

COMMITTEE ON SUBORDINATE LEGISLATION

(TWELFTH LOK SABHA)
(1998-99)

FIRST REPORT

[Action Taken Report on the Implementation of Recommendations
Contained in Eighth, Eighteenth and Twenty-Fourth Reports (Tenth Lok
Sabha) of the Committee]

[Presented on 8-12-98]



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

December, 1998/Agrahayana, 1920 (Saka)

Price: 16.00

TO

THE FINANCIAL REPORT OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (124TH LOK SABHA)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1998-99)

1. Shri Krishan Lal Sharma — *Chairman*
2. Prof. S.P. Singh Baghel
- *3. Shri Bhupinder Singh Hooda
4. Shri Datta Meghe
5. Shri B.M. Mensinkai
6. Shri Shantilal P. Patel
7. Shri Rameshwar Patidar
8. Shri Annasaheb M.K. Patil
9. Shri A. Sai Pratap
10. Shri Varkala Radhakrishnan
11. Shri Devindra Bahadur Roy
12. Shri Raghvendra Singh
13. Shri Surinder Singh
14. Shri Subramanian Swamy
15. Shri Buta Singh

SECRETARIAT

1. Shri G.C. Malhotra — *Additional Secretary*
2. Shri Ram Autar Ram — *Director*
3. Shri B.D. Swan — *Under Secretary*

*Nominated Vice Shri Bhubaneswar Kalita (resigned).

INTRODUCTION

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

2. This Report relates to the implementation of the recommendations of the Committee made in their Eighth, Eighteenth and Twenty-Fourth Reports (Tenth Lok Sabha). The Action taken by the Government to implement the recommendations of the Committee are contained in Annexure to the Report.

3. The Committee considered and adopted this Report at their sitting held on 7.12.1998.

4. The Minutes of the sittings relevant to this Report are appended to it.

NEW DELHI;
December, 1998

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

REPORT

I

Implementation of recommendations contained in paragraphs 2.10 to 2.11 of the Eighteenth Report of the Committee on Subordinate Legislation (Tenth Lok Sabha) regarding non-framing of Rules under National Commission for Backward Classes Act, 1993.

The Eighteenth Report of the Committee on Subordinate Legislation (Tenth Lok Sabha) was presented to the House on 4 May, 1995. A copy of the report was forwarded to the Ministry of Welfare for implementation of the recommendations contained therein within 6 months of the presentation of the Report. Accordingly the recommendations of the Committee should have been implemented by 4 November, 1995. However, after seeking several extensions of time for framing three sets of rules under the National Commission for Backward Classes Act, only two rules, namely, the rules regarding (i) Terms and Conditions of Chairperson and Member and (ii) Annual Statement of Accounts and Annual Report were notified *vide* GSR 100(E) dated 20 February, 1996 and GSR 384(E) dated 29 August, 1996 respectively by the Ministry. The Ministry *vide* their communication dated 6 May, 1997 stated that the third rule, namely the recruitment rules for officers and staff of NCBC had been finalised by the NCBC and were being examined in the Ministry in consultation with the DOPT, Department of Pension and Ministry of Law before being notified and had therefore sought an extension of time upto 30 June, 1997. The request of the Ministry was acceded to.

1.2 In a communication dated 14 July, 1997, the Ministry of Welfare have stated that in view of the unequivocal provisions of Section 5(1) of the National Commission of Backward Classes Act, 1993 and as desired by National Commission of Backward Classes, the Ministry have come to the conclusion that there is no need to have separate Recruitment Rules for National Commission of Backward Classes. Further, since the staff required in the Commission would be of the same pattern as that of the Ministry, all the posts of the Commission would be encadred into the respective cadre of Ministerial posts of the Ministry and the Secretariat of the Commission would be made participating office of the Ministry.

1.3 The Committee find the reply of the Ministry contradictory to the reply mentioned at para above wherein they have stated that the recruitment rules for officers and staff of NCBC had been finalised by the NCBC. The Committee feel that if the Ministerial staff are to be diverted towards the Commission there is likelihood of fall in the staff strength of the

Ministry, and in place of persons placed on deputation, some new staff has to be trained and when the person on deputation returns back to the Ministry on completion of deputation, the person already working has to be reverted back to his lower post thereby leading to wastage of expertise. The Committee desire that the Ministry should provide for separate staff for the Commission.

II

Recommendation not accepted by the Ministry of Finance

Implementation of recommendations contained in paragraphs 4.12—4.14 of the Eighteenth Report of the Committee on Subordinate Legislation *re.* Giving of retrospective effect to certain schemes/rules pertaining to General Insurance/Life Insurance Corporation of India

The Committee on Subordinate Legislation, in their Eighteenth Report (10LS) *vide* paras 4.12—4.14 recommended as under:—

4.12 The Committee note that though requests for amendments in the Service Conditions of all the four categories *viz.* Class I, II, III and IV employees of the Corporations were received by the Government, the Government processed the amendment proposal for Class III and IV employees only in the first instance. Since the LIC proposed to revise the terms and conditions of service for Class I and II officers also, the Government had to examine the proposal again in consultation with the Banking Division which led to delay in these proposals being sent to the Law Ministry for vetting.

4.13. The Committee further note that since the pay and allowance of the Insurance Sector and that of the Banking sector are almost at par with each other traditionally proposals for revision of the same from each sector is considered in consultation with the other. The process of formulating proposals for revision by the insurance sector, then sending it to the Ministry and the Ministry waiting for the response from the banking sector, and then taking a decision, is very time consuming. The Committee feel that the Finance Ministry should set up a joint body in the nature of a Standing Committee of the Insurance Companies and of the Indian Banks Association and other bodies which can assess the proposals in regard to the revision which are commonly applicable to both the sectors.

4.14 The Committee desire that the Ministry should seriously consider this proposal and take all possible steps to obviate delay in notifying rules in future.

2.2 The Report of the Committee was presented to the House on 4 May, 1995. While forwarding a copy of the Report to the Ministry on 9 May, 1995, their attention was also drawn to the earlier recommendation of the Committee that the recommendations of the Committee must be implemented within the maximum prescribed period of six months. In their reply dated 27 November, 1995 the Ministry had stated that the case is under consideration in consultation with the LIC, GIC and the Banking

Division. However, Since even after the expiry of the maximum prescribed period, the Ministry did not furnish the final action taken reply, the Ministry were called before the Committee on 15 February, 1996 to explain the delay in implementing the recommendations of the Committee.

2.3 During evidence, attention of the representatives of the Ministry were drawn towards the recommendations made in para 4.13 regarding setting up of a joint body in the nature of the Standing Committee of the Insurance Companies and of the Banking Associations to assess the proposals in regard to the revision which are commonly applicable to both the sectors. In reply, the representative of the Ministry stated as under:—

“...the recommendation of the Committee was received at a stage when wage negotiation in both Banking and Insurance Sectors were nearing completion or had already been completed. The position which has emerged is that both in Insurance and Banking Sectors, the wage negotiations are closed now, except that in Insurance Sector, the Ministry have yet to take a final decision with regard to officers' wages. He informed that the Wages for Class III & Class IV staff have already been announced.

It is also being asked from Government why it is necessary for the wage structure between insurance sector and banking sector to be linked. The wisdom of a linkage between the two sectors have been challenged by the employees themselves. With a move towards privatisation in the banking sectors and a possible market-driven environment, the companies will operate independently, will be autonomous in decision making and wage structure will depend on their performance.”

2.4 It was pointed out by the Committee that the intention of the Committee was that there should be no delay in framing of the rules so that the interests of the employees and the public should not be adversely affected.

2.5 The Ministry of Finance *vide* their subsequent action taken reply dated 24 July, 1996, have stated that the recommendation for setting up of a joint body of the Indian Banks Association (IBA) and Insurance Companies to assess the proposals regarding revision which are applicable to both the sectors was considered in consultation with the Banking Division and after careful consideration *was not found feasible and that this position was explained during evidence by the Ministry before the Committee.*

2.6 The Committee note that to their recommendation contained in paras 4.12 to 4.13 of their Eighteenth Report (Tenth Lok Sabha) for setting up a joint body of the Indian Banks Association and Insurance Companies to

assess the proposals regarding revision of wages etc. which are applicable to both the sectors in order to obviate delays in notifying the rules on account of mutual consultation between these agencies, the Ministry have stated that after careful consideration, it has not been found feasible to set up such a joint body on the ground that the wisdom of linkage between the two sectors have been challenged by the employees themselves. Further, with a move towards privatisation in the banking sectors and a possible market-driven environment, the companies will operate independently, will be autonomous in decision making and wage structure will depend on their performance.

2.7 The Committee has considered the reply of the Ministry in detail. The recommendation about setting up a joint body was made with a view to obviating the delay which usually occurs in finalising the wage agreements and notifying them. However, taking into account the fact that the employees themselves are not in favour of such a body and also in view of the Government's considered opinion that the proposal is not feasible, the Committee is inclined to reconsider this recommendation. The Committee, however, recommend that suitable mechanism may be evolved by the Ministry to avoid the unjustifiable delay which occurs in notifying the wage agreements.

III

Action taken by Government on the Recommendations of the Committee

Under Direction 108 (1) by the Speaker, the Ministries are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports. With a view to ensuring speedy implementation of their recommendations, the Committee, in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. If in any particular case it had not been possible to adhere to this time limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations. Still the cases of delay continue to occur. The Committee cannot but stress again that the Ministries should evolve suitable measures to streamline their procedure in order that the recommendations made by the Committee are implemented within the maximum time-limit of six months laid down by them.

3.2 The recommendations/observations made by the Committee in their Eighth, Eighteenth and Twenty-fourth Reports and the action taken replies thereto furnished by the Government have been given in Annexure to this Report.

3.3 During scrutiny of the implementations of their recommendation, the Committee found a number of cases where action had not been taken within the prescribed time-limit.

3.4 The Committee note that the Government have not been able to completely implement their recommendations contained in paras 2.10, 2.11 and 4.12—4.14 of the Eighteenth Report (Tenth Lok Sabha) as indicated in the preceding paragraphs of this Report. The Committee, however note with satisfaction that the remaining recommendations contained in the aforesaid reports have been accepted for implementation.

NEW DELHI;
December, 1998

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATION OF THE COMMITTEE

S. No.	Reference to para Nos. of Report	Summary of Recommendations/ Assurances	Gist of Government reply
1	2	3	4
1.	<p>Eighth Report (Tenth Lok Sabha) (Presented on 31.3.1993)</p> <p>7—9</p>	<p>Representation Regarding the Merchant Shipping Act, 1958</p> <p>The Committee note from the reply that the Director General of Shipping had been granting exemptions from opening articles of agreement in certain cases, considering the difficulties faced by the owners of the vessels in signing off due to operational problems. However, the Director General has since decided to withdraw the exemptions granted to all home trade vessels <i>vide</i> Order dt. 12 November, 1992. The entire matter was considered by the Seamen's Employment Board (Foreign Going), Bombay on 25 November, 1991. The recommendations made by the Board were accepted by the Director General and given effect to from 12 November, 1992, The recommendations of the Board broadly envisaged that the authorities should be</p>	<p>In pursuance of recommendation of the Committee the Director-General (Shipping) prepared draft rules regarding granting of exemption from the opening of Articles under 456 of the Merchant Shipping Act as there was no rule making power under Section 100 of the Act. However as per the opinion of the Law Ministry the said draft rules were violative of Section 100 as well as Section 101(1) & 103 (1)(a) of the Merchant Shipping Act on the ground that Subordinate Legislation is derived from the enabling Act and it is fundamental that the delegate on whom such a power is conferred has to act within the limits of authority conferred by the Act.</p>

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convinced before grant of exemption that the vessel could not open the articles of agreement in normal course of trade and the man-power employed on it was covered by an approved agreement in respect of service conditions.

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The Committee find that the parent statute viz., the Merchant Shipping Act conferred wide discretion upon the Central Government in the matter of granting exemptions from operation of the various provisions of the enactment. The Committee are, therefore, inclined to observe that the Government should exercise the powers of exemptions with utmost caution. Ordinarily, exemption should not be granted unless absolutely necessary. As a safeguard against any arbitrary use of the wide discretion, there should be a provision for recording of reasons in writing in each case of such exemption. Besides ensuring that the vessel could not open the articles of agreement in the normal course of trade and the man-power employed on it was covered by an approved agreement in respect of service conditions,

In view of the opinion of the law Ministry it is not possible to frame rules as per the recommendation of the Committee. However, as an alternative, the D.G. (Shipping) has decided not to grant exemption from opening of articles of agreement. For this purpose the Directorate have proposed to amend the Continuance Discharge Certificate (CDC) Rules under Section 457 read with section 99 of the Merchant Shipping Act, 1958 in order to issue CDC to off-shore vessels and Home Trade vessels for which exemption was being given by them. According to the Ministry, in case, exemption is required in rare of the rarest case, it will be processed under section 456 of the Merchant Shipping Act.

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insistence should also be placed on obtaining a 'No Objection Certificate' from the Seamen's Employment Office about non-availability of the required personnel in order that the interests of the registered seamen are not jeopardised in any manner.

[Vide Ministry of Surface Transport OM No. SR—11012/1/92-MA dated 31 October, 1996]

The Committee further note that the recommendations made by the Seamen's Employment Board (Foreign Going), Bombay have since been considered by the Government and given effect to from 12 November, 1992. However, such executive or administrative instructions are not ordinarily published in the official gazette and as such these escape notice of this Committee. Since the Government have already issued a set of guidelines, there could be no difficulty in placing them on a statutory footing by an amendment of the relevant rules, for the information of all concerned. The Committee desire the Ministry of Surface Transport to do needful at an early date.

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2.	<p>(1) The Department of Atomic Energy Assistant Director (OL) Recruitment Rules, 1991 (GSR 3 of 1992); and</p> <p>(2) The Department of Atomic Energy Senior Hindi Translator Recruitment Rules, 1991 (GSR 4 of 1992).</p>		
11	<p>The Committee note from the reply of the Department of Atomic Energy that the posts of Assistant Director (OL) and the Senior Hindi Translator in the Department would be filled up by promotion, failing which by deputation and failing both by direct recruitment. However, the Committee find that the intention was not fully borne out by the existing provisions in the respective rectt. rules for the two posts. With a view to render the statutory provisions unambiguous, the Committee direct the Department of Atomic Energy to recast the provisions in Column 11 of the Schedules prescribing the method of recruitment to the said posts on the following pattern, namely:—</p> <p>By promotion failing which by deputation and failing both, by direct recruitment.</p>	<p>The Recruitment Rules have been amended on the lines proposed by the Committee.</p> <p>(Vide Department of Atomic Energy I.D. note No. 20/1/8/86-CCS/382 dated 5 June, 1996—GSR 159 and 160 of 1996).</p>	

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3. **The Department of Atomic Energy (Labour-cum-Welfare Officer/Welfare Officer) Recruitment Rules, 1991 (GSR 211 of 1991);**

- 13 The Committee note that appointment to the posts of Labour-cum-Welfare Officer/Welfare Officer in the Department of Atomic Energy is to be made by transfer and/or promotion and failing both, by transfer on deputation, but no percentage has been fixed for transfer and promotion. According to the Department, this has been done to enable the Constituent Units to have wider choice of candidates. The Committee are of the view that there is substantial difference between 'transfer' and 'promotion' and the two terms are in no way synonymous. The method of recruitment is usually prescribed depending upon a judicious blending of several considerations, like nature of duties, qualifications, experience, availability of candidates etc. When more than one method is prescribed the ratio of vacancies to be filled by each method is essentially indicated. In the absence of such a ratio, the provisions are likely to be interpreted differently by different
- The Recruitment Rules have been amended on the lines proposed by the Committee.
(Vide Department of Atomic Energy I.D. note No. 20/1/86—CCS/382 dated 5 June, 1996-GSR 158 & 159)

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persons. With a view to make the statutory rules unambiguous and self-contained, the Committee would like the Department of Atomic Energy to lay down the fixed ratio or percentage of vacancies to be filled by each method. The Committee trust that with the experience gained over the years, it would not be difficult for the Department to arrive at a suitable ratio. The Committee, therefore, desire the Department to amend the provisions in column 11 of the schedule to the Recruitment Rules accordingly.

4.

The Visakhapatnam Port Trust Employees' (Contributory Outdoor and Indoor Medical Benefit after Retirement) Regulations, 1992 (GSR 398-E of 1992)

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The Committee note that on being pointed out by them, the Ministry of Surface Transport have agreed to amend regulation 10 of the Visakhapatnam Port Trust Employees' (Contributory Outdoor and Indoor Medical Benefit after Retirement) Regulations, 1992 on the lines of regulation 24 of the Kandla Port Employees'

The Ministry of Surface Transport have amended the notification to the desired effect.

(Ministry of Surface Transport O.M. No. PR-12025/6/91-PE-I dated 9 November, 1993 *vide* GSR No. 593-E dated 6 September, 1993)

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		<p>(Allotment of Residences) Regulations, 1964 so as to do away with the probable notion that the jurisdiction of the law courts was being ousted. The Committee desires the Ministry to expedite the process of finalisation and notify the requisite amendments at an early date.</p>	
5.		<p>The Income-Tax (First Amendment) Rules, 1992 (SO 4-E of 1992)</p>	
	20—25	<p>According to the Ministry of Finance, the decision taken at a meeting without quorum did, in fact, refer to the decision to adjourn the meeting. So as to make the underlying intention amply clear, the Ministry have now proposed to substitute the words 'decision at the adjourned meeting' by the words 'decision to adjourn the meeting'. The Committee desire the Ministry to do the needful at the earliest.</p>	<p>The amendments to the Income-tax rules have been made in accordance with the recommendation of the Committee <i>vide</i> Gazette of India notification S.O. 108-E dated 17 February, 1995. (<i>Vide</i> Ministry of Finance, Department of Revenue, Central Board of Direct Taxes O.M. No. 149/48/93 TPL dated 24 April, 1995.)</p>
	21	<p>With regard to issuing notices for reconvening the adjourned meeting, the Ministry have stated that such a situation had not arisen so far, However, as a general practice, in case a meeting was adjourned for lack of quorum and re-fixed for another day, the fact would be recorded in the</p>	

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minutes which would be endorsed to all the members of the Committee. The Committee find that there is no specific provision for giving notices to the absentee members of the National Committee about the time, place and date fixed for holding the adjourned meeting. The Committee feel that the practice to endorse the minutes of the adjourned sitting cannot serve the purpose of a proper notice. The Ministry would do well if the notices for the next sitting are issued afresh. The Committee desire the Ministry to amend the Income-tax Rules suitably so as to incorporate a specific provision for giving notices to all the members of the National Committee about reconvening an adjourned meeting.

24

The Committee note that the Ministry of Finance have prescribed an upper limit of 'upto Rs. 250' to take care of such members as may not like to take any fee or may take a reduced sitting fee. In the opinion of the Committee, even if some members prefer to avail or not to avail, it should not detract from prescribing an exact amount of the fee. With a view to do away with any uncertainty in the matter,

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the Committee desire the Ministry to amend the relevant provisions of the Income-tax Rules laying down the correct fee.

- 25 The Committee further note that the Ministry have not prescribed any limit with regard to entitlement for reimbursement of cost of travel, board, transport etc. but instead subjected it to the limits provided by the Central Government in respect of the expenditure incurred by the High Level Committee members. In this connection, the Committee cannot but reiterate their earlier observations made in para 13 of First Report (Fourth Lok Sabha), that rules should, as far as possible, be self-contained and difficulty is caused to the public in locating and referencing. The Committee have also emphasized that the rules should be self-explanatory and legislation by reference should be scrupulously avoided. The Committee observe that the parent statute viz., the Income-tax Act confers all the necessary powers upon the Government and they should have no difficulty in setting forth whatever entitlements are considered essential. The
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Committee, therefore, desire the Ministry to amend the Income-tax rules so as to make them self-contained for information of all concerned.

6.

The Income Tax (First Amendment Rules, 1992 (S.O. 4-E of 1992))

29-30

To overcome the difficulty in tracing back the amendments made in rules in the past, the Committee, in their Third Report (First Lok Sabha), presented on 3 May, 1955, recommended that whenever any amendment in the rules was made, the S.R.O. numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments was large, reference in the foot-note might be given only to the last amendments.

The amendments to the Income-tax rules have been made in accordance with the recommendation of the Committee *vide* Gazette of India notification SO 108-E dated 17 February, 1995.

Further, in their Sixth Report (Seventh Lok Sabha), presented on 21 April, 1981, the Committee called upon the Ministry of Law (Legislative Department) to ensure that the practice was followed by all Ministries/Departments in letter and spirit. The Committee are constrained to note that despite their categorical findings in this regard, the Ministry of Finance have failed to

(*vide* Ministry of Finance, Deptt. of Revenue, Central Board of Direct Taxes O.M. No. 1494893 TPL dated 24 April, 1995).

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		<p>indicate the S.R.O. numbers of the principal rules or the previous amendments by way of a foot-note to the Income-tax (Second Amendment) Rules, 1992. It is also not known whether the amendment notification in question was at all got vetted from the Ministry of Law or whether that Ministry had also failed to take notice of Committee's requirements in this matter.</p>	
		<p>The Committee are inclined to observe that even if the number of amendments was very large and it was not practicable to mention S.R.O. numbers of all the earlier notifications, the Ministry could have at least indicated the particulars of the last amendment in a foot-note as recommended by them earlier. The Committee cannot but reiterate their earlier recommendations in this regard and direct the Ministry to evolve adequate procedural safeguards against recurrence of such lapses in future.</p>	
7.		<p>The India Development Bonds (Amendment) Scheme, 1992 (GSR 70-E of 1992)</p>	
	32	<p>The Committee note that on being pointed out by them, the Reserve Bank of India has agreed to amend the notification</p>	<p>The necessary action in matter in accordance with the report of the Committee has been taken (Ministry of</p>

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		<p>containing the India Development Bonds (Amendment) Scheme, 1992 so as to provide the requisite foot-note indicating the particulars of publication of previous amendments, for facility of reference. The Committee desire the concerned authorities to do the needful at an early date and further evolve suitable measures to prevent recurrence of such a lapse.</p>	<p>Finance, Department of Economic Affairs O.M. No. 144/EC93 dated 16 February, 1995).</p>
<p>8. Eighteenth Report (Tenth Lok Sabha) (Presented on 4.6.1995)</p>			<p>The Jawaharlal Nehru Port Trust Pilotage and Other Services (Fees) Order, 1992 (GSR 483-E of 1992)</p>
	<p>1.10</p>	<p>The Committee note that during evidence, the Ministry have assured that it would comply with the recommendation of the Committee contained in para 12 of their Second Report (Seventh Lok Sabha) to obviate any confusion in the public mind regarding the date of coming into force of the notification. The Committee desire that the Ministry may evolve procedural safeguards to ensure that the recommendations of the Committee are strictly adhered to during the formulation and notification of statutory orders.</p>	<p>This has been noted and all orders are being made effective from the date of publication in the Official gazette of India. [Vide Ministry of Surface Transport O.M. No. PR-16014295-PG dated 9/1/95]</p>

- 1.11 The Committee further note that the Ministry have instructed the Port Authorities to intimate the users/traders, 30 days in advance prior to notification of the rules about the revised tariff structure with a view to giving a reasonable time to such users/traders to adjust to that raised tariff structure. The Committee observe that rules can become applicable only after their publication in the official gazette and the copies thereof are made available to the public. In the instant case, the notification dated 8 May, 1992 were made available to the public only on 30 June, 1992.
- Through the Ordinance the Major Port Trusts Act, 1963 has been amended *vide* Section 17 of the Ordinance and ratified by Parliament through a Bill on 25 March, 1997. An additional Section 49 (B) has been inserted in the Major Port Trusts Act, 1963. Sub Section 2 of this Section reads as follows:
“(2) An order increasing or altering the fees for pilotage and certain other services or port dues at every port shall not take effect until the expiration of thirty days from the day on which the order was published in the official Gazette”.
[*vide* Ministry of Surface Transport O.M. No. PR-16014/295-PG dated 25 June 1997.]
- 1.12 The Committee, therefore, feel that it would be more appropriate if notification regarding revised tariff structure is brought into force 30 days after their publication in the official gazette or such longer period which would give reasonable notice to persons really affected taking into account the actual period of delay in publication of the official gazette as it would
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considerably reduce the time gap between coming into force of the rules and the availability of the Gazette notification to the public. The Committee is unable to agree with the opinion of the Deputy Legal Adviser of the Ministry of Law and Justice to the effect that the alteration in the rate of scale cannot be given prospective effect on the ground that such a provision does not exist in the Major Port Trusts Act, 1963.

9.

The Department of Telecommunications, Assistant Accounts Officer Recruitment Rules, 1991 (GSR 217 of 1992)

3.10

The Committee note that on being pointed out during oral evidence the Ministry of Communications expressed regret for not complying with the recommendation of the Committee contained in para 10 of their Second Report (Fourth Lok Sabha) and informed that action has already been initiated to implement the recommendation of the Committee. The Committee reiterate their aforesaid recommendation that the rules should be published before their enforcement and if in particular case, due to unavoidable circumstances, retrospective effect has to be given to the rules, a clarification by way of an

In obedience to the recommendations of the Committee on Subordinate Legislation (Tenth Lok Sabha) necessary amendment to correct the year in the short title of the Deptt. of Telecommunications (Assistant Accounts Officer), Recruitment Rules, 1991 and also the explanatory note that no one will be adversely affected by giving retrospective effect to these RRs have already been published in the Extraordinary Gazette of India *Vide* GSR No. 84. (E) on 22.2.95 [*vide* Deptt. of Telecom, O.M. No. 39-480-SEA dated 19 June, 1995.]

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explanatory - memorandum should be given that no one would be adversely affected as a result of retrospective effect so given, to the rules. The Committee also desire that the Ministry should ensure suitable procedural safeguards to ensure that recommendations of the Committee on Subordinate Legislation are strictly adhered to during the framing of the rules and also during their notification.

The Committee further note that the cadre of Assistant Accounts Officer was altogether a different cadre with different pay scales. The Committee find it highly improper on the part of the Ministry to appoint, transfer or promote persons to this cadre without first establishing that cadre by way of rules. The proper procedure is to first frame the rules, then to start promoting people to that cadre. The Committee desire that the Ministry should give an undertaking to the Committee to this effect that the Ministry would not resort to this kind of method in future.

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10.	Twenty-Fourth Report (Tenth Lok Sabha) (Presented on 6.3.1996) Paras 1.7 to 1.9	<p>The Committee note with concern that the delay in the framing of rules has become a recurring phenomenon and that cases and delay in framing of rules by the Ministries/ Departments of Government of India have continued to occur in utter disregard to the recommendations of the Committee made in their aforesaid reports. The Committee cannot help observing that the Ministries have failed to recognise the importance of Legislation passed by the Parliament as the delay in exercise of rule-making power under the provision for framing Subordinate Legislation under the statues quite often defeats the very purpose of such Legislations as it cannot be implemented as contemplated. The Committee note with concern that the matter relating to framing of rules under the act is normally dealt with by the Ministries in a very casual manner and no serious attention is paid for expeditious rule making.</p>	<p>Delay in Framing of Rules</p> <p>The recommendation of the Committee have been taken by the Ministry of Parliamentary Affairs with all Government of India for strict compliance vide Ministry of Parliamentary Affairs O.M. No.32/(13)/96-R & C dated 25.3.1996. in the said O.M. the attention of all the Ministries/ Department have also been drawn the recommendation of the Committee on Subordinate Legislation made earlier viz., Para 34 of Fifth Report (Second Lok Sabha; Para 108 of Eighteenth Report (Fifth Lok Sabha) Paras 4.10 and 5.15 of 17th Report (Tenth Lok Sabha) regarding delay in framing of rules. The Ministry of Parliamentary Affairs have emphasized on all the Ministries/Departments for strict compliance of the Committee's recommendations to ensure timely framing of rules under the Acts of Parliament Administered by them.</p>

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The Committee observe that in most of the cases the rules could have been notified much earlier had the concerned Ministries moved in the matter with the seriousness it deserved. Due to this lack-adassical approach of the Ministries, the matters wick are sought to be governed by statutory rules, are often in actual practice governed by excutive directions of guidelines etc. in the absence of the properly framed statutory rules.

The Ministry of Parliamentary Affairs has also drawn attention of all the Ministries/Departments to the comprehensive guidelines for streamlining the procedure generally with regard to the subordinate legislation and particularly with a view to minimise the time-gap between publication of the draft rules framed under Acts and their promulgation in final form circulated earlier by them *vide*. their O.M. No. 32(7)/8—R&C dated 18.9.86 (Please see Annexure-I).

1.8 With view to ensure timely framing of rules under the Acts passed by the Parliament, the Committee recommend as under:

1. (1) The framing of draft rules should be initiated simultaneously with the drafting of the proposed Bill so that the draft rules become ready by the time the Bill is introduced in the House.

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2. Whenever a Bill is introduced in Parliament and in particular those Bills which propose setting up a Commission or Tribunal, there should be a 'Note' in the Memorandum of Delegated Legislation appended to the Bill to the effect that the draft rules have also been prepared under that Bill.

In addition to the steps taken by the Ministry of Parliamentary Affairs to ensure strict compliance of the recommendation of the Committee by all the Ministries/Departments, individual response have also been received from a number of the Ministries/Departments, wherein it has been stated that the recommendation made by the Committee have been noted for guidance and compliance in the future. [1622/D(AG)/96 dated 11.4.96; Ministry of Defence O.M. No. 211(2)/96/B.II dated 5.6.1996; Ministry of Finance O.M. No. C. 30012/1/96—Admn. I dated 13.8.96; Ministry of Urban Affairs and Employment O.M. No. H-11013/5/96-Plt. dated 10.1.97.

3. To overcome undue delays on account of protracted inter-ministerial correspondence or where consultation with the Ministry of Law or other Ministries/Departments is involved, the concerned Ministry should convene meetings of all the concerned agencies so that the matters could be sorted out of the earliest without entering into protracted correspondence,

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4. In this context the Committee gave some thought to the idea of each Ministry/Department of the Government having the services of a Law officer exclusively for itself for framing/vetting the rules. The Law officer can be from the Ministry of Law who could be taken on deputation by the concerned Ministry. The Committee has already consulted few Ministries which have reacted positively to this proposal. The Committee feel that such an arrangement would certainly obviate the need for each Ministry/Department to approach the Ministry of Law everytime there is a need to formulate/vet rules, and avoid the consequent delay.

1.9 The Committee, therefore, desire that all the Ministries/Departments of Government of India should ensure strict compliance of the aforesaid recommendations of the Committee with a view to ensure timely framing of rules under the Acts passed by the Parliament.

11. **Delay in Printing of Gazette Notification**

2.8. to 2.16

The Committee note that the delay in printing of gazette notifications is caused due to (i) receipt

The nodal Ministry concerned with the publication of gazette notification i.e. the

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		<p>of bulky material for printing from the Ministries at the last moment; (ii) non-availability of both Hindi and English versions simultaneously; (iii) lack of proper attestation; (iv) illegible manuscripts received for printing and (v) the continuation of old technology & (vi) large number of cases where material which should not be published in the Extraordinary Gazette are being certified as such for printing.</p>	<p>Ministry of Urban Affairs and Employment <i>vide</i> their O.M. No. H-11013/5/96-Plt. dated 10.1.1997 have furnished the Action taken by them for implementation of the recommendation of the Committee as follows:</p>
	2.9.	<p>The Committee, recommend that the Government of India Press and administrative Ministries should ensure that the printed gazettes are made available to the authorised sales counters like Kitab Mahal etc. for sale to the people on the date printed in the gazettes because in a number of cases the Rules come into force from the date of publication in the official gazette.</p>	<p>(i) All the Ministries/ Departments have been requested for strict compliance of the recommendations made by the Committee to cutting down delays in printing and publication of Gazette Notification, (<i>vide</i> D.O. No. O-17034/1/96-P (Vol.II) dated 23.5.1996) (Please see Annexure-II)</p>
	2.10.	<p>In order to achieve this end, the Committee desire that the Ministry of Urban Affairs and Employment and the Directorate of Printing should work out the modalities in consultation with the concerned Ministries to ensure that the Press makes the gazette available to the public on the appointed date which must be adhered to namely:</p>	<p>(ii) The progress of printing of gazette notifications is being monitored on weekly basis and the Extraordinary Gazettes are being monitored on day to day basis, by the Directorate of Printing.</p>

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(i) The Government of India Press should accept only those notifications for printing which are correct and complete in all respects viz., neatly typed with both Hindi and English versions bearing proper attestation etc.

(iii) Regular meeting with the managers of the concerned Presses are being organised by the Directorate of printing of Gazette Notifications and taking corrective measures as and when necessary.

(ii) Normal gazette is brought out weekly on a fixed date. It is generally a routine, non-priority matter. The press should inform the Ministries that the notifications etc. to be printed in the normal gazette should be furnished for printing upto a particular date every week so that the Press can print it and make it available on the appointed date. On receipt of the material, if the Press, for any reason is not in a position to print it, for example the material is bulky, it must discuss with the Ministry concerned to review the appointed date. But once the material/ notification has been accepted for printing, the Press must print it in time and make it available on the scheduled day.

(iv) The Government of India Press, Mayapuri, New Delhi, has been equipped with modern DTP system enabling the Press to accept compatible floppy disks for retrieval of information and getting them printed. The modernisation programme is in final stage.

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	2.11.	<p>The Committee further desire that the Extraordinary Gazette which is a time bound publication and is used to publish urgent material must be printed and made available on the appointed date. As in the case of normal gazette the Press should liaison with the indenting Departments so that the material is furnished in time and in correct and complete form. The Ministry of Urban Affairs and Employment should also make the indenting Departments aware of and reiterate the guidelines under which the subject matter is to be treated as fit for extraordinary notification.</p>	<p>(v) The Directorate of Printing have opined that it is feasible for the Government of India Press to allot the notification Nos. to the department/Ministries for printing of gazette notifications under their own arrangements and accordingly, all Ministries/Departments have been informed of the facility (Vide D.O. No.p1-7034/1/96-P (Vol.II) dated 23.5.96</p>
	2.12.	<p>The Committee further recommends that the Press should liaise with Ministries who have the modern equipment to present the material to the Press in such a format that it can be printed without any alteration. For this purpose the Committee recommends as follows:—</p> <p>(i) Each of the Ministries/Departments should have their own computers to prepare floppy discs which are compatible/acceptable to the Press;</p> <p>(ii) The material to be printed in the Gazette of India notifications should get recorded in a floppy disc by the concerned</p>	<p>(vi) The Ministry of Urban Affairs and Employment has taken up the proposal for computer networking between the Government of India Presses responsible for printing of Gazette notifications and the client Ministries/Departments of the Government of India. The wing of the National Informatics Centre attached to Ministry of Urban Affairs and Employment has been requested by the Ministry for submission of feasibility report for undertaking the job of the Committee on Subordinate Legislation (vide D.O. No. 0-17034/1/96-PUB/</p>

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		<p>Ministry/Department and such floppy disc can be handed over to the Press for expeditious printing. For this purpose the Press should also acquire and instal Computers so that the material handed over to them in the floppies can be retrieved and then printed;</p> <p>(iii). The Ministry of Urban Affairs and employment should also organise computer net-working between various Ministries of the central Government and the Government of India Press at Delhi and Faridabad where the gazettes are being printed so that the material/notification composed in the computers of the Ministries are immediately transferred to the Computer in the Press which could then be formatted in the Press and printed so that in the Press only page marking is done.</p>	<p>PTG. (Vol. III) dated 28.11.96) (Please see Annexure III).</p>
10.	2.13.	<p>The Committee further desire that the commitment given by the Secretary, Ministry of Urban Affairs and Employment during the evidence for completion of the modernisation programme of the Government of India Press by December, 1995, will be adhered to and with the introduction of latest technology of printing, delays would be minimised.</p>	

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2.14	<p>The Secretary, Ministry of Urban Affairs and Employment had also put forth the alternative that the Departments/Ministries can have their own gazettes printed and published provided there was no legal hurdle and in view of the fact that the number of such gazettes printed is not much and that each Ministry is now going in for modernisation and acquiring/proposing to acquire sophisticated computer printers, this will be possible; in such a situation the indenting Department has to bear the cost of the printing. The main hurdle is said to be the allotment of notification numbers.</p>		
2.15	<p>The Committee feel that with the help of Computer based communication system this difficulty could also be easily surmounted. The Committee desire that this suggestion should be examined from all aspects and the Committee be informed about the decision.</p>		
2.16	<p>The Committee were also informed by the Secretary that monthly meetings are held to review the performance of the Press but no annual or monthly report about such performance is made. The Committee recommend that at least an annual report should be made so that glaring delays come to notice and the steps are taken to remove the cause of delay.</p>		

APPENDICES

APPENDIX I
(Vide para 5 of the Introduction)

**SUMMARY OF RECOMMENDATIONS MADE IN THE FIRST
REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(TWELFTH LOK SABHA)**

Sl. No.	Reference to para No. in the Report	Summary of Recommendations
1.	1.3	The Committee find the reply of the Ministry contradictory to the reply mentioned at para above wherein they have stated that the recruitment rules for officers and staff of NCBC had been finalised by the NCBC. The Committee feel that if the Ministerial staff are to be diverted towards the Commission there is likelihood of fall in the staff strength of the Ministry, and in place of persons placed on deputation, some new staff has to be trained and when the person on deputation returns back to the Ministry on completion of deputation, the person already working has to be reverted back to his lower post thereby leading to wastage of expertise. The Committee desire that the Ministry should provide for separate staff for the Commission.
2.	2.6	The Committee note that to their recommendation contained in paras 4.12 to 4.13 of their Eighteenth Report (Tenth Lok Sabha) for setting up a joint body of the Indian Banks Association and Insurance Companies to assess the proposals regarding revision of wages etc. which are applicable to both the sectors in order to obviate delays in notifying the rules on account of mutual consultation between these agencies, the Ministry have stated that after careful consideration, it has not been found feasible to set up such a joint body on the ground that the wisdom of a linkage between the two sectors have been challenged by the employees themselves. Further, with a move towards privatisation in the banking sectors and a possible market-driven environment, the companies will operate independently, will be autonomous in decision making and wage structure will depend on their performance.

Sl. No. Reference to para No. in the Report	Summary of Recommendations
3. 2.7	<p>The Committee has considered the reply of the Ministry in detail. The recommendation about setting up a joint body was made with a view to obviating the delay which usually occurs in finalising the wage agreements and notifying them. However, taking into account the fact that the employees themselves are not in favour of such a body and also in view of the Government's considered opinion that the proposal is not feasible, the Committee is inclined to reconsider this recommendation. The Committee, however, recommend that suitable mechanism may be evolved by the Ministry to avoid the unjustifiable delay which occurs in notifying the wage agreements.</p>

MINUTES

Appendix II

(Vide para 4 of the Introductions)

MINUTES OF THE SIXTY NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA)

The Committee met on Thursday, 15 February, 1996 from 14.30 to 17.15 hrs.

PRESENT

Shri Amal Datta -- *Chairman*

MEMBERS

2. Shri Prithviraj D. Chavan
3. Shri D. Pandian
4. Shri Rajendra Kumar Sharma
5. Shri K.G. Shivappa
6. Shri Umrao Singh
7. Shri Ram Sharan Yadav

SECRETARIAT

1. Smt. Roli Srivastava — *Joint Secretary*
 2. Shri P.D.T. Achary — *Director*
 3. Shri Ram Autar Ram — *Deputy Secretary*
 4. Shri B.D. Swan — *Assistant Director*
- Representatives of the Ministry of Finance (Department of Economic Affairs)**

1. Dr. Y.V. Reddy, Secretary (Banking) & Chairman,
National Housing Bank
2. Shri M. Damodran, Joint Secretary
3. Shri K.K. Bhargava, Officer on Special Duty (Banking)
4. Km. Mona Sharma, Joint Director
5. Shri S.K. Thakur, Under Secretary (TRU)
6. Shri K.K. Mudgil, Executive Director, NHB
7. Shri P.K. Mathur, Dy. Legal Adviser
8. Shri P.K. Handa, General Manager, NHB
9. Shri V.G. Damle, General Manager, RBI.

Representatives of the Ministry of Finance (Insurance Division)

1. Shri T.K. Banerjee, Secretary (Insurance)
2. Shri C.S. Rao, Joint Secretary
3. Shri P.K. Tewari, Dy. Secretary

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** Omitted portions of the Minutes are not included in this Report.

10. The Committee thereafter heard the evidence of the representatives of Ministry of Finance (Insurance Division) regarding the delay in implementation of recommendations contained in paras 4.12 and 4.14 of the Eighteenth Report of the Committee on Subordinate Legislation regarding giving of retrospective effect to certain schemes / rules pertaining to the General Insurance Corporation and the Life Insurance Corporation of India, which was presented to the House on 4 May, 1995.

11. The Chairman pointed out that the Ministry had not given a reply regarding the recommendations made in paras 4.12 and 4.14 where it was recommended that a joint body be set up in the Life Insurance, General Insurance and the Indian Banks Association.

12. Regretting the delay, Shri T.K. Banerjee, Secretary (Insurance) of the Ministry of Finance stated that the recommendation of the Committee was received at a stage when wage negotiation in both Banking and Insurance Sectors were nearing completion or had already been completed. The position which has emerged is that both in Insurance and Banking Sectors, the wage negotiations are closed now, except that in Insurance Sector, the Ministry have yet to take a final decision with regard to Officers' wages. He informed that the Wages for Class III & Class IV staff have already been amended.

13. The Committee pointed out that the intention of the Committee was that there should be no delay in framing of the rules so that the interests of the employees and the public should not be adversely affected.

The witnesses then withdrew.

14 to 20 **

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**Omitted portions of the Minutes are not included in this Report.

**MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (TWELFTH LOK SABHA)
(1998-99)**

The Committee met on Monday, 7 December, 1998 from 15.30 hours to 16.30 hrs. in Committee Room 'D', Ground Floor, Parliament House Annexc, New Delhi.

PRESENT

MEMBERS

Shri Krishan Lal Sharma—*Chairman*

2. Shri Bhupinder Singh Hooda

3. Shri Datta Meghe

4. Shri B.M. Mensinkai

5. Shri Raghvendra Singh

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SECRETARIAT

1. Shri Ram Autar Ram— *Director*

2. Shri B.D. Swan — *Under Secretary*

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8. The Committee then considered and adopted draft First and Second Reports of the Committee without any modification.

The Committee then adjourned

**Omitted portions of the Minutes are not included in this Report.