his approval. In the meantime, Joint Secretary appeared before the Committee on Government Assurances of the Rajya Sabha to clarify the position about the ban on the use of Saccharine in carbonated waters which was a subject matter of the Assurances given to a question in the Rajya Sabha; therefore, a decision on that Notification (final) was deferred till the minutes of the meeting of the Committee on Government Assurances of Rajya Sabha which was held on 9 October, 1979.

The proposed finalisation remained under active consideration of the Department of Health till its final publication. The notification contemplated a ban on the use of saccharine in foods. Its status in other countries and international organisations like WHO was also obtained. The matter was finally discussed by Director General of Indian Council of Medical Research and it was decided that since the study on saccharine are still underway at international level, *status-quo* may be maintained and no change be contemplated in the rules till the whole picture is clear after the result of final studies are known. The final notification after obtaining Hindi version was sent to the Government of India Press on 15 February, 1980, which was published in the Gazette of India on 1 March, 1980.

It will thus be seen that the delay in finalising the amendment to P.F.A. Rules has occurred due to various unavoidable reasons, which is very much regretted.

Moreover, all amendments to P.F.A. Rules when brought into force affects the manufacturer, the wholesaler, the retailer and, last but not the least, the consumers, i.e. the general public from all walks of life including the weaker sections of the population. The Rules have, therefore, to be framed with care and caution so as not to cause harm to any of the sections of the public enumerated above. However, the following steps are now being taken to finalise the amendments to Rules within the stipulated period of one year:—

- (i) All finalised amendments are now being issued in the Gazette of India, Extra-ordinary under the name of

Joint Secretary which ensures its publication immediately.

- (ii) Files relating to amendment of Rules will be put up with a tag indicating that the contents are time-bound in nature.
- (iii) Closer liaison will be maintained with DGHS and with the Official Language Commission to avoid delay."

21. The Committee note that the Ministry of Health and Family Welfare (Department of Health) have regretted the delay of nearly two years in finalisation of the amendment to the Prevention of Food Adulteration Rules after receipt of the comments from the public and have taken certain further remedial steps to keep such a gap to the minimum in future and in no case to allow it to extend beyond a period of one year as recommended by the Committee in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha). The Committee will like to watch the effectiveness of the new measures for some time. The Committee hope the Ministry will make earnest efforts to reduce the time-lag between publication of the draft rules and the final rules to the minimum.

VI

THE PETROLEUM (AMENDMENT) RULES, 1980

(G.S.R. 834 OF 1980)

22. Draft Rules further to amend the Petroleum Rules, 1976, were published in the official Gazette dated 4 February, 1978 and copies of the said Gazette were also made available to the public on 4 February, 1978. The final rules were notified in the Gazette on 9 August, 1980, i.e. after a period of more than two and a half years.

23. The Ministry of Industry (Department of Industrial Development) were requested to state the reasons for the inordinate delay in notifying the final rules. In their reply dated 27 December, 1980, the Ministry stated as follows:—

“Even though the Draft Rules had been published in the Gazette of India, G.S.R. No. 191, dated 4 February, 1978—copies of the Gazette carrying the Notification were not, regrettably, made available to the Chief Controller of Explosives. Action for preparing the final Notification could not, therefore, be taken immediately on the expiry of the time limit allowed. Further, some objections to the proposal had been received from the Calcutta Port Trust which also required examination.

Hence, there was delay in issuing of final Notification which is very much regretted.”

24. The Committee note that the Ministry of Industry (Department of Industrial Development) have expressed their regrets for the inordinate delay in finalisation of the Petroleum (Amendment) Rules, 1980. In this connection, the Committee reiterate their earlier recommendation made in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha) that efforts should be made to finalise an amendment within, at the most, a period of one year from the date of its publication for comments in the Gazette and the Ministry should consider whether the time-lag between the publication of draft rules and final rules can be further reduced. The Committee desire the Ministry to streamline the procedure and issue necessary instructions to all concerned stressing the need for avoiding delay in final issuance of statutory rules after their publication in draft form and expiry of the time-limit for receipt of comments thereon.

VII

THE KANDLA FREE TRADE ZONE (ADMINISTRATIVE OFFICER) RECRUITMENT RULES, 1980

(G.S.R. 518 OF 1980)

25. Column 14 of the Schedule to the Kandla Free Trade Zone (Administrative Officer) Recruitment Rules, 1980 (G.S.R. 518 of 1980) did not provide for consultation with the Union Public Service Commission while relaxing/amending any of the Provisions of the Rules with respect to any class or category of persons.

26. The matter was taken up with the Ministry of Commerce (Department of Commerce) who, in their reply dated 26 September, 1980, stated as under:—

“.....the provisions regarding relaxation of rules have been incorporated in para 5 of the notification. The words ‘and amending/relaxing any of the provisions of these rules’ occurring under column 14 of the Schedule of the notification were thus redundant and as such were expunged by the Ministry of Law, Justice and Company Affairs (Legislative Deptt.) while vetting these rules.”

27. In view of the fact that rule 5 of the Kandla Free Trade Zone (Administrative Officer) Recruitment Rules, 1980, already provides for consultation with the Union Public Service Commission while relaxing/amending any of the provisions of these rules, the Committee would not like to insist on the amendment of column 14 of the Schedule appended thereto.

VIII

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 32 OF THE FIRST REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE CENTRAL EXCISE (FOURTEENTH AMENDMENT) RULES, 1975 (G.S.R. 2511 OF 1976).

28. Rule 51 of the Central Excise Rules, 1944, as substituted by G.S.R. 2511 of 1976, *inter alia*, provides that unless specifically exempted by the Collector by order in writing, every manufacturer shall, as soon as practicable, after any excisable goods are packed and weighed in the factory or otherwise made ready for removal from the factory (i) mark on each wholesale package batch No. (Lot No.) etc. to which the goods pertain and (ii) deposit the goods in an approved store-room unless they are intended to be cleared on payment of duty, immediately after completion of manufacture.

29. As, in the absence of guidelines/criteria for grant of exemption from the purview of rule 51, different Collectors could act differently resulting in differential treatment of parties similarly placed in various areas, the Ministry of Finance (Department of Revenue) were asked whether any guidelines/criteria had been issued in the matter. The Ministry were also asked to state whether they had any objection to providing for recording of reasons in writing for grant of exemption by the Collector.

30. The Ministry of Finance (Department of Revenue and Banking), with whom the matter was taken up, stated as under:—

“.....no guidelines have been prescribed in the matter. However, the whole matter is being examined afresh in view of the many representations received.....the observations made in your letter referred to above will be kept in view while making modifications in the rule, if any.”

31. After considering the above reply of the Ministry, the Committee, in paragraph 32 of their First Report (Sixth Lok Sabha), observed as under:—

“The Committee note that the Ministry of Finance (Department of Revenue and Banking) are examining the whole

matter afresh in view of the many representations received in that regard. The Committee also note the assurance of the Ministry that the suggestions of the Committee in regard to (i) laying down of criteria/guidelines for grant of exemption from Rule 51, and (ii) recording of reasons in writing for granting exemption would be kept in view while making modifications in Rules, if any. The Committee desire the Ministry to amend the Rules on the suggested lines at an early date."

32. In their action-taken note dated 8 May, 1978, the Ministry of Finance (Department of Revenue) stated as under:—

"As desired by the Committee their recommendations have been examined and suitable guidelines are being issued to all Collectors of Central Excise so that a uniform practice with regard to grant of exemption from the provisions of rule 51 is followed in all the collectorates. In the said instructions it has also been stipulated that the Collectors while granting exemption from the provisions of rule 51 must record their reasons in writing in the said order conferring relaxation from observing the provisions of rule 51 of Central Excise Rules, 1944. A copy of the instructions is enclosed.*

In view of the said instructions, no amendment to rule 51 is now necessary."

33. The Ministry were again asked to state the difficulty in amending the Rules by incorporating therein the aforesaid guidelines for granting relaxation under Rule 51. In their reply dated 29 May, 1978 (received with their O.M. dated 18 March, 1980), the Ministry stated as under:—

"The Department was of the view that in view of the detailed instructions on the subject laying down the guidelines amendment to the rule was not necessary. However, if the Committee still desire the amendment should be carried out, the same shall be done."

34. The Committee desire the Ministry of Finance (Department of Revenue) to amend the Central Excise Rules on the lines already suggested by them in paragraph 32 of their First Report (Sixth Lok Sabha).

*See Appendix II.

IX

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 71 OF THE SEVENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE NATIONAL SAVINGS CERTIFICATES (V ISSUE) RULES, 1973 (G.S.R. 421-E OF 1973).

35. Rule 10 of the National Savings Certificates (V Issue) Rules, 1973, framed under Section 12 of the Government Savings Certificates Act, 1959, provides as under:—

“Irregular Holdings.—(1) Any certificate purchased or acquired in contravention of these rules shall be encashed by the holder as soon as the fact of the holding being in contravention of these rules, is discovered and no interest shall be paid on any holding in contravention of these rules.

(2) If any interest has been paid on any holding which is in contravention of these rules, it shall be forthwith refunded to the Government failing which the Government shall be entitled to recover the amount involved from any money payable by the Government to the investor or as an arrear of land revenue.”

36. It has not been indicated any where in the rules as to what could be the possible contravention of the aforesaid rules which might result in the holdings becoming irregular under Rule 10 and whether the holder would have to suffer even if the rules were contravened by the Department.

37. The Ministry of Finance (Department of Economic Affairs), with whom the above point was taken up, stated in their reply that the National Savings Certificates (V Issue) like other taxable securities were intended for individuals *vide* Rule 4. Contravention of this rule would result in the holdings becoming irregular, that is, to say if a purchase was made by an institution, a company or other body. The Ministry further stated that cases of contravention were being carefully examined and due care was taken that the holder did not suffer on account of any departmental contravention of the rules.

38. After considering the above reply, a further reference was made to the Ministry asking them to state—

- (i) The circumstances under which the certificates can be purchased by an institution, a company or other body particularly when rule 4 of the above rules lays down only 3 types of certificates and issue thereof to—
 - (a) an adult for himself or on behalf of a minor or to a minor;
 - (b) two adults payable to both holders jointly or to the survivor; and
 - (c) two adults payable to either of the holders or the survivor.
- (ii) whether the Ministry had any objection to making a provision in the rules that the holder of certificates will not suffer on account of any departmental contravention of the rules;
- (iii) whether departmental contravention cannot be prevented at the time of issue of certificates to individuals, so as to avoid its issue to a company, an institution or other body.

39. In their reply, the Ministry stated as under—

- “(i) The National Savings Certificates (V Issue) are issued inadvertently by the Post Office to Institutions etc. Such cases occur rarely, due to an element of human error.
- (ii) Even where these certificates are issued to institutions etc. because of lapse on the part of issuing post office, it cannot be said that the purchaser institution was not at all responsible in applying for the issue of the certificates. The rule clearly provides that such certificates are to be issued only to individuals (and not to institutions and bodies) and therefore there appears no point in making a provision in the rules that the investors in such certificates will not suffer on account of the contravention of the rules. Such individual cases are considered on merits and generally interest at P.O. Savings Bank rates is allowed as a special case.
- (iii) The D.G. P. & T. is being asked to issue a suitable circular bringing the particular provision of the rule specifically to the notice of post offices so that such contravention of rule 4 of the National Savings Certificates (V Issue) Rules, 1973, may be totally avoided.”

40. The Committee on Subordinate Legislation, after taking into consideration the view-point of the Ministry, made the following recommendation in paragraph 71 of their Seventh Report (Sixth Lok Sabha), presented to the House on 4 April, 1978:—

“The Committee note that the Ministry of Finance have conceded in their reply that there is a possibility of issue of certificates under the aforesaid Rules to institutions etc. by Post Offices due to an element of human error. The Committee further note that even though there is no statutory provision to this effect, cases of institutions etc. holding certificates are being considered on merit and generally interest at Post Office Savings Bank rates is also allowed to them. The Committee feel that in view of this practice being already there, the Ministry should have no difficulty in bringing it on a statutory footing.”

41. The Ministry of Finance (Department of Economic Affairs), in their action-taken note dated 27 May, 1978, replied as follows:—

“.....this Department have carefully examined the observations of the Committee to the effect that, since the practice of considering cases of irregular holdings on merits and allowing interest thereon at POSB rates was already there, the Ministry should have no difficulty in bringing it on a statutory footing. As already explained earlier in this Department's O.M. No. F. 13(14)—NS/74 dated 21-7-76, the practice followed in this regard is that each case of irregular holdings of National Savings Certificates (V Issue) is examined on merits and wherever it is found that the irregular investment in National Savings Certificates (V Issue) is attributable to genuine error on the part of the depositor and there is no evidence of malafide intention, interest at POSB rate is allowed with a view to avoiding hardship. At the same time it is to be noted that the postal staff are expected to scrutinise the applications properly before issuing the certificates to the applicants. If provision is made for payment of interest in all such cases in the statutory rules, it may lead to laxity on the part of the Departmental officials in examining the applications and ensuring compliance with the provisions of the rules and consequently the number of cases of irregular invest-

ments may go up. The depositors would also thereby be put to a loss, because if they are told *ab initio* that they are not eligible to invest in NSC (V Issue) they might invest in some other security which fetches a higher rate of interest than the POSB rate. The Government would, therefore, prefer to continue to deal with such cases on merits as hitherto and are not in favour of accepting the recommendations of the Committee referred to above."

42. On being asked to further elucidate their points, the Ministry of Finance (Department of Economic Affairs) clarified the position, in their reply dated 29 February, 1980, as under:—

"If the Departmental Officials, while examining the applications are alert and tell the intending depositors that they are not eligible to invest in National Savings Certificates (V Issue), such depositors may invest in some other permissible security which may yield a higher interest than that on Post Office Savings Bank account. Thus the depositors would also not be put to a loss. The inclusion of a provision in the rules for payment of interest at the POSB rate in all cases of ineligible investment may lead to some complacency and slackness on the part of the Departmental officials."

43. The Committee will like to make it clear that they did not want to interfere with the practice followed by the Ministry of Finance (Department of Economic Affairs) in paying interest at Post Office Savings Bank rates on irregular holdings of National Savings Certificates (V Issue) wherever it is found that the irregular investment is attributable to a genuine error on the part of depositor. The sole purpose of the Committee in asking the Ministry to incorporate the practice in the National Savings Certificates (V Issue) Rules had been to provide a legal sanction to the practice followed and to ensure that the power to pay interest was not put to any arbitrary use by the authorities concerned. The Committee did not also intend to make a provision in the rules for payment of interest at Post Office Savings Bank rates in all cases of ineligible investment. As such, the fear of developing complacency and slackness on the part of the Departmental officials or causing loss to the depositors is not tenable.

The Committee, therefore, reiterate their earlier recommendation made in paragraph 71 of the Seventh Report (Sixth Lok Sabha) and desire the Ministry to do the needful without further loss of time.

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 35 OF THE SEVENTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE INDIAN COINAGE RULES, 1975 (S.O. 1844 OF 1975).

44. The short title to the Indian Coinage Rules, 1975, did not contain any reference to the denomination and metallic composition of the coins covered by the rules.

45. In this connection, attention of the Ministry of Finance (Department of Economic Affairs) was invited to paragraph 206 of the Twelfth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) where the Ministry, in a similar case, had agreed to give a reference to the denomination and metallic composition of the coins involved, in the short title to the various rules issued under the Indian Coinage Act, 1906, *apart from the year of their issue*, for the purpose of distinction.

46. In their reply, the Ministry of Finance (Department of Economic Affairs), to whom the matter was referred, stated as under:—

“..... the omission in the rules published under S.O. 1844 in the Gazette of India, Part II, Section 3(ii) dated the 21st June, 1975 is regretted. It will be ensured that the denomination and metallic composition of the coins are indicated in the rules to be published in future.”

47. After considering the reply of the Ministry, the Committee in paragraph 35 of their Seventeenth Report (Sixth Lok Sabha), observed as under:—

“The Committee are unhappy to note that the Ministry of Finance (Department of Economic Affairs) inspite of having expressed their regret and having assured the Committee earlier in the case of the Indian Coinage Rules, 1974 (dealt with in paras 16—18 of the Nineteenth Report—Fifth Lok Sabha) for an identical lapse on their part, have again failed to indicate the denomination and the metallic composition of the coins involved in the short title to the Indian Coinage Rules, 1975 which is in utter

disregard to the Committee's earlier recommendation. The Committee deprecate the tendency on the part of the Ministry to take so lightly recommendations of the Committee. The Committee cannot help reiterating their earlier recommendation that in addition to the year of issue, the denomination and metallic composition of coins should invariably be given in the short titles to such rules framed under the Indian Coinage Act, 1906."

48. In their action-taken note dated 17 July, 1979, on the above recommendation, the Ministry of Finance (Department of Economic Affairs) stated as under:—

"The Notification regarding Indian Coinage Rules, 1974 was issued on the 31st August, 1974, but the draft of the Notification was prepared and sent to the Ministry of Law for vetting on the 1st May, 1974 i.e. before the receipt of Lok Sabha Secretariat O.M. No. 42/42/CII/74 dated 18 May, 1974, in which the Committee had approved the suggestion of Ministry of Finance, Department of Economic Affairs, that the short title of the various Coinage Rules may indicate a distinguishing feature like denomination and metallic composition to facilitate reference. .

In the case of Indian Coinage Rules, 1975 the position is also similar. The draft of the Notification of the rules was prepared in November 1973 long before Lok Sabha Sectt. Memo. of 18 May, 1975. Process for obtaining approval of Cabinet to the issue of one Rupee Coins and vetting by Law Ministry had taken considerable time.

It is submitted that the recommendations of Committee on Subordinate Legislation are given utmost consideration and there is no question of treating the Committee's recommendations lightly. The mistake in both the cases occurred as the drafts of the Notifications had been prepared before the receipt of Lok Sabha's Memo. of 18 May, 1975. The Department would once again like to assure the Lok Sabha Sectt. that, notwithstanding these lapses, which are deeply regretted, every recommendation of the Committee on Subordinate Legislation has received and would receive utmost consideration of the Ministry of Finance."

49. The Committee note that the Ministry of Finance (Department of Economic Affairs) have again regretted the lapse on their part for not being able to comply with the Committee's recommendation referred to above in the case of the Indian Coinage Rules of 1974 and 1975. The Ministry have, however, reassured that every recommendation of the Committee would receive utmost consideration at their end. The Committee trust the Ministry will take care in future to keep their assurance to the Committee.

XI

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

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

NEW DELHI;
December 23, 1981.

Pausa 2, 1933 (Saka).

MOOL CHAND DAGA,
Chairman,

Committee on Subordinate Legislation

APPENDIX I

(Vide Paragraph 5 of the Report)

Summary of main recommendations/observations made by the Committee

Sl. No.	Paragraph No.	Summary
(1)	(2)	(3)
1	8	<p>The Committee note from the reply of the Ministry of Defence that the proviso to sub-rule (b) of Rule 6 of the Military Lands and Cantonments Service (Class I and Class II) Rules is intended to provide for the age concessions to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Government from time to time in this behalf. The Committee, however, feel that the intention is not fully borne out by the proviso as worded. On a reference to the consolidated instructions issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) vide their O.M. No. 1401/24/76-Estt.(RR) dated 22 May, 1979 for facilitating the drafting of recruitment rules and amendments thereto, the Committee find that paragraph 3.16 of these instructions stipulates for inclusion of a saving clause in the recruitment rules to read as under:</p> <p>"Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard."</p> <p>The Committee feel that the Ministry should have no difficulty in amending the rules suitably on the lines of the aforesaid instructions with a view to bringing out the underlying intention clearly.</p>

(1)	(2)	(3)
2(i)	12	<p>The Committee note that on 5 July, 1978, the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) forwarded two notifications to the Government of India Press for publication in the official Gazette. However, only one notification was published in the Gazette. The Committee observe that this is illustrative of the mismanagement in the Government of India Press. The Committee cannot but emphasize that the Press should take due care in handling the statutory notifications which have a direct bearing on the public at large.</p>
2(ii)	13	<p>However, the fact remains that the Department of Company Affairs also did not pursue the matter in right earnestness after they had written to the Press on 13 December, 1978 to enquire the fate of their second notification pertaining to the Monopolies and Restrictive Trade Practices Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules. It took the Department nearly two years to get the rules published in the Gazette. Had the Department exercised due vigilance and care, the error could have been detected and rectified much earlier and the period of retrospective effect could have been curtailed. The Committee expect the Ministries/Departments to take due care of important legislative matters at all stages.</p>
2(iii)	14	<p>The Committee cannot help reiterating their oft-repeated recommendation that the Ministries/Departments should not rest content with merely sending the notifications to the Press. Instead they should ensure that the notifications are duly published in the Gazette. The Committee desire the Department of Company Affairs to streamline their procedure in order that such a lapse does not recur in future.</p>

(1)

(2)

(3)

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The Committee find that the process of finalisation of the amendment to the Drugs and Cosmetics Rules took over 15 months after the receipt of the public comments in the Ministry of Health and Family Welfare (Department of Health) despite their earlier assurance to the Committee to streamline the procedure so as to reduce this period to one year. The Ministry have, however, reassured the Committee to finalise the amendments within the stipulated period of one year in future. The Committee trust the Ministry will keep their assurance in future and reduce the time-lag between the publication of draft rules and final rules to the minimum.

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The Committee note that the Ministry of Health and Family Welfare (Department of Health) have regretted the delay of nearly two years in finalisation of the amendment to the Prevention of Food Adulteration Rules after receipt of the comments from the public and have taken the following further remedial steps to keep such a gap to the minimum in future and in no case to allow it to extend beyond a period of one year as recommended by the Committee in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha):—

“(i) All finalised amendments are now being issued in the Gazette of India Extraordinary under the name of Joint Secretary which ensures its publication immediately;

(ii) Files relating to amendment of Rules will be put up with a tag indicating that the contents are time-bound in nature; and

(iii) Closer liaison will be maintained with DGHS and with the Official Language Commission to avoid delay.”

(1)

(2)

(3)

The Committee will like to watch the effectiveness of the new measures for some time. The Committee hope the Ministry will make earnest efforts to reduce the time-lag between publication of the draft rules and the final rules to the minimum.

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The Committee note that the Ministry of Industry (Department of Industrial Development) have expressed their regrets for the inordinate delay in finalisation of the Petroleum (Amendment) Rules, 1980. In this connection, the Committee reiterate their earlier recommendation made in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha) that efforts should be made to finalise an amendment within, at the most, a period of one year from the date of its publication for comments in the Gazette and the Ministry should consider whether the time-lag between the publication of draft rules and final rules can be further reduced. The Committee desire the Ministry to streamline the procedure and issue necessary instructions to all concerned stressing the need for avoiding delay in final issuance of statutory rules after their publication in draft form and expiry of the time limit for receipt of comments thereon.

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In view of the fact that rule 5 of the Kandla Free Trade Zone (Administrative Officer) Recruitment Rules, 1980, already provides for consultation with the Union Public Service Commission while relaxing/amending any of the provisions of these rules, the Committee would not like to insist on the amendment of Column 14 of the Schedule appended thereto.

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34

The Committee desire the Ministry of Finance (Department of Revenue) to amend the Central Excise Rules on the lines already suggested by them in paragraph 32 of their First Report (Sixth Lok Sabha).

(1)	(2)	(3)
8	43	<p>The Committee will like to make it clear that they did not want to interfere with the practice followed by the Ministry of Finance (Department of Economic Affairs) in paying interest at Post Office Savings Bank rates on irregular holdings of National Savings Certificates (V Issue) wherever it is found that the irregular investment is attributable to a genuine error on the part of depositor. The sole purpose of the Committee in asking the Ministry to incorporate the practice in the National Savings Certificates (V Issue) Rules had been to provide a legal sanction to the practice followed and to ensure that the power to pay interest was not put to any arbitrary use by the authorities concerned. The Committee did not also intend to make a provision in the rules for payment of interest at Post Office Savings Bank rates in all cases of ineligible investment. As such, the fear of developing complacency and slackness on the part of the Departmental officials or causing loss to the depositors is not tenable.</p> <p>The Committee, therefore, reiterate their earlier recommendation made in paragraph 71 of the Seventh Report (Sixth Lok Sabha) and desire the Ministry to do the needful without further loss of time.</p>
9	49	<p>The Committee note that the Ministry of Finance (Department of Economic Affairs) have again regretted the lapse on their part for not being able to comply with the Committee's recommendation made in paragraph 206 of the Twelfth Report (Fifth Lok Sabha) in the case of the Indian Coinage Rules of 1974 and 1975. The Ministry have, however, reassured that every recommendation of the Committee would receive utmost consideration at their end. The Committee trust the Ministry will take care in future to keep their assurance to the Committee.</p>

APPENDIX II

(Vide Paragraph 32 of the Report)

Circular No. 15/78-CX 6

F. No. 202/20/74-CX.6 Vol. II

Government of India

CENTRAL BOARD OF EXCISE AND CUSTOMS
NEW DELHI

DATED THE 4TH MAY, 1978

To

All Collectors of Central Excise.

Sir,

SUBJECT.—*Central Excise —Rule 51—Marking of Serial Nos.—
Exemption from—Guidelines regarding.*

I am directed to refer to rule 51 of the Central Excise Rules, 1944, as amended by notification No. 203/75-CE dated 11-10-1975, and to state that the Parliamentary Committee on Subordinate Legislation has desired issue of guidelines to all the Collectors of Central Excise so that uniform practice in granting exemption from the provisions of this rule is followed by all the Collectors. The Committee has also observed that while granting exemption from the provisions of rule 51, the Collectors should record the reasons in writing for granting the exemption.

2. In view of the Committee's observations and the difficulties faced by certain sections of the industries in observing the provisions of rule 51, following guidelines regarding grant of exemption under rule 51, are issued:—

- (i) Collectors may exercise discretion considering the mode of packing and delivery the size of unit, the volume and variety of goods manufactured by a particular manufacturer.
- (ii) Wherever the whole-sale packages contain retail packages of different batch numbers or lot numbers, exemption may be granted from showing the batch number or lot number on the whole-sale packets.

- (iii) Running serial number need not be according to the calendar year. The assessee may be allowed to commence the running serial number according to the financial year or accounting year adopted by him.
- (iv) The quantity of goods contained in the retail packages, required to be shown on whole-sale packages, may not be insisted upon in such cases where whole-sale packages contained retail packages of mixed sizes, weight etc.
- (v) Exemption may be granted liberally in respect of the commodities of mass consumption, like sugar, tea, vegetable product, soap etc., as already advised in the Board's letter F. No. 202/47/76-CX 6 dated 11-10-1976.

3. While granting exemption from the provisions of rule 51, the Collector should record the reasons in writing in his order granting the exemption.

Yours faithfully,

Sd/

(K. D. Tayal)

Under Secretary, Central Board of Excise
and Customs. Telephone No. 371025.

APPENDIX III

(Vide Paragraph 50 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. Reference to Paragraph Nos of the Report Summary of Recommendations/Assurances List of Government reply

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1 Twelfth Report
Fifth Lok Sabha
39

The Committee note with satisfaction that Ministry of Railways have decided to delete Rule 22 (7) of the Indian Railway Traffic Service Recruitment Rules, 1968 and desire them to issue necessary amendment at an early date.

The Ministry of Railways have since omitted Rule 22(7) of the Indian Railway Traffic Service Recruitment Rules, 1968 Vide G.S.R. 163 of 1974.

2 Twelfth Report
Fifth Lok Sabha
98

The Committee note with satisfaction that the Ministry of Agriculture have agreed to provide for notification of the names of persons empowered by the Agricultural Marketing Adviser to act as Licensing Officers in the Cold Storage Order when it is replaced next. The Committee desire the Ministry to do the needful at an early date.

The Cold Storage Order, 1964 has since been replaced by the Cold Storage Order, 1980. The corresponding sub-clause (b) of clause 2 of revised Order provides for notification of the names of persons empowered by the Agricultural Marketing Adviser to act as Licensing Officers

3 Twelfth Report (Fifth Lok Sabha) 159

The requisite provision has been incorporated in the Dock Workers (Regulation of Employment) Act 1948 through insertion of a new sub-clause (ii) in sub-section (2) of Section 3 thereof vide Amendment Act of 1980 (49 of 1980).

The Committee are not satisfied with the reply of the Ministry of Labour that though there is no specific authorisation in the Dock Workers (Regulation of Employment) Act, 1948 in regard to framing rules for contribution to Welfare Fund, Section 5B(1) empowers the Board to exercise such powers and perform such functions as may be conferred on it by the Scheme. The Committee are of the opinion that there must be express provision in the Act authorising the Board for creation of the Fund and its administration and desire them to bring suitable amendment to the Act at an early date.

4 Fourth Report (Sixth Lok Sabha) 67

The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have since issued instructions to the necessary effect vide their O.M. No. 36011/9/76-Est(SCT) dated 7 March, 1978.

The Committee concern with the proposal of the Department of Personnel and Administrative Reforms to amend the existing Saving Clause in respect of reservation for Scheduled Castes and Scheduled Tribes in Recruitment Rules so as to include the words 'relaxation of age-limit' after the word 'reservations' contained therein. The Committee will like to be informed as and when the above proposal is given effect to.

5 Fourth Report (Sixth Lok Sabha) 81

(i) The Schedule to the Andaman and Nicobar Islands Chief Commissioner's Secretariat (Senior Technical Assistant) (Work Study) Recruitment Rules has since been published vide G.S.R. 1671 of 1977, dated 10-12-1977. The Ministry of Home Affairs have also noted the observations for future compliance.

While the Committee note that the Ministry of Home Affairs have since initiated necessary action to publish the Schedule to the Andaman & Nicobar Islands Chief Commissioner's Secretariat (Senior Technical Assistant) (Work Study) Recruitment Rules, 1976, they cannot help observing that this had been done by the Ministry only after the mistake had been pointed out by the Committee. The Committee will once again like to re-stress on all Ministries/Departments the need of strictly complying with their recommendations contained in para 36 of Fourth Report (Fifth Lok Sabha) and reiterated in para 93 of Twentieth Report (Fifth Lok Sabha) that the responsibility of a Ministry/Department did not cease with the sending of a notification to the Press. After its publication, the Ministry/Department concerned should take immediate steps to examine whether the same had been correctly printed and if necessary to issue a corrigendum thereto.

(ii) The Department of Parliamentary Affairs have circulated the recommendations to all Ministries/Departments of the Government of India for guidance and strict compliance vide their O.M. No. 32(1)/78-R&C dated 14 February, 1978.

The Committee note with concern that the Ministry of Industry (Department of Industrial Development) had taken more than five years in issuing an amendment to redesignate the posts of Junior Field Officers as those of Small Industry Promotion Officers, which had necessitated retrospective effect to the Junior Field Officers and Investigators (Small Scale Industries Organisation) Recruitment (Amendment) Rules, 1975 (G.S.R. 2608 of 1975). One of the reasons given by the Ministry for delay in issuing the above amendment was that a writ petition filed by some of the Junior Field Officers in the Delhi High Court for according them seniority in the feeder list of the Indian Economic Service and the Indian Statistical Service was pending. The Committee, however, observe from the subsequent reply of the Ministry that the question of redesignation of the posts did not figure in the issue before the Delhi High Court directly and that a period of more than three and a half years had elapsed in issuing the notification even after the High Court had delivered their judgement. From the facts of the case before them, the Committee cannot help observing that the Ministry had not dealt with the matter with the expedition it deserved. The Committee note the assurance given by the Ministry that all efforts will be made to ensure that delays in issuing amendments to rules do not recur in future. The Committee trust that care will be taken by the Ministry to keep their assurance to the Committee. The Committee will also like to re-stress upon all Ministries/Departments that retrospective effect to the rules should be avoided as far as possible. In cases where it is not possible for certain unavoidable reasons to amend the relevant statutory rules simultaneously with the enforcement of an executive decision, such rules should be amended at the earliest so that the period of retrospective effect is reduced to the barest minimum.

The Department of Parliamentary Affairs have since circulated the recommendations to all Ministries/Departments of the Government of India for guidance and strict compliance vide their O.M. No. F. 32(2)/78-R & C dated 27 March, 1978.

The Committees are unable to accept the contention of the Agricultural Refinance and Development Corporation that it is not necessary to give short titles to the amending rules when the amendments are of a minor nature involving insertion or deletion of certain words. In the opinion of the Committee, short titles are essential to facilitate easy and quick reference and to avoid confusion in subsequent tracing of such

The Ministry of Finance have since issued notification inserting short title to the amendment issued under G.S.R. 1046 of 1977 vide G.S.R. 861 dated 8 March, 1980.

'Order' by all concerned. The Committee cannot but re-emphasise the need of invariably assigning appropriate short titles to all 'Orders' including the amending ones even though such 'Orders' relate to minor corrections or otherwise.

8 Twelfth Report (Sixth Lok Sabha) 45

The Ministry of Finance have since issued notification inesting short title to the amendment issued under G.S.R. 1046 of 1977 vide G.S.R. 961 dated 8 March, 1980.

9 Twelfth Report (Sixth Lok Sabha) 57

The Committee observe that no useful purpose is likely to be served by assigning a short title at this stage to the amendment 'Order' issued under G.S.R. 693 which stands superseded by another 'Order' issued under G.S.R. 1046. The Committee, however, desire that a suitable title may be inserted in the latter amendments 'Order' issued under G.S.R. 1046 at an early date, for facility of future reference.

The Committee note that in respect of a 'Provisions similar to that contained in sub-rule (4) of rule 13 of the Indian Medicine Central Homoeopathy Council (Election) Rules, 1975, the Department of Health have agreed to amend the Rules so as to provide therein for sending the election papers to the electors by registered post vide para 45 of the Committee's Twentieth Report (Fifth Lok Sabha). However, in the present case, the Department of Health while appreciating the Committee's desire to ensure delivery of election papers to the electors, have advanced the plea of financial implications to the tune of about rupees five lakhs which they may have to spend for sending the papers to over two lakh persons by registered post. Taking into consideration the huge sum of money involved in the process, the Committee do not insist upon sending the papers by registered post. But with a view to ensuring delivery of papers to all electors, the Committee suggested that, after the papers have been sent under certificate of posting, a notice should be published in important newspapers about the posting of such papers at the registered addresses of the electors so that a person not getting the same can contact the officer

The Ministry of Health and Family Welfare have amended the Indian Medicine Central Council (Election) Rules, 1975 to the necessary effect vide S.O. 538-E of 15-9-1979.

of the Council and obtain them. The Committee therefore desire the Ministry to amend the Indian Medicine Central Council (Election) Rules, 1975 so as to include therein a provision to the above effect at an early date.

10. Twelfth Report
(Sixth Lok Sabha)
59

B.

The Committee note with satisfaction that, on being pointed out, the Ministry of Health and Family Welfare (Department of Health) have agreed not to insist upon receipt of election papers through registered post and have decided to leave the mode of posting to the electors concerned. The Committee, therefore, desire the Ministry to amend the Indian Medicine Central Council (Election) Rules, 1975 to the necessary effect at an early date.

11. Twelfth Report
(Sixth Lok Sabha)
61

D.

The Committee are not convinced with the reply of the Ministry of Health and Family Welfare (Department of Health) in regard to the provision of rule 23 of the Indian Medicine Central Council (Election) Rules, 1975 empowering the Vice-Chancellor to determine the manner in which the member of the Faculty or Department in Ayurveda, Siddha and Unani Systems of Medicine of the University shall elect their member to the Central Council. The Committee note in this connection that sub-section (1) of section 4 of the Indian Medicine Central Council Act, 1970 provides for the election of Members to the Council to be conducted in accordance with the rules to be prescribed. Instead of prescribing the manner of election in the rules, Government have further delegated this power to the Vice-Chancellor. In Committee's view this is tantamount to sub-delegation of legislative authority without any specific authorisation to that effect in the Parent Act.

12. Twelfth Report
(Sixth Lok Sabha)
62

D.

The Committee are also not convinced with the argument put forth by the Ministry of Health and Family Welfare that if the general procedure for election is adopted in this case, Returning Officers will have to be appointed for conducting elections in various Faculties Departments concerned and that may not be feasible in the

case of small groups. The Committee feel that whatever the procedure is to be followed for electing the members, it should be laid down in the Rules as per provisions of Section 4(1) of the Act instead of sub-delegating the legislative power to the Vice-Chancellor without an express authorisation to that effect in the Parent Act. The Committee, therefore, desire the Ministry to prescribe in the rules the manner of conducting elections by the members of the Faculty or Department of each of the Ayurveda, Siddha and Unani Systems of Medicine of the University. Alternatively, the Ministry may bring necessary legislation before Parliament for amending the Parent Act so as to provide there in for authorising the Vice-Chancellor to prescribe the manner of conducting these elections, at an early date.

13. Twelfth Report
(Sixth Lok Sabha)
64

The Ministry of Health and Family Welfare have noted the observations of the Committee for future guidance vide their O.M. No. 36012/4 79-AE dated 6 June, 1980.

The Committee observe that reference in regard to the points arising out of the Indian Medicine Central Council (Electoral) Rules, was made to the Ministry of Health and Family Welfare on the 4th February, 1976 whereas the Ministry have sent their final reply on the 16th March, 1978 i.e. after a lapse of over two years and one month. The Committee take a serious note of such an unduly long time taken by the Ministry in sending their reply and stress upon them to be prompt in attending to the communications from the Committee and send an interim reply, wherever it is not possible for them to furnish comments in time due to some genuine difficulties and ask for extension of time giving reasons therefor.

14. Twelfth Report
(Sixth Lok Sabha)
83

The Ministry of Commerce have noted the observations of the Committee for future compliance vide their Office Memorandum No. 29012/98/76-Silk dated 29 November, 1980.

The Committee are not satisfied with the reply of the Ministry of Commerce, Civil Supplies and Cooperation (Department of Textiles) in-as-much as it does not indicate anything about the action initiated or proposed to be initiated to implement the recommendations contained in paras 65-66 of their Twentieth Report (Fifth Lok Sabha). The Committee deprecate the evasive reply given by the Ministry. The Committee need hardly point out that Action Taken replies from the Ministries concerned to their recommendations should be specific and to the point and should not be circumlocutory.

15. Twelfth Report
(Sixth Lok Sabha)
84

The Committee note that the Ministry of Commerce have regretted for their omission in not appending an explanatory memorandum to the Central Silk Board (Research and Service Stations) Consolidated Recruitment Rules, 1972, that no one would be affected adversely as a result of their retrospective operation. The Committee observe in this connection that the rules in question have been framed in exercise of the powers conferred by Section 13 of the Central Silk Board Act, 1948 which does not contain any express provision for giving retrospective effect to such rules. As such even if an explanatory memorandum had been appended to the rules, it would not have validated the retrospective effect given to the rules in the absence of a specific authority in the parent Act. The Committee have clarified it many a time that the purpose of explanatory memorandum is simply to state the circumstances under which retrospective effect has been necessitated and to certify that no one is likely to be adversely affected thereby, it does not in any way impart legal authority for giving such retrospective effect to the rules.

16. Twelfth Report
(Sixth Lok Sabha)
85

The Committee reiterate their earlier recommendation that the Central Silk Board (Research and Service Stations) Consolidated Recruitment (Amendment) Rule, 1972 should either be made effective from the date of their publication in the Gazette, or, alternatively, steps should be taken to incorporate a specific provision in the parent Act empowering the Government to give retrospective effect to rules made thereunder.

Do.

33

The Central Silk Board (Research and Service Stations) Consolidated Recruitment (Amendment) Rules, 1972 have been made effective from the date of their publication in the Official Gazette by omitting sub-rule (2) of Rule 1 thereof of *vide* G.S.R. 479 dated 31 March, 1979.

17. Fifteenth Report
(Sixth Lok Sabha)
84

The Committee note with satisfaction that on being pointed out, the Ministry of Industry (Department of Industrial Development) have agreed to amend rule 14-A(b) of the Central Silk Board Contributory Provident Fund Rules, so as to enable a subscriber to make a withdrawal from his Contributory Provident Fund for meeting the expenses in connection with the marriage of a female relation actually dependent on him even if he has a daughter. The Committee approve the following amendment proposed by the Ministry and desire them to notify it expeditiously:—“(b) meeting the expenditure in connection with the marriage of the subscriber or his sons or daughters, and any other female relation actually dependent on him.”

The concerned Ministry of Commerce have since issued amendments to Rules 14-A (b) and 14-B(2) of the Central Silk Board Contributory Provident Fund Rules 1955 as desired *vide* G.S.R. 719 dated 26 May, 1979.

(4)

The concerned Ministry of Commerce has since issued amendments to Rules 14-A (b) and 14-B (a) of the Central Silk Board Contributory Provident Fund Rules, 1955 as desired *vide* G.S.R. 719 dated 26 May, 1979.

The Ministry of Communications (P & T Board) have noted the observations of the Committee *vide* their Office Memorandum No. 2-276-R/Pt dated 16 January, 1981.

The Ministry of Communications have since revised the procedure for dealing with the Parliamentary references and devised

(3)

The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have agreed to amend sub-rule (2) of rule 14-B of the Central Silk Board Contributory Provident Fund Rules, so as to provide therein for issue of a show-cause notice to a subscriber before ordering recovery of the amount withdrawn or such part thereof as has not been applied for the purpose for which it was withdrawn. The Committee approve the following amendment proposed by the Ministry and desire them to notify it expeditiously:—

"A subscriber who has been permitted to withdraw money from the Fund under Rule 14-A shall satisfy the Chairman within a reasonable period, as may be specified by the Chairman that the money has been utilised for the purpose for which it was withdrawn. If he fails to do so, a show-cause notice may be served on him asking him to explain the circumstances under which the said amount could not be utilised for the purpose for which it was withdrawn. After receipt of the explanation, the Chairman may order the repayment of the whole of the sum withdrawn or part thereof as has not been applied for the purpose for which it was withdrawn, in lump sum together with interest thereon at the rate determined under rule 11. In default of such payment, it shall be ordered by the Chairman to be recovered from his emoluments either in a lump sum or in such number of monthly instalments, as may be determined by the Chairman."

The Committee note the reply of the Ministry of Communications (Indian Posts and Telegraphs Department) in consultation with the Ministry of Law, that the Central Government could levy fees for registration of abbreviated addresses and upkeeping the accounts, in exercise of the powers conferred by clause (a) and (b) of sub-section (2) of section 7 of the Indian Telegraph Act, 1885.

The Committee, however, take serious note of the inordinate delay in furnishing information to the Committee. The Committee have time and again stressed that inordinate delays like the pre-

(2)

18. Fifteenth Report
(Seventh Lok Sabha)
38

19. Fourth Report
(Seventh Lok Sabha)
14

20. Fourth Report
(Seventh Lok Sabha)
15

sent one unnecessarily disturb the schedule of work of the Committee. The Committee desire the Ministry to streamline their procedure and devise suitable measures to eliminate the delays in dealing with the Parliamentary references. The Committee would like to be informed of the measures taken in this regard within three months of the presentation of the Report.

21. Fourth Report
(Seventh Lok Sabha)
37

The Committee observe that a duty is also cast upon the Ministry of Law at the time of vetting to point to the administrative Ministry if any statutory order aims at giving retrospective effect to any of its provisions without due legal authority in the enabling Act.

measures to eliminate delays *vide* their Office Order No. 32 dated 10 September, 1980.

The observations have been circulated to all Legislative Councils in the Legislative Department of the Ministry of Law, for compliance in future. *Vide* Ministry of Law, Justice and Company Affairs O.M. No.F 4(21)/80-II dated 4/9 April 1981.

22. Fourth Report
(Seventh Lok Sabha)
51

According to the reply of the Ministry of Agriculture and Irrigation (Department of Rural Development) now Ministry of Rural Reconstruction—the entry under column 13 of the schedule appended to the Directorate of Marketing and Inspection, Accountant (Non-SAS) Recruitment Rules, 1978 is redundant inasmuch as consultation with the Union Public Service Commission is not required for the post of Accountant (Non-SAS) being a Group 'C' post. In this connection, the Committee note with satisfaction that, on being pointed out, the Ministry have agreed to amend the recruitment rules and are taking action to substitute the existing entry by the words 'Not applicable'. The Committee desire the Ministry to issue the necessary amendment at an early date.

The Directorate of Marketing and Inspection, Accountant (Non-SAS) Recruitment Rules, 1978 have accordingly been amended *vide* S.O. 3835 dated 24 November, 1979.

23. Fourth Report
(Seventh Lok Sabha)
61

The Committee note with concern that the Department of Company Affairs have failed to comply with the recommendation of the Committee made in para 51 of their Sixth Report (Sixth Lok Sabha) presented to the House on the 17th March, 1978. The Committee feel that had the Department of Company Affairs pursued the matter in the right earnestness, they could have amended the Indian Consortium for Power Projects Private Limited and the Bharat Heavy Electricals Limited Amalgamation Order much earlier.

The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have noted the recommendation of the Committee for compliance while framing Amalgamation for compliance under Section 396 of the Companies Act, 1956 in future *vide* their office Memorandum No. 24/6/74-CL. III dated 1 July, 1981.

24. Fourth Report
(Seventh Lok Sabha) 62
- The Committee, however, take note of the view expressed by the Department of Heavy Industry that the employees of the erstwhile Indian Consortium for Power Projects Private Limited are enjoying greater facilities and privileges in the Bharat Heavy Electricals Limited excepting some areas in which the privileges in the erstwhile Indian Consortium for Power Projects were more favourable.
- The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have noted the recommendation of the Committee for compliance while framing Amalgamation Orders under Section 398 of the Companies Act, 1956 into future vide their Office Memorandum No. 24/6/74-CL. III dated July 1981.
- Do.
25. Fourth Report
(Seventh Lok Sabha) 63
- In view of the fact that a long time has elapsed since the issue of the above Amalgamation Order in 1975, its amendment at this stage might create some administrative problems more so because the employees of the erstwhile Indian Consortium for Power Projects Private Limited enjoyed greater facilities and privileges in the newly constituted Bharat Heavy Electricals Limited, the Committee, as an exception, do not press for the amendment of the Amalgamation Order at this stage.
- Do.
26. Fourth Report
(Seventh Lok Sabha) 64
- The Committee note in this connection that their recommendation contained in para 51 of Sixth Report (Sixth Lok Sabha) has been noted by the Department of Company Affairs for compliance in future. The Committee trust that the Department of Company Affairs would keep their assurance to the Committee while framing such amalgamation Orders in future.
- Do.
27. Sixth Report
(Seventh Lok Sabha) 63
- During evidence before the Committee, the representative of the Ministry of Works and Housing (Government of India Press) has accepted the responsibility for not giving due attention to the communications from the Ministry of Railways seeking information on points raised by the Committee. The Committee desire them to be more careful in future as such delays besides holding up the schedule of work of the Committee, result in unnecessary prolongation of infirmities in the rules.
- The Ministry of Works and Housing have noted the observations of the Committee for strict compliance vide their Office Memorandum No. H-11013/2/80-Ptg. dated 15 July, 1981.
- Do.
28. Sixth Report
(Seventh Lok Sabha) 94
- The Committee tentatively agree to the suggestion of the Ministry of Irrigation that the River Boards Act, 1956 be not amended, to observations for compliance in future.

incorporate therein provisions for laying of Regulations framed thereunder before Parliament as the Act has not been enforced nor the River Boards are intended to be constituted thereunder. The Committee however, desire that in case the River Boards Act is not eventually repealed and the River Boards are constituted, the Ministry shall have to amend the Act at the earliest opportunity with a view to provide for laying of regulations framed thereunder before Parliament.

29. Sixth Report
(Seventh Lok Sabha)
107

The Committee reiterate their earlier recommendation contained in paras 36-37 of their Third Report (First Lok Sabha) wherein it has been impressed upon Government to incorporate suitable provisions in all Bills for laying before and modification by Parliament of all rules, regulations etc. framed under the power delegated thereunder.

30. Sixth Report
(Seventh Lok Sabha)
108

The Committee desire the Ministry of Law also to ensure that in All Acts provision for laying of regulations etc. framed thereunder is incorporated invariably. The Committee also desire the Ministry of Law to issue another circular to all Ministries Departments of the Government of India, impressing upon them to examine all acts to this effect and to initiate early steps in this regard.

31. Sixth Report
(Seventh Lok Sabha)
119

The Committee note with satisfaction that, on being pointed out the Ministry of Railways have issued corrigenda to correct amendment numbers to the Railway Protection Force (Amendment) Rules, 1977 (G.S.R. Nos. 32 and 33 of 1978). However, the Committee observe that they have time and again emphasised that for easy referencing acts of amendments to any Order issued from time to time during the course of the same year should be serially numbered and the short title to each such amending Order should clearly show the serial number of the amendment. The Committee note that in this connection the Ministry of Law, Justice and Company Affairs (Legislative Department) had issued detailed instructions to all Ministries, Departments *vide* their

vide Ministry of Irrigation O.M. No. 6/2/79-WD(PP) dated 16 May, 1981.

The observations of the Committee have accordingly been circulated to all Ministries/Departments of the Government of India for compliance *vide* Ministry of Law, Justice and Company Affairs (Legislative Department) Office Memorandum No. F.4(6)/81-L.I. dated 11 th May, 1981.

Do.

The observations of the Committee along with the instructions issued by the Ministry of Law, have been brought to the notice of all officers and Branches in Railway Board's Office *vide* Ministry of Railways (Railway Board) Circular No. 81/Part/21 dated 20 May, 1981,

32. Sixth Report
(Seventh Lok Sabha)
120

O.M. No. F. 4(7)/58 LJ dated 25 November, 1960. The Department of Parliamentary Affairs had also circulated the extracts from the recommendations made by the Committee in this behalf to all the Ministries/Departments for their guidance vide their O.M. No. F-3-372-R&C dated 4 March, 1972.

The Committee are unhappy to note that the Ministry of Railways not only failed to follow these instructions but are not even aware of them. The Committee, therefore, recommend that instructions issued by the Ministry of Law, Justice and Company Affairs/Department of Parliamentary Affairs should be brought to the notice of all concerned in the Ministry for compliance in future.

The observations of the Committee alongwith the instructions issued by the Ministry of Law, have been brought to the notice of all officers and Branches in Railway Board's Office & Ministry of Railways (Railway Board) Circular No. 81/Parl/51 dated 20 May, 1981.

33. Sixth Report
(Seventh Lok Sabha)
121

The Committee further note that the Ministry of Railways have brought the instant case to the notice of the Government of India Press as also to all Officers in the Railway Board so that such mistakes do not recur. The Committee feel that the Ministry of Railways in their instructions to all Officers of the Railway Board have not evolved any fool-proof measure to avoid recurrence of such lapses. The Committee are of the view that giving of correct amendment numbers to the Rules sent to the Press for publication is the responsibility of the Ministries/Departments concerned. The Committee, therefore, recommend that fool-proof measures like maintenance of a register of amendments, giving of correct amendment number just before a notification is sent for cyclostyling, sending of not more than one amendment to the Government of India Press at a time and all amendments to the Press to go under separate covering letters etc, as has been agreed to by the Ministry of Railways in the case of the Railway Red Tariff Rules should be followed in true spirit.

Do.

34. Eighth Report
(Seventh Lok Sabha)
72

The Committee note with satisfaction that the Ministry of Commerce and Civil Supplies (Department of Commerce) have proposed amendment to Rule 47 of the Cardamom Rules, 1966. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

The Cardamom Rules, 1966 have been amended accordingly vide G.S.R. 753 dated 19 July, 1980.

MINUTES

APPENDIX IV

(Vide Paragraph 4 of the Report)

XXXII

MINUTES OF THE THIRTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1981—82)

The Committee met on Monday, 14 December, 1981 from 15.30 to 16.20 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Xavier Arakal
3. Shri Eduardo Faleiro
4. Shri M. Ramanna Rai
5. Shri Chandra Shekhar Singh

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*
2. Shri Ram Kishore—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 83 to 92 on the following subjects:—

(i) **The Petroleum (Amendment) Rules, 1980 (G.S.R. 834 of 1980) (Memorandum No. 83).**

(A)

The Committee considered the above Memorandum and noted that the Ministry of Industry (Department of Industrial Development) had expressed their regrets for the inordinate delay in finalisation of the Petroleum (Amendment) Rules, 1980. The Committee decided to reiterate their earlier recommendation made in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha) that efforts should be made to finalise an amendment within, at the most, a period of one year from the date of its publication for comments in the Gazette and the Ministry should consider

whether the time-lag between the publication of draft rules and final rules could be further reduced. The Committee desired the Ministry to streamline the procedure and issue necessary instructions to all concerned stressing the need for avoiding delay in final issuance of statutory rules after their publication in draft form and expiry of the time-limit for receipt of comments thereon.

* * * * *

(ii) The Prevention of Food Adulteration (Second Amendment) Rules, 1980 (G.S.R. 243 of 1980)—(Memorandum No. 84).

5. The Committee considered the above Memorandum and noted that the Ministry of Health and Family Welfare (Department of Health) had regretted the delay of nearly two years in finalisation of the amendment to the Prevention of Food Adulteration Rules after receipt of the comments from the public and had taken certain further remedial steps to keep such a gap to minimum in future and in no case to allow it to extend beyond a period of one year as recommended by the Committee in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha). The Committee decided to watch the effectiveness of the new measures for some time. The Committee hoped the Ministry would make earnest efforts to reduce the time-lag between publication of the draft rules and the final rules to the Minimum.

(iii) The Military Lands and Cantonments Service (Class I and Class II) Amendment Rules, 1980 (S.R.O. 16 of 1980)—(Memorandum No. 85).

6. The Committee considered the above Memorandum and noted from the reply of the Ministry of Defence that the proviso to sub-rule (b) of rule 6 of the Military Lands and Cantonments Service (Class I and Class II) Rules was intended to provide for age concessions to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Government from time to time in this behalf. The Committee, however, felt that the intention was not fully borne out by the proviso as worded. On a reference to the consolidated instructions issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) vide their O.M. No. 14017/24/76-Estt. (RR) dated 22 May, 1979 for facilitating the drafting of

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

recruitment rules and amendments thereto, the Committee found that paragraph 3.16 of these instructions stipulated for inclusion of a saving clause in the recruitment rules to read as under:—

“Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.”

The Committee felt that the Ministry should have no difficulty in amending the rules suitably on the lines of the aforesaid instructions with a view to bringing out the underlying intention clearly.

(iv) **The Kandla Free Trade Zone (Administrative Officer) Recruitment Rules, 1980 (G.S.R. 518 of 1980)—(Memorandum No. 86).**

7. The Committee considered the above Memorandum and in view of the fact that rule 5 of the Kandla Free Trade Zone (Administrative Officer) Recruitment Rules, 1980, already provided for consultation with the Union Public Service Commission while relaxing/amending any of the provisions of these rules, they decided not to insist on the amendment of Column 14 of the Schedule appended thereto.

(v) **The Drugs and Cosmetics (First Amendment) Rules, 1980 (G.S.R. 430 of 1980)—(Memorandum No. 87).**

8. The Committee considered the above Memorandum and found that the process of finalisation of the amendment to the Drugs and Cosmetics Rules took over 15 months after the receipt of the public comments in the Ministry of Health and Family Welfare (Department of Health) despite their earlier assurance to the Committee to streamline the procedure so as to reduce this period to one year. The Ministry had, however, re-assured the Committee to finalise the amendments within the stipulated period of one year in future. The Committee trusted the Ministry would keep their assurance in future and reduce the time-lag between the publication of draft rules and final rules to the minimum.

(vi) **The Monopolies and Restrictive Trade Practices Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules, 1980 (G.S.R. 582 of 1980)—(Memorandum No. 88).**

9. The Committee considered the above Memorandum and noted that on 5 July, 1978, the Ministry of Law, Justice and Company

Affairs (Department of Company Affairs) had forwarded two notifications to the Government of India Press for publication in the official Gazette. However, only one notification was published in the Gazette. The Committee observed that this was illustrative of the mismanagement in the Government of India Press. The Committee decided to emphasize that the Press should take due care in handling the statutory notifications which had a direct bearing on the public at large.

10. However, the fact remained that the Department of Company Affairs also did not pursue the matter in right earnestness after they had written to the Press on 13 December, 1978 to enquire the date of their second notification. It had taken the Department nearly two years to get the rules published in the Gazette. Had the Department exercised due vigilance and care, the error could have been detected and rectified much earlier and the period of retrospective effect could have been curtailed. The Committee expected the Ministries/Departments to take due care of important legislative matters at all stages.

11. The Committee decided to reiterate their oft-repeated recommendation that the Ministries/Departments should not rest content with merely sending the notifications to the Press. Instead they should ensure that the notifications were duly published in the Gazette. The Committee desired the Department of Company Affairs to streamline their procedure in order that such a lapse did not recur in future.

* * * * *

(viii) Implementation of recommendation contained in paragraph 71 of the Seventh Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding the National Savings Certificates (V Issue) Rules, 1973 (G.S.R. 421-E of 1973)—(Memorandum No. 90).

13. The Committee considered the above Memorandum and decided to make it clear that they did not want to interfere with the practice followed by the Ministry of Finance (Department of Economic Affairs) in paying interest at Post Office Savings Bank rates on irregular holdings of National Savings Certificates (V Issue) wherever it was found that the irregular investment was attributable to a genuine error on the part of depositor. The sole

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purpose of the Committee in asking the Ministry to incorporate the practice in the National Savings Certificates (V Issue) Rules had been to provide a legal sanction to the practice followed and to ensure that the power to pay interest was not put to any arbitrary use by the authorities concerned. The Committee had not also intended to make a provision in the rules for payment of interest at Post Office Savings Bank rates in all cases of ineligible investment. As such, the fear of developing complacency and slackness on the part of the Departmental officials or causing loss to the depositors was not tenable.

The Committee, therefore, decided to reiterate their earlier recommendation made in paragraph 71 of the Seventh Report (Sixth Lok Sabha) and desired the Ministry to do the needful without further loss of time.

(ix) Implementation of recommendation contained in paragraph 35 of the Seventeenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding the Indian Coinage Rules, 1975 (S.O. 1844 of 1975)—(Memorandum No. 91).

14. The Committee considered the above Memorandum and noted that the Ministry of Finance (Department of Economic Affairs) had again regretted the lapse on their part for not being able to comply with the Committee's recommendation referred to in paragraph 35 of their Seventeenth Report (Sixth Lok Sabha) in the case of the Indian Coinage Rules of 1974 and 1975. The Ministry had, however, reassured that every recommendation of the Committee would receive utmost consideration at their end. The Committee trusted the Ministry would take care in future to keep their assurance to the Committee.

(x) Implementation of recommendation contained in paragraph 32 of the First Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding the Central Excise (Fourth Amendment) Rules 1975 (G.S.R. 2511 of 1976)—(Memorandum No. 92).

15. The Committee considered the above Memorandum and desired the Ministry of Finance (Department of Revenue) to amend the Central Excise Rules on the lines already suggested by them in paragraph 32 of their First Report (Sixth Lok Sabha).

XXXIII

MINUTES OF THE THIRTY-THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTH LOK SABHA)
(1981-82)

The Committee met on Wednesday, 23 December, 1981 from 13.15 to 13.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri T. V. Chandrashekharappa
3. Shri Eduardo Faleiro
4. Shri M. Kandaswamy
5. Shri K. Lakkappa
6. Shri M. Ramanna Rai

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*
2. Shri Ram Kishore—*Senior Legislative Committee Officer*

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

3. The Committee authorised the Chairman and, in his absence, Shri M. Ramanna Rai, to present the Tenth Report to the House on their behalf on 24 December, 1981.

The Committee then adjourned.