

**COMMITTEE ON SUBORDINATE
LEGISLATION
(ELEVENTH LOK SABHA)**

TENTH REPORT

*[Action Taken Report on the Implementation of Recommendations Con-
tained in the Tenth Report (Tenth Lok Sabha) on Rules/Regulations
Framed Under the Consumer Protection Act, 1986]*

[Presented on 15.5.97]



**LOK SABHA SECRETARIAT
NEW DELHI**

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CORRIGENDA

TO

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

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

1. Shri Krishan Lal Sharma—*Chairman*
2. Shri V. Alagirisamy
3. Shri N. Dennis
4. Shri Ashok Gehlot
5. Shri Bhupinder Singh Hooda
6. Shri Vijay Kumar Khandelwal
7. Shri Thota Gopala Krishna
8. Shri. V. Dhananjaya Kumar
9. Shri Guman Mal Lodha
10. Shri K.H. Muniyappa
11. Shri M. Baga Reddy
12. Shri Balai Roy
13. Shri D.B. Roy
14. Shri P.C. Thomas
15. Shri Ram Kirpal Yadav

SECRETARIAT

1. Dr. A.K. Pandey — *Additional Secretary*
2. Shri J.P. Ratnesh — *Joint Secretary*
3. Shri Ram Autar Ram — *Director*
4. Shri B.D. Swan — *Under Secretary*

INTRODUCTION

1. The Chairman, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Tenth Report on "Implementation of recommendations contained in the Tenth Report (Tenth Lok Sabha) of the Committee on rules/regulations framed under the Consumer Protection Act, 1986".

2. The matters covered by this Report were considered by the Committee at their sittings held on 5 February, 1996 and 8 May, 1997.

3. The Committee took oral evidence of the representatives of the Ministry of Civil Supplies, Consumer Affairs and Public Distribution regarding implementation of recommendations contained in the Tenth Report on rules/regulations framed under the Consumer Protection Act, 1986. The Committee wish to express their thanks to the representatives of the Ministry for furnishing the desired information.

4. The Committee considered and adopted this Report at their sitting held on 8 May, 1997. The Minutes of the sittings relevant to this Report are appended to it.

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

NEW DELHI;

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

REPORT

I

DELAY IN IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN THE TENTH REPORT (TENTH LOK SABHA)—BACKGROUND

The Tenth Report of the Committee on Subordinate Legislation on rules/ regulations framed under the Consumer Protection Act, 1986 was presented to the House on 25 August, 1994. After its presentation, the Report was forwarded to the concerned Ministry of Civil Supplies, Consumer Affairs and Public Distribution for the implementation of the recommendations contained therein. The attention of the Ministry was drawn to the recommendation of the Committee contained in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha) where the Committee have prescribed a time-limit of six months within which the Ministries/Departments of the Government of India should implement the recommendations.

1.2. In accordance with the aforesaid recommendation of the Committee, the Ministry were required to implement the recommendations contained in Tenth Report by 24 February, 1995. However, in their letter dated 19 January, 1995 the Ministry sought six months extension of time w.e.f. 25 February, 1995 to 24 August, 1995 to implement the recommendations of the Committee. The Ministry attributed the following reasons for seeking extension:—

“.....this Ministry has, on the recommendations of the Central Consumer Protection Council constituted under the Consumer Protection Act, 1986, set up a Working Group to examine the need to bring about changes in the Consumer Protection Act and Rules in the light of experience gained so far and the difficulties which have arisen in many cases as a result of judicial pronouncements.

Accordingly, recommendations and observations of the Committee have been sent to Working Group for discussion and incorporation in their final Report.

The Working Group, under the chairmanship of Shri Naren De, Minister of Food and Civil Supplies, Government of West Bengal, has already started examining suggestions for proposed amendment. The group will finalise its report after examining huge number of suggestions received from individuals, officials of State Commission and District Fora, voluntary consumer organisations, Industry, etc. This is a time consuming exercise as the Group will also interact with the concerned persons and Groups to ensure a pragmatic approach to this sensitive and vital issue. It is, therefore, anticipated that report could take more than six months before it is finalised. It is, therefore, requested that Committee may permit *extension of time for a period of six months i.e. from 25th February, 1995 to 24th August, 1995*.

1.3. The request of the Ministry for extension of time was put-up to the Chairman, Committee on Subordinate Legislation. As desired by Chairman, the Ministry of Civil Supplies, Consumer Affairs and Public Distribution were requested to furnish the following information so that the request of the Ministry for extension of time could properly be examined:—

- (i) When the Working Group was constituted by the Ministry.
- (ii) What are the terms of reference of the Working Group.
- (iii) What progress has so far been made by the Working Group.
- (iv) What is the period given to the Working Group to finalise its Report.

1.4. In their reply dated 3 April, 1995, the Ministry furnished the aforesaid information as follows:—

- (i) The Working Group was set-up by the Ministry on 29 June, 1994 in exercise of the powers conferred by sub-rule 5 of rule 4 of the Consumer Protection Rules, 1987.
- (ii) The Working Group has been constituted to examine the need to bring about changes in the Consumer Protection Act and Rules in the light of experience gained so far and the difficulties which have arisen in many cases as a result of judicial pronouncements. The Working Group shall suggest suitable amendments to make the Consumer Protection Act, 1986 more effective.

- (iii) The Working Group has conducted six meetings so far. The last meeting was held on 31-3-95.
- (iv) The Working Group was to submit its Report to the Central Government within six months of its constitution i.e. by 29 December, 1994. However the tenure of the Working Group has been extended upto 31-3-95. The terms and conditions of the Working Group shall be governed by the Consumer Protection Act, 1986 and the rules framed thereunder from time to time.

1.5. In a subsequent communication dated 3 May, 1995, the Ministry informed that the Working Group had not yet submitted their report and the tenure of the Working Group has been extended upto 31-5-1995.

1.6. The Ministry *vide* their O.M. dated 8 August, 1995 informed that the Working Group constituted by them has submitted its report to the Government and the Ministry is examining the recommendations made in the report of the Working Group in consultation with a number of Ministries/Departments such as Ministry of Rural Development, Ministry of Information and Broadcasting, Deptt. of Company Affairs, Ministry of Railways, Ministry of Telecommunications, Deptt. of Post, Deptt. of Insurance etc. After receiving their views, the recommendations of the Working Group will be considered in the Ministry for taking appropriate action. According to the Ministry, this is a lengthy procedure and it may take almost a year before a final decision is taken on the report of the Working Group. The Ministry, therefore, *sought extension of time upto 31-8-1996 (in place of 24-8-1995)* for taking a final action on the recommendations of the Committee on Subordinate Legislation.

1.7. The aforesaid request of the Ministry was placed before the Chairman, Committee on Subordinate Legislation for his decision. As desired by the Chairman, the Ministry were requested to furnish the following information before their request for extension of time upto 31-8-1996 could be considered by the Committee:—

- (i) Whether the Working Group in their report submitted to the Government has considered the recommendations of the Committee contained in the Tenth Report (Tenth Lok Sabha).

- (ii) If so, the relevant extracts of the report of the Working Group in which the recommendations of the Committee have been considered.

1.8. The Ministry *vide* their O.M. dated 26 October, 1995 forwarded a copy of the report of the Working Group alongwith a statement indicating the reaction of the Working Group on the recommendations contained in the Tenth report and again requested for extension of time upto 31-8-1996 for furnishing the final action taken reply.

1.9. It was seen that most of the recommendations of the Committee contained in their Tenth Report were accepted by the Working Group in their report.

1.10. The reaction of the Working Group alongwith the request of the Ministry for extension of time upto 31-8-96 for taking a final action on the recommendations of the Committee were placed before the Chairman, Committee on Subordinate Legislation. The Ministry was *granted extension of time upto 15 January, 1996* to furnish their final Action Taken Report.

1.11. The Ministry *vide* their O.M. dated 22-1-1996 stated that the action regarding implementation of the recommendations of the Committee on Subordinate Legislation were under advance stage of finalisation and since most of the recommendations were to be finalised in consultation with various agencies, and requested for *extension of time upto 31-8-1996* for taking final action on the recommendations of the Committee.

1.12. As the implementation of recommendations were getting delayed, the Committee decided to hear oral evidence of the representatives of the Ministry in that regard. Accordingly, the representatives of the Ministry appeared before the Committee on 5-2-1996 to tender their evidence.

1.13. Explaining the reasons for delay in implementing the recommendations of the Committee, Dr. G. Sundaram, Secretary, Ministry of Civil Supplies, CA and PD informed that a copy of the Committee's report was given to their Working Group constituted by them to have the benefit of their views. He informed that views of the Working Group had since been formulated and on that basis the Government had to take a decision.

1.14. On being asked by the Committee about the time within which the Ministry would be able to complete their final action note, the Secretary submitted that time upto August, 1996 might be given to them to complete the entire process. The Committee, however, agreed to give only three months' extension of time for implementing the recommendations of the Committee. The Action Taken Reply of the Ministry was subsequently furnished by them on 17 October, 1996. The recommendations of the Committee *vis-a-vis* the reaction of the Working Group and the Action Taken Reply of the Government have been dealt with in the succeeding paragraphs of the Report.

II

RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE ON WHICH THE REPLY OF THE GOVERNMENT IS SATISFACTORY

Recommendation contained in Para 10 regarding Physical Presence of the Complainant in the Consumer Court

The Committee note that under sub-rule (3) of rule 14 of the consumer protection rules 1987, it is obligatory on the parties or their agents to appear before the National Commission on the date of hearing or any other day to which the hearing is adjourned. The Committee consider that only one appearance before the National Commission will serve the purpose of identification of the complainant and the genuineness of the complaint. The complainant/appellant should be exempted from further attendance in the National Commission and be allowed to appear through a representative or an agent at the subsequent hearings. They recommend that the rule should be amended accordingly.

Reaction of the Working Group

The Working Group has not accepted this recommendation. The Working Group was of the view that the Consumer Protection Rules 1987 already provides enough provision to deal with cases where the complainant or the opposite party does not appear in a case.

Action Taken Reply of the Ministry

According to the provisions of rule 14(3) of the Consumer Protection Rules, 1987, it is obligatory to the parties to appear before the Consumer Courts by himself or by their agents on the date of hearing or any other date adjourned. As such physical presence of the complainant on every occasion may not be essential. Therefore, Government want to retain the provisions as such. Chairman of the Subordinate Legislation Committee agreed with the Government views and expressed that complainant can appear through an agent.

2.1 The Committee agree with the reply of the Ministry that as per the provision of rule 14(3) of the Consumer Protection Rules, 1987, there is no obligation for a complainant to appear before the National Commission or the State Commission or the District Forum on every occasion. The Committee, therefore, feel that the provision could be retained as such.

Recommendation contained in Para 13 Regarding Disposal of Complaints

The Committee are of the opinion that the words 'shall' and 'as far as possible' occurring in sub-rule (4) of rule 14 of the Consumer Protection Rules 1987 are contradictory to each other and thus frustrate the underlying intention of disposal of complaints within the minimum prescribed period of 90 days. All cases of complaints should be decided by the National Commission within 90 days. Only where an expert opinion is required or testing/analysis of commodities is required, the period may be extended upto 180 days. With a view to achieve this end, the Committee recommend that sufficient number of persons with requisite qualifications and experience in every field of consumer dispute should be empanelled for the various Consumer Forums so that the dispute can be disposed of within the prescribed period. The Committee do not appreciate the idea of increasing the time limit for disposal of complaints from 90 days to 180 days excepting in the rarest of the rare cases where expert opinion is required.

Reaction of the Working Group

The Working Group has included some portion of this suggestion in their Report.

Action Taken Reply of the Ministry

In order to provide a bit of flexibility in exceptional cases the term 'as far as possible' is incorporated in the rule 14(4) of the Consumer Protection Rules, 1987. The Committee as well as the Working Group has suggested to delete the term. However, after the detail discussion in the meeting for the oral evidence held on 5.2.1996, the Chairman of the Committee suggested that the term may be retained. As such no change is, therefore, proposed.

2.2 The Committee note that if the wordings 'as far as possible' appearing in rule 14(4) of the Consumer Protection Rules, 1987, are deleted, it would become obligatory for the consumer forums to decide the case within 90 days without having an element of flexibility. In this context, in view of some unforeseen circumstances, there may be a possibility that the case may not be decided within 90 days. The Committee feel that such situations may lead to unnecessary litigation, as the writs of mandamus may be filed in the Court by the Consumer in such cases. The Committee, therefore, on reconsideration feel that the wordings 'as far as possible' may be retained in order to provide a bit of flexibility to take care of exceptional cases.

Recommendation contained in Para 26 regarding applicability of Consumer Protection Act to Medical Practitioners

The Committee are not convinced with the reply of the Ministry of Civil Supplies, Consumer Affairs and Public Distribution in the matter. While it is true that the presence of medical experts is not held as essential and that the Courts are able to decide the cases after hearing the expert opinion/witnesses on all technical matters, the presence of a judge having the experience and the competence for appreciation of the evidence is of crucial significance both in arriving at a correct decision as well as in instilling public faith in the decision so given. The Committee are, therefore, of the view that the Consumer Forums should have a sitting or retired district judge as the Chairman of the Forum which may proceed to decide such cases upon taking evidence of the expert witnesses wherever necessary.

Further, a grave concern was voiced before the Committee by certain interests for keeping the Doctors and other medical personnel falling under the government umbrella outside the purview of the Consumer Protection Act. It has been argued that the Law as it stands is apt to give an impression that it entails discriminatory treatment to the medical practitioners in the Private Profession *vis-a-vis* those serving under the aegis of the Government would do well if they undertake some rethinking in the matter so as to set the things in order and to do away with any misgivings on this score in the general public.

Reaction of the Working Group

The Working Group has included this suggestion in its recommendations in its Report.

Action Taken Reply of the Ministry

According to the provisions of the Consumer Protection Act, 1986, the President of the District Forum shall be a person who is or has been or is qualified to be a District Judge.

Services of any description including medical services are covered under the Consumer Protection Act, 1986. In its recent judgement Hon'ble Supreme Court has uphold the provision of the Act.

In view of the above the Act is not required to be amended.

2.3 The Committee are satisfied with the reply of the Ministry and do not wish to pursue the matter further.

Recommendation contained in Para 29 regarding power to review the decisions delivered by National Commission

The Committee trust that the Ministry would examine the matter further and apprise them of the decision taken expeditiously.

Reaction of the Working Group

The Working Group has included this suggestion in its recommendations in its Report.

Action Taken Reply of the Ministry

According to the provisions of the Consumer Protection Act, 1986, the National Commission has only one Bench to decide complaints. Power to review its own judgement by the same Bench is not expected to deliver different judgement. Moreover, according to the provisions of the Act, appeals against the judgement of the National Commission can only be filed in the Supreme Court. Hence, the Act is not required to be amended.

2.4 The Committee find the reply of the Ministry satisfactory and do not wish to pursue the matter further.

II.

RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation Contained in Para 16 Regarding Adjournments

The Committee trust that the Ministry of Civil Supplies, Consumer Affairs and Public Distribution would take immediate steps to amend the rule suitably in order to help the complainant to get a quick decision and to minimise the adjournments.

Reaction of the Working Group

Such a provision already exists in the Consumer Protection Rules 1987. The Working Group has made some recommendations to streamline the procedure in section 13 of the Consumer Protection Act, 1986 in a dispute.

Action Taken Reply of the Ministry

The provision of the Rule 15(8) of the Consumer Protection Rules, 1987 provides that 'not more than one adjournment shall ordinarily be given'. Therefore, Rules are not required to be amended to minimise the adjournments. However, to provide quick decisions on the complaints, the Working Group has suggested some measures to amend the Consumer Protection Act to streamline the procedures. The process to amend the Act is in progress.

3.1 The Committee note that in accordance with their recommendation to amend rule 15(8) of the Consumer Protection Rules, 1987 to ensure that unnecessary adjournments are not given to provide quick decisions, the Consumer Protection Act, 1986 is required to be amended. The Committee note with satisfaction that the Ministry have already initiated the process to amend the Act.

Recommendation Contained in Para 21 Regarding Quorum

The Committee desire the Ministry to examine the matter with a view to amend the relevant rule of the Consumer Protection Rules to the effect that if a particular member of the National Commission or State Commission or District Forum does not attend three consecutive meetings of the Forum except for reasons beyond his control, he or she should cease to be a member of the Commission/Forum. The appropriate government may be saddled with the responsibility to record such cessation of membership as well as filling up of consequential vacancies.

Reaction of the Working Group

The Working Group has included this suggestion in its recommendations in the Report.

Action Taken Reply of the Ministry

Recommendation of the Committee has been accepted by the Government. The amendment of the Rules will be finalised by the end of November, 1996.

3.2 The Committee note with satisfaction that their recommendation has been accepted by the Government and the corresponding amendments in the rules are being finalised. The Committee desire that the Ministry should notify the amendment rules at the earliest.

Recommendation Contained in Para 33 Regarding Exclusion of Lawyers from appearing in Consumer Courts

The Committee recommend that the Government should implement the recommendation of the High Power Working Group regarding exclusion of lawyers from appearing in the Consumer Courts except under certain circumstances by amending the Consumer Protection Act/relevant rules to this effect without any further delay.

Reaction of the Working Group

The Working Group has included this suggestion in its recommendations in its Report.

Action Taken Reply of the Ministry

To incorporate this recommendation of the Committee, the Act is required to be amended. The process to amend the Act is in progress.

3.3 The Committee note with satisfaction that the Ministry have agreed in principle to implement the recommendation of the Committee. According to the Ministry, the Consumer Protection Act, 1986 is required to be amended for that purpose and the process to amend the Act is in the progress. The Committee desire that the same may be done at the earliest.

Recommendation Contained in Para 37 regarding Role of Non-Governmental Organisations

The Committee observe that extending infrastructural assistance such as supply of stationery, secretarial and typing assistance, office accommodation, etc., and in the process, incurring some expenditure by government will be meaningful and go a long way in helping the system of providing relief to the consumers and the consumer forums under the Consumer Protection Act, 1986 as well as in spreading consumer education. Under the conditions prevailing in India, most of consumers are not aware of the relief the Consumer Courts could provide and the ways and means to approach the Consumer Courts. In such a situation, these non-governmental organisations can play a vital role in educating the people and protecting the right of the Consumers. The Committee trust that the Government would render all possible infrastructural assistance to the non-governmental organisations which is in line with the present policy of the Government.

Reaction of the Working Group

Planning Commission has agreed to provide Rs. 61 crores as one time financial assistance to State Governments for strengthening the infrastructure of the redressal agencies set up under the Consumer Protection Act, 1986. The grant will be released in four instalments subject to reduction in pendency of cases.

3.4 The Committee note with satisfaction that the Planning Commission has agreed to provide Rs. 61 crore as one time financial assistance to State Governments for strengthening the infrastructure of redressal agencies. In this context according to the representatives of the Ministry who appeared before the Committee for oral evidence, a lot of assistance is being given to NGOs from the Consumer Welfare Fund which has specifically meant for them.

NEW DELHI;
May, 1997

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

APPENDICES

APPENDIX I

(Vide para 5 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE TENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

S.No.	Reference to para No. in the Report	Summary of Recommendations
1	2	3
<i>Physical presence of the complainant in the Consumer Court</i>		
1.	2.1	The Committee agree with the reply on the Ministry that as per the provision of rule 14(3) of the Consumer Protection Rules, 1987, there is no obligation for a complainant to appear before the National Commission or the State Commission or the District Forum on every occasion. The Committee, therefore, feel that the provision could be retained as such.
<i>Disposal of Complaints</i>		
2.	2.2	The Committee note that if the wordings 'as far as possible' appearing in rule 14(4) of the Consumer Protection Rules, 1987, are deleted, it would become obligatory for the consumer forums to decide the case within 90 days without having an element of flexibility. In this context, in view of some unforeseen circumstances, there may be a possibility that the case may not be decided within 90 days. The Committee feel that such situations may lead to unnecessary litigation, as the writs of mandamus may be filed in the Court by the

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Consumer in such cases. The Committee, therefore, on reconsideration feel that the wordings 'as far as possible' may be retained in order to provide a bit of flexibility to take care of exceptional cases.

Applicability of Consumer Protection Act to Medical Practitioners

3. 2.3 The Committee are satisfied with the reply of the Ministry and do not wish to pursue the matter further.

Power to review the decisions delivered by National Commission

4. 2.4 The Committee find the reply of the Ministry satisfactory and do not wish to pursue the matter further.

Adjournments

5. 3.1 The Committee note that in accordance with their recommendation to amend rule 15(8) of the Consumer Protection Rules, 1987 to ensure that unnecessary adjournments are not given to provide quick decisions, the Consumer Protection Act, 1986 is required to be amended. The Committee note with satisfaction that the Ministry have already initiated the process to amend the Act.

Quorum

6. 3.2 The Committee note with satisfaction that their recommendation has been accepted by the Government and the corresponding amendments in the rules are being finalised. The Committee desire that the Ministry should notify the amendment rules at the earliest.
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Exclusion of Lawyers from appearing in Consumer Courts

7. 3.3 The Committee note with satisfaction that the Ministry have agreed in principle to implement the recommendation of the Committee. According to the Ministry, the Consumer Protection Act, 1986 is required to be amended for that purpose and the process to amend the Act is in the progress. The Committee desire that the same may be done at the earliest.

Role of Non-Governmental Organisations

8. 3.4 The Committee note with satisfaction that the Planning Commission has agreed to provide Rs. 61 crore as one time financial assistance to State Governments for strengthening the infrastructure of redressal agencies. In this context according to the representatives of the Ministry who appeared before the Committee for oral evidence, a lot of assistance is being given to NGOs from the Consumer Welfare Fund which is specifically meant for them.
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MINUTES

APPENDIX II

MINUTES OF THE SIXTY EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1995-96)

The Committee met on Monday, 5 February, 1996 from 15.00 to 16.30 hours.

PRESENT

Shri Amal Datta — Chairman

MEMBERS

2. Shri Prithviraj D. Chavan
3. Shrimati Bhavna Chikhalia
4. Shri V. Dhananjaya Kumar
5. Shri Rajendra Kumar Sharma
6. Shri K.G. Shivappa
7. Shri Umrao Singh
8. Shri Ram Sharan Yadav

SECRETARIAT

- | | |
|-----------------------|----------------------|
| 1. Shri P.D.T. Achary | — Director |
| 2. Shri Ram Autar Ram | — Deputy Secretary |
| 3. Shri B.D. Swan | — Assistant Director |

I. **

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II. REPRESENTATIVES OF THE MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (DEPARTMENT OF CONSUMER AFFAIRS AND P.D.S.)

1. Dr. G. Sundaram, Secretary.
2. Shri Kamal Kishore, Economic Adviser
3. Shri R.C. Srinivasan, Deputy Economic Adviser
4. Shri R.S. Chabra, Registrar, National Consumer Disputes Redressal Commissioner.
5. Shri N.S. Pangtey, Deputy Director.
6. Shri B.N. Tripathi, Assistant Director.

** Omitted portion of the minutes are not covered in this Report.

2. to 7. * * *

8. The Committee then took oral evidence of the representatives of the Ministry of Civil Supplies, Consumer Affairs and Public Distribution regarding delay in implementing the recommendations contained in the Tenth Report regarding rules/regulations framed under the Consumer Protection Act, 1986.

9. The Chairman informed the representatives that the Tenth Report was presented to the Lok Sabha on 25 August, 1994 and the specific attention of the Ministry was also drawn to implement their recommendations within the prescribed period of six months.

10. Explaining the reasons for delay in implementing the recommendations of the Committee, Dr. G. Sundaram, Secretary, Ministry of Civil Supplies, CA and PD informed that a copy of the Committee's report was given to the working group to have the benefit of their views. The views have been furnished and on that basis the Government have to take a view.

11. Giving his views on the implementation of the recommendation contained in para 10 regarding the physical presence of the complainant in the consumer court under sub-rule (3) of rule 14 of the Consumer Protection Rules, 1987, the Secretary informed that the provisions were already there. According to him under the present rules whether it is National Commission or State Commissions or the district fora, there is no obligation for a complainant appearing in person. He can send his lawyer or an agent. The Committee agreed with the views expressed by the Secretary.

12. When asked by the Chairman about paragraph 13 of the Report regarding Disposal of Complaints under sub-rule 4 of rule 14 of the Consumer Protection Rules, the Secretary stated that the words 'as far as possible' should be retained in order to have some flexibility in the rules. Chairman was of the view that the time for deciding the cases by the National Commission should normally not exceed 90 days but in some exceptional cases, the cases may have to be completed within 180 days. So a time limit has to be given in exceptional and unavoidable circumstances but the reasons should be recorded in writing where the time limit is so extended.

13. The Secretary was in favour of retaining the words "as far as possible" in the rules. The Committee also agreed to retain these words in the rules.

* Omitted portions of the minutes are not covered in this Report.

14. Regarding recommendation contained in paragraph 16 on "Adjournment", the Secretary informed that there is already a provision in the rules regarding minimum number of adjournments. As per the existing rules, the second adjournment should not ordinarily be given and the appeal should be decided as far as possible within ninety days from the first date of hearing. On being asked by the Chairman about the appearance of lawyers in the Consumer Courts, the Secretary informed that the Government have made a recommendation on it. Only when the complainant wants a lawyer and if the opposite party does not have any objection to that, a lawyer should be allowed to appear or, if the opposite party wants a lawyer, then with the consent of complainant the lawyer could appear in the consumer courts, but not in the normal course.

15. Regarding applicability of Consumer Protection Act to the medical practitioners, Secretary informed that all doctors, including government doctors where some payment is involved, would come under the purview of the Act.

16. When asked about the role of non-governmental organisations regarding consumer welfare, the Secretary informed that there is Consumer Welfare Fund from which a lot of assistance is given to these NGOs.

17. Regarding steps being taken to create public awareness, the Secretary informed that the Government has a budget allocation for it. The Government is also providing printed brochures in different languages, and showing Video films. This includes rural areas also. Apart from this, the Government is also providing legal assistance.

18. On being asked by the Committee about the time within which the Ministry would be able to complete their final action note, the Secretary submitted that time upto August, 1996 might be given to them to complete the entire process. The Committee, however, agreed to give only three months' extension of time for implementing the recommendations of the Committee. The Chairman also desired the Ministry to furnish a note on the action being taken on the recommendations of the Committee.

[The witnesses then withdrew]

The Committee then adjourned.

APPENDIX II

(Vide para 4 of the Introduction of the Report)

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 Annex, 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 thereafter, decided to undertake a study tour out-side Delhi during the forthcoming inter-session period.

The Committee then adjourned.