

# COMMITTEE ON SUBORDINATE LEGISLATION

(ELEVENTH LOK SABHA)

## EIGHTH REPORT

[Action Taken Report on the Implementation of Recommendations  
contained in Twelfth and Fourteenth Reports (Tenth Lok Sabha)  
of the Committee]

*Presented on 15.5.1997*



LOK SABHA SECRETARIAT  
NEW DELHI

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**CORRIGENDA**

**TO**

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

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION  
(1996-97)**

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4. Shri B.D. Swan — *Under Secretary*

## INTRODUCTION

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

2. This Report relates to the implementation of the recommendations of the Committee made in their Twelfth and Fourteenth Reports (Tenth Lok Sabha).

3. The Committee considered and adopted this Report at their sitting held on 8 May, 1997.

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

NEW DELHI;  
May, 1997

KRISHAN LAL SHARMA,  
*Chairman,*  
*Committee on Subordinate Legislation.*

## REPORT

### ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE (TENTH LOK SABHA)

With a view to ensure speedy implementation of their recommendations, the Committee on Subordinate Legislation in paragraph 221 of their Twentieth Report (Seventh Lok Sabha) presented to the House on 26 August, 1983 had suggested that the Ministry of Parliamentary Affairs should impress upon all Ministries/Departments of the Government of India to adhere to the time-limit of six months fixed by them for implementing their recommendations. The Committee had further emphasises that the Ministries should endeavour to implement their recommendations within a period of three months of the presentation of their Report, as the period of six months fixed by the Committee was the maximum period within which the recommendations must be implemented.

2. 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. The Committee, however, note with satisfaction that after they pursued the matter with the Ministries concerned, the Ministries have taken action on the recommendations of the Committee.

NEW DELHI;  
May, 1997

KRISHAN LAL SHARMA,  
*Chairman,*  
*Committee on Subordinate Legislation.*

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**A P P E N D I C E S**

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**888/LS/F-2-A**

## APPENDIX I

# STATEMENT SHOWING THE ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE

S.No.	Reference to para Nos. of the Report	Summary of recommendations/Assurances	Gist of Government's reply
(1)	(2)	(3)	(4)
	<p><b>TWELFTH REPORT (TENTH SABHA)</b></p> <p>LOK</p> <p>(presented on 25-8-1994) 7</p>	<p><i>The Central Food Laboratory, Calcutta (Senior Analyst) Amendment Recruitment Rules, 1992 (GSR 25 of 1992)</i></p>	
1.		<p>The Committee note from the reply of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) that their instructions do not cover a situation where recruitment rules for any post simultaneously provide for direct recruitment as well as promotion in regard to prescribing the period of probation. However, the Ministry are of the view that ordinarily, the period of probation prescribed for appointees to a post should be same whether they are appointed by direct recruitment or promotion. In the light of the above clarifications, the Committee hope that there should be no difficulty for the Ministry of Health and Family Welfare to amend the Central Food Laboratory, Calcutta (Senior Analyst) Recruitment Rules to prescribe a uniform period of probation both for direct recruits as well as the promotees in all fairness. The Committee desire the Ministry to bring forth the requisite amendment at an early date. The Committee would also like the Ministry of Personnel to suitably revise their instructions to make them unambiguous for facility of the administrative Ministries/Departments.</p>	<p>The Ministry of Health and Family Welfare have amended the Central Food Laboratory, Calcutta (Senior Analyst) Recruitment Rules vide GSR 42 dated 19 January, 1996 by prescribing uniform period of probation of one year both for direct recruits and promotees for the post of senior analyst at Central Food Laboratory, Calcutta.</p> <p>[Vide Ministry of Health and Family Welfare O.M. dated 16 April, 1996]</p>



(4)

(3)

(2)

(1)

*The University Grants Commission (Recruitment) (Amendment) Rules, 1990 (GSR 300 of 1992)*

Recommendations/observations of the Committee have been noted for compliance.  
[Vide Ministry of Human Resource Development's O.M. No. F-10-30/89-Desk (U)U.I. dated 20.3.1995]

2. 9-10

The Committee find that the Ministry of Human Resource Development (Deptt. of Education) initially forwarded only the English version of the University Grants Commission (Recruitment) (Amendment) Rules, 1990 for publication in the official gazette. When the Government of India Press pointed out that both English and Hindi versions were needed to be simultaneously published, the Ministry then forwarded its Hindi version also. However, in May, 1992, the Ministry came to know from a reply given to a letter from the University Grants Commission in this regard that both the versions had not reached the Government of India Press. The Ministry again forwarded the notification dated 10 January, 1990 for publication in the gazette, the year in its short title remaining as 1990.

The Committee are constrained to note that the whole matter has been dealt with by the Ministry with an amount of laxity at all stages of the process. Had the Ministry taken up the matter with the seriousness it deserved, the delay could have been averted. They have also not shown any readiness to rectify the error even when pointed out by the Committee. The Committee cannot but deplore the grossly negligent attitude displayed by the Ministry in handling the important legislative measure. The Committee need hardly emphasize that the responsibility of a Ministry does not cease with the sending of a notification to the Press. They must ensure that the notification is correctly printed and if necessary, issue corrigenda etc. to rectify any errors. The Committee hope that the Ministry would take suitable corrective measures to plug any loopholes in the procedure.

*Amendment to the General Reserve Engineer Force Group 'B' posts (Non Gazetted) Recruitment Rules, 1982 (GSR 214 of 1992)*

3. 13

The Committee note that on being pointed out, the Ministry of Surface Transport have rectified the error in the short title to make it in consonance with the recruitment rules pertaining to the General Reserve Engineer Force Vide G.S.R. 443 dated 4 September, 1993. However, the fact remains that the Ministry had moved in the matter only after the error was pointed out to them by the Committee. This was illustrative of the scant attention with which the statutory powers like the formulation of the statutory rules were being exercised in the Ministry. The Committee expect the Ministry to be far more vigilant in the processing the matter involving exercise of rule-making power conferred upon them by the Statutes and to evolve suitable procedural safeguards including monitoring at a pretty senior level of officers to prevent recurrence of such lapses.

The Ministry of Surface Transport have noted the observations of Committee for strict compliance and ensured that the matter involving exercise of rule-making power conferred upon them would be processed in future more diligently so as to prevent recurrence of such lapses. (Vide Ministry of Surface Transport O.M. No. F. 144(2)/90-Pers. Vol. II dt. 23.9.94)

*The Drugs and Cosmetics (Third Amendment) Rules, 1992 (GSR 597-E of 1992)*

4. 15-16

The Committee note from the reply of the Ministry of Health and Family Welfare that the Drugs and Cosmetics (Third Amendment) Rules have been given prospective effect so as to come into force after six months of their publication in the official gazette as certain time period was to be given to the pharmaceutical industry to switchover to the new colour coding requirements and to make allowance for the huge stocks of the printed packing material lying with it.

Recommendation of the Committee has been noted and due caution would be taken in future before the notification is published. (vide Ministry of Health and Family Welfare (Dept. of Health) OM No. H-11013/3/94/DMS & PFA dt. 24 May, 1995)

(1)

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The Committee further note from the reply that a firm date of coming into force of the amendment rules could not be given as the period of six months for enforcement thereof was to be counted from the date when the printed copies of the gazette were made available to the public by the Controller of Publications. However, the Committee note with surprise that this contention of the Ministry is not at all borne out by the facts for the gazette notification unambiguously lays down that it shall come into force after six months from the date of publication in the official gazette and not from the date when copies thereof were made available to the public. With a view to ward off any uncertainties in the mind of the concerned public as to the exact date of application of the amendment rules, the Committee are of the opinion that the Ministry should indicate a firm date of enforcement in the gazette notification itself in such cases in future.

*The Prevention of Food Adulteration (Third Amendment) Rules, 1991 (GSR 124-E of 1991)*

5.

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The Committee note with concern that the gazette notification dated 24 July, 1990 containing the draft amendments to the Prevention of Food Adulteration Rules was made available to the public on 7 September, 1990 i.e. after a time-gap of 45 days. The Committee are constrained to observe that such inordinate delays tend to frustrate the very purpose of publishing urgent legislative matters in the extraordinary gazette which is expected to reach the public immediately. Ordinarily, the matters meant for inclusion in the extraordinary gazette are of priority nature and thus intended to reach the hands of public simultaneously.

The Ministry have already taken up the matter with the Director of Printing to streamline the procedure for efficient and effective handling of important Legislative matters (vide OM No. P-15015/6/94-DM & PFA dt. 28.11.94.)

The official gazette being an authentic instrument of notifying governmental decisions not only demands utmost care and precision in its printing but as well requires an efficient network for its expeditious delivery to the general public. In the opinion of the Committee, the Government of India Press had not been able to measure upto the mark in executing the job with the earnestness it deserved. The reasons like over-riding priority to certain jobs, poor staff attendance, loadshedding, low voltage, shortage of water etc. as put forth by the Press are merely suggestive of gross neglect and inefficiency in its day to day working. The Committee would like the Ministry of Urban Development to undertake a comprehensive review of the functioning of the Press at the highest level and take all necessary steps to streamline its working and procedure for efficient and expeditious handling of important legislative matters having a direct bearing on the public at large, without delay.

*The Central Institute of Coastal Engineering for Fishery Daffry Group 'D' Recruitment rules, 1992 (CSR 178 of 1993)*

6. 21

The Committee note that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have since notified the requisite corrigendum vide G.S.R. 588 dated 27 November, 1993 to incorporate the correct entry 'by promotion' under Column 11 of the Schedule to the Central Institute of Coastal Engineering for Fishery Daffry Group 'D' Recruitment Rules. The Committee also note that the Ministry have regretted the error that had crept into the statutory rules inadvertently. The Committee trust the Ministry would take necessary corrective measures to prevent recurrence of such lapses.

Necessary instructions have been issued to all concerned to prevent recurrence of lapses (vide Ministry of Agriculture's OM No. 4-22/94-FY Admn.) dated 22 November, 1994.)

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

7. 23-24

The Committee are not satisfied with the reply of the Ministry of Communications. In this connection, the Committee cannot but reiterate their earlier observations made in paras 27-28 of Fifth Report (Fifth Lok Sabha), namely:—

“The Committee regret to note that the error in indication of correct year in short-title of Rules/Regulations etc. has been found to be recurring year after year. It is a well accepted practice that short-title of Rules, Regulations, Bye-laws, etc. should bear the year in which they are published and not some other year..... The Committee re-impress upon Ministries/Departments of the Government the need for indication of correct year in the short title.

The Committee also note that in a large number of cases the error occurs due to the fact that while the Rules are sent by the Ministries/Departments for publication towards the end of a year, these are published by the press in the next year. The Committee desire, the Ministry of Law and Justice (Legislative Department) to devise, in consultation with the Government of India Press, some procedure for making a consequential change in the short-title in such cases.”

The Committee hope the Ministry would streamline the procedure including monitoring by superior officers with a view to eliminate the errors and omissions of the like nature in future, in consultation with the Ministry of Law and Justice.

The Ministry of Communications (Department of Telecom) have since issued necessary amendment to correct the year in the short title of the Department of Telecommunications Assistant Accounts Officer) Recruitment Rules, 1991 vide Gazette of India notification No. GSR 84-E dated 22.2.95.

*The Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules, 1992 (GSR 178 of 1993)*

8. 26

The Committee note that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have since notified the requisite corrigendum vide G.S.R. 588 dated 27 November, 1993 incorporating the correct year 1993 in the short title to the Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules. The Committee also note that the Ministry have regretted the error that had crept into the statutory rules inadvertently. The Committee trust the Ministry would take necessary corrective measures to check recurrence of such lapses

Necessary instructions have been issued to all concerned to prevent recurrence of lapses (vide Ministry of Agriculture's OM No. 4-22/94-FY (Adma.) dt. 22.11.94).

*The India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules, 1990 (GSR 314 of 1992)*

9. 28

The Committee note that on being pointed out, the Ministry of Finance (Department of Economic Affairs) have issued an amendment notification vide GSR 532 dated 30 October, 1993 to denote the correct year in the short title to the India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules. The Committee trust that with a view to obviate such errors in future, the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system.

Observations of the Committee have been noted for compliance in future. (vide Ministry of Finance Economic Affairs OM No. 12/24/95 dt. 24.4.95).

(4)

(3)

(1) (2)

*The Insurance (Amendment) Rules, 1992 (S.O. 961 of 1992)*

10. 31 The Committee are constrained to note that despite their categorical undertaking, Ministry of Finance (Department of Economic Affairs) have once again failed to indicate the particulars of publication of the principal rules and the subsequent amendments by way of foot-note to the Insurance (Amendment) Rules, 1992 for facility of reference. The Committee trust that with a view to obviate such errors in future, the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system.

Recommendation of the Committee have been noted. In future due care will be taken for proper issue of such notifications. (vide Ministry of Finance (Insurance Dn.) OM No. 01/2/Ins. 11/89 dt. 23.5.1995).

(I) *The Baggage (Amendment) Rules, 1992 (GSR 249-E of 1992);*

(II) *The Transfer of Residence (Amendment) Rules, 1992 (GSR 250-E of 1992); And*

(III) *The Tourist Baggage (Amendment) Rules, 1992 (GSR 604-E of 1992).*

11. 35

The Committee note that the Ministry of Finance (Department of Revenue) have accepted the lapse on their part in not appending the particulars of publication of the principal rules and subsequent amendments by way of a foot-note to the gazette notifications in question and further assured that in future, the requisite foot-note would be incorporated in all the notifications for facility of reference. The Committee trust the Ministry would keep their assurance in the matter and exercise due care and proper monitoring at a Senior level of officers to evolve a fool-proof system.

The recommendations of the Committee have been brought to the notice of all sections of C.B.E.C. for compliance (vide Ministry of Finance OM NO. 512/294-CUS. VI dt. 21.10.94).

*Drugs and Cosmetics (Third Amendment) Rules, 1992 (GSR 597-E of 1992)*

12. 37

The Committee note that the particulars of the last two amendments made to the Drugs and Cosmetics Rules during the year 1992 did not find mention in the foot-note for want of their gazette numbers. In the opinion of the Committee, the place of non-availability of gazette numbers is not tenable. The Committee feel that the Ministry should have ascertained the gazette numbers from the Government India Press which they, in fact, failed to do. The Committee need hardly emphasise that the very purpose of providing a foot-note to the amending rules has been to facilitate easy referencing of such amendments from time to time. The Committee hope that the Ministry would exercise due vigilance leaving no room for laxity in the matter of drafting the statutory amendments in future.

*The Ministry of Home Affairs (Group 'C' Posts) Recruitment (Amendment) Rules, 1992 GSR 157 of 1992*

13. 40-41

The Committee note from the reply of the Ministry of Home Affairs that a review of the recruitment rules for the posts of Library Clerk and Senior Library Attendant was underway and the fresh recruitment rules would be notified in supersession of the existing ones after incorporating the necessary changes. In view of this position, they did not consider it necessary to incorporate a foot-note giving particulars of publication of the principal rules and the subsequent amendments at this state.

The Committee would like to record their displeasure that the Ministry have not come out with a straight reply for non-compliance of their recommendation while notifying the extant recruitment rules. With a view to obviate such errors in future, the Committee recommend that the Ministry would exercise due care and evolve suitable procedural safeguards and monitoring by superior officers lest such omissions are repeated time and again.

The Ministry would take due care in appending foot-note giving particulars of earlier amendments to the Drugs and Cosmetics Rules, 1945 in future.

[Vide Ministry of Health and Family Welfare (Deptt. of Health) OM No. H. 11013/3-94-DMS&PFA Dt. 24.5.96.]

The recommendations/observations of the Committee have been noted carefully.

[Vide Ministry of Home Affairs OM No. A. 12022/3-89-Ad. II dated 5 April, 1995.]



*The Securities Contracts (Regulation) Amendments Rules, 1992  
(GSR 870-E of 1992)*

14. 43 The Committee note that on being pointed out, the Ministry of Finance (Department of Economic Affairs) have since issued a corrigendum to the Securities contracts (Regulation) Amendment Rules, 1992 indicating the particulars of publication of the principal rules vide G.S.R. 579-E dated 26 August, 1993, for facility of reference. However, the fact remains that the Ministry had moved in only after the error was pointed out to them. The Committee trust that the Ministry would exercise due care and evolve suitable procedural safeguards to obviate such error in future.
- The Ministry of Finance have since issued a corrigendum incorporating the foot-note *Vide* gazette of India notification No. GSR 579-E dated 26 August, 1993. The Ministry would also exercise due care while publishing such notifications. (*vide* Ministry of Finance OM No. 1/12/SE/95 dt. 28 March, 1995.)

*The Prevention of Food Adulteration (Third Amendment) Rules,  
1991 (GSR 124-E of 1991)*

15. 45 The Committee note that the Ministry of Health and Family Welfare have attributed the lapse in not indicating the particulars of publication of the amendments made during the year 1991 in the foot-note appended to the Prevention of Food Adulteration (Third Amendment) rules to some typographical mistakes. The Committee do not consider it a healthy state of affairs. The Committee hope that the Ministry would exercise due vigilance in processing the important legislative matters in future and take necessary corrective measures including monitoring by senior officers to prevent recurrence of lapses of like nature.
- The observations of the Committee have been noted for future guidance. (*vide* OM No. P-15015/6/94 DMS & PEA dt. 28.11.94.)

*The Railways Red Tariff (Amendment) Rules, 1992 (CSR 275 of 1992)*

16. 47-48

The Committee do not consider the reply of the Ministry of Railways as satisfactory. The Railways Red Tariff Rules, originally framed in the year 1960, have been subjected to a number of amendments from time to time. The amendments under reference is yet another link in the chain of amendments. The plea advanced by the Ministry that it was the only amendment made during the year 1992 is not at all tenable. The Committee cannot but reiterate their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha), namely:—

[Vide Ministry of Railways OM No. 92/TG IV/19/1 dated 27 March, 1995.]

“The Committee are unhappy to note that their recommendation regarding giving of foot-notes to the amendments Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the Rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit.”

The Committee trust that the Ministry of Railways would follow the recommendation of the Committee in letter and spirit henceforth. With a view to obviate such errors in future, the Ministry should devise suitable procedural safeguards including monitoring by superior officers.

(4)

(3)

(2)

(1)

Fourteenth Report  
(10 LS) (Presented  
on 16.12.1994)

Non-Exercise of Rule Making Power Under the National  
Commission for Minorities Act, 1992

17. 2.10

The Committee are distressed to note that despite the suggestion given by them during the course of evidence the Ministry of Welfare has failed to convene an inter-departmental meeting to sort out the matter in order to curtail any further delay in framing the rules. As a result of this even after a gap of more than three months, the rules are pending finalisation. The Committee are of the view that such delays would ultimately defeat the very purpose of the legislation passed by the Parliament namely, to look after the interests of the minorities in the country. The Committee would like the Ministry to take up the matter with the seriousness it deserved. The Committee, therefore, desire that the Ministry should not waste any more time in the inter-departmental hurdles and should convene a meeting of all the agencies concerned with the finalisation of rules to sort out the matter, so that rules could be notified under the Minorities Commission at the earliest.

In pursuance of the recommendations of the Committee, Ministry of Welfare have notified the following rules:—

1. National Commission for Minorities (Annual Statement of Accounts, Audit and Annual Report, Rules, 1995 [published vide GSR 641-E dated 18.9.95].
2. National Commission for Minorities (Salaries and Allowances and Conditions of Service of Chairperson and Members) Rules, 1995 [Vide GSR 551-E dated 17.7.1995].
3. National Commission for Minorities (Terms and Conditions of Services of Officers and other Employees) Rules, 1994 [Vide GSR 68-E dated 14.2.95].

18. 3.3 to 3.6

The Committee note that the post of Director General, Coast Guard was created in 1978 and has been filled up since its creation by deputation/re-employment of a naval officer holding the rank of Vice-Admiral. However, the recruitment rules governing the post were notified only in March, 1991. The Committee are surprised to note that the Ministry have not indicated as to how the matters relating to recruitment of Director General were regulated during the intervening period of 12 years *i.e.* between the creation of the post of Director General in October, 1978 and the commencement of the Coast Guard Director General Recruitment Rules in March, 1991. In the absence of any recruitment rules framed in this regard, the Committee feel that for this intervening period, the matters were dealt with by issuing executive instructions which were no substitute for the proper statutory rules.

The Department of all Naval Officers to this Coast Guard including the post of Director General, Coast Guard is being regulated under the provision of the Ministry of Defence letter No. AD/0129/LGHQ/894/CG/D (N. 11) dated 24.12.1979. During the period from 1978 to 1991, the post of D.G.C.G. was being filled up by deputation/re-employment of Naval Officers holding the rank of Vice-Admiral with a view to provide leadership and guidance to the Coast Guard. No Officers of the Coast Guard Service could have been eligible for promotion or appointment to the rank of DGCG till-date. Moreover, officer recruited to the Coast Guard will come up for consideration for appointment as DGCG only after the year 2000. Hence upto this period the post has to be filled up by transfer on deputation of Naval Officers.

(1)

(2)

(3)

(4)

Section 5 of the Coast Guard Act, 1978 provides for appointment of an officer by the Central Government as the Director General of Coast Guard and Section 123 confers the necessary rule making power on the Central Government for carrying out the purposes of the Act. The Committee are surprised to note that in spite of all such powers vested with the Government it is not known as to what had prevented the Government from framing the recruitment rules relating to the post of Director General, Coast Guard in 1978 itself. As a result of this, the matters sought to be governed by statutory rules as per the intention of the legislature, were in fact governed by executive instructions, which constituted violation of the statute both in letter and spirit.

Further, the recruitment rules had come into force from the date of their publication in the official gazette i.e. from 23 March, 1991. As the rules had not been given any retrospective effect, the Committee wonder how the Government had regularised the services of the persons who had already served as the Director General, Coast Guard and or was currently holding that post from a back date.

3.6

The Committee desire that the Ministry of Defence may ensure that the interests of the person holding the post of Director General should not be jeopardised merely because the rules were not framed in time. The Committee further desire that the Ministry may undertake a scrutiny of its exercise of rules making power under other statute and intimate this Committee of the outcome thereof within 3 months.

The interests of all the officers, who had manned the post of DGCG were protected under the relevant provisions of the service Rules and there has been no complaint of their interests being jeopardised on account of the late promulgation of the Recruitment Rules [Vide Ministry of Defence O.M. No. 482/DS(CG)/95 dated 12 May, 1995].

*The Atomic Energy (Control of Irradiation of Food) Rules, 1990 (GSR 129 of 1991)—Rules 6 and 7 thereof*

- 19. 4.4 The Committee note that, on being pointed out, the Department of Atomic Energy have agreed to amend the Atomic Energy (Control of Irradiation of Food) Rules to the effect that the notice period of 20 days and 30 days in each case prescribed in rules 6(1) and 7(1) respectively may be made 30 days in each case. The Committee also note that the Department have also agreed to insert new sub-rule in rule 7 by providing therein a provision for the extension of time periods stipulated under rules 6(1) and 7(1) in cases where the licensee is not able to rectify the defects within the prescribed period for reasons beyond his control and a provision for appeal with the Central Government against any order of suspension or revocation of a licence by the licensing authority.
- 4.5 The Committee desire that the Department of Atomic Energy should also insert a similar provision in rule 7 regarding the 'extension of time' and the 'right of appeal' pertaining to certificate of approval.
- 4.6 The Committee also desire that the Department should carry out the needful amendments at the earliest.
- 4.7 The Committee note that the Department of Atomic Energy, while agreeing to amend rule 8(3) of the Atomic Energy (Control of Irradiation of Food) Rules, have suggested that the term 'public interest' appearing therein may be replaced by the words 'in order to ensure safety for any other reasons whatsoever'. The Committee, however

The Department of Atomic Energy have superseded the earlier Rules of 1990 by the Atomic Energy (Control of Irradiation of Food) Rules, 1996 after incorporating requisite amendments as proposed by the Committee on Subordinate Legislation. The Rules have since been notified in the Gazette of India, Part II, Section 3(1), dated 22 June, 1996.

[Vide Department of Atomic Energy. OM No. 112/191-Parl./ 816 dated 18.7.96]

(1)	(2)	(3)	(4)
		<p>feel that it would be more appropriate if the terms 'in order to ensure safety of persons whatsoever may suffer any injury because of any negligence in the process of irradiation or through irradiated products' may be used in place of 'public interest'. The Committee therefore, recommend that the desired amendment in the aforesaid rule may be made at the earliest.</p>	
4.10		<p>The Committee further desire that the Department should also provide a suitable provision for the recording of reasons in writing by the licensing authority in order to obviate any misuse of the discretionary powers.</p>	
4.11		<p>The Committee, therefore, desire that the Department should notify the requisite amendments at the earliest.</p>	
4.14		<p>The Committee note that the Department of Atomic Energy have agreed to amend sub-rule (1) of rule 10 of the Atomic Energy (Control of Irradiation of Food) Rules so as to provide for a maximum gap between the two inspections be one year.</p>	
4.15		<p>The Committee are of the opinion that it will be more appropriate if the maximum gap between the two inspections does not exceed 8 months under rule 10(1). The Committee therefore, desire that the Department of Atomic Energy should notify the amendments to this effect at the earliest.</p>	

The Committee note that, on being pointed out by them, the Department of Atomic Energy have agreed to amend the Atomic Energy (Control of Irradiation of Food) Rules to do away with the element of legislation by reference occurring therein. According to the Department, sub-rules(s) and (x) of Rule 2 might be deleted as they have no special relevance, and in the case of sub-rule (p) of Rule 2 and sub-rule (3) of Rule 18, the term Radiation Protection Rules may be replaced by the terms 'as the competent authority may be notification specify from time-to-time' and as specified by the competent authority respectively. Similarly, in the case of rule 23, instead of referring to rule 17 of the Radiation Protection Rules, 1971, the Department have proposed a 'warning sign' to be displayed at the irradiation site.

The Committee feel that the 'operation limits' referred to in rule 2(p) and the 'leakage tests' referred to in rule 18 might be laid down in the rules to make them self-contained rather than providing for them to be specified by the competent authority from time to time.

In this connection, the Committee in para 13 of their First Report (Fourth Lok Sabha) observed as under:—

".....The Committee have time and again emphasized that rules should, as far as possible, be self contained and drafted in a manner that no difficulty is caused to the public in locating and referencing...."



4.23

In order to meet the objective of the aforesaid recommendation in letter and spirit, the Committee desire that the Department should amend the Atomic Energy (Control of Irradiation of Food) Rules suitably by ensuring that not only legislation by reference is avoided but also the rules are self-contained in every respect.

*The Department of Parliamentary Affairs (Recruitment and Conditions of Service) Amendment Rules, 1992 (GSR 47 of 1992)*

20. 5.11

The Committee note that the Scheme as suggested by the Ministry, if implemented, would be able to provide sufficient number of candidates as there would be a reserve list for making good the shortfalls, if any. The Committee feel that the existence of a proviso of the nature providing that the unfilled vacancies in the direct recruitment quota could be filled by promotion in case sufficient number of direct recruitment candidates were not available, would be redundant. The recruitment rules, which provide that fifty per cent of the vacancies in the Assistant Grade shall be filled by promotion of Upper Division Clerks and remaining fifty per cent by direct recruitment on the basis of competitive examination held for the purpose by the Staff Selection Commission, should strictly be adhered to. The Committee, therefore desire that the Ministry should delete the proviso, as inserted, from the recruitment rules.

The Ministry of Parliamentary Affairs have amended the rules by substituting clause (1) of sub-rule 5 of rule 4 of the Department of Parliamentary Affairs (Recruitment and Conditions of Service) Amendment Rules, 1992 [Vide GSR 459-E dated 30 May, 1995].

[Vide Ministry of Parliamentary Affairs OM No. 3(2)/92-Admn. dated 20.6.95].

*Non-Exercise of Rules Making Power Under National Commission for Women Act, 1990*

21.

6.13

The Committee note with concern that the Ministry of Human Resource Development had taken almost three months in furnishing their reply regarding Non-Exercise of rule making power under the National Commission for Women Act. The Committee observe that the delay indicates that there is some deficiency in the way, the work is being handled in the Ministry. The Committee desire the Ministry to be prompt in sending their replies to the communications and observations of the Committee. The Committee also desire the Ministry to streamline the procedure to prevent recurrence of such delays in future.

The Committee further observe that since the coming into force of the National Commission for Women Act, 1990 on 31 January, 1992, the Ministry have not been able to frame the rules on all the aspects enumerated under section 17 of the said Act, within the time limit of six months prescribed by the Committee in Para 34 of their Fifth Report (Second Lok Sabha), nor did they approach the Committee for extension of time on the expiry of six months' period. Instead, the Ministry have submitted that although there had been delay in the finalisation of the rules, the work had been going on more or less as if the rules had been notified. The Committee do not appreciate the stand taken by the Ministry and reiterate their aforesaid recommendation. The Committee desire the Ministry to finalise and notify the rules on the remaining aspects of the Act at the earliest in order to place the matter on proper statutory footing.

The Ministry of Human Resource Development (Department of Women & Child Development) have framed the following rules vide GSR 41 and GSR 42 dated 18 January, 1997:—

- (i) National Commission for Women (Salaries, Allowances and other Terms and Conditions of Service of Group 'A' and Group 'B' Officers) Rules, 1997.
- (ii) National Commission for Women (Salaries, Allowances and other Terms and Conditions of Group 'C' and Group 'D' Employees) Rules, 1997 [Ministry of Human Resource Development (Deptt. of Women & Child Development) O.M. No. 9-13/93-ww, dated 22.1.97]

As regards the rules concerning terms and conditions of service of employees of Commission are concerned, the Committee note that according to the Ministry, in terms of sub-section (2) of Section 5 of the National Commission for Women Act, rules were required to be framed only for such officers and employees of the Commission who were specifically appointed by the Government for the purpose of commission. The other officers and employees provided by the Government on deputation basis etc. continued to be Government servants and their terms and conditions of service continued to be governed by the usual Government rules and regulations. In this connection, the Committee observe that even after three years of its coming into existence, the Government have not made any appointment for the purpose of the Commission in terms of Section 5(2) of the Act, and all the existing employees have been employed on deputation basis. The Committee do not find it a healthy practice as such deputationist after gaining experience in an emerging body like National Commission would sooner or later would be reverted back to their parent office and as such their experience would get wasted. In order that the experience so gathered is not taken away, the Committee desire the Government to immediately notify rules regarding terms and conditions of the officers and employees of the Government in term of Section 5(2) and within the framework of those rules, appoint persons specifically for the purpose of Commission on permanent basis, although they may be posted initially on deputation basis.

The Committee further note that instead of having full sanctioned staff strength, the Commission has engaged many consultants to carry on its work. Most of such consultants are retired Government employees appointed on temporary basis. The Committee do not approve the procedure so adopted by the Commission. The Committee, feel that the appointment of the consultants in the Commission is not a fair proposition as it is not free from favouritism/nepotism. At the same time it would adversely affect the interest of the young aspirants for such jobs. The Committee therefore recommend that the practice of making such appointments of consultants from among the retiring officers/staff should be dispensed with as soon as possible.

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**MINUTES**

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## APPENDIX II

### MINUTES OF THE TWELFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (ELEVENTH LOK SABHA)

The Committee met on thursday, 8 May, 1997 from 14.30 to 15.00 hours in Committee Room No. 139, First Floor, Parliament House Annexe, New Delhi.

#### PRESENT

Shri Krishan Lal Sharma — *Chairman*

#### MEMBERS

2. Shri N. Dennis
3. Shri Vijay Kumar Khandelwal
4. Shri Guman Mal Lodha
5. Shri D.B. Roy
6. Shri P.C. Thomas

#### SECRETARIAT

1. Shri Ram Autar Ram — *Director*
2. Shri B.D Swan — *Under Secretary*
2. The Committee considered and adopted their Eighth, Ninth and Tenth draft Reports on Action Taken Replies, received from the Government on the recommendations of the Committee contained in Twelfth, Fourteenth, Nineteenth and Twenty First reports of the Committee (Tenth Lok Sabha) and decided to present them to the House on 14 May 1997.
3. The Committee hereafter, decided to undertake a study tour outside Delhi during the forthcoming inter-session period.

*The Committee then adjourned.*