

# COMMITTEE ON SUBORDINATE LEGISLATION

(EIGHTH LOK SABHA)

SIXTH REPORT

*(Presented on 16 April, 1986)*



LOK SABHA SECRETARIAT  
NEW DELHI

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# REPORT

## I

### INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sittings held on 8 May, 1984, 24 June, 10 July, 25 October, 1985, 7 and 8 January, 1986.

3. At their sittings held on 7 and 8 January, 1986 the Committee heard evidence of the representatives of the (i) Ministry of Finance (Department of Economic Affairs) and Department of Posts regarding the Social Security Certificates Rules, 1982 and (ii) the Ministries of Health and Family Welfare (Department of Health), Industry (Department of Industrial Development), (Department of Public Enterprises), Food and Civil Supplies (Department of Civil Supplies), Transport (Department of Civil Aviation) and Defence as also Ministries of Law and Justice (Legislative Department), Urban Development regarding delay in final notification of (a) the Drugs and Cosmetics (First Amendment) Rules, 1984; (b) the Prevention of Food Adulteration (First Amendment) Rules, 1983; (c) the Prevention of Food Adulteration (Second Amendment) Rules, 1985; (d) the Ganesh Flour Company Limited (Acquisition and Transfer of Undertakings) Rules, 1984; (e) the Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) (intimation regarding Mortgage, Charge, Lien or other Interest in any Property) Rules, 1985; (f) the Transformer and Switchgear Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien or other Interest in any Property) Rules, 1985; (g) the Aircraft (First Amendment) Rules, 1985 and (h) the Cantonment Fund Servants (Amendment) Rules, 1985. The Committee wish to express their thanks to the Officers of the Ministries for appearing and for placing the requisite information before them.

4. The Committee considered and adopted this Report at their sitting held to 10 April, 1986. The Minutes of the sittings relevant to this Report are appended to it.

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

## II

### THE SOCIAL SECURITY CERTIFICATES RULES, 1982 (G.S.R. 259-E OF 1982)

6. Rules 26 of the Social Security Certificates Rules, 1982 reads as under :—

**“Responsibility of the Post Office.**—The post office shall not be responsible for any loss caused to a holder by any person obtaining possession of a certificate and fraudulently encashing it.”

7. The Ministry of Finance (Department of Economic Affairs), to whom the matter was referred for the rationale behind the above rule, stated in their reply dated 13 July, 1982 as under :—

“.....Rule 26 of the Social Security Certificates Rules, 1982 which provides that the Post Office shall not be responsible for any loss caused to a holder by any person obtaining possession of the Certificate and fraudulently encashing it, is a standard provision included in the Rules governing various Savings Certificates. In this connection attention is invited to Rule 30 of the National Savings Certificates (VI issue) Rules, 1981, Rule 30 of the National Savings Certificates (VII issue) Rules, 1981, Rule 29 of the National Savings Certificates (V Issue) Rules, 1973, Rule 28 of National Savings Certificates (IV Issue) Rules, 1970 and Rule 33 of Post Office Savings Certificates Rules, 1960.

Rule 14 of the Social Security Certificate Rules, 1982 provides for replacement of a lost certificate by the post office. Under this provision which is similar to the provision made in the rules of other savings certificates, the post office where the lost certificate stands registered issues a duplicate certificate on receipt of an application from the holder giving details of the certificate lost and enclosing identity slip, if any, issued by the post office and furnishing an indemnity bond. On this basis the post office keeps necessary note of the lost certificate so that no payment may be made thereon if it is produced at a later date. However, it is

possible that a person having possession of such a lost certificate and identity slip may obtain payment fraudulently from some other post office. This cannot altogether be avoided even if the rightful holder intimates the loss of certificate to the post office of registration promptly. Even where the certificate does not have identity slip, encashment is possible. It is in any case not practicable to prescribe a time limit for a report on the loss from the holder. It is therefore, considered necessary that a provision should be made as in rule 26, so as to protect the interests of Government. Such a provision will also motivate the holder to keep the certificate carefully and in proper custody. This has been seen by DGP&T who concur with the views mentioned above."

8. The Committee on Subordinate Legislation (1983-84) considered the above matter at their sitting held on 8 May, 1984. After discussing the matter at some length, the Committee were not able to reconcile with the Ministry's point of view, but before coming to any decision, desired further information on the following points from the Ministry :

- (i) "Statistics regarding loss of certificates reported by the holders to the Postal Authorities and their encashment by persons other than the holders of certificates which had occurred since the enforcement of the Social Security Certificates Rules, 1982 and the action taken by the Ministry/Postal Authorities in those cases."
- (ii) The method/measures proposed to be devised by the Ministry to protect the interests of the actual holders of certificates when their certificates were stolen in theft and such loss was reported to the concerned authorities well in time and how the fraudulent encashment of those certificates could be checked."

9. The Ministry of Finance (Department of Economic Affairs) furnished the requisite information in their reply dated 26 November, 1984 as follows :

- "(i) Since the introduction of Social Security Certificates with effect from 1st June, 1982, there were only seven cases of loss of certificates by the holders. Out of these 7 cases, 5 occurred in Maharashtra Circle and 2 in Tamil Nadu Circle. In none of these cases, the original certificates were fraudulently encashed by persons other than the real holders.

- (ii) The interests of the real holders of the certificates are protected as the real holders are entitled to duplicate certificates under Rule 14 of the Social Security Certificates Rules, 1982. As regards measures to prevent fraudulent encashment of lost certificates by persons other than the real holders, it may be stated that such instances have not occurred so far, as mentioned in (i) above. The existing safeguard of keeping note of duplicate certificates has already been mentioned."

10. At their sitting held on 10 July, 1985, the Committee considered above reply of the Ministry and decided to hear evidence of the representatives of the Ministry of Finance (Department of Economic Affairs). The Committee heard the representatives of the Ministry on 7 January, 1986.

11. The Committee drew attention of the representatives of the Ministry to Rule 26 of the Social Security Certificates Rules under which the Post Office was not responsible for any loss caused to the holder of a certificate by fraudulent encashment thereof and pointed out that in such a situation the Rule was more in favour of a person who did the fraudulent act than that who suffered the loss. It was also enquired from them as to why under the existing Rules issue of the identity slip was not made obligatory on the part of the authorities as it was not issued unless the person purchasing the certificate asked for it.

12. Clarifying the position, the representatives of the Ministry stated that the identity slip had been kept optional in respect of those purchasers who wanted to encash their certificates, on maturity, at a place other than the office at which these were issued. He further stated that if any holder asked for it, the Post Office had to issue it.

13. When asked why the identification marks were not indicated on the face of the certificate itself, the representative replied that the identity marks could be recorded if those were easily identifiable. He further stated that this system could be introduced as an additional precaution against fraudulent encashment but there would be some difficulty in the cases of 'pardanasheen' ladies or persons not having visible identification marks. The representative further stated that in clear cut cases system could only be introduced prospectively. He added that heavy amount was being paid in banks on the basis of signatures/thumb impressions. In the case of small post offices in remote areas, the question of identity would not arise as the Post Master usually knew all the residents of that place. In the alternative, the postal authorities could issue instructions to the Post Masters to get the

person identified by some old resident, already known to the postal authorities.

14. When it was pointed out that provision contained in rule 26 of the Social Security Certificate Rules was a substantive one and should be provided for in the parent Act, the representative of the Ministry replied that rule making power provided for certain conditions which covered non-payment in fraudulent encashment cases also. He further stated that those rules were framed in consultation with the Ministry of Law. They would consult that Ministry again and furnish their detailed view on the matter.

15. When enquired to explain about the position of minor in the matter, the representative explained that for Social Security Certificates, the eligibility age was 18 years to 55 years but the application could also be moved on behalf of the minor.

16. When specifically enquired whether those certificates safeguard the interest of the Government or the general public, the representative replied that great care was taken for checking at the time of making payment in the post offices by verifying the application and the identity of the person concerned. There had been no case of fraud so far. The representative further clarified that rule 19 of the Social Security Certificates Rules provided that these certificates shall be encashed at the post office at which that stands registered. It further provided that such certificate might be encashed at any other post office, if the officer-in charge of that post office was satisfied on production of the identity slip or on verification from the post office where that certificate stands registered, that the person presenting the certificate for encashment was entitled thereto.

17. Asked to explain the procedure for verification, the representative stated that if the person did not possess the identity slip, then this signature would be referred to the office of origin of that certificate for cross-checking of the signature on the original application. On receipt of their positive reply, the payment could be made.

18. Subsequently, the Ministry of Finance (Department of Economic Affairs) in their communication dated 20 January, 1986, intimated the Committee that Rule 26 of the Social Security Certificates Rules, 1982 fell within the rule making powers conferred on the Central Government under Section 12\* of the Government Savings Certificates Act, 1959, as advised by the Ministry of Law.

19. After considering the whole matter from all aspects the Committee are of the view that the provision contained in Rule 26 of the Social Security Certificate Rules regarding absolving the Post Office of the responsibility of any loss caused to the holder of Social Security Certificate due to its fraudulent encashment, is of a substantive nature and should be provided for in the enabling Act if it is absolutely necessary to have this provision. The Ministry of Finance (Department of Economic Affairs) in consultation with the Ministry of Law and Justice should amend the relevant Act suitably.

20. The Committee also feel that for further facilitating the process of encashment of Social Security Certificates on maturity, the Ministry, of Finance (Department of Economic Affairs) should consider the feasibility of introducing a system of marking visible identification marks of the purchaser of the certificate on the face of the certificate itself so as to avoid any possible difficulty to its holder for encashment at later stage or maturity.

21. After considering the whole matter from all aspects the Committee are of the view that the provision contained in Rule 26 of the Social Security Certificate Rules regarding absolving the Post Office of the responsibility of any loss caused to the holder of Social Security Certificate due to its fraudulent encashment, is of a substantive nature and should be provided for in the enabling Act, if it is absolutely necessary to have this provision. The Ministry of Finance (Department of Economic Affairs) in consultation with the Ministry of Law and Justice, should amend the relevant Act suitably.

22. The Committee also feel that for further facilitating the process of encashment of Social Security Certificates on maturity, the Ministry of Finance (Department of Economic Affairs) should consider the feasibility of introducing a system of marking visible identification marks of the purchaser of the certificate on the face of the certificate itself so as to avoid any possible difficulty to its holder for encashment at a later stage or on maturity.

### III

- (i) THE GANESH FLOUR MILLS COMPANY LTD. (ACQUISITION AND TRANSFER OF UNDERTAKINGS) RULES, 1984 (S.O. 10-E OF 1985)
- (ii) THE HOOGHLY DOCKING AND ENGINEERING COMPANY LTD. (ACQUISITION AND TRANSFER OF UNDERTAKING) (INTIMATION REGARDING MORTGAGE, CHARGE, LIEN AND OTHER INTERESTS IN ANY PROPERTY) RULES, 1985 (S.O. 54-E OF 1985)

(iii) **THE TRANSFORMER AND SWITCH GEAR LIMITED  
(ACQUISITION AND TRANSFER OF UNDERTAKINGS)  
(INTIMATION REGARDING MORTGAGE, CHARGE, LIEN  
OR OTHER INTEREST IN/ANY PROPERTY) RULES, 1985  
(S.O. 63-E OF 1985**

23. During a scrutiny of the aforesaid Rules, it was noticed that the language of Rule 3 thereof relating to time-limit for intimation of any charge, lien or other interest in the property did not make it clear as to what consequence of person might be subjected to, if he failed to intimate his/her interests, to the Commissioner within the stipulated time-limit or the extended, time-limit.

24. The concerned Ministries of Food and Civil Supplies (Department of Civil Supplies), Industry (Department of Heavy Industry-now Deptt. of Public Enterprises) and Industry (Deptt. of Industrial Development) were asked to state whether the consequences flowing from the failure of a person or party to intimate such interests in time could be adverse and, if so to what extent. The Ministries were also requested to state whether they had any objection to amending the above Rules to include a provision to give wide publicity to the provisions of the parent Act or the rules to the concerned parties individually by registered post or alternatively publish them in the leading newspapers of the region.

25. The reply of the Ministries of Food and Civil Supplies (Department of Civil Supplies) dated 30th April, 1985, received in regard to Ganesh Flour Mills Ltd., was as under :

“Regarding rule 3 pertaining to *time limit* for intimation of any charge, lien or other interest in the property of the said Company.

The rules were framed under the Ganesh Flour Mills Company Ltd. (Acquisition and Transfer of Undertakings) Act, 1984. The sub-section (3) of Section 4 of the said Act says that—

Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charges, lien or other interest in, or in relation to, any such property shall give within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

- 1.2 Accordingly, in exercise of the powers under Section 27 of the Act (power to make rules) Rule 3 was made. The time-limit fixed in Rule 3 is similar to that prescribed by Section 17 of the Act, i.e.

“Every person having a claim against the company in relation to the Ganesh Flour Mills with regard to any of the matters specified in the Schedule shall prefer such claim before the Commissioner within thirty days from the specified date.

Provided that if that Commissioner is satisfied, that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.”

- 1.3 So rule 3 does not affect the right of a person who fails to intimate his interests to the Commissioner within the stipulated time limit or the extended time limit, provided he prefers his claim before the Commissioner within thirty days from the specified date or in case of delay, the delay is condoned by the Commissioner under proviso to Section 17 of the Act. However, if a person referred to in Rule 3 fails to prefer his claim within the stipulated time-limit and extended time limit as prescribed by Section 17 of the Act, his claim cannot be entertained by the Commissioner and he shall be excluded from the disbursements to be made by the Commissioner. Thus, even if such a person holds a valid and lawful charge, he shall not be disbursed any amount out of the compensation money placed at the disposal of the Commissioner under Section 7 of the Act.

II. Regarding the manner of inviting requisite information from the mortgages who have any charge, lien or other interests in the property of the company, since the Commissioner cannot identify them nor has he any source to know about their whereabouts, the procedure prescribed under order 5, Rule 20 (IA) of the Civil Procedure Code for substituted service was used. Accordingly, ‘Notice inviting claims’ was got published in leading National and regional daily News-paper e.g. Indian Express, Time of India, Hindustan Time, (all in English), Nav Bharat Times, Hindustan (in Hindi), Aaj (in Urdu-Kanpur) and Sakal (in Marathi-Bombay). After receiving response to the

above Notice, they are being acknowledged. Thereafter, the claimants are asked individually by Regd. Post to file proof of their claims.

- 2.2 Thus, besides issuing advertisement in leading newspapers, we are already calling for the requisite information from the concerned parties individually inviting their attention to the relevant provisions of the parent Act and Rules by Registered Posts."

26. With regard to the Hooghly Docking and Engineering Company Limited (S.O. 54-E of 1985), the Ministry of Industry (Department of Heavy Industry) (now Department of Public Enterprises) in their reply dated 3 May, 1985 stated as under :

".....As per Chapter VI Section 15 of the Act No. 55 of 1984, the Commissioner will be appointed who will enquire into the claims against the Company. As per Section 18, the claim is to be made within 30 days. This has been further clarified in the intended rules. The mortgagee can file his claim before the Commissioner within 30 days. The maximum period for filling the claim is 60 days if there is any sufficient cause for delay for not filing within 30 days. It is for the Commissioner to give wide publication in the local newspapers so as to intimate the claimants to file their claims. After 60 days of notification of the date, by the Commissioner, no claim can be filed. The duty to file claims is on the parties."

27. Regarding the Transformer and Switchgear Limited, the Ministry of Industry (Department of Industrial Development). (now Department of Public Enterprises) in their reply dated 29 April, 1985 stated as under :

".....attention is invited to sub-sections (3) and (4) of section 4 of the nationalisation Act. On acquisition of the undertaking by Central Government, no such mortgage, charge lien or other interest is enforceable against any property which has vested in Central Government. However, any mortgagee or any person holding any charge lien or other interest in, or in relation to, any such property, is entitled to claim the amount of the compensation amount, provided in sections 7 and 8 of the Act. Any person or party, having such claims, who fails to submit the same before the Commissioner of Payments within the stipulated period of 30 days or within a period of further 30 days if the Commissioner is satisfied about sufficient cause for not

preferring the claims within the first 30 days, would forgo his entitlement to claim any money out of the compensation amount.

.....the first option suggested there, calls for amending the rules to provide for calling the requisite information regarding such claims, individually from the concerned parties. In that case, the Commissioner would have to be dependent on the company to furnish him necessary details of such claimants. While this system does not preclude the chances of omission of any claimant by the company either 'inadvertently or where in the company's judgement the claim does not stand, in the prescribed method, any person or party, who feels that it has got a claim, gets a fair chance of submitting it to the Commissioner. Therefore, the amendment is not preferable. The other amendment suggested is to provide for issue of an advertisement in the leading newspapers of the region with a view to give publicity to the provision, of the rules. In fact, after the 'specified date' for filing of claims is notified by Government, the Commissioner of Payments does issue an advertisement in leading newspapers of the region in English, and also in the regional language, giving full details of the provisions of the rules and calling for all the claimants to file their claims to him within the stipulated time. This practice is being followed in all such cases of nationalisation. In the instant cases, the necessary advertisement would be issue by the Commissioner as soon as the 'specified date' as required under section 17 of the Act, is notified by the Government. As the suggested method would be followed in any case, the amendment of the rules is perhaps not necessary."

28. At their sitting held on 25 October, 1985, the Committee consider the above replies and decided to hear evidence of representatives of the Ministries of Food and Civil Supplies in the matter. Accordingly, at their sitting held on 8 January, 1986, the Committee took evidence of representatives of the said Ministries.

29. The Committee first heard evidence of the representatives of the Ministry of Food and Civil Supplies (Department of Civil Supplies) in regard to the Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Rules, 1984 (S.O. 10-E of 1985)

30. The Committee desired to know whether there was a provision in the rules for appeal in the event of an unsatisfactory decision by the

Commissioner of Payments who had been entrusted with the task of examining the mortgagee of any vested property or a person holding any charge or other interest in it. These Secretary, Ministry of Law informed that Section 4(3) of the Act, gave the right of the mortgagee of any property or any person holding any charge, lien or any other interest to intimate the same to the Commissioner within the prescribed time for the purpose of filling his claims.

31. When asked to state the reasons for the publication of the scheduled date for filing claims only in the Gazette when the people generally did not go through Gazettes, the representative of the Ministry of Law stated that it could be published in the newspapers also so that the public at large could know about the specific date by which the claims should be filed.

32. Regarding power of the Commissioner to take a decision about the entitlements of the amount after filing of all documents to him, the Committee were informed that the Commissioner had to take a decision of the entitlement of the amount after all the claims documents had been filed to him. Section 18(7) of the Act laid down the procedure for examining the claimants' entitlement, and there was also a provision for appeal in case the claimant felt aggrieved.

33. In reply to a question whether in case the Central Government became an mortgagee in respect of Ganesh Flour Mills with related documents in their possession, why an intimation to this effect was not sent by a registered letter to the persons concerned for recovery of the mortgage amount, the representative of the Ministry of Law drew the attention of the Committee to Section 3 of the Act which provided that a mortgagee could file a claim with the Commissioner only and not with the Central Government and as such the Central Government was not liable to give any details of the mortgagee to the Commissioner. Regarding intimation to mortgagee he added that the Commissioner did not have a list of mortgagees and it was for claimants to give intimation for recovery of their claims. The property was not under the charge of the Commissioner but vested with the Custodian or the Company.

34. When asked about mortgage deed documents available with the Government/Commissioner and issue of notice to the claimants accordingly, the representatives of the Ministry of Law stated that he would like to draw the attention of the Committee to one more provision. He added that even if the claim was not filed within 30 days, there was a provision in that Section that the amount lying with him would be credited to the

public accounts of the Government of India and there also he could file his claim and get his dues from the Government. He further added that a provision would be made in the rules to give a public notice.

35. When enquired about the time taken to decide the claims and also the procedure thereof, the representative of the Ministry of Law stated that as soon as the claim was filed, a letter was required to be sent by the Commissioner to the Custodian or the Government Company to send all the files to the Commissioner. Regarding the procedure, he drew the attention of the Committee to Section 18(5) clause (b) of the Act. He added that the Commissioner while exercising his powers would have his own procedure and as such no payment for any process fee was involved.

36. When asked whether an amendment could be made to the rules for the purpose of giving publicity in the newspapers regarding the target date for filing claims, the representative of the Ministry agreed to the proposal for action in the future.

37. The Committee then heard the evidence of the representatives of the Ministry of Industry (Department of Public Enterprises) in respect of Hooghly Docking Engineering Company Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage Charges, Lien or Other Interest in any Property) Rules, 1985.

38. Asked to state whether there was any difficulty in the implementation of the Hooghly Docking and Engineering Limited (Acquisition and Transfer Undertakings) Act, 1983 including settlement of claims, the representative of the Ministry replied in the negative.

39. When enquired as to whether the time-limit for settlement of claims was extended, the Assistant Commissioner informed the Committee that the period was extended from 30 to 60 days and the claims received beyond that limit were rejected. Enquired as to whether there were any appeals in respect of claims rejected, the witnesses mentioned that none of the claimants had gone in appeal so far. As regards the amount involved in the claims, he stated that it worked out to about 30 crores whereas the amount received for claims from the Central Government was about 6,50,00,000/-. Under the statute, the Commissioner of Payments could dispose of the claims category-wise giving priorities to several other categories.

40. The representative of the Department of public Enterprises informed the Committee that the stipulated date for filing claims etc. was

published in the Gazette on 28 January, 1985. Thus, two clear months were available to possible claimants to lodge their claims. After 30 days and upto 60 days they could give reasons for delay in filing claims.

41. Asked to state the procedure laid down for settling a claims, the Assistant Commissioner informed the Committee that there were several stages involved. Procedures had been laid down for the purpose of inviting claims, getting identification, investigation of claims etc. However, under the statute, the Commissioner had to lay down his own procedure for the purpose.

42. To a suggestion whether the above procedure could be incorporated in the rules itself, the representative of the Law Ministry stated that in all the quasi judicial tribunals they were allowed to specify their own procedures. These were not indicated in the rules at all. The whole idea of leaving it to the quasi judicial tribunals was that the procedure could be as summary as possible.

43. As regards the possibility of adopting different procedure by different Commissioner of Payments, the witnesses stated that the procedures might be different depending upon certain local conditions.

44. The Committee then heard the representatives of the Ministry of Industry (Department of Industrial Development) in regard to the Transformer and Switchgear Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien or other interest in any Property) Rules, 1985.

45. When asked whether the procedure laid down by the Commissioner of Payments was got examined by the Ministry of Law, the representative of the Ministry replied that it was not required as the Commissioner was expected to lay down his own procedure.

46. Asked to state his opinion about the publication of the specified date in local papers before the Joint Commissioner was appointed, he replied that it was done and, in fact, it was required to be done under the Law.

47. The Committee after considering the whole matter in detail and hearing the views of the representatives of the concerned Ministries, note that the specific date and time limit fixed for filing the claims under the Acquisition and Transfer of Undertakings Rules, is notified only in the Gazette of India. The Committee feel that people at large did not have enough opportunity of receiving or going through the Gazettes of India and as such

there was always a possibility of missing the claims by a genuine party or delay in filing such claims within the stipulated date, due to lack of such intimation. This could also result in further litigation at a later stage.

48. The Committee further note that while in the case of Gancsh Flour Mills Company, notice for inviting claims was in fact got published in the leading national and regional daily newspapers, in the case of Transformer and Switchgear Limited, the Department of Public Enterprises have conceded that this practice is being followed in all such cases of nationalisation. The Committee are, therefore, of the opinion that in all such cases the Government should have no difficulty in placing the practice already in vogue on a statutory footing.

49. The Committee observe that while no useful purpose will now be served by amending the existing Rules but at the same time they would like to impress upon the concerned Ministries to always include a suitable provision regarding publication of notice inviting claims etc. in the leading national and regional newspapers, in the relevant rules themselves, in future, so that all persons affected by such transfer of companies could know the specific dates, by which claims, etc. could be filed.

#### IV

(i) THE PREVENTION OF FOOD ADULTERATION (FIRST AMENDMENT) RULES, 1983 (GSR 109-E OF 1983).

(ii) THE PREVENTION OF FOOD ADULTERATION (SECOND AMENDMENT) RULES, 1985 (GSR 11-E OF 1985).

50. The draft Prevention of Food Adulteration (First Amendment) Rules, 1983, further to amend the Prevention of Food Adulteration Rules, 1955 were published in the Gazette of India dated 1 September, 1981 for inviting objections/suggestions from persons likely to be affected thereby, before the expiry of 90 days from the date (i.e. 12 September, 1981) on which copies of the Gazette were made available to the public. The rules in the final form were, however, published on 26 February, 1983, after a time-gap of more than 14 months.

51. Similarly the draft Prevention of Food Adulteration (Second Amendment) Rules, 1985, further to amend the Prevention of Food Adulteration Rules, 1955 were published in the Gazette of India dated 5 September, 1983 for inviting objections/suggestions from persons likely to be affected thereby, before the expiry of 90 days from the date (i.e. 22 September, 1983) on which copies of the Gazette were made available to

the public. These rules in final form were, however, published on 4 January, 1985, after a time-gap of about 13 months.

52. The Ministry of Health & Family Welfare (Department of Health) were asked to state the reasons for taking such a long time in final notification of the above Rules indicating the various stages for the finalisation of those Rules. In this connection, the attention of the Ministry was also invited to the following observation of the Committee on Subordinate Legislation made in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha) relating to Drugs and Cosmetics (Third Amendment) Rules, 1972, presented on 15 April, 1975 :

“The Committee note the assurance given by the Ministry of Health and Family Welfare (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 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 Welfare to consider whether the time-lag between the publication of draft rules and publication of the final rules cannot be further reduced.”

53. The Ministry of Health and Family Welfare, in their reply dated 20 October, 1983, explained the position as under in respect of the Prevention of Food Adulteration (First Amendment) Rules, 1983 :

- (1) “The draft notification 837 dated 1st September, 1981 was published on 12th September, 1981.
- (2) A period of 90 days was given for receipt of comments which expired on 10th December, 1981.
- (3) The published copies of the notification were received from the Govt. of India Press, Maya Puri, New Delhi on 1st October, 1981. The Copies of the notification were circulated to all Ministries/ Departments and also to all States/Union Territories on 5th October, 1981.
- (4) The notification was circulated to the State Food Health Authorities, Central Committee for Food Standards and Public Analysts on 30th October, 1981 by the Directorate General of Health Services requesting them to send the comments to that Directorate

by 10th December, 1981. The comments received were compiled and scrutinised in the D.G.H.S. and a final notification received in this Ministry on 25th February, 1982.

- (5) The final draft notification was sent to the Ministry of Law on 4.3.1982 for vetting.
- (6) As there was Parliament Question relating to this notification the file was withdrawn from the Ministry of Law on 12th March, 1982 and the same was again sent to that Ministry on 17-3-1982.
- (7) The vetted final draft notification along with some notifications was received in this Ministry from the Ministry of Law on 5th April, 1982.
- (8) This Ministry referred the notification along with the comments of the Ministry of Law to the Directorate General of Health Services on 8.4.82 for re-examination in the light of the comments of the Ministry of Law.
- (9) The observations of the Ministry of Law were examined in the Directorate General of Health Services. The notification contained amendment to the standard for Honey. Standards for Honey have also been laid down under Agricultural Marketing Rules, 1937 implemented by Directorate of Marketing and Inspection. Directorate of Marketing & Inspection was requested on telephone on 13-3-1982 followed by a letter on 14.5.1982 to send the 'Agmark' standard on Honey so that there may not be any conflict between PFA Standards and Agmark Standards.
- (10) An interim reply was received from Directorate of Marketing & Inspection on 26-6-1982. A reminder was issued to them on 6.7.1982. The Directorate of Marketing & Inspection sent their concurrence to the revision of Standards of Honey on 5.8.82.
- (11) The final notification was received from the Directorate General of Health Services on 8.9.1982 for the purpose of publication in the Gazette of India.
- (12) The final draft notification was sent to Official Language Commission on 13.9.1982 for Hindi version. The same was received from the Official Language Commission on 26.11.1982.

- (13) The fair copies of the notification were processed in this Department for publication on 30.11.1982. It was felt necessary to know the reasons for non-acceptance of certain suggestions. The files was, therefore, returned to the Directorate General of Health Services on 30.12.1982.
- (14) The Directorate's comments on acceptance/non-acceptance of suggestions were received in this Ministry on 17.1.1983. For further clarifications the file was again referred to the Directorate General of Health Services on 1.2.1983.
- (15) The file was received back from the Directorate General of Health Services on 10th February, 1983. The final notification was thereafter approved by Hon'ble Deputy Minister on 15.2.1983.
- (16) As Hindi version of the notification was required to be fair typed, the same was sent to Hindi Section on 17.2.1983. The fair copies of the Hindi version of notification were received from the Hindi Section on 24.2.1983 ; and the notification was finally published on 26.2.1983."

54. Regarding the Prevention of Food Adulteration (Second Amendment) Rules, 1985, the Ministry in their reply dated 7 May, 1985, have stated as under :

- (1) "The draft rules contemplating standards of fortified common salt and other minor amendments in the then existing standards of catech, infant milk food and milk powder were published in the Gazette of India Extra-ordinary *vide* G.S.R. No. 683-E, dated 5.9.1983.
- (2) Copies of this notification were made available on 22-9-1983.
- (3) The comments received on these draft rules were considered in a meeting held in the Directorate General of Health Services, New Delhi on 28.1.1984. The minutes of the meeting were circulated to the participants for their information and comments on 2.3.1984. giving 15 days time.
- (4) On the basis of minutes, a final draft notification was prepared by the Directorate General of Health Services and the file was referred to this Ministry on 19.4.84.

- (5) The file was referred to the Ministry of Law for vetting the draft notification on 25.4.84.
- (6) The file was received from the Ministry of Law with their comments on 8-5-84 and it was sent to Directorate General of Health Services on 11.5.84 for examining the matter further, it was received back from Directorate General of Health Services on 19.5.84.
- (7) Publication Division were addressed on 22.5.84 to indicate the date on which the copies of the GSR 683-E were made available to the public.
- (8) Reply from the Publication Division was received on 13.7.84.
- (9) The file was referred to the Official Language Wing on 20.7.84 for making available two fair typed copies of the Hindi version of the notification proposed to be issued.
- (10) The file was received from the O.L.W. on 14.9.84. It was decided to discuss the matter in a meeting. Accordingly a meeting was, thereafter, taken by Additional Secretary (H) on 29th October, 1984 where experts from ICMR and Deptt. of Food were invited to consider the question of Bio-availability of iron in common salt which has also been iodised.
- (11) Thereafter the views of National Institute of Nutrition, Hyderabad were received on 10.12.1984. They categorically opined that the iodine present in the doubly fortified salt has no effect on iron absorption in the bio-availability of iodine.
- (12) On the basis of the views expressed by the experts, the notification was finally published on 4.1.1985.

It may be observed from the above that because the matter being quite sensitive and it was likely to have far reaching consequences on the public health, it had to be considered from all aspects thoroughly. Some technical queries involved in finalisation of notification had to be considered in a number of meetings and had also await the views of experts before finalisation of the notification."

55. At their sitting held on 24 June, 1985, the Committee considered above reply of the Ministry and decided to hear oral evidence of their representatives alongwith those of Ministry of Law & Justice and the Ministry of Works & Housing (now Urban Development) in order to elicit further clarifications regarding delay in final publication of rules. Accordingly, at their sitting held on 7 January, 1986 the Committee took evidence of the representatives of the said Ministries.

56. The representative of the Ministry of Health and Family Welfare informed the Committee that the process of making the Prevention of Food Adulteration Rules started in 1979, and it took four years to complete it. He further informed that these Rules were processed and examined by a Joint Secretary and the Asstt. Director General of Prevention of Food Adulteration. Asked to state whether it was necessary or mandatory to allow a period of 90 days for inviting objections/suggestions, the representative of the Ministry replied that it was mandatory to invite objections/suggestions and as there was no specific provision in this regard in the principal Act, the general advice of the Ministry of Law to allow 90 days for the purpose was followed. The suggestions/objections received were examined by the officials and experts and not by a committee. When asked to state the time taken by the Law Ministry for vetting, the representative informed that they took less than one month. When again asked to explain the reasons why the Ministry took 14 months to finalise the draft rules, the representative explained that some time was taken for referring and cross-referring the matter between two Departments dealing with Agmark and Marketing Division.

57. Asked to state the corrective steps taken by the Ministry subsequent to the assurance given to the Committee in the year 1972, to streamline the procedure and avoid such delays in future, the representative promised to furnish a note to the Committee in the matter. On being pointed out by the Committee that the whole delay had been caused due to lack of coordination and the delay of five months could be avoided, if the preliminary action had been taken earlier, the representative admitted the oversight in coordination and stated that the Agriculture Marketing Board was responsible for the longest delay. He however, admitted the delay and expressed his regret for the same. He stated that to simplify the procedure, they proposed hereafter to have a chart-board at the time of draft notification itself and would fix a definite time schedule for each point of reference and secondly they would have a monthly review of the cases regarding framing of rules which related to such subordinate legislation.

58. When asked why the corrigenda to the notification was necessary which delayed the matter further, the representative of the Ministry of Law

stated that due to printing mistakes the corrigenda was issued. He further explained that the administrative Ministry was responsible for looking into the gazette copies. He also admitted that they had taken a little more time for Hindi translation, and regretted for the delay.

59. On being pointed out that when the draft Prevention of Food Adulteration (First Amendment) Rules were published on 1st September, 1981, why it was made available to the public on 12th September, 1981, the representative from the Ministry of Urban Development explained that the date 1st September, 1981 related to the date of notification in which the draft Rules were published and the date 12th September, 1981 was the date when the notification was actually published and became public. As regards the delay in making available the notification to the Ministry, it was stated that it was due to the time taken in printing, binding etc. He however, admitted that the time lag could have been minimised.

60. The Committee then desired to know the reasons for the delay of 13 months in the final notification of Prevention of Food Adulteration (Second Amendment) Rules, 1985.

61. The representative of the Ministry of Health and Family Welfare explained that while the amendment of the Rules which related to iodisation of salt were under process during 1983, the opinion of experts was necessary to avoid any possible risk in the matter. When asked how much time was taken to examine the suggestions/objections which were received, the representative replied that they took about four and half months and afterwards a meeting had to be convened to remove some doubts raised by the Director-General of Health Services.

62. On being pointed out that the Ministry had taken four months to issue a corrigenda and whether the Law Ministry had been consulted in the matter, the representative of the Law Ministry informed that after the notification was published in the gazette, it became the responsibility of the Ministry concerned to go through the gazette copy containing the draft rules and thereafter the rule in the corrected form with the corrigenda were sent to the Ministry of Law for vetting.

63. Asked to state why the Publication Division took about two months to intimate the Ministry concerned, the date on which copies of the notification were made available to public, the representative of the Ministry of Urban Development informed that a regrettable delay of 51 days had taken place on this account which was a lapse on their part.

64. On being pointed out that consultations with the experts and Institutions which were necessary in view of the sensitive and far reaching effects of the provisions of the proposed rules, prior to the formulation of the draft notification could have saved much time, the representative of the Ministry of Health and Family Welfare explained that in the beginning Government had not finalised their views about iodisation of salt and the experts opinion which came later became relevant and the decision regarding iodisation was taken later.

65. The Committee are distressed to note that instances of delay in the final publication of Rules continue to occur in the Ministry of Health and Family Welfare in spite of their categorical assurance given to the Committee as far back as 1975 that the existing procedure regarding framing of subordinate legislation in their Ministry, would be streamlined in order to check such delays. On being pointed out that such delays could be eliminated by advance planning and coordination, the Ministry while regretting the delay have informed the Committee about the proposal to adopt corrective measures for the purpose, by maintaining a chart-board at the stage of drafting the notification itself and adopt a time schedule at each stage of process. They also propose to have a monthly review of cases regarding framing of subordinate legislation.

66. The Committee hope that with the adoption of the measures proposed for expedition in the matter of subordinate legislation and sincere efforts by the Ministry to programme a plan of action in the matter, the delays which had been persistent in the final notification of Rules would be reduced to the minimum, if not totally eliminated. In this connection, the Committee would like to reiterate their earlier recommendation made in paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983 that where a large number of objections/suggestions were received, the time gap between the notification of the draft rules and their final publication should not be more than six months. Where the objections/suggestions are few, efforts should be made to reduce this period further to the barest minimum without impairing the fruitfulness of subordinate legislation.

67. The Committee observe that another factor for the delay, is the corrigendum to be issued to the Gazette copies of the Rules. The Committee feel that the Gazette copies of the Rules after its publication in the Gazette of India are not being checked properly. The Committee would like to stress that the responsibility of the administrative Ministry does not cease with sending the notifications of Rules, Orders etc. either in draft or final form to the Press for publication. It is also their responsibility to examine the Gazette

**copies after its publication to see whether these are correctly published and take expeditious steps to issue corrigenda etc., if necessary. The Committee would like to impress upon all Ministries/Departments not to neglect or over-look this important aspect and ensure prompt action in this regard in all cases.**

**68. The Committee further observe that in the case of First Amendment Rules under reference, the main reason for delay in the finalisation of Rules is attributed to the time consumed in referring and cross referring of the matter between the Department dealing with the Agmark and Marketing Divisions. In such cases the Committee would like to observe that these delays could be reduced by having inter-departmental meetings of senior officers to sort out the matters across the table and come to definite conclusions speedily.**

**69. The Committee note that the Ministry of Urban Development took a little more time in making the Gazette copies available to the public. The Ministry have conceded that this delay could have been reduced and pleaded that it was due to the time taken in printing, binding etc. The Committee would like to point out that the delay in making the Gazette copies of draft rules available to public, adds to the delay in further processing of the Rules etc. and their publication in the final form. They desire the Ministry of Urban Development to take some suitable remedial steps in this direction for reducing such delays in future.**

**70. The Committee observe that in the case of Prevention of Food Adulteration (Second Amendment) Rules under reference, the main reason for delay of about four and half months was due to examination of the suggestions/objections received on the draft Rules. Taking note of the fact that rules related to sensitive matter of far reaching effect concerning the health of the Public at large, the Committee would like to reiterate their observation made in para 68 above that the Ministry can expedite their decision by having inter-departmental meetings of senior officers for the purpose, instead of resorting to protracted correspondence on files. The point that Committee would like to emphasise is that such important matters as Rules regarding adulteration of food stuffs which affect public health should be dealt with by all concerned with deep sense of urgency as any delay would be detrimental to the very existence of millions of people of our rountry.**

**THE DRUGS AND COSMETICS (FIRST AMENDMENT)  
RULES, 1984 (G.S.R. 318 OF 1984)**

71. From the preamble to the Drugs and Cosmetics (First Amendment Rules, 1984, it was noticed that the draft Amendment Rules were published in the Gazette of India dated 22 March, 1982, for inviting objections suggestions from all affected persons before the expiry of 90 days from the date of publication of the draft Rules in the Gazette. The Rules in the final form were, however, published on 1 May, 1984 *i.e.* after a lapse of 25 months.

72. The Ministry of Health and Family Welfare were asked to state the reasons for delay in the publication of the final Rules giving the details of the time taken at each stage.

73. The Ministry in their reply dated 22 October, 1984 (*See Appendix III*) gave various dates regarding movement of files between the Ministry of Health and Family Welfare and Directorate General of Health Services, between the Ministry of Law and Justice and between Official Language Wing. The Ministry further stated that there was no inordinate delay either on their part or on the part of Directorate General of Health Services.

74. At their sitting held on 24 June, 1985, the Committee considered the reply of the Ministry of Health and Family Welfare and decided to hear oral evidence of their representatives alongwith those of the Ministries of Law and Justice and Urban Development, in order to elicit further clarifications regarding delay in final publication of the Rules. Accordingly at their sitting held on 7 January, 1986, the Committee took evidence of the representatives of the said Ministries.

75. Explaining the delay of 22 months in notifying the Drugs and Cosmetics (First Amendment) Rules, 1984 the representative of the Ministry explained that his Department came to know about the publication of the draft rules on 1st September, 1982, when it was made available to public. A period of about two years was taken to finalise the draft rules after considering the objections and suggestions received thereon. He

admitted the delay on their part which according to him was due to the time taken in examination of the objections received on the draft rules, and in inter-departmental references between the Ministries of and Health. Asked to comment as to how inspite of more than fifteen months delay on the part of the Ministry of Health, they still maintained that there was no inordinate delay, the representative of the Ministry admitted that there had been a delay but much of it was on account of deciding the issue of footnote. The Committee were not convinced of the reasons for the inordinate delay in final publication of the rules. The representative of the Ministry promised that every effort would be made by them to avoid such delays in future.

76. The Committee regret to observe that it is a clear case of delay on the part of the Ministry of Health and Family Welfare in processing the subordinate Legislation. They feel that no initiative has been shown by the Ministry for conclusive action at every stage in finalising the Rules and undue time has been consumed by procedural delays. The Committee express their displeasure over the complacent attitude displayed by the Ministry.

77. The Committee observe that much time has been taken in inter-departmental references and consultations. In this regard the Committee have already observed in para 68 of this report that in such cases the Ministry should sort out the matter across the table by holding meetings of senior officers and come to definite conclusions speedily instead of solving the issue by way of regular correspondence.

78. The Committee would like to reiterate their earlier recommendation contained in para 68 of their Twenty-fourth Report (Seventh Lok Sabha) presented on 21 December, 1983 wherein they had emphasised imperative need to reduce the time lag between the publication of the draft Rules and their final notification in the Gazette without impairing the fruitfulness of such piece of legislation.

79. The Committee note the assurance given by the Ministry during their evidence, that in future they would function more cautiously and show greater initiative and expedition in the disposal of the cases of subordinate legislation. The Committee would like to watch the result of this assurance for some time.

**THE CANTONMENT FUND SERVANTS (AMENDMENT)  
RULES, 1985 (S.R.O. 53 OF 1985)**

80. From the preamble to the Cantonment Fund Servants (Amendment) Rules, 1985 (S.R.O. 53 of 1985), it was observed that these Rules were published in the draft form in the Gazette of India dated 25 June, 1983 and copies thereof made available to the public on 5 July, 1983 for inviting objections/suggestions thereon, from all persons likely to be affected thereby till the expiry of a period of sixty days from the date of publications of the said notification (25 June, 1983) in the Gazette. These rules in the final form were, however, published in the Gazette dated 9 March, 1985 after a time gap of about 18 months (excluding the time given to the public) despite the fact that no objections/suggestions were received thereon from the persons concerned with the Rules.

81. The Ministry of Defence were accordingly asked to state the reasons for the time-gap of about 18 months between the publication of the Rules in the draft form and final notification thereof.

82. The Ministry in their reply dated 11 June, 1985 (See Appendix IV) gave the various dates regarding movement of files to various Ministries and authorities concerned and other statistical details. In conclusion, the Ministry stated that the case was delayed primarily due to non-furnishing by the Controller of Publication, of the date on which the Gazette Notification S.R.O. No. 178 published on 25.6.1983 was made available to the public.

83. At their sitting held on 25 October, 1985 the Committee considered the above reply of the Ministry and decided to hear oral evidence of their representatives alongwith those of the Ministry of Works & Housing (now Urban Development) to elicit further clarification regarding the delay in final notification of the Rules. Accordingly, at their sitting held on 7 January, 1986, the Committee took evidence of the said Ministries.

84. The Committee pointed out that the Ministry of Defence had taken a period of 18 months in final publication of the Cantonment Fund Servants (Amendment) Rules, 1985 even when no objections/suggestions had been received thereon from persons likely to be affected thereby and the

rule in question related to only three amendments which had taken 18 months to notify them.

85. When enquired whether they had taken a period of 3 months i.e. from 25.6.1983 to 19.9.1983, simply to enquire the date on which the draft rules were made available to the public, the representative of the Ministry of Defence replied in affirmative. When further enquired the necessity of making such inquiry from the Controller of Publications, the representative explained that on 19.9.1983 the Controller was asked to indicate the date on which the Gazette was made available to the public in order to calculate the specified period to be made available to public to raise objections.

86. When enquired as to how the Ministry ensured that copies of the Gazette had been made available to the public, the representative stated that they had some agencies through whom they released the Gazettes for the public. These gazettes were made available at the Kitab Mahal, New Delhi.

87. The representative of the Ministry of Defence informed that the delay in furnishing the date of availability of the Gazette copies to public by the Controller of Publications resulted in delay of final publication of the Rules under reference. Stating the sequence of the whole event, the representative of the Ministry stated that the draft notification was made available on 5 July, 1983 and thereafter the matter was followed up with the Controller of Publications to find out the date on which the Gazette copies were made available to public. The reply of the Department of Publications did not reach them. Thereafter on 28.8.1984, 11.10.1984 and 19.12.1984 they reminded that Department and also deputed a person to that Department to obtain the requisite information personally. They could get the information only on 19.1.1985.

88. When pointed out that for only 3 amendments, they had taken a period of 2 years and those rules might have affected a number of people, the representative while regretting the lapse informed that because of the delay no body's interest had been adversely affected as administrative instructions had been issued in 1981 making the facilities contained in above rules available to the employees of Cantonments.

89. When enquired whether without knowing the date of making the rules available to the public, the Ministry could not proceed further, the representative informed that the concept of making available draft rules to the public was introduced by the Committee itself, therefore, till such date

was made known to the Ministry. they could not issue the final notification.

90. When asked as to why after the due date for publication of Gazette they took 3 months to enquire when the Gazette copies were actually made available to the public, the representative conceded that this query could have been made earlier.

91. In reply to a question for taking a period of 4 months for sending the draft rules to Law Ministry for vetting, when no objections/suggestions had been received, the representative stated that they had to wait till the expiry of 60 days period allowed for raising objections/suggestions on the draft Rules.

92. On being pointed out that the Ministry had taken 4 years, from 1981 to 1985 in processing, finalising and finally printing the Rules under reference, and asked to state the date on which they initiated the process of amending the Rules, the representative stated that process had started as early as in November, 1981. The representative of the Ministry was requested to furnish the full details of the dates on which the Ministry had sent communications to other Departments at various stages of processing, finalising and finally publishing the above rules, the dates on which they got the replies from those Departments indicating the time taken at each stage.

93. In their further communication dated 30 January, 1986, the Ministry have furnished a detailed note\* regarding processing and finalising the rule under reference and steps taken by them to avoid such lapse in future.

94. The Committee are not happy over the manner in which the matter regarding processing and finalisation of the Cantonment Fund Servants (Amendment) Rules, 1985 has been dealt with in the Ministry of Defence even when no objections/suggestions on the draft rules had been received from the affected persons. In this connection the Committee would like to reiterate their earlier recommendations contained in paragraph 68 of their Twenty-fourth Report presented on 21 December, 1983 wherein they have *inter alia* desired that in cases where no objections/suggestions were forthcoming on the draft rules, the rules should be notified within a period of 3 months. The Committee desire the Ministries to follow the above direction of the Committee in future in letter and spirit.

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\* Sec Appendix V

95. The Committee observe that the main reason for delay in publication of the said rules was non-availability of the date on which the draft rules were made public by the Controller of Publications. The Committee are dismayed to note that the Controller of Publications did not furnish the requisite information to the Ministry of Defence inspite of repeated reminders and sending an official personally for the purpose. The Committee are unable to understand the difficulty on the part of the Controller of Publication to furnish this simple information. The Committee also feel that the Ministry of Defence also can not completely absolve themselves of the responsibility for the delay in collecting the requisite information from the Controller of Publications.

96. The Committee further note from the Communication dated 30 January, 1986 that the Ministry of Defence have taken the following remedial measures in order to avoid recurrence of such cases in future :

- (i) The progress in the final publication of statutory rules after their preliminary publication will be monitored by a Senior Officer of the level of Deputy Director General.
- (ii) An official will be detailed to ascertain the date of publication of the Gazette, immediately after the Notification has been sent to the Press for publication.
- (iii) Once the fact of publication has been ascertained a written communication will be sent to the Controller of Publications for furnishing the date on which the Gazette was made available to the public.
- (iv) If there is no response from the Controller of Publications within 15 days, an official will be sent to get the information personally in writing.

97. The Committee would like to watch with interest the results of above steps proposed to be taken by the Ministry.

## VII

### THE AIRCRAFT (FIRST AMENDMENT) RULES, 1985. (GSR 16—E OF 1985)

#### (A)

98. The preamble to the Aircraft (First Amendment) Rules, 1985, provides that rules in draft form were published in the official Gazette dated 7 January, 1984 inviting objections/suggestions thereon from all persons likely to be affected thereby. However, there was no indication in the preamble about the time given to the public for sending their objections and suggestions, as is usually done in such cases.

99. The Ministry of Tourism and Civil Aviation (now Ministry of Transport) (Department of Civil Aviation), with whom the matter was taken up, stated in their reply dated 30 April, 1985, that they had no objection to amending the preamble to the Amendment Rules in question to the desired effect by adding that the objections and suggestions were invited before the expiry of a period of 3 months from the date of publication of the said notification in the official Gazette.

100. The Committee note that the Ministry of Transport (Department of Civil Aviation) have agreed to amend the preamble to the Aircraft (First Amendment) Rules, 1985 by providing there in the specific period of 3 months, for inviting objections/suggestions, from all persons likely to be affected thereby. However, they feel that no useful purpose would be served by amending the aforesaid preamble at this belated stage, when the draft amending Rules had already become part of the original Rules. The Committee at the sametime caution the Ministry to be careful in such matters in future and always mention in the preamble to such Rules the specific period given to the public for sending their objections and suggestions on the draft Rules.

#### (B)

101. During the scrutiny of the Aircraft (First Amendment) Rules, 1985, it was further noticed that the Rules in draft form were published in the official Gazette on 7 January, 1984 inviting objections and sugges-

tions from all persons likely to be affected thereby. The Rules in final form were, however, notified in the Gazette dated 10 January, 1985 *i.e.* after an interval of about 12 months.

102. The Ministry of Tourism and Civil Aviation (now Ministry of Transport) (Department of Civil Aviation) were asked to state the reasons for the long interval of time taken in notifying the final Rules even when no suggestions/objections to the draft Rules were received from the public.

103. In their written reply dated 30 April, 1985, the Ministry stated as under :

“The delay has taken place because the material had to be collected from various Directorates of Director General of Civil Aviation for preparation of ‘Explanatory Note’. Coordination between four different Directorates (*viz.* Directorate of Regulation and Information, Directorate of Air Safety, Directorate of Training and Licencing and Directorate of Aeronautical Inspection) of the Civil Aviation Department was also involved.”

104. At their sitting held on 25 October, 1985, the Committee considered the above reply and decided to hear evidence of the representatives of the Ministry of Transport (Department of Civil Aviation) for further clarification in the matter of delay between the publication of draft Rules and their final notification in the Gazette. Accordingly, at their sitting held on 8 January, 1986, the Committee heard evidence of the aforesaid Ministry.

105. Asked to state the reasons for the delay in publication of draft rules in final form, particularly when there were no objections/suggestions from the public, and the rules could have conveniently been framed within a period of six months, the representative of the Ministry stated that the delay had occurred due to shortage of staff in the Section dealing with the subject in the Office of the Directorate General of Civil Aviation.

106. In their further communication dated 27 January, 1986, the Ministry have stated that a Section Officer concerned with the said Rules will be made responsible for scrutiny of the Gazette copies containing the statutory notifications, and issue of corrigenda etc., if so needed. The Ministry also propose to issue fresh instructions on the subject within their Ministry to ensure that final publication of Rules were not delayed beyond 3 months.

107. The Committee are not convinced with the reply of the Ministry that the reason for delay in the final notification of the Aircraft (First Amendment) Rules, 1985, was due to the time involved in collecting the material from the various Directorates of the Director General of Civil Aviation. They are of the view that the Ministry had not paid any serious attention to the collection of the requisite information from their various Directorates. The matter had also not been pursued with the urgency it deserved or any initiative taken to collect the information concurrently. In this connection, the Committee would like to recommend that such delays could be eliminated by having inter-departmental meetings of senior officers of the respective Directorates rather than resorting to routine correspondence in a complacent manner.

108. The Committee would also like to reiterate their earlier recommendation made in para 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983, wherein they have, *inter-alia* observed that in cases where no objections/suggestions were received on the draft Rules, the final Rules should be notified within a period of three months exclusive of the time given to the public for raising objections/suggestions thereon and desire the Ministry of Transport (Department of Civil Aviation) to bring the above recommendation to the notice of all concerned in their Ministry, for strict compliance in future.

NEW DELHI;

April 10, 1986

Chaitra 20, 1908 (Saka)

MOOL CHAND DAGA,

*Chairman,*

*Committee on Subordinate Legislation*

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## APPENDICES

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## APPENDIX I

(Vide paragraph 5 of the Report)

*Consolidated statement of Recommendations/Observations made by  
the Committee*

S. No.	Para No.	Recommendations/Observations
1	2	3
1 (i)	21	After considering the whole matter from all aspects the Committee are of the view that the provision contained in Rule 26 of the Social Security Certificate Rules regarding absolving the Post Office of the responsibility of any loss caused to the holder of social Security Certificate due to its fraudulent encashment, is of a substantive nature and should be provided for in the enabling Act, if it is absolutely necessary to have this provision. The Ministry of Finance (Department of Economic Affairs) in consultation with the Ministry of Law and Justice, should amend the relevant Act, suitably.
1(ii)	22	The Committee feel that for further facilitating the process of encashment of Social Security Certificates on maturity, the Ministry of Finance (Department of Economic Affairs) should consider the feasibility of introducing a system of marking visible identification marks of the purchaser of the certificate on the face of the certificate itself so as to avoid any possible difficulty to its holder for encashment at a later stage or on maturity.
2(i)	47	The Committee after considering the whole matter in detail and hearing the views of the repre-

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sentatives of the concerned Ministries, note that specific date and time limit fixed for filing the claim under the Acquisition and Transfer of Undertakings Rules, is notified only in the Gazette of India. The Committee feel that people at large did not have enough opportunity of receiving or going through the Gazettes of India and as such there was always a possibility of missing the claims by a genuine party or delay in filing such claims within the stipulated date, due to lack of such intimation. This could also result in further litigation at a later stage.

2(ii) 48

The Committee further note that while in the case of Ganesh Flour Mills Company, notice for inviting claims was in fact got published in the leading national and regional daily newspapers, in the case of Transformer and Switchgear Limited, the Department of Public Enterprises have conceded that this practice is being followed in all such cases of nationalisation. The Committee are, therefore, of the opinion that in all such cases the Government should have no difficulty in placing the practice already in vogue on a statutory footing.

2(iii) 49

The Committee observe that while no useful purpose will now be served by amending the existing Rules but at the same time they would like to impress upon the concerned Ministries to always include a suitable provision regarding publication of notice inviting claims etc. in the leading national and regional newspapers, in the relevant rules themselves, in future, so that all persons affected by such transfer of companies could know the specific dates, by which claims, etc. could be filed.

3(i) 65

The Committee are distressed to note that instances of delay in the final publication of Rules

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continue to occur in the Ministry of Health and Family Welfare inspite of their categorical assurance given to the Committee as far back as 1975 that the existing procedure regarding framing of subordinate legislation in their Ministry, would be streamlined in order to check such delays. On being pointed out that such delays could be eliminated by advance planning and coordination, the Ministry while regretting the delay have informed the Committee about the proposal to adopt corrective measures for the purpose, by maintaining a chart-Board at the stage of drafting the notification itself and adopt a time schedule at each stage of process. They also propose to have a monthly review of cases regarding framing of subordinate legislation.

3(ii) 66

The Committee hope that with the adoption of the measures proposed for expedition in the matter of subordinate legislation and sincere efforts by the Ministry to programme a plan of action in the matter, the delays which had been persistant in the final notification of Rules would be reduced to the minimum, if not totally eliminated. In this connection, the Committee would like to reiterate their earlier recommendation made in paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983 that where a large number of objections/suggestions were received, the time gap between the notification of the draft rules and their final publication should not be more than six months. Where the objections/suggestions are few, efforts should be made to reduce this period further to the barest minimum without impairing the fruitfulness of subordinate legislation.

3(iii) 67

The Committee observe that another factor for the delay, is the corrigendum to be issued to

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the Gazettee copies of the Rules. The Committee feel that the Gazette copies of the Rules after its publication in the Gazette of India are not being checked properly. The Committee would like to stress that the responsibility of the administrative Ministry does not cease with sending the notification of Rules, Orders etc. either in draft or final form to the Press for publication. It is also their responsibility to examine the Gazette copies after its publication to see whether these are correctly published and take expeditious steps to issue corrigenda etc., if necessary. The Committee would like to impress upon all Ministries/Department not to neglect or over-look this important aspect and ensure prompt action in this regard in all cases.

3(iv) 68

The Committee further observe that in the case of First Amendment Rules under reference, the main reason for delay in the finalisation of Rules is attributed to the time consumed in referring and cross referring of the matter between the Departments dealing with the Agmark and Marketing Divisions. In such cases the Committee would like to observe that these delays could be reduced by having inter-departmental meetings of senior officers to sort out the matters across the table and come to definite conclusions speedily.

3(v) 69

To Committee note that the Ministry of Urban Development took a little more time in making the Gazette copies available to the public. The Ministry have conceded that this delay could have been reduced and pleaded that it was due to the time taken in printing, binding etc. The Committee would like to point out that the delay in making the Gazette copies of draft rules available to public adds to the delay in further processing of the Rules

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etc. and their publication in the final form. They desire the Ministry of Urban Development to take some suitable remedial steps in this direction for reducing such delays in future.

3(vi) 70

The Committee observe that in the case of Prevention of Food Adulteration (Second Amendment) Rules under reference the main reason for delay of about four and half months was due to examination of the suggestions/objections received on the draft Rules. Taking note of the fact that the rules related to sensitive matter of far reaching effect concerning the health of the public at large, the Committee would like to reiterate their observation made in para 68 above that the Ministry can expedite their decision by having inter-departmental meetings of senior officers for the purpose, instead of resorting to protracted correspondence on files. The point that Committee would like to emphasise is that such important matters as Rules regarding adulteration of food stuffs which affect health should be dealt with by all concerned with deep sense of urgency as any delay would be detrimental to the very existence of millions of people of our Country.

4(i) 76

The Committee regret to observe that it is a clear case of delay on the part of the Ministry of Health and Family Welfare in processing the subordinate legislation. They feel that no initiative has been shown by the Ministry for conclusive action at every stage in finalising the Rules and undue time has been consumed by procedural delays. The Committee express their displeasure over the complacent attitude displayed by the Ministry.

4(ii) 77

The Committee observe that much time has been taken in inter-departmental references and

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consultations. In his regard the Committee have already observed in para 68 of this report that in each cases the Ministry should sort out the metter across the table by holding meetings of senior officers and come to definite conclusions speedily instead of solving the issue by way of regular correspondence.

4(iii) 78

The Committee would like to reiterate their earlier recommendation contained in para 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983 wherein they had emphasised the imperative need to reduce the time lag between the publication of the draft Rules and their final notification in the Gazette without impairing the fruitfulness of such piece of legislation.

4(iv) 79

The Committee note the assurance given by the Ministry during their evidence, that in future they would function more cautiously and show greater initiative and expedition in the disposal of the cases of subordinate legislation. The Committee would like to watch the result of this assurance for some time.

5(i) 94

The Committee are not happy over the manner in which the matter regarding processing and finalisation of the Cantonment Fund Servants (Amendment) Rules, 1985 has been dealt with in the Ministry of Defence even when no objections/suggestions on the draft rules had been received from the affected persons. In this connection the Committee would like to reiterate their earlier recommendations contained in paragraph 68 of their Twenty-fourth Report presented on 21 December, 1983 wherein they have *inter alia* desired that in cases where no objections/suggestions were forthcoming on draft rules, the rules should be notified within a period

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of 3 months. The Committee desire the Ministries to follow the above direction of the Committee in future in letter and spirit.

5(ii) 95

The Committee observe that the main reason for delay in publication of the said rules was non-availability of the date on which the draft rules were made public by the Controller of Publications. The Committee are dismayed to note that the Controller of Publications did not furnish the requisite information to the Ministry of Defence in spite of repeated reminders and sending an official personally for the purpose. The Committee also feel that the Ministry of Defence also cannot completely absolve themselves of the responsibility for the delay in collecting the requisite information from the Controller of Publications.

5(iii) 96

The Committee further note from the Communication dated 30 January, 1986 that the Ministry of Defence have taken the following remedial measures in order to avoid recurrence of such cases in future :

- (i) The progress in the final publication of statutory rules after their preliminary publication will be monitored by a Senior Officer of the level of Deputy Director General.
- (ii) An official will be detailed to ascertain the date of publication of the Gazette, immediately after the Notification has been sent to the Press for publication.
- (iii) Once the fact of publication has been ascertained a written communication will be sent to the Controller of Publications for furnishing the date on which the Gazette was made available to the public.

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		<p>(iv) If there is no response from the Controller of Publications within 15 days, an official will be sent to get the information personally in writing.</p>
5(iv)	97	<p>The Committee would like to watch with interest the results of above steps proposed to be taken by the Ministry.</p>
6(i)	100	<p>The Committee note that the Ministry of Transport (Department of Civil Aviation) have agreed to amend the preamble to the Aircraft (First Amendment) Rules, 1985 by providing therein the specific period of 3 months, for inviting objections/suggestions, from all persons likely to be affected thereby. However, they feel that no useful purpose would be served by amending the aforesaid preamble at this belated stage, when the the draft amending Rules had already become part of the original Rules. The Committee at the sametime caution the Ministry to be careful in such matters in future and always mention in the preamble to such Rules the specific period given to the Public for sending their objections and suggestions on the draft Rules.</p>
6(ii)	107	<p>The Committee are not convinced with the reply of the Ministry that the reason for delay in the final notification of the Aircraft (First Amendment) Rules, 1985, was due to the time involved in collecting the material from the various Directorates of Director General of Civil Aviation. They are of the view that the Ministry had not paid any serious attention to the collection of the requisite information from their various Directorates. The matter had also not been pursued with the urgency it deserved or any initiative taken to collect the information concurrently. In this connection,</p>

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the Committee would like to recommend that such delays could be eliminated by having inter-departmental meetings of senior officers of the respective Directorates rather than resorting to routine correspondence in a complacent manner.

**6(iii)****108**

The Committee would also like to reiterate their earlier recommendation made in para 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983, wherein they have, *inter alia* observed that in cases where no objections/suggestions were received on the draft Rules, the final should be notified within a period of three months exclusive of the time given to the public for raising objections thereon and desire the Ministry of Transport (Department of Civil Aviation) to bring the above recommendation to the notice of all concerned in their Ministry, for strict compliance in future.

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## APPENDIX-II

(Vide paragraph 18 of the Report)

*Advice of the Ministry of Law & Justice  
(Department of Legal Affairs)*

The question for our consideration is whether Rule 26 of the Social Security Certificates Rules, 1982 framed under the Government Savings Certificates Act, 1959 is beyond the rule making power conferred upon the Central Government under sec. 12 of the Act.

2. Rule 26 reads as under :

“26. *Responsibility of the post office*—The Post Office shall not be responsible for any loss caused to a holder by any person obtaining possession of a certificate and fraudulently encashing it.”

3. Sec. 12 of the Act reads as under :

“12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2). In particular and without prejudice to the generality of the foregoing power, such rules may provide for.....”

4. Sub-sec. (2) of sec. 12 enumerates certain items with respect to which the Central Government may make rules. The items enumerated thereunder are not exhaustive but are only illustrative. The general power of making rules is conferred upon the Central Government under sub-sec. (1). So long as the rules made by the Central Government are for carrying out the purposes of the Act, these will be within the competence of the Central Government even if that specific item with respect to which the rule has been made has not been enumerated under sub-sec. (2). It has, therefore, to be seen whether Rule 26 framed by the Central Government is for carrying out the purposes of the Act or not. If the rule carries out the purposes of the Act it is valid otherwise not.

5. Under Rule 19, a certificate is encashable not only at the post office at which it stands registered, but also at any other post office subject to

certain precautions, namely, production of the identity slip or on verification from the office of its registration. The identity slip is authorised to be issued under Rule 11 at the option of the holder of the certificate.

6. In case the certificate is lost or stolen, the person coming into possession of it may manage to get it encashed at any post office in the country, including the post office of issue, by forging the signatures of the holder which he may copy from the specimen signature of the holder available on the identity slip which usually remains tagged with the certificate lost. Any intimation given promptly by the holder regarding the loss may not be of much help in so far as it will be practically impossible to inform each and every post office in the country where the certificate may be encashed. It will still be more difficult for the postal authorities where the loss is intimated on detection of the loss after certain interval as by that time the certificate might have already been encashed. In other words, encashment of the certificate lost or stolen cannot be checked by the postal authorities despite best of their efforts. The government cannot be made liable for payment in respect of such stolen or lost certificates. It is for this purpose that a specific provision has been made in Rule 26 to safeguard the interest of the government by declaring that the government shall be immune from any liability in such circumstances. Moreover, the government cannot be made liable for the acts of negligence of the holder in not keeping the certificate in safe custody.

7. Rule 14 of the Rules authorises the authorities to issue a duplicate certificate in case of loss etc. A duplicate certificate issued has been made encashable only at the post office of issue under sub-rule (4) of this rule. There are fair chances that not only the certificate lost is encashed at any post office in the country but also the duplicate certificate issued to the holder is also encashed at the post office of issue. No doubt, an indemnity bond is taken from the holder of the duplicate certificate to indemnify the government in case the original is also encashed yet the possibility of denying its liability on the indemnity bond cannot be ruled out on the ground that the original certificate was encashed by the postal authorities due to their negligence as an intimation regarding the loss thereof was so given to them promptly and well in time. To cover up such a challenge also, some provision is necessary to protect the interest of the government.

8. The principle underlying the provision of rule 26 is also in consonance with the underlying principle of sub-sec. (1) of Sec. 8 which declares the government free from all liabilities in case the government makes payment to any person <sup>a foot note</sup> of sec. 7 on the bonafide belief that the person <sup>has</sup> been so made is entitled

to receive it whereas in fact he obtained the money by certain misstatement or suppression of facts from the authorities.

9. From what has been stated above, we are of the view that the provision contained in Rule 26 is for carrying out the purposes of the Act in so far as it makes the government immune from liability in certain circumstances and that being so, the rule will be within the rule making power of the Central Government conferred under sub-sec. (1) of sec. 12 of the Act.

10. The above note has been recorded after discussion with JS & I.A.

Sd/-  
Assistant Legal Adviser  
16.1.1986

### APPENDIX III

(vide para 73 of the Report)

*Reply of the Ministry of Health and Family welfare  
dated 22 October, 1984*

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1. Draft amendment was published in the Gazette of India under G.S.R. 262 (E), dated 22.3. 1982.
2. Printed copies of the Gazette notification (GSR 262 (E), dated 23.3.1982) were received from the Government of India Press, New Delhi on the 1.5.1982.
3. Printed copies of the Gazette notification (GSR 262 (E), dated 22.3.1982) were sent to the Dte. GHS, New Delhi on 4.5.1982.
4. Comments of technical nature on the specifications for bandages were received. These had to be considered in consultation with Expert, on testing bandages in a laboratory. Accordingly the Dte. G.H.S. had consulted an Expert on this subject,..... Senior Scientific Officer, Drugs Laboratory, Baroda and thereafter the draft amendment was finalised by the Dte. G.H.S. & sent to this Ministry on 14.12.1982.
5. The draft notification was sent to the Ministry of Law for vetting on 16.12.1982.
6. File was received back from the Ministry of Law raising certain queries on 28.12.1982.
7. File was sent to the Dte. GHS, on 5.1.1983 to clarify the position.
8. File was received back from the Dte. G.H.S., on 11.1.1983 with clarifications.
9. File was referred to the Ministry of Law on 14.1.1983 for vetting the draft.
10. File was received back from the Ministry of Law on 25.1.1983 advising this Ministry that a foot note is to be added indicating

therein all amendments made to date. In case it be not possible to indicate all the amendments in the foot note, this Ministry was advised to take up the matter with the Committee on Subordinate Legislation of the Lok Sabha.

11. File was referred to the Dte. GHS for their comments on 3.2.1983.
12. File was received from the Dte, GHS with their comments on 14.2.1983.
13. File was referred to the Ministry of Law on 15.2.1983.
14. File was received from the Ministry of Law on 25.2.83 saying that the foot note may be revised as per recommendations of the Committee on Subordinate Legislations.
15. File was referred to the Dte. GHS for revising the foot note on 25.2.1983.
16. File was received back from the Dte. GHS on 30.4.83 stating that it was not possible to indicate all the amendments made in the Drugs and Cosmetics Rules as on that date. They suggested an alternative that if the pamphlet "The Drugs and Cosmetics Act and Rules" published and made available to public as corrected upto 1.5.79 is considered an authentic one, the foot note can indicate the amendments made to the Drugs and Cosmetics Rules subsequent to 1.5.79.
17. As no copy of the Sixth Report (Seventh Lok Sabha) of the Committee on Subordinate Legislation was available in this Ministry, the Lok Sabha Secretariat New Delhi were requested (by Special Messenger) on 27.5.83 to make available a copy of the same to this Ministry as per bearer. No Copy of the Report in question could be supplied by the Lok Sabha Secretariat due to non-availability of the same.
18. The position was explained to the Lok Sabha Secretariat in respect of foot not and their advice was sought on 10.6.83. The Lok Sabha Secretariat were reminded in the matter on 4.7.83, 20.10.83 and 27.12.83.
19. The advice of the Committee on Subordinate Legislation (Seventh Lok Sabha) in the form of paragraph 102 of their Twenty-third

Report was received vide Lok Sabha Secretariat's O.M. No. 42/15/XXIII/CII/84, dated 5.1.84 (received on 23.1.84).

20. File referred to the Dte. GHS for completing the foot note as per advice of the Lok Sabha Secretariat on 15.2.1984.
21. File received back from the Dte. GHS on 21.2.84 with the revised foot note.
22. File referred to the Ministry of Law for vetting the draft notification on 23.2.84.
23. File received back from the Ministry of Law on 1.3.84.
24. File referred to the Dte. GHS on 2.3.84 for making 4 fair copies of draft notification as vetted by the Ministry of Law after incorporating amendments suggested by that Ministry.
25. File received from the Dte. GHS on 22.3.1984.
26. File referred to the O.L. Wing on 23.3.1984 for making available 2 fair typed copies of Hindi version of the draft notification.
27. File received from the O.L. Wing on 18.4.1984.
28. Notification was issued on 1.5. 1984 for publication in the Gazette of India after obtaining the approval of Deputy Minister for Health and Family Welfare.

From the above it would be seen that there is no inordinate delay either on the part of this Ministry or on the part of the Dte GHS.

## APPENDIX IV

(Vide Paragraph 82 of the Report)

*Reply dated 11 June, 1985 Furnished by the Ministry of Defence*

### DELAY STATEMENT

A chronological statement showing delay in publishing final Gazette Notification S.R.O. No. 53. dated 1 February, 1985 published in Part II, Section 4 on 9th March, 1985 is appended below :

- (i) Preliminary Gazette Notification S.R.O. No. 178 dated 7.6.83 was published in Part II, Section 4 on 25.6.1983.
- (ii) The file containing the Gazette Notification referred to above was received in DG, DI & C office on 1.7.1983.
- (iii) A general letter to all Directors, DI & C and CEO's inviting objections and suggestions was sent on 14.7.1983.
- (iv) On 19.9.1983 the Controller of Publication, Ministry of Works and Housing (Deptt. of Publication), old Sectt. Civil Lines, Delhi-110054 was requested to intimate the date on which S.R.O. No. 178 dated 7.6.83 was made available to the public. The letter was marked as 'MOST IMMEDIATE'.
- (v) On 22.10.1983 final draft notification was sent to D (Q & C) for further transmission to Ministry of Law for vetting the same by them.
- (vi) File was received back on 30.11.83 from the Ministry of Law asking for putting up a copy to the principal up-dated rules.
- (vii) The file was again sent to Ministry of Law on 27.12.83.
- (viii) The file received in DG, DI & C office on 23.1.1984 with the vetted draft.
- (ix) Due to non-availability of date as asked for under sub-para (iv) above, the case could not be sent to D (Q & C) for publication.

On 7.2.1984 we sent a reminder to the Controller of Publication but no reply received from them. On 28.8.1984 we again sent a reminder but nothing was heard from them. On 11.10.1984 one of our officials was sent to the office of the Controller of Publication to get the information. The officer-in-charge (Gazette Section) did not attend and asked the individual to leave a hand written slip indicating all particulars alongwith office address and telephone and said that they would send the requisite information either through telephone or by post. On 19.12.1984 again a reminder was despatched. On 17.1.1985 another official again went to the office of the Controller of Publication with a written letter but the Officer-in-charge (Gazette Section) asked him to come on the next day to collect the requisite information. On 19.1.1985 again the individual went to the said office and collected the information. In this regard their letter No. Gaz./82089/84, dated 19.1.1985, refers.

- (x) After collecting the date from the office of Controller of Publication, the case was sent to D (Q & C) on 24th January, 1985 after filing the date in final Gazette Notification.

In view of the above ; it may be seen that the case was delayed primarily due to non-furnishing by the controller of Publication of the date on which the Gazette Notification S.R.O. No. 178 dated 7.6.1983 published in Part II, Section 4 on 25.6.1983, was made available to the public.

**APPENDIX V**  
(Vide para 93 of the Report)

*Note furnished by the Ministry of Defence Regarding the Contonment  
Fund Servants (Amendment) Rules, 1985 (S.R.O. 53 of 1985)*

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2.....Regrettably, there has been undue delay on the part of Government in the final publication of these Rules, the major portion of which was accountable for the delay in the receipt of the date of availability of the Gazette in respect of S.R.O. No. 178 dated 7.6.1983 published on 25th June, 1983, to the public, from the Controller of Printing. It is felt that this time gap could have been curtailed substantially, if the matter had been adequately followed up periodically and at appropriate levels. In order to avoid recurrence of such cases in future, the following remedial measures have been taken by us :

- (a) The progress in the final publication of statutory rules after their preliminary publication will be monitored by a Senior Officer of the level of DDG.
- (b) An official will be detailed to ascertain the date of publication of the Gazette, immediately after the Notification has been sent to the Press for publication.
- (c) Once the fact of publication has been ascertained a written communication will be sent to the Controller of Publications for furnishing the date on which the Gazette was made available to the public.
- (d) If there is no response from the Controller of Publications within 15 days, an official will be sent to get the information personally in writing.

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**Chronology of Events**

<i>S. No.</i>	<i>Date</i>	<i>Events</i>
1.	25.6.83	Draft rules were published in the Gazette calling for objections and subjections from the public.

<i>S. No.</i>	<i>Date</i>	<i>Events</i>
2.	28.6.83	Ministry of Defence/D(Q&C) returned the file to DG DL&C for further action. The file was received on 1.7.1983.
3.	14.7.83	The amendment to the rules were brought to the notice of Directors, DL&C of Commands and all Cantonment Boards.
4.	1.10.83	From 14.7.83 to this date communications were awaited from the Directors and Cantonment Boards as to whether objections and suggestions have been received. Last communication, was received from the Dir., DL&C, Southern Command on 1.10.1983.
5.	19.9.83	The Controller of Publication, Ministry of Urban Development (Deptt. of Publication) was requested by the DG, DL&C to intimate the date of availability of S.R.O. to the public.
6.	22.10.83	Ministry of Defence/D(Q&C) was informed by DGD&C that no objections/suggestions had been received. Draft final notification in English was also submitted to D(Q&C) for vetting by the Ministry of Law.
7.	27.10.83	Ministry of Defence referred the draft notification to Ministry of Law (Legislative Section).
8.	26.11.83	Ministry of Law wanted a copy of Principal updated Cantonment Fund Servants Rules and missing words in the first page of the draft to be provided.
9.	30.10.83	File was received by DG DL&C.
10.	27.12.83	The requirement of Ministry of Law were met by the DG DL&C.
11.	19.1.84	Draft final notification (in English) was concurred in by the Ministry of Law.
12.	23.1.84	File was received by the DG DL&C.
13.	7.2.84	Reminder was sent by the DG DL&C to the Controller of Publication to intimate the date of availability of S.R.O. to the public.
14.	21.2.84	Fair sets of draft notifications were sent to Ministry of Defence/D(Q&C) with a request to get the Hindi ver-

<i>S. No.</i>	<i>Date</i>	<i>Events</i>
		sion vetted by the Ministry of Law (Official Language Wing).
15.	29.2.84	Ministry of Defence/D(Q&C) referred the draft notification to Ministry of Law (Official Language Wing).
16.	15.6.84	Ministry called for fair copy of draft notification in Hindi as vetted by Official Language Wing. The file was received by DG DL&C on 16.6.84.
17.	28.8.84	Reminder was again sent by DG DL&C to the Controller of Publication.
18.	11.10.84	An official from the DG DL&C contacted the Officer-in-charge (Gazette Section) who did not attend him and he was advised to leave a hand written slip indicating particulars alongwith office address and telephone No. and assured to send the information either on telephone or by post. This was not done till 18.12.84.
19.	19.12.84	Reminder was again sent by the DG DL&C to the Controller of Publications.
20.	17.1.85	An official from the DG DL&C was again sent but the officer-in-charge (Gazette Section) advised him to come on the next day to collect the information.
21.	19.1.85	An official from the DG DL&C brought the information by personal contact.
22.	24.1.85	Fair stencils of the draft notifications (both in English and Hindi) were submitted to the Ministry of Defence.
23.	31.1.85	Notifications were authenticated by the Under Secretary D(Q&C) and sent to Ministry of Defence/D(Coord.).
24.	13.2.85	D(Coord) suggested that the year mentioned in the rules should be amended from 1984 to 1985.
25.	16.2.85	Ministry of Defence/D(Q&C) sought confirmation from DG DL&C whether the amendments would be in order.
26.	18.2.85	Notifications duly amended were sent by D(Q&C) to D(Coord) for publication.
27.	9.3.85	D(Coord) intimated that the amendments would be finally published on 9.3.85.

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# MINUTES

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## APPENDIX VI

### MINUTES OF THE NINETY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1983-84)

The Committee met on Tuesday, 8th May, 1984 from 15.30 to 16:25 hours.

#### PRESENT:

Shri R. S. Sparrow — *Chairman*

#### MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri A.E.T. Barrow
4. Shri Ashfaq Husain
5. Shri Chandrabhan Athare Patil

#### SECRETARIAT

1. Shri S.D. Kaura — *Chief Legislative Committee Officer*
2. Shri R. S. Mani — *Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 252 to 261 as under :—

(i) to (ix) \* \* \*

*\*The Social Security Certificates Rules, 1982 (G.S.R.—259E of 1982)  
(Memorandum No. 261)*

49. Rule 26 of the Social Security Certificate Rules, 1982 provided that the Post Office shall not be responsible for any loss caused to a holder by any person obtaining possession of a certificate and fraudulently encashing it.

50. The Ministry of Finance (Department of Economic Affairs) had explained that it was a standard provision contained in other Rules also

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

governing various savings certificates. The Ministry felt necessary to have this provision in order to protect the interests of the Government as also to motivate the holder to keep the certificates carefully and in proper custody.

51. The Committee were not satisfied with the arguments advanced by the Ministry. From the wording of Rule 26 of the Rules *ibid* it appeared that the Post Office would not be responsible for loss even in these cases where the holder of a certificate reported the loss to the concerned authorities well in time. The Committee were not in favour of retaining the said rule by the Government in the light of provisions contained Rules 14 and 19 of the said Rules. The Committee, however, decided to ask for further information from the Ministry regarding (i) statistics of loss of certificates reported by the holders to Postal authorities and their encashment by persons other than the holders of certificates which had occurred since the enforcement of the aforesaid Rules and the action taken by the Ministry/Postal Authorities in those cases; and (ii) the method/measures proposed to be devised by the Ministry to protect the interests of the actual holders of certificates when their certificates were stolen in theft and such loss was reported to the concerned authorities well in time and how the fraudulent encashment of those certificates could be checked.

52. \* \* \*

*The Committee then adjourned.*

**MINUTES OF THE THIRD SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)**

The Committee met on Monday, 24 June, 1985 from 15.00 to 16.30 hours.

**PRESENT**

**Shri Mool Chand Daga** — *Chairman*

**MEMBERS**

2. **Shri D.L. Baitha**
3. **Shri G.M. Banatwalla**
4. **Shrimati Usha Choudhari**
5. **Shri Dharam Pal Singh Malik**
6. **Shri Sayed Masudal Hossain**
7. **Shri I. Ram Rai**
8. **Shri K.S. Rao**
9. **Shri Dharamgaj Singh**

**SECRETARIAT**

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

2. At the outset, the Committee adopted the following resolution moved by the Chairman :

“The members of the Committee on Subordinate Legislation of Lok Sabha are deeply shocked and distressed at the tragic loss of 329 human lives in the sudden crash of an Air India Jumbo Jet. Kanishka, over the high seas near Ireland on Sunday, 23 June 1985.

The members extend their heart-felt sympathies and condolences to the bereaved families of the passengers and the crew and pray to the Almighty to grant solace and peace to the departed souls.”

Thereafter, as a mark of respect to the memory of the departed souls, the members stood in silence for two minutes.

3. The Committee then took up for consideration Memoranda Nos. 7 to 14 on the following subjects :

- (i) & (ii) \* \* \*
- (iii) (a) The Prevention of Food Adulteration (First Amendment) Rules, 1983 (G.S.R. 109-E of 1983)—(Memorandum No. 9).  
\* \* \*
- (e) The Drugs and Cosmetics (First Amendment) Rules, 1984 (G.S.R. 318 of 1984)—(Memorandum No. 13).

The Committee considered the Memoranda on the above subjects separately and decided to examine the representatives of the concerned Ministries (including those of the Ministry of Law and Justice and the Ministry of works and Housing, wherever necessary) to elicit further clarification on matters regarding delay in promulgation of the Amendment Rules in the final form.

4. \* \* \*

*The Committee then adjourned to meet again on 25 June, 1985.*

MINUTES OF THE FIFTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)

The Committee met on Wednesday, 10 July, 1985 from 15:00 to 16:40 hours.

PRESENT

Shri Mool Chand Daga — *Chairman*

MEMBERS

2. Shri M. Arunachalam
3. Shri D.L. Baitha
4. Shri G.M. Banatwalla
5. Shri Dharam Pal Singh Malik
6. Shri I. Ram Rai
7. Shri Dharmgaj Singh

SECRETARIAT

1. Shri N.N. Mehra — *Joint Secretary*
2. Shri S. Balasubramanian — *Chief Legislative Committee Officer*
3. Shri R.S. Mani — *Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 15 to 21 as under ;

(i) \* \* \*

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

- (ii) **The Social Security Certificates Rules, 1982 (G.S.R. 259-E of 1982)—(Memorandum No. 16).**

The Committee considered the above Memorandum and not being convinced of the reply of the Ministry regarding non-responsibility of the Post Office for any loss caused to a holder by any person obtaining possession of the certificate and fraudulently encashing it as provided for in Rule 26 of the Social Security Certificate Rules, 1982, decided to hear oral evidence of the representative of the Ministry of Finance (Department of Economic Affairs), for further elucidation in the matter.

(iii) to (vii) \*

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

The Committee sat on Friday, 25 October, 1985 from 15.15 to 16.15 hours.

**PRESENT**

Shri Mool Chand Daga — *Chairman*

**MEMBERS**

2. Shri D.L. Baitha
3. Shri G.M. Banatwalla
4. Shri Dharam Pal Singh Malik
5. Shri K.S. Rao

**SECRETARIAT**

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

2. The Committee considered Memoranda Nos. 25 to 29 and took the following decisions :

- (i) (a) The Ganesh Flour Mills Company Ltd. (Acquisition and Transfer of Undertakings) Rules, 1984 (S.O. 10-E of 1985); and
- (b) The Hooghly Docking and Engineering Company Ltd. (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien and other interests in any property) Rules, 1985 (S.O. 54-E of 1985)— (Memorandum No. 25)

3. The Committee considered the replies received from the Ministry of Food and Civil Supplies and from the Ministry of Industry. After some

discussion, the Committee decided to hear oral evidence of the representatives of the Ministry of Law in addition to the representatives of the Ministry of Food and Civil Supplies (Department of Civil Supplies) and the Ministry of Industry (Department of Heavy Industry) which were administratively concerned with the matter.

- (ii) The Transformer and Switchgear Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien or other Interest in any Property Rules, 1985) (S.O.63-E of 1985)—(Memorandum No. 26).

4. The Committee were also not satisfied with the reply received from the Ministry of Industry and Company Affairs in regard to Rule 3 of the Transformer and Switchgear Ltd. (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien or other Interest in any Property Rules, 1985 and decided to call for representatives of the Ministry of Industry and Ministry of Law for oral evidence.

- (iii) The Cantonment Fund (Amendment) Rules, 1985 (S.R.O. 53 of 1985)—(Memorandum No. 27)

5. The Committee considered the above memorandum and decided to hear oral evidence of the representatives of the Ministry of Defence and Ministry of Works and Housing (Department of Publications) in regard to delay of 18 months between publication of draft Rules and Rules in final form despite the fact that no objections or suggestions were received from the public.

- (iv) \* \* \*

- (v) The Aircraft (First Amendment) Rules, 1985 [G.S.R. 16-E of 1985)—(Memorandum No. 29)

7. The Committee considered the above memorandum and decided to hear the representatives of the Ministry of Civil Aviation with regard to delay between publication of Draft Rules in the Gazette and issue of notification containing Rules in the final form. The Committee also decided to reiterate in their Report their earlier recommendation contained in paragraph 68 of their 24th Report (Seventh Lok Sabha), presented to the House on 21st December, 1983, wherein the Committee had *inter alia* desired that in case where no objections/suggestions were received on the draft rules, the final rules should be published within a period of 3 months (excluding the time given to the public).

8. The Committee then adjourned to meet again on 28 October, 1985.

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

**MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)**

The Committee met on Tuesday, 7 January, 1986 from 11.00 to 13.20 hours.

**PRESENT**

**Shri Mool Chand Daga — *Chairman***

**MEMBERS**

2. Shri D.L. Baitha
3. Shri G.M. Banatwalla
4. Shri Dharam Pal Singh Malik
5. Shri Vakkom Purushothaman
6. Shri I. Rama Rai
7. Shri Ram Swarup Ram
8. Shri K.S. Rao
9. Shri Dharamgaj Singh
10. Shri Yogeshwar Prasad Yogesh

**I. REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)**

1. Shri S.S. Dhanoa, Secretary
2. Shri P.K. Umashankar, Additional Secretary
3. Shri S.V. Subramaniam, Joint Secretary
4. Dr. M.D. Saigal, Additional Director General for Health Services (PH)
5. Dr. L.V. Kannan, Deputy Drugs Controller (India)
6. Dr. Mohendra Datta, Deputy Director General (Planning)
7. Smt. Debi Mukherji, Assistant Director General (PFA)

**II. REPRESENTATIVES OF THE MINISTRY OF LAW & JUSTICE (LEGISLATIVE DEPARTMENT)**

1. Shri S. Ramajiah, Special Secretary
2. Shri B.K. Sharma, Joint Secretary

### III. REPRESENTATIVES OF THE MINISTRY OF URBAN DEVELOPMENT

1. Shri R.L. Pardeep, Joint Secretary
2. Shri M.J. Singh, Director of Printing
3. Shri S.N. Chakravarty, Controller of Publications

#### SECRETARIAT

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

2. The Committee took evidence of the representatives of the Ministries of Health and Family Welfare (Department of Health), Law and Justice (Legislative Department) and Urban Development regarding delay in final notification of the draft rules in respect of (i) The Prevention of Food Adulteration (First Amendment) Rules, 1983 (G.S.R. 109-E of 1983), (ii) The Prevention of Food Adulteration (Second Amendment) Rules, 1985 (G.S.R. 11-E of 1985) and (iii) The Drugs and Cosmetics (First Amendment) Rules, 1984 (G.S.R. 318 of 1984) of the Ministry of Health and Family Welfare.

3. At the outset, the representative of the Ministry of Health and Family Welfare informed the Committee that the process of making the Prevention of Food Adulteration rules started in 1979, and it took four years to complete it. He further informed that these rules were processed and examined by a Joint Secretary and the Asstt. Director General of Prevention of Food Adulteration. Asked to state whether it was necessary or mandatory to allow a period of 90 days for inviting objections/suggestions, the representative of the Ministry replied that it was mandatory to invite objections/suggestions and as there was no specific provision in this regard in the principal Act, the general advice of the Ministry of Law to allow 90 days for the purpose was followed. The suggestions/objections received were examined by the officials and experts and not by a committee. When asked to state the time taken by the Law Ministry for vetting, the representative informed that they took less than one month. When again asked to explain the reasons why the Ministry took 14 months to finalise the draft rules, the representative explained that some time was taken for referencing and cross-referencing in the matter between two Departments dealing with Agmark and Marketing Division.

4. Asked to state the corrective steps taken by the Ministry subsequent to the assurance given to the Committee in the year 1972, to streamline the

procedure and avoid such delays in future, the representative promised to furnish a note to the Committee in the matter. On being pointed out by the Committee that the whole delay had been caused due to lack of coordination and the delay of five months could be avoided, if the preliminary action had been taken earlier, the representative admitted the oversight in coordination and stated that the Agriculture Marketing Board was responsible for the longest delay. He however, admitted the delay and expressed his regret for the same. He stated that to simplify the procedure, they proposed hereafter to have a chart-board at the time of draft notification itself and would fix a definite time schedule for each point of reference and secondly they would have monthly review of the cases regarding framing of rules which related to such subordinate legislation.

5. When asked why the corrigenda to the notification was necessary which delayed the matter further, the representative of the Ministry of Law stated that due to printing mistakes the corrigenda was issued. He further explained that the administrative Ministry was responsible for looking into the gazette copies. He also admitted that they had taken a little more time for Hindi translation, and regretted for the delay.

6. On being pointed out that when the draft rules were published on 1st September, 1981, why it was made available to the public on 12th September, 1981, the representative from the Ministry of Urban Development explained that the date 1st September, 1981 related to the specific notification of the rule and the date 12th September, 1981 related to the date of gazette when the notification was published and became public. As regards the delay in making available the notification to the Ministry it was stated that it was due to the time taken in printing, binding etc. He however, admitted that the time lag could have been minimised.

7. The Committee then desired to know the reasons for the delay of 13 months in the final notification of Prevention of Food Adulteration (Second Amendment) Rules, 1985.

8. The representative of the Ministry of Health and Family Welfare explained that while the amendment of the rules which related to iodising of salt were under process during 1983, the opinion of experts was necessary to avoid any possible risk in the matter. When asked how much time was taken to examine the suggestions/objections which were received, the representative replied they took about four and half months and afterwards a meeting had to be convened to remove some doubts raised by the Director-General of Health Services.

9. On being pointed out that the Ministry had taken four months to issue a corrigenda and whether the Law Ministry had been consulted in the matter, the representative of the Law Ministry, informed that after the notification was published in the gazette, it became the responsibility of the Ministry concerned to go through the gazette copy containing the draft rules and thereafter the rule in the corrected form with the corrigenda were sent to the Ministry of Law for vetting.

10. Asked to state why the Publication Division took about two months to intimate the Ministry concerned, the date on which copies of the notification were made available to public, the representative of the Ministry of Urban Development informed that a regrettable delay of 26 days had taken place on this account which was a lapse on their part.

11. On being pointed out that consultations with the experts and Institutions which were necessary in view of the sensitive and far reaching effects of the provisions of proposed rules prior to the formulation of the draft notification could have saved much time, the representative of the Ministry of Health and Family Welfare explained that in the beginning Government had not finalised their views about iodisation of salt and the experts opinion which came later became relevant and the decision regarding iodisation was taken later.

12. The Committee then took up the question of delay of 22 months in the final publication of the Drugs and Cosmetics (First Amendment) Rules, 1984.

13. When asked to explain why the Ministry of Health and Family Welfare took 22 months to notify the aforesaid rules finally, the representative of the Ministry explained that his Department came to know about the publication of the draft rules on 1st September, 1982, when it was available to public. A period of about two years was taken to finalise the draft rules after considering the objections and suggestions received thereon. He admitted the delay on their part which according to him was due to the time taken in examination of the objections received on the draft rules, and inter-departmental references between the Ministries of Law and Health. Thereafter a reference had also to be made to the Committee on Subordinate Legislation of Lok Sabha in connection with a difference in approach between the Ministries of Law and Health regarding insertion of foot-note relating to previous amendments etc. This process had taken about one and half year. Asked to comment as to how inspite of more than fifteen months delay on the part of the Ministry of Health, they still maintained

that there was no inordinate delay, the representative of the Ministry admitted that there had been a delay but much of it was on account of deciding the issue of foot-note. The Committee were not convinced of the reasons for the inordinate delay in final publication of the rules.

14. The Committee however, desired that in future the Department should function more cautiously in the matter of subordinate legislation and the Ministry should also show greater initiative for expeditious disposal of the cases. The representative of the Ministry promised that every effort would be made by them to avoid such delays in future.

*(The representatives then withdrew)*

**MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)**

The Committee sat on Tuesday, 7 January, 1986 from 15.00 to 17.15 hours.

**PRESENT**

Shri Mool Chand Daga — *Chairman*

**MEMBERS**

2. Shri D.L. Baitha
3. Shri G.M. Banatwalla
4. Shri Dharam Pal Singh Malik
5. Shri Vakkom Purushothaman
6. Shri I. Rama Rai
7. Shri Ram Swarup Ram
8. Shri K.S. Rao
9. Shri Dharamgaj Singh
10. Shri Yogeshwar Prasad Yogesh

**I. REPRESENTATIVES OF (i) THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS) AND (ii) THE DEPARTMENT (POSTS)**

1. Shri A.K. Pandya, Additional Secretary
2. Shri Kailash Prakash, Member (Development) (Deptt. of Posts)

**II. REPRESENTATIVES OF THE MINISTRY OF DEFENCE**

1. Shri C. Srinivasa Sastry, Additional Secretary
2. Shri K. Srinivasan, Joint Secretary (P&W)
3. Shri K.M. Sebastian, Director General Lands and Cantonments

### III. REPRESENTATIVES OF THE MINISTRY OF URBAN DEVELOPMENT

1. Shri R.L. Pradeep, Joint Secretary
2. Shri M.J. Singh, Director of Printing
3. Shri S.N. Chakravarty, Controller of Publications
4. Shri V.R. Sivaram, Manager, Government of India Press

#### SECRETARIAT

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

2. The Committee first heard the representatives of the Ministry of Finance (Department of Economic affairs) and Department of Posts regarding the Social Security Certificates Rules, 1982 (G.S R. 259-E of 1982).

3. At the outset attention of the representatives of the Ministry was drawn to Rule 26 of the Social Security Certificates Rules under which the Post Office was not responsible for any loss caused to the holder of a certificate by fraudulent encashment thereof and asked that in such a situation the aforesaid Rules was more in favour of a person who did the fraudulent Act than that who suffered the loss. It was also enquired from them as to why under the existing Rules issue of the identity slip was not made obligatory on the part of the authorities as it was not issued unless the person purchasing the certificate asked for it.

4. Clarifying the position, representatives of the Ministry stated that the identity slip had been kept optional in respect of those purchasers who wanted to encash their certificates, on maturity, at a place other than the office at which these were issued. He further stated that if any holder asked for it, the Post Office had to issue it.

5. When asked why the identification marks were not indicated on the face of the certificate itself, the representative replied that the identity marks could be recorded if those were easily identifiable. He further stated that this system could be introduced as an additional precaution against fraudulent encashment but there would be some difficulty in the cases of 'pardanasheen' ladies or persons not having visible identification marks. The representative further stated that in clear cut cases this system could only be introduced prospectively. He added that heavy amount was being paid in banks on the basis of signatures/thumb impressions. In the case of small post offices in remote areas, the question of identity would not arise as the Post Master usually knew all the residents of that place. In the alternative, the postal authorities could issue instructions to the Post Masters to get the person identified by some old resident, already known to the postal authorities.

6. When it was pointed out that provision contained in rule 26 of the Social Security Certificate Rules was the substantive one and should be provided for in the parent Act, the representative of the Ministry replied that rule making power provided for certain conditions which covered non-payment in fraudulent encashment cases also. He further stated that those rules were framed in consultation with the Ministry of Law. They would consult that Ministry again and furnish their detailed view on the matter.

7. When enquired to explain about the position of minors in the matter, the representative explained that for Social Security Certificates, the eligibility age was 18 years to 55 years but the application could also be moved on behalf of the minor.

8. When specifically enquired whether those certificates safeguard the interest of the Government of the general public, the representative replied that great care was taken for checking at the time of making payment in the post offices by verifying the application and the identity of the person concerned. There had been no case of fraud so far. The representative further clarified that rule 19 of the Social Security Certificates Rules provided that these certificates shall be encashed at the post office at which that stands registered. It further provided that such certificate might be encashed at an other post office if the officer-in-charge of the post office was satisfied on production of the identity slip or verification from the post office where that certificate stands registered, that the person presenting the certificate for encashment was entitled thereto.

9. When asked to state that procedure for verification, the representative stated that if the person did not possess the identity slip, then his signature would be referred to the office of origin of that certificate for cross-checking of the signature on the original application. On receipt of their positive reply, the payment could be made. The representative further stated that not a single case of fraud had come to their notice so far, in that respect.

*(The representatives of the Ministry of Finance then withdrew)*

10. The Committee then heard the representatives of the Ministries of Defence and Urban Development regarding delay in final publication of the Cantonment Fund Servants (Amendment) Rules, 1985 (S.R.O. 53 of 1985).

11. It was pointed out to the representative that the Ministry of Defence had taken a period of 18 months in final publication of above Rules even when no objection/suggestions had been received thereon from

the persons likely to be affected thereby and that the Ministry of Urban Development was also equally responsible for the delay. The Rule in question related to only three amendments which had taken 18 months to notify. The Chairman impressed upon the Ministries to avoid such delays in future.

12. When enquired whether they had taken a period of 3 month i.e. from 24.6.83 to 19.9.83, simply to enquire the date on which the draft rules were made available to the public, the representative of the Ministry of Defence replied in affirmative. When further enquired the necessity of making such inquiry from the Controller of Publications, the representative explained that on 19.9.83 the Controller was asked to indicate the date on which the Gazette was made available to the public in order to calculate the specified period made available to public to raise objections.

13. When enquired as to how the Ministry ensured that copies of the Gazette had been made available to the public, the representative stated that they had some agencies through whom they released the Gazettes for the public. These gazettes were made available at the Kitab Mahal, New Delhi.

14. The representative of the Ministry of Defence informed that the delay in furnishing the date of availability of the Gazette copies to public by the Controller of Publications resulted in delay of final publication of the Rules under reference. Stating the sequence of the whole event, the representative of the Ministry of Defence stated that the draft notification was made available on 5 July, 1983 and thereafter the matter was followed up with the Controller of Publications to find out the date on which the Gazette copies were made available to public. The reply of the Department of Publications did not reach them. Thereafter on 28.8.84, 11.10.84 and 19.12.84 they reminded that Department and also deputed a person to that Department to obtain the requisite information personally. They could get it only on 19.1.85.

15. When pointed out that for only 3 amendments, they had taken a period of 2 years and those rules might have affected a number of people, the representative while regretting the lapse informed that because of the delay no body's interest had been adversely affected as administrative instructions had been issued in 1981 making the facilities contained in above rules available to the employees of Cantonments.

16. When enquired whether without knowing the date of making the rules available to the public, the Ministry could not proceed further, the representative replied that the concept of making available draft rules to the public was introduced by the Committee itself, therefore, till such date was made known to the Ministry, they could not issue that final notification.

17. When asked as to why after the due date for publication of Gazette they took 3 months to enquire when the Gazette copies were actually made available to the public, the representative conceded that this query could have been made earlier.

18. In reply to a question for taking a period of 4 months for sending the draft rules to Law Ministry for vetting, when no objections/suggestions had been received, the representative stated that they had to wait till the expiry of 60 days period allowed for raising objections/suggestions on the draft Rules.

19. On being pointed out that the Ministry had taken 4 years, from 1981 to 1985 in processing, finalising and finally printing the Rules under reference, and asked to state the date on which they initiated the process of amending the Rules, the representative stated that process had started as early as in November, 1981. The representative of the Ministry was requested to furnish the full details of the dates on which the Ministry had sent communications to other Departments at various stages of processing, finalising and finally publishing the above rules, the dates on which they got the replies from those Departments and indicating the time taken at each stage.

*The Committee then adjourned*

**MINUTES OF THE SEVENTEENTH SITTING OF THE COM-  
MITTEE ON SUBORDINATE LEGISLATION  
(EIGHTH LOK SABHA) (1985-86)**

The Committee sat on Wednesday, 8 January, 1986 from 11.00 to 13.00 hours.

**PRESENT**

**Shri Mool Chand Daga** — *Chairman*

**MEMBERS**

2. **Shri D.L. Baitha**
3. **Shri G.M. Banatwalla**
4. **Shrimati Usha Choudhari**
5. **Shri Dharam Pal Singh Malik**
6. **Shri Mohanbhai Patel**
7. **Shri Vakkom Purushothaman**
8. **Shri Ram Swarup Ram**
9. **Shri K.S. Rao**
10. **Shri Dharamgaj Singh**
11. **Shri Yogeshwar Prasad Yogesh**

**WITNESSES**

**I. REPRESENTATIVES OF MINISTRY OF FOOD AND CIVIL SUPPLIES  
(DEPARTMENT OF CIVIL SUPPLIES)**

1. **Shri K.C. Pandeya, Secretary**
2. **Shri S.V.M. Tripathi, Joint Secretary**
3. **Shri S.C. Kapur, Chairman-cum-Managing Director, Hindustan Vegetable Oils Corporation**
4. **Shri M.L. Sahni, Commissioner for Payments**

**II. REPRESENTATIVES OF MINISTRY OF LAW AND JUSTICE  
(LEGISLATIVE DEPARTMENT)**

1. **Shri S. Ramaiah, Special Secretary**
2. **Shri A.C.C. Unni, Joint Secretary**

III. REPRESENTATIVES OF MINISTRY OF INDUSTRY (DEPARTMENT OF PUBLIC ENTERPRISES)

1. Shri B.R. Prabhakara, Joint Secretary
2. Shri R. Ramanujam, Director
3. Shri B. Chakrabarti, Assistant Commissioner

IV. REPRESENTATIVES OF MINISTRY OF INDUSTRY (DEPARTMENT OF INDUSTRIAL DEVELOPMENT)

Shri A.P. Sarwan, Joint Secretary

V. REPRESENTATIVES OF MINISTRY OF TRANSPORT (DEPARTMENT OF CIVIL AVIATION)

1. Shri V. Pattanayak, Joint Secretary
2. Shri P.C. Sen, Joint Secretary
3. Shri K.K. Bhatnagar, Director

SECRETARIAT

Shri R.S. Mani — Senior Legislative Committee Officer

- (i) *The Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Rules, 1984 (S.O. 10-F of 1985)*  
—(Memorandum No. 25)

2. The Committee first heard evidence of the representatives of the Ministry of Food and Civil Supplies (Department of Civil Supplies) in regard to the Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Rules 1984 (S.O. 10-E of 1985)

3. At the outset, the Committee desired to know whether there was a provision in the rules for appeal in the event of an unsatisfactory decision by the Commissioner of Payments who had been entrusted with the task of examining the mortgagee of any vested property or a person holding any charge or other interest in it. The Secretary, Ministry of Law stated that Section 4(3) of the Act gave the right of the mortgagee of any property or any person holding any charge, lien or any other interest to intimate the same to the Commissioner within the prescribed time limit for the purpose of filing his claims.

4. When asked to state the reasons for the publication of the scheduled date for filing claims only in the Gazette when the people generally did not go through Gazettes, the representative of the Ministry of Law stated that it could be published in the newspapers also so that the public at large could know about the specific date by which the claims should be filed.

5. Regarding power of the Commissioner to take a decision about the entitlement of the amount after filing of all documents to him, the Committee were informed that the Commissioner had to take a decision of the entitlement of the amount after all the claims documents had been filed to him. Section 18(7) of the Act laid down the procedure for examining the claimants' entitlement, and there was also a provision for appeal in case the claimant felt aggrieved.

6. In reply to a question whether in case the Central Government became a mortgagee in respect of Ganesh Flour Mills with related documents in their possession, why an intimation to this effect was not sent by a registered letter to the persons concerned for recovery of the mortgage amount, the representative of the Ministry of Law drew the attention of the Committee to Section 3 of the Act which provided that a mortgagee could file a claim with the Commissioner only and not with the Central Government and as such the Central Government was not liable to give any details of the mortgage to the Commissioner. Regarding intimation to mortgagees he added that the Commissioner did not have a list of mortgagees and it was for the claimants to give intimation for recovery of their claims. The property was not under the charge of the Commissioner but vested with the Custodian or the Company.

7. When asked about production of certain documents with the Central Government in respect of M/s Ganesh Flour Mills, the representative of the Ministry of Law stated that as soon the Commissioner was appointed, the amount as provided in the Act was placed by the Central Government at the disposal of the Commissioner as compensation before any claim was received by him. The Commissioner did not have access to the documents of the undertaking under Section 18 of the Civil Code till the claims were received. He had to depend upon the Custodian or who ever had got the custody of the Company for the documents. He agreed to a suggestion to issue advertisements in this regard in the newspapers and stated that they could make a provision in that regard in the rules itself.

8. To a clarification about the limit of 30 days for filing claims with the Commissioner and not a day more, the representative of the Law

Ministry while drawing attention of the Committee to Section 17 of the Act stated that this period had been fixed with a view to have finality in the matter.

9. When asked about mortgage deed documents available with the Government/Commissioner and issue of notice to the claimants accordingly, the representative of the Ministry of Law stated that he would like to draw the attention of the Committee to one more provision. He added that even if the claim was not filed within 30 days, there was a provision in that Section that the amount lying with him would be credited to the public accounts of the Government of India and there also he could file his claim and get his dues from the Government. He further added that a provision would be made in the rules to give a public notice.

10. When enquired about the possible difficulties for the Commissioner of Payments to call for the documents from the Government for the purpose of hearing both the parties, the representative of the Ministry of Law replied that when the assets are vested in the Central Government, immediately they are re-vested with the Custodian or the Government Company entrusted with the management of the undertaking. Once the claim was made, the notice was required to be given by the Commissioner to the Custodian or the Government Company by whom the undertaking was managed. In this way, there was no favourable treatment to the Central Government or the undertaking or the Custodian.

11. When enquired about the time taken to decide the claims and also the procedure thereof, the representative of the Ministry of Law stated that as soon as the claim was filed, a letter was required to be sent by the Commissioner to the Custodian or the Government Company to send all the files to the Commissioner. Regarding the procedure, he drew the attention of the Committee to Section 18(5) clause (b) of the Act. He added that the Commissioner while exercising his powers would have his own procedure and as such no payment for any process fee was involved.

12. To a point that what would happen in case it was decided by the Commissioner not to call for the Custodian but to produce the documents only, the representative of the Ministry of Food and Civil Supplies stated that it would be an unreasonable order and in that case the aggrieved party could go for appeal in the Civil Court.

13. On a suggestion made regarding filing of claims within the prescribed time limit and for this purpose intimating the claimants by a registered letter the representative of the Ministry informed the Committee that the Commissioner of Payments would only come to know of the claims after these has been field to him, otherwise no claims were there in the documents.

14. When asked whether an amendment could be made to the rules for the purpose of giving publicity in the newspapers regarding the target date for filing claims, the representative of the Ministry agreed to the proposal for action in future.

*[The witnesses then withdrew]*

(ii) *The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien or other Interest in any Property) Rules, 1985 (S.O. 54-E of 1985)—(Memorandum No. 25)*

15. The Committee then heard the evidence of the representatives of the Ministry of Industry (Department of Public Enterprises) in respect of Hooghly Docking Engineering Company Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage Charge, Lien or Other Interest in any Property) Rules, 1985.

16. Asked to state whether there was any difficulty in the implementation of Hooghly Docking and Engineering Limited (Acquisition and Transfer of Undertakings) Act, 1983 including settlement of claims, the representative of the Ministry replied in the negative.

17. When enquired as to whether the time-limit for settlement of claims was extended, the Assistant Commissioner informed the Committee that the period was extended from 30 to 60 days and the claims received beyond that limit were rejected. Enquired as to whether there were any appeals in respect of claims rejected, the witnesses mentioned that none of the claimants had gone in appeal so far. As regards the amount involved in the claims, he stated that it worked out to about 30 crores whereas the amount received for claims from the Central Government was about 6,50,00,000/-. Under the statute, the Commissioner of Payments could dispose of the claims category-wise giving priorities to several other categories.

18. The representative of the Department of Public Enterprises informed the Committee that the stipulated date for filing claims etc. was published in the Gazette on 28-1-85. Thus, two clear months were available to possible claimants to lodge their claims. After 30 days and upto 60 days they could give reasons for delay in filing claims.

19. In reply to a query, the Assistant Commissioner stated that certainly the Custodian of the Undertaking will be asked to produce relevant documents.

20. When asked for the procedure laid down for settling a claims, the Assistant Commissioner informed the Committee that there were several stages involved. Procedures had been laid down for the purpose of inviting claims, getting identification, investigation of claims etc. However, under the statute, the Commissioner had to lay down his own procedure for the purpose.

21. To a suggestion whether the above procedure could be incorporated in the rules itself, the representative of the Law Ministry stated that in all the quasi judicial tribunals they were allowed to specify their own procedures. These were not indicated in the rules at all. The whole idea of leaving it to the quasi judicial tribunals was that the procedure could be as summary as possible.

22. As regards the possibility of adopting different procedure by different Commissioner of Payments, the witnesses stated that the procedure might be different depending upon certain local conditions.

*(The witnesses then withdrew)*

*(iii) The Transfer and Switchgear Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage Charge, Lien or other interest in any Property) Rules, 1985 (S.O. 63-E of 1985) - (Memorandum No. 26)*

23. The Committee then took evidence of the representatives of the Ministry of Industry (Department of Industrial Development) in regard to the Transfer and Switchgear Limited (Acquisition and Transfer of Undertakings) (Intimation regarding Mortgage, Charge, Lien or other interest in any Property) Rules, 1985.

24. When asked whether the procedure laid down by the Commissioner of Payments was got examined by the Ministry of Law, the representative of the Ministry replied that it was not required as the Commissioner was expected to lay down his own procedure.

25. Asked to state his opinion about the publication of the specified date in the local papers before the Joint Commissioner was appointed, he replied that it was done and, in fact, it was required to be done under the Law.

26. When asked as to whether any date had been fixed to file the claims, the representative of the Ministry stated that 15th May, 1985 had been fixed providing 30 days' time to file the claims. He was of the opinion that any further extension of time would drag the matter indefinitely. When the Committee enquired about the number of claims filed, the representative of the Ministry stated that he did not have the details. He was asked to furnish a note to the Committee giving information about (i) how many persons asked for extension of time for filing claims; (ii) amount involved in the claims (iii) number of claims filed, number rejected and number of claims admitted.

*[The Witnesses then withdrew]*

(iv) *The Aircraft (First Amendment) Rules, 1985 (G.S.R. 16-E of 1985)*  
(Memorandum No. 29)

27. The Committee then heard the evidence of the representatives of the Ministry of Transport (Department of Civil Aviation) in regard to the Aircraft (First Amendment) Rules, 1985 (G.S.R. 16-E of 1985).

28. When asked about the reasons for the delay of nine months in publication of draft rules in final form, particularly when there were no objections or suggestions from the public and the rules could have conveniently been framed within a period of six months, the representative of the Ministry stated that delay had occurred due to shortage of staff in the Section dealing with the subject in the Office of the Directorate General of Civil Aviation.

29. As regards accountability and fixation of responsibility on a particular person for the lapse in this case, he added that in the official hierarchy, it was the Secretary finally dealing with that subject and assisted by Joint Secretary, Under Secretary and other staff.

30. The Joint Secretary of the Ministry of Transport (Department of Civil Aviation) informed the Committee that he had very recently joined the Government of India and the Officer who had dealt with the subject matter under examination, had gone abroad. He expressed his inability to give categorical replies to the points raised by the Committee but promised to furnish a note thereon later.

*(The Committee then adjourned.)*

XXV

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

The Committee sat on Thursday, 10 April, 1986 from 16.00 to 16.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri D.L. Baita
3. Shri G.M. Banatwalla
4. Shri Dharam Pal Singh Malik
5. Shri Vakkom Purushothaman
6. Shri I. Rama Rai
7. Shri Saleem I. Shervani
8. Shri Yogeshwar Prasad Yogesh

SECRETARIAT

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

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

3. The Committee authorised the Chairman and, in his absence, Shri G.M. Banatwalla, M.P. to present the Sixth Report to the House on their behalf on 15\* April, 1985.

4. The Committee considered their future programme of work and decided to hold their next sitting on Monday, 21 April 1986.

*The Committee then adjourned*

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\*Presented on 16 April, 1986