

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(SEVENTH LOK SABHA)

(TWENTY-FOURTH REPORT)

(Presented on 21 December, 1983)



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1983/Agrahayana, 1905 (Saka)

Price Rs. : 4.55

LOK SABHA SECRETARIAT

Corrigenda to the Twenty-fourth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) presented to the House on 21 December, 1983.

S.No.	Page	Para	Line	For	Read
1.	11	41	7	Omit the words "and these" after the words "Orders, 1961"	
2.	24	74	6	insert the word "following" after the words "Ministry of Health and Family Welfare to the"	
3.	24	74	7	Seventh	Second
4.	24	74	7	Para-40	para-10
5.	25	77	3	Appendix-II	Appendix-III
6.	26	80	3	"could"	"would"
7.	42	146	5	"developing"	"devolving"
8.	49	38	11	"he"	"deplore the"
9.	50	41	10	Omit the words "and these" after the words "orders, 1961"	
10.	53	74	1	Insert the word "following" after the words "the Ministry of Health and Family Welfare to the"	
11.	53	74	9	"Seventh"	"Second"
12.	53	65	10	"para 40"	"para 10"
13.	54	79	5	"upon"	"again"
14.	54	80	3	"could"	"would"
15.	57	146	7	"developing"	"devolving"
16.	58	147	9	"reirseon"	"revision"

CONTENTS

PARA No. PAGE No.

COMPOSITION OF THE COMMITTEE.....(v)

REPORT

I	INTRODUCTION.....1—5	1
II	The Tobacco Board (Second Amendment) Rules, 1980 (G.S.R. 902 of 1980).....6—7	1
III	The Mormugao Harbourcraft Rules, 1976 (G.S.R. 147 of 1977).....8—15	2
IV	The Defence Aeronautical Quality Assurance Service Rules, 1978 (S.R.O. 56 of 1979).....16—23	4
V	The Central Health Service (Amendment) Rules, 1978 (G.S.R. 439 of 1978).....24—33	6
VI	The Delhi Panchayat Raj (Amendment) Rules, 1976 (Notification No. Misc. 7 (64)/P/75/16405-634 of 1976).....34—44	8
VII	Absence of 'Saving Clause' in certain Recruitment Rules.....45—49	12
VIII	Delay in the supply of copies of the Gazettes of India meant for Examination by the Committee on Subordinate Legislation, Lok Sabha.....50—62	13
IX	Delay in publication of the final Rules.....63—68	15
X	Giving of retrospective effect to the Rules/Regulations framed under the Acts of Parliament and under the provision to Article 309 of the Constitution.....69—80	23

328.25

13/1

(ii)

	PARA NO.	PAGE NO.
XI Referred cases where Ministries have either agreed to the suggestions made to them for the amendment of Rules or where Ministries' replies have been found satisfactory.....	81—129	26
(i) The Sugarcane (Control) Second Amendment Order, 1978 (G.S.R.197-E of 1978).....	83—89	27
(ii) The Open Lines (Railways in India) General (Amendment) Rules, 1980 (G.S.R. 1303 of 1980).....	90—91	28
(iii) The Ministry of Finance, Department of Economic Affairs, Research Assistant (Work Study) Recruitment Rules, 1980 (G.S.R. 640 of 1980).....	92—95	29
(iv) The Directorate of Vanaspati, Vegetable Oils and Fats (Administrative Officer) Recruitment Rules, 1980 (G.S.R. 776 of 1980).....	96—98	30
(v) The National Institute of Communicable Diseases (Veterinary Officer) Recruitment Rules, 1980 (G.S.R. 523 of 1980).....	99—101	30
(vi) The Ministry of Civil Supplies Recruitment Rules, 1980 (G.S.R. 1922 of 1980).....	102—105	31
(vii) The All India Radio, New Delhi (Senior Cartographer) Recruitment Rules, 1980 (G.S.R. 1097 of 1980).....	106—109	32
(viii) The Lady Hardinge Medical College and Shrimati Sucheta Kriplani Hospital (Accounts Officer) Recruitment Rules, 1980.....	110—113	32

	PARA No.	PAGE No.
(ix) The Khadi and Village Industries Commission Employees (Conduct, Discipline and Appeal) Amendment Regulations, 1979.....	113A—116	33
(x) The Geological Survey of India (Group A and Group B Posts) Recruitment (Fourth Amendment) Rules, 1980 (G.S.R. 717 of 1980).....	117—119	34
(xi) The Chief Labour Commissioner (Central) and the Joint Chief Labour Commissioner (Central) Recruitment Rules, 1981 (G.S.R. 545 of 1981).....	120—126	35
(xii) The Central Health Service (Amendment) Rules, 1978 (G.S.R. 439 of 1978).....	127—129	36
XII Implementation of recommendations of the Committee on Subordinate Legislation contained in paragraph 83 to 88 of Sixth Report (Seventh Lok Sabha) regarding printing and publication of Compilations containing General Statutory Rules and Orders-interim reply received in respect thereof.....	130—150	36
XIII Action taken by Government on the Recommendations made by, and assurances given to, the Committee on Subordinate Legislation.....	151	43

APPENDICES

I Summary of main recommendations/ observations made by the Committee.....	77	47
II List of Recruitment Rules examined by the Committee on Subordinate Legislation.....	78—79	60

(iv)

	PARA No.	PAGE No.
III	List of Orders framed under proviso to Article 309 of the Constitution and to whom retrospective effect had been given.....80—84	62
IV	Statement showing the action taken by Government on the recommendations made by, and assurances given to the Committee on Subordinate Legislation.85—96	67
V	Minutes of the Seventy-sixth, Seventy-ninth, Eighty, Eighty-fifth, Eighty-sixth and Ninetieth sittings of the Committee on Subordinate Legislation (Seventh Lok Sabha)(1983-84)	83

COMPOSITION OF THE COMMITTEE ON
SUBORDINATE LEGISLATION

(1983-84)

1. Shri R. S. Sparrow—*Chairman*
2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
- *4. Shri A. E. T. Barrow
5. Shri Ashfaq Husain
6. Shri Dalbir Singh (Madhya Pradesh)
7. Shri Amal Datta
8. Shri B. Devarajan
- **9. Shri Brajamohan Mohanty
10. Shri C. D. Patel
11. Shri Chandrabhan Athare Patil
12. Shri T. Damodar Reddy
13. Shri M. S. K. Sathiyendran
14. Shri Satish Prasad Singh
15. Shri Vijay Kumar Yadav

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

*Nominated *w.e.f.* 3-9-1983

**Nominated *w.e.f.* 29-11-1983. *vice* Shri B. R. Nahata died.

REPORT

I

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sittings held on 25 June, 10 August and 6 September, 1983. The Committee took evidence of the representatives of (i) the Ministry of Health and Family Welfare on 5 October, 1983 and (ii) the Ministry of Defence on 25 October, 1983. The Committee wish to express their thanks to the officers of the Ministries for appearing before the Committee and furnishing the information desired by them.

3. The Committee considered and adopted this Report at their sitting held on 15 December, 1983.

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

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

II

The Tobacco Board (Second Amendment) Rules, 1980 (G.S.R. 902 of 1980)

6. Rule 30A of the Tobacco Board Rules, 1976, as inserted by the Tobacco Board (Second Amendment) Rules, 1980, provided for travelling and other allowances to the members of the Board including an associated member or co-opted member of the Board or any Committee. It was, however, observed that there was no specific authority available in the Tobacco Board Act under which this provision had been made. The Ministry of Commerce (Department

of Commerce) with which the matter was taken up, in their reply dated 9 April 1981 stated as under :—

“.....the provisions of rule 30A of the Tobacco Board Rules, 1976 (as inserted by G.S.R. 902 of 1980) which provide for travelling and other allowances to a member, including an associated member or co-opted member of the Board or any Committee thereof, have been made under clause (b) of sub-section (2) of section 32, read with sub-section (8) of section 4 of the Tobacco Board Act, 1975 (4 of 1975).

On a re-examination of the matter, it has, however, been found that the provisions relating to the payment of the travelling and other allowances payable to persons associated under sub-section (8) of section 4 or co-opted under sub-section (2) of section 7 of the said Act should have been made by regulations by the Tobacco Board under clause (c) of sub-section (2) of section 33 of the said Act. Accordingly, it is now proposed to suitably amend rule 30A of the said rules so as to omit therefrom the provisions relating to payment of travelling and other allowances to the said associated or co-opted members, and ask the Tobacco Board to make necessary regulations in this behalf under the said provisions of section 33 of the said Act.”

7. The Committee note that the Ministry of Commerce have conceded that payment of travelling and other allowances to members of the Tobacco Board, including an associated member or co-opted member of the said Board or any Committee, should have been regulated under Regulations to be framed under Section 33 (2) (c) of the Tobacco Board Act, 1955 and not under Rules framed under Sections 4 (8) and 7 (2). The Committee, therefore, desire the Ministry to amend the Rules and frame necessary Regulations in that regard at an early date under intimation to the Committee.

III

The Mormugao Harbour craft Rules, 1976

(G.S.R. 147 of 1977)

8. Sub-rule (2) of Rule 10 of the Mormugao Harbour Craft Rules, 1976 read as under :—

“(2) No person shall be employed or registered as tindal of a licenced harbour craft unless he has been found by the Deputy Conservator efficient and accustomed to the use of the harbour craft to be placed under his charge.”

9. The discretionary powers vested in the Deputy Conservator with regard to the regulation of employment or registration of tindals are apparently too wide. To obviate any scope of discrimination in this regard, it was felt that suitable guidelines governing the registration/employment of tindals should be

10. Attention of the Ministry of Shipping and Transport was drawn to the aforesaid provisions requesting them to furnish their comments in the matter. In their reply, the Ministry stated as under :—

“.....This Ministry has no objection to amend the Rule 10 (2) to provide for a Trade Test for the Tindals who could for this purpose be examined by a Committee comprising of the Deputy Conservator of the Port or his representative and another Marine Officer.

* * *

The amendment to Rule 10 (2) will be notified and a copy furnished to LSS in due course if the Committee on Subordinate Legislation agrees that the proposed amendment would be adequate.”

11. The Committee are happy to note that the Ministry of Shipping and Transport propose to amend Rule 10 (2) to provide for a Trade Test for the Tindals. The Committee would like the Ministry to amend the rules at an early date.

12. Rule 19 of the Mormugao Harbour Craft Rules, 1976 read as under :—

“19. *Refusal to ply without lawful excuse* :—

If the owner tindal or the person in charge of a licensed harbour craft plying regularly for hire refuses, without reasonable excuse, to ply such harbour craft for hire when required to do so, the Deputy Conservator may, subject to the provisions of rule 28 revoke the licence of such harbour craft.”

13. The expression ‘reasonable excuse’ used in the aforesaid rule appears to be vague inasmuch as it is livble to be interpreted differently by different persons. The point was referred to the Ministry of Shipping and Transport for their comments. In their reply the Ministry of Shipping and Transport (Ports Wing) have stated as under :—

“In so far as Rules 19 is concerned, it is requested that the Rule 19 may be read with Rule 28 which provides for an opportunity to the owner of the Craft of being heard and the reasons for revocation or cancellation of the licence have to be recorded in writing. This provides adequate safeguard for any arbitrary exercise of power in this case. It is difficult so specify in the rules all cases in which the owner etc. of a licensed harbour craft may have good reasons for refusing to ply the craft for hire.”

14. The Committee are not convinced with the reply of the Ministry of Shipping and Transport so far as Rule 19 regarding adequate safeguards against any arbitrary exercise of powers by the Deputy Conservator is concerned.

15. The Committee have repeatedly expressed their opinion stressing the need for spelling out the provisions of any statute or any order precisely and as far as possible, use of vague expressions, which may be interpreted differently by different persons is avoided. The Committee, therefore, would like the Ministry to elaborate the expression 'reasonable excuse' to make it more precise.

IV

The Defence Aeronautical Quality Assurance Service Rules, 1978 (S.R.O. 56 of 1979)

16. Rule 12 of the Defence Aeronautical Quality Assurance Service Rules, 1978 reads as under :—

“12. *Other conditions of Service.* — (1) conditions of service of the members of the Service in respect of matters not expressly provided for in these rules shall *mutatis mutandis* and subject to any special orders issued by the Government in respect of the Service, be the same as these applicable to officers (Civilians) of corresponding status in similar scientific institutions or organisations under the Government of India. (2) In the matter of conduct and discipline, officers of the Service shall be governed by the Central Civil Service (Conduct) Rules, 1964 and Central Civil Service (Classification, Control and Appeal) Rules, 1965, as amended from time to time. (3) Medical standard of fitness for officers of the Service shall normally be the same as for scientists and technologists serving in other similar scientific organisations under the Government. In special cases, the Government of India in the Ministry of Defence, (Department of Defence Production) shall, in consultation with the Directorate General of Health Service, be competent to grant relaxations. Officers selected or assignments involving limited field service shall undergo special medical check up, as may be prescribed either at the time of selection or when they proceed on field service. As the case may be.”

17. It was felt that above Rules has an element of legislation by reference. As far as practicable, the Rules should be self-contained.

18. The Ministry of Defence to whom the matter was referred, in their reply dated 28 December, 1982, replied as under :—

“The Deptt. of Personnel was consulted. They are of the view that it is not possible to cover every situation in particular recruitment rules and a residuary clause of this type is normally laid down in most of the service Rules.”

19. During evidence before the Committee, taken on 25 October, 1983, the representative of the Ministry of Defence explained that these Scientific organisations being small cadres would have required very detailed service regulations and it would have been time consuming to prepare draft and may have resulted in avoidable problems. However, fresh consultations would be made with Department of Personnel and Administrative Reforms and Ministry of Law. He also pointed out that apart from the time implications, there was possibility of conflicts arising if any error took place. He also stated that when a public sector undertaking was set up, their rules started merely by saying that where there were no specific rules, Government rules would apply which were readily available to every body. Specific rules were framed in individual cases which were not covered by Government rules.

20. When asked whether the residuary power was used by Government to issue orders under the clause 'Subject to any order issued by the Government' under Rule 12, the representative of the Ministry stated they had not felt any need for delineation for other service conditions because they were there in similar organisations and have been well-understood and applied. He also stated that so far as the Central Civil Services Conduct Rules were concerned, any modification to those rules automatically became applicable to officers of the Defence Aeronautical Quality Assurance. When further asked whether there was any occasion for the Department to issue orders under this Rule, the representative replied in negative.

21. When the attention of the representative was drawn to a portion of Rule 12 which stated :

“.....Special orders issued by the Government in respect of the Services be the same as those applicable to officers, civilians of corresponding status in similar scientific institutions or organisations under the Government of India.”

the representative of the Ministry explained that originally there was the Defence Science Service in the fiftys which was now trifurcated and each one of these service regulations has such a provision.

22. On being pointed out that there was some scope of compartmentation and clarifying rules applicable in different departments, the witness stated that the rules had been existing for some time and they had not faced any problem.

23. The Committee feel that the Rules should have been made self-contained and legislation by reference should have been avoided as far as possible. If the Rules tend to become bulky the details could be laid down by way of annexure or in regulations and in case any changes are called for, an amendment of the Rules might be issued as was recommended by the Committee as per para 33 of Seventh

Report of Seventh Lok Sabha presented on 8 September 1981. The Committee, therefore, desire the Ministry to take steps to ensure that the Rules are made self-contained.

V

*The Central Health Service (Amendment)
Rules, 1978 (G.S.R. 439 of 1978).*

24. Provisions in Column (2) against Serial No. 5 of Annexure I of the Second Schedule appended to the Central Health Service Rules, 1963, as amended by G.S.R. 439 of 1978, provided for recruitment (i) by examination, and (ii) by selection. However, the percentage of posts to be filled up in each case, had not been specified.

25. The Ministry of Health and Family Welfare ; with whom the matter was taken up, stated in reply as under :—

“The recruitment on the basis of selection by interview only is meant for difficult areas. The actual number of vacancies available in difficult areas, will determine the number of selections to be made by the U.P.S.C. This will fluctuate from year to year depending on the number of officers transferred to softer areas, from difficult areas, the willingness of officers from ordinary areas to go to difficult areas etc. As such no percentage of posts can be laid down in the rules.”

26. During the evidence before the Committee on 5 October, 1983, the representatives of the Ministry of Health and Family Welfare explained the mode of selections of CGHS doctors. He stated that the method of interview only was resorted for difficult areas. When asked the number of persons who were selected during the last three years in both the categories viz. (i) by written test followed by interview and (ii) by interview only, the representative of the Ministry furnished the following figures :

(i) *Written test followed by interview*

Year	Requisition sent to UPSC	Candidates recommended by UPSC	Actually joined
1980	600	593	232
1981	300	304	110
1982	300	300	60

(ii) *Interview only*

27. In 1978, requisition for 249 was placed for Arunachal Pradesh, A & N Islands ; 217 candidates were recommended and 93 joined. Again

requisition was placed for 28, all were recommended, but only 22 joined. Subsequently in March, 1983 UPSC again advertised for selection by interview only for 200 candidates. In some case interviews were going on and for another batch of 200 posts for Assam ; interviews had not yet been held.

28. On further enquiry regarding recruitment, the representative explained that as the service was an All India Service they could have only one set of rules. He also stated that the UPSC had suggested to them to have an alternative method of recruitment at short notice but as they could not do it unilaterally, they had to consult the UPSC on each occasion. In an emergency e.g. when Arunachal Pradesh and others wanted 200 doctors, as advertised by UPSC, they had dispensed with the examination and advertised for interview and doctors were recruited by issue of a notification. He further stated that, initially when the Central Health Service was constituted in 1963, recruitment was made on the basis of an interview only. On the recommendations of the Third Pay Commission, recruitment in this service was thereafter made through examination followed by an interview because it was a Class I Service. Since then, the UPSC conduct the examination annually for the Central Health Service Scheme.

29. When attention of the representative of the Ministry was drawn to the rules which were not clear, regarding selection by interview only for difficult areas, he explained that previously in 1978, recruitment by examination was there but in 1982 both the alternatives were there viz. by oral interview and by written examination. Even though legal opinion was for not having any ambiguity for the clause "in case recruitment by examination fails", there was no clear interpretation and on each occasion they had to consult the UPSC. In reply to another question, the witness stated that

- (i) two hundred vacancies were there so far as the difficult areas were concerned ;
- (ii) it was difficult to say when each vacancy arose and at what point of time. They took advantage of the rules and evolved a yardstick ;
- (iii) about 50 percent joined on the average ; and
- (iv) they wanted to give some special allowances to persons who worked in difficult areas.

30. When asked if they had received any representation from the staff side against these rules, the representative stated in the negative.

31. The Committee gather from the evidence taken that since the inception of the Central Health Scheme in 1963, there has been no clear cut policy on the part of the Government for recruitment of CGHS doctors for difficult areas. The

Committee observe that, where Government found it convenient they recruited doctors by written examination as recommended by Third Pay Commission followed by an interview or by only interviews, whenever there was an urgent demand from any far-flung States. On each occasion they had to consult UPSC before formal recruitment was made. The Committee feel that the intention of the Ministry of Health to resort to 'interview only' for recruitment to difficult areas should be spelled out in the rules so that there is no ambiguity in the minds of the applicants.

32. The Committee also observe that, unlike the Armed Forces where there is an Apex Committee for considering the applications for re-transfer of doctors on medical grounds, there is no such compassionate committee in the case of Central Health Scheme even though the posts were divided into four categories viz., A, B, C and D with special allowance and an extra-allowance and some leave travel concessions in 'C' and 'D' areas such as Andaman and Nicobar Islands. The Committee note that this is not adequate to attract the number of doctors for which there is demand in the far-flung and difficult areas. From the figures furnished by the Ministry, the Committee note that, as against the number of candidates recommended by the UPSC since 1980 to 1982 there has been a decline in the number of candidates who actually joined. For example, in 1980 as against 593 recommended, only 232 joined and in 1982 as against 300 recommended only 60 joined.

33. The Committee feel that all this is due to lack of adequate incentives and the recruitment policies aimed only at tiding over present difficulties and not on long term basis. The Committee would therefore, like the Ministry of Health and Family Welfare to provide for easy and attractive recruitment conditions, prompt transfer of staff on compassionate grounds, provisions of adequate incentives to attract doctors to far-flung and difficult areas as well as leave travel concession in order to attract and retain doctors in far-flung and difficult areas for longer spells.

VI

*The Delhi Panchayat Raj (Amendment) Rules, 1976 (Notification
No. Misc. 7(64)/P/75/16405-634 of 1976).*

(A)

34. Preamble to the Delhi Panchayat Raj (Amendment) Rules, 1976 read as under :

"In exercise of the powers conferred by section 102 of the Delhi Panchayat Raj Act, 1954, the Lt. Governor is pleased to make, after previous publication, the following amendments in the Delhi Panchayat Raj Rules :—"

35. It was observed that the full particulars of the previous publication of the rules were not indicated in the Preamble. In this connection, attention of the administrative Ministry was invited to the following recommendation of the Committee made in paragraph 28 of their First Report (Fourth Lok Sabha), presented to the House on 5 March, 1968 :—

“It appears that some Ministries are labouring under an apprehension that the condition requiring publication of draft rules for inviting comments/suggestions from the public thereon is merely a formality but it is not so. The Committee feel that it would defeat the very object underlying the condition of publication of draft rules if adequate opportunities are not given to the public to go through the draft rules and offer their comments. It is imperative that the statutory requirements of previous publication of rules are strictly followed both in letter and spirit. The Committee, therefore, recommend that sufficient time should be given to the public to study the draft rules and send their comments thereon before the rules are finalised. To ensure this, Government may, perhaps do well if they issue some standing instructions that the date of the Gazette in which the draft rules were published and the last date fixed for receipt of public comments thereon and also the date on which the Gazette copies containing the draft rules were made available to the public are specifically mentioned in the preamble to the final rules.”

36. The above recommendation was brought to the notice of all Ministries/Departments of the Government of India by the Department of Parliamentary Affairs *vide* their Circular No. SRI (22-28) IV/68-CB dated 19 April, 1968.

37. The Ministry of Rural Reconstruction (now Ministry of Rural Development) with which the matter was taken up, stated in their reply as under :—

- (a) 30 days' time was given to the public to send their comments on the draft rules.
- (b) Sub-section (1) of section 102 of the Delhi Panchayat Raj Act, 1954 provides that the Chief Commissioner may, subject to the condition of previous publication by notification in the official gazette make rules consistent with this Act to carry out the purposes of this Act. The previous notification *i.e.* the preliminary notification was published *vide* Delhi Administration's notification No. 7(64)/P/12575-890, dated the 3rd September, 1976. The fact of this previous publication was mentioned in the final draft notification in the form of 'after previous publication'. Thus, the final draft notification was rightly issued in consonance with the provisions of sub-section (1) of section

102 of the Delhi Panchayat Raj Act, 1954. If it is still felt that the incorporation, in the preamble to the final rules, of the particulars of the previous publication *i.e.* (a) the date of publication in the gazette (b) the date on which the gazette copies were made available to the public (c) the period given to the public for sending their comments thereon, is necessary, the Delhi Administration would be asked to revise the final notification by suitably incorporating the above noted particulars of the previous publication."

38. The Committee note from the reply of the Ministry of Rural Development that 30 days' time was given to the public for sending their comments on the draft rules published under Delhi Administration's Notification No. 7(64)/P/12575-890 dated 3 September, 1976 but the full particulars *viz.*, the date of the Gazette in which the draft rules were published, the last date fixed for receipt of public comments thereon and the date on which the Gazette copies containing the draft rules were made available to the public, were not specifically mentioned in the preamble to the final rules. The Committee deplore the lapse on the part of the administrative Ministry in this regard.

(B)

39. Rule 178 of the Delhi Panchayat Raj Rules, 1954, as substituted by the Delhi Panchayat Raj (Amendment) Rules, 1976, provided, *inter alia*, for reservation of a reasonable annual rent. The then Ministry of Agriculture and Irrigation (Department of Rural Development) were asked to state if any guidelines had been issued as to

- (a) what would constitute 'a reasonable rent' and how it will be determined ;
- (b) the parties to whom the immovable property vested in the Gaon Panchayat might be leased ; and
- (c) the conditions subject to which it might be leased.

40. The Ministry of Rural Reconstruction (now Ministry of Rural Development) in their reply dated 25 April, 1981 stated as under :

"No guidelines have been issued by the Delhi Administration as regards reasonable annual rent. However, as regards (a), (b) and (c), the information is as under :—

- (a) A reasonable rent is being charged @ Rs. 25/- as annual rent per acre in case of agricultural land and 0.05 paise per sq. yd. per year for house-sites. This considered to be a reasonable rent and is being charged by the Delhi Administration from the allottees of Gaon Sabha land.

- (b) Gaon Sabha land is leased out to various categories of persons as per the provisions under section 74 of the Delhi Land Reforms Act, 1954.
- (c) The conditions subject to which Gaon Sabha Land is leased out are prescribed under section 74 and 75 of the Delhi Land Reforms Act, 1954 and Rule 47 of the Delhi Land Reforms (Amendment) Rules, 1966. Besides this, the following guidelines are also kept in view while making such allotments ;
- (i) The applicant should be a landless person of the concerned village.
 - (ii) He should not be owning any land or house-site/pucca house or kucha house in the name of any member of his family.
 - (iii) He should be a resident of the village for a period of 4-5 years.
 - (iv) His monthly income should not exceed Rs. 500/- per month.
 - (v) He should be having an independent family of not less than two members and
 - (vi) The house-site has to be of 100-120 sq. yards."

41. The Committee note from the reply of the Ministry of Rural Reconstruction (now Ministry of Rural Development) that no guidelines have been issued by the Delhi Administration in regard to determining the annual reasonable rent under the Delhi Panchayat Raj (Amendment) Rules, 1976. The Committee, however, observe that certain guidelines prescribed by the Ministry of Rural Reconstruction (now Ministry of Rural Development) under Secs. 74-75 of Delhi Land Reforms (Amendment) Orders, 1961 and these are kept in view while making allotments of immovable properties vested in the Gaon Panchayat by the Delhi Administration. The Committee would like that these guidelines should have statutory basis and thus should be incorporated in the Delhi Panchayat Raj Rules, 1954 to make them self-contained.

(C)

42. The Delhi Panchayat Raj (Amendment) Rules, 1976 were laid on the Table of Lok Sabha on 25 July, 1977. As per recommendation of the Committee on Subordinate Legislation, contained in paragraph 81 of their Sixth Report (First Lok Sabha), the Ministry were required to attach relevant extracts from original rules to the amending rules while laying them on the Table. Since this requirement was not met in this case, the then Ministry of Agriculture and Irrigation (Department of Rural Development) were asked to state :—

- (a) whether they were aware of the aforesaid recommendation of the Committee ;
- (b) if so, the reasons for not complying with it in the case under reference ; and
- (c) steps taken to avoid recurrence of such lapses.

43. In their reply dated 25 April, 1981, the Ministry of Rural Reconstruction (now Ministry of Rural Development) stated as under :

- (a) The Ministry is aware of the recommendation of the Committee.
- (b) The relevant extracts of the original Delhi Panchayat Raj Rules, 1954 were left out inadvertently ; and
- (c) In dealing with all such cases, particular attention would be paid to the recommendations of the Committee."

44. The Committee note that the Ministry of Rural Development had failed to attach the relevant extracts of the original Delhi Panchayat Raj Rules, 1954 while laying the amendment rules on the Table of the House. The Committee trust that in future Ministry will not allow any such lapse to recur.

VII

Absence of 'Saving Clause' in certain Recruitment Rules

45. During the course of examination of the Ministry of Education and Culture, Senior Analyst (Work Study) Recruitment Rules, 1981, published in the Gazette of India, Part II, Section 3(i), dated 19 September, 1981, it was observed that these Rules did not contain the usual 'Saving' clause on the following lines :

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

46. The Ministry of Education and Culture (Department of Education), with whom the matter was taken up, in their reply dated 5 April, 1983 intimated that the Recruitment Rules for the post of Senior Analyst have since been amended and published under G. S. R. 978 dated 11 February, 1982.

47. Similar references were also made to some Ministries/Departments in respect of 8 other Recruitment Rules as shown in the *Appendix II* and from the perusal of the replies furnished by these Ministries the Committee observe that they have either agreed to amend the Rules with which they are concerned to the desired effect or have since amended them accordingly.

48. The Committee however regret to note that in spite of clear instructions issued by the Department of Personnel and Administrative Reforms on 22.5.1979 regarding drafting of recruitment Rules the Ministries/Departments in the cases cited at Appendix other than the Ministry of Education and Culture had not followed the instructions about incorporating of a 'Saving clause' until the Committee had to point out to them again the need therefore. The Committee fail to understand why, in spite of their reiteration of their recommendations in their 10th Report (Seventh Lok Sabha) and the directives of the Department of Personnel and Administrative Reforms, these Ministries have omitted to provide the 'Saving Clause'. Obviously, there has been some laxity in vetting the Rules on the part of Ministry of Law. The Committee would like that Ministry to be more careful in future and to ensure uniformity in all such cases.

49. The Committee would like the Ministries of Industries (Deptt. of Industrial Development) Mines, Tourism and Civil Aviation and Health and Family Welfare who have agreed to provide 'Saving Clause' to take early steps for amendment of the Rules and to promulgate them in the Gazette as well as lay them on the Table of the House.

VIII

*Regarding Delay in the Supply of Copies of the gazettes of India meant for examination of the Committee on Subordinate Legislation,
Lok Sabha*

30. According to the existing practice, the Secretariat of the Committee on Subordinate Legislation, Lok Sabha gets three copies of each of the Gazettes of India Part II, Section 3(i) and (ii) and Section 4 (both ordinary and extraordinary) from the Department of Publications, Government of India Press in connection with the examination of 'orders'.

51. It had been noticed from time to time during the years 1978, 1979 and early part of 1980 that supply of copies of the Gazettes meant for examination by the Committee on Subordinate Legislation was delayed from 3 to 4 months after their publication. As a result of that the scrutiny done by the Committee suffered considerably. After protracted correspondence with the concerned authorities of the Government of India Press on the subject and finding no improvement in the matter, it was decided to hold a meeting with the concerned authorities. Accordingly, a meeting was held in May, 1980 between

the then Additional Secretary of the Lok Sabha Secretariat, the Deputy Controller of Publications and the Deputy Director of Printing to find ways and means to minimise the delay as far as possible. At the meeting, these officers assured the Lok Sabha Secretariat that the time lag between the publication of the Gazette and supply of copies thereof to this Secretariat would be reduced to a fortnight.

52. For some time, there had been some progress regarding supply of copies of the Gazettes to this Secretariat as a result of the arrangement worked out at the said meeting but the Position deteriorated again thereafter. In order to get copies of the Gazettes in time several D. O. reminders were issued to the Director of Printing and the Deputy Controller of Publications reminding them of the assurance given at the said meeting and urging them to adhere to the time schedule for supply of the copies of the Gazettes to this Secretariat. The position however, remained the same with occasional marginal improvements.

53. Of late it was observed that there was a time lag of about 3 months between the publication of the Gazettes and supply of copies thereof in this Secretariat. For instance, copies of ordinary Gazettes published on 12 March, 1983 were received in the Secretariat (Committee Branch-II—COSL Wing), only on 7 June, 1983. Copies of Extra-ordinary Gazettes published in April, 1983 were however, received by June, 1983.

54. The matter was, therefore, brought to the notice of the Committee on Subordinate Legislation who decided to hear oral evidence of the representatives of the Ministry of Works and Housing. The representatives of the Ministry were heard at their sitting held on 25 June, 1983.

55. During evidence the witness explained that different parts of the Gazette were got printed in different printing presses. The copies of the Gazettes were despatched after collecting all the parts. To curb delays on that score, the witness suggested that if the Committee so wished, the Gazette could be forwarded in parts as and when received without waiting for all parts to come as a complete whole.

56. When pointed out that a reappraisal of the whole scheme of work in the press was necessary, the witness agreed to make an indepth review of each press and process so as to find out how delay could be reduced. When pointed out that the requirement of the Committee was limited to only Gazettes which related to subordinate legislation, the witness stated that he had taken note of giving top priority to the requirements of the Lok Sabha and Rajya Sabha Committees.

57. When asked as to when the Gazette published on 11 June, 1983, was made available to the Kitab Mahal, the witness informed that the Gazette copies were supplied to the Kitab Mahal within one or two days. When further asked that when gazette copies could be made available to the Kitab Mahal within one or two days of their printing, why these could not be supplied to Lok Sabha also within that period, the witness stated that he already had a meeting for the purpose and was looking into it.

58. The witness further assured that a comprehensive note would be sent to the Committee after checking up all bottlenecks for not being able to adhere to the correct schedule of supply and that would also indicate the position in future in that regard.

59. The comprehensive note which was promised to be sent to the Committee has not been received so far from the Ministry.

60. The Committee note that there was a time-lag of 3 months between the Publication of a Gazette and supply of its copies to the Secretariat of the Committee in connection with the examination of Orders.

61. After the evidence taken by them on 25 June, 1983, there has been appreciable improvement in regard to the supply of copies of the Gazettes. The time lag between the publication of the Gazette and supply of copies thereof has been reduced from 3 months to 15 days to 1½ months. The Ministry is now sending copies of Gazettes through the Kitab Mahal and not through the Controller of Publications as was the practice earlier.

62. The Committee hope that the Ministry of works and Housing would keep up to the assurance given to them to minimise the time-lag between the publication of Gazettes and supply of copies thereof to the Lok Sabha Secretariat. The Committee hope that the Ministry would make further efforts to reduce the time-lag between publication of the Gazettes and supply of copies thereof to a period not exceeding 15 days.

IX

Delay in Publication of the Final Rules

63. Central Acts containing provisions for delegation of legislative powers to the subordinate authority often enjoin upon the Government to publish the 'Orders' to be framed thereunder in the draft form to invite objections/suggestions on the proposed statutes from all persons likely to be affected thereby within a stipulated period. Taking into consideration the suggestions/objections received in this behalf, the Government notifies the final 'Orders' in the official Gazette. However, one disquietening feature of such delegated legislation is the considerable gap occurring between the publication of the draft and the final 'Orders'.

64. In paragraphs 13-14 of their Fifteenth Report (Fifth Lok Sabha), presented to the House on 15 April, 1975, the Committee had observed that if the Ministry felt the need for a change in the rules they should effect the change as early as possible after consulting the interests concerned, and not sit over the amendments for years together. In this connection, the Committee recommended that the time lag between the publication of the draft rules and the final rules in the Gazette should not exceed one year, but on the other hand, efforts should be made to bridge the gap further.

65. During the course of their scrutiny, the Committee noticed that there had been time lag ranging from 14 to 27 months between publication of the draft rules and the final rules in respect of the following 'Orders' :—

S. No.	Short Title of the 'Order'	Date of Publication of draft 'Order'	Date of Publication of final 'Order'	Delay
1	2	3	4	5
(i)	The Tobacco Grading and Marking (Amendment) Rules, 1979 (S. O. 2243 of 1979) (Ministry of Rural Development)	5.3.1977	30.6.1979	27 months
(ii)	The Jute Grading and Marking Rules, 1978 (S. O. 1741 of 1978) (Ministry of Rural Reconstruction)	24.4.1976	17.6.1978	25 months
(iii)	The Prevention of Food Adulteration (Fourth Amendment) Rules, 1978 (G. S. R. 393—E of 1978) (Ministry of Health and Family Welfare)	13.7.1976	4.6.1978	23 months
(iv)	The Contract Labour (Regulation and Abolition) Central (Amendment) Rules, 1978 (G. S. R. 948 of 1979) (Ministry of Labour)	13.8.1976	22.7.1978	23 months

1	2	3	4	5
(v)	The Drugs and Cosmetics (Third Amendment) Rules, 1978/G. S. R. 1074 of 1978) (Ministry of Health and Family Welfare)	26.2.1977	2.9.1978	18 months
(vi)	The Weel Grading and Marking (Amendment) Rules 1982 (S. O. 1671 of 1982) (Ministry of Rural Development)	24.1.1981	8.5.1982	15 months
(vii)	The Saffrom Grading and Marking (Amendment) Rules, 1979 (S. O. 2242 of 1979) (Ministry of Rural Development).	15.4.1978	30.6.1979	14 months

66. The concerned administrative Ministries, who were asked to state the reasons attributable to such inordinate delays in the final publication of these rules, replies as under :—

- (i) *The Tobacco Grading and Marking (Amendment) Rules, 1979*
(S. O. 2243 of 1979).

“.....the matter has been examined in consultation with Agricultural Marketing Advisor who has intimated that the pressure of work coupled with the non-availability of staff to monitor the work of each individual commodity contributed to the delay in publishing the final notification.”

- (ii) *The Jute Grading and Marking Rules, 1978.* (S. O. 1741 of 1978)

“.....It is true that almost two years were taken to publish the rules in the final form. Although there were no objections from the public but the Ministry had received some suggestions from Jute Commissioner and a few State Governments. These suggestions were got examined by the Directorate of Marketing & Inspection and some amendments were made in the Draft Rules. The Draft Notification was then got vetted from the Law Ministry and was received back in July, 1977. It was again examined and compared by the Directorate of Marketing & Inspection and fair copies were prepared. The Draft Rules were then referred to the Official Languages Wing for Hindi translation which could return them only in the later half of January, 1978. The fair copies of Hindi translation which were prepared in May, 1978 could have been done a few months earlier also. Here

the main reason for delay is that between January-March, being the last quarter of the financial year, a large number of sanctions are issued which leave little time for getting other detailed material typed."

(iii) *The Prevention of Food Adulteration (Fourth Amendment) Rules, 1978 (G. S. R. 393-E of 1978).*

".....the draft rules further to amend the P. F. A. Rules, 1955 were notified *vide* GSR 450 (E) dated the 13. 7. 76 giving 45 days time to the public for their comments. This period expired on the 26. 8. 76. The comments received from the public were consolidated by the DGHS and were referred to the Food Laws Implementation Sub-Committee (a Sub-Committee of Central Committee for Food Standards) for their consideration. These were considered by this Committee on the 17. 1. 77 and on the basis of their recommendation the DGHS prepared a draft notification of the final amendment to the rules. This draft notification was sent to this Ministry on the 7. 4. 77.

The draft notification was examined in this Ministry and was sent to the Ministry of Law for vetting on the 30. 4. 77. That Ministry desired to have a copy of the P F A Rules which was forwarded to them and the draft notification as vetted by them was received in this Ministry on 1. 6. 77. As the Ministry of Law did not render their advice in regard to drafting of preamble of the notification, the file was again referred to them on 15. 6. 77. The papers were returned by that Ministry with the necessary clarification on 24. 6. 77. As desired by that Ministry, the DGHS were requested on 29. 6. 77 to check up the technical details in the draft notification. After these details were checked the draft was sent to the O. L. C. on 20. 7. 77 for Hindi Translation. The Hindi version of the draft was received only on 5. 9. 77. As it was necessary to indicate in the final notification the date on which the draft notification was made available to the public for their comments, the Govt. of India Press were requested on 19. 4. 77 to indicate this date. As no reply was given by the Press in spite of repeated reminders and to obviate further delay, the DGHS were requested on 10. 2. 78 to give a comparative statement giving existing rules, amendment proposed to be made and the necessity for these amendments. The date of publication of the draft rules . e. 13. 7. 76 was treated as the date of availability of the draft rules to the public. As the preparation of this statement is a time consuming work, the said statement was received in the Ministry on the 8. 3. 78. The position was examined and the papers were submitted to Additional Secretary on 15. 3. 78 for obtaining the

approval of the Minister of State. As the proposed notification also prescribed different standards for ghee for different States, Additional Secretary desired to have the matter re-examined in detail. After detailed examination of the whole case it was decided on 19. 4. 78 that the question of laying down different stands of ghee be referred again to the Central Committee for Food Standards for their final opinion.

As the draft final notification also included amendments relating to coaltar food colour, carmoisine, Fast Red. E. etc it was decided that after omitting amendments relating to ghee, the draft notification be issued containing amendment to the other said items. The papers were accordingly referred to the DGHS for the preparation of the revised draft. The draft prepared by the DGHS required certain clarification and after having obtained these clarifications, the draft notification was submitted to Minister of State. After discussing the matter with the experts in the DGHS the draft notification was approved by Minister of State on 10. 7. 78. After obtaining the Hindi version of this notification, the English and Hindi version of it were published in the Gazette of India on 4. 8. 78. It will thus be seen that such important notifications required detailed examination at each stage because the PFA Rules affect the manufacturer, the wholesaler, the retailer and the consumers and any wrong rule may harm any of the above mentioned categories of the persons. However the delay in issuing of the final amendment is very much regretted.

The following procedure has now been introduced to ensure that delays in such cases do not occur in future :—

- (1) All finalised amendments are now being issued only in the Gazette Extraordinary under the name of the Joint Secretary which ensures its publication immediately.
- (2) Files relating to amendment of rules will be put with a tag indicating that the contents are time bound in nature.
- (3) Closer liaison will be maintained with the Official Language Commission and reminder sent at higher levels to avoid delay in getting the Hindi translation."

(iv) *The Contract Labour (Regulation and Abolition) Central (Amendment) Rules, 1978 (GSR 248 of 1978).*

".....on the expiry of the stipulated notice period of 45 days, the Ministry of Labour had received replies only from two Organisations (out of about seventy addressed). The main reasons for the delay in

the issue of the final Notification was non-receipt of the comments of the interests concerned. In fact, it was largely due to this that it was decided to place the matter before the Central Advisory Contract Labour Board at its meeting held on August 20, 1977, so that the interests concerned may get an opportunity to express their views on the proposed amendments. Thereafter, the process of consultation with interests concerned in the light of the recommendations of the Central Advisory Contract Labour Board, consultation with the Ministry of Law for vetting of the Notification and the Official Language Commission for authentic Hindi translation took sometime and the final notification could issue only in July, 1978, after completing all the above steps. While every possible effort is made to process such matters as quickly as possible, it may kindly be noted that the process of consultation with the various interests concerned has taken sometime. However, every possible effort will be made in future to complete the process of consultation as quickly as possible and ensure the issue of such Notification without undue delay."

(v) *The Drugs and Cosmetics (Third Amendment) Rules, 1978*
(G. S. R. 1074 of 1978).

".....the notification relating to the draft amendments to the Drugs and Cosmetics Rules was published for public comments in the Gazette of India on 26. 2. 77. A time limit of 90 days was given to the public for sending comments from the date on which the copies of the official Gazette containing the aforesaid notification was made available to the public. The copies of the Gazette was made available to the public on 14. 3. 77. After expiry of the date fixed for receipt of comments, the suggestions/objections received from the various organisations, Associations of Chemists and Druggists etc., which were large in number, were consolidated and critically examined by the Drugs Controller of India. This was a time consuming process. Draft of the final amendment of the Rules was prepared by the Drugs Controller of India and was sent to the Ministry for approval. The draft amendment was considered in the Ministry and it was felt that the proposed new rules namely sub-rules (20) of rules 65 and 135-A and 145-C should be re-examined. New sub-rule (20) of rule 65 which stipulated that no chemist could close his shop on any working day was considered unreasonable. Since this was a controversial clause, a number of meetings were held in the Ministry at a higher level and after examining the pros and cons of the matter it was decided to delete this rule in the final notification.

The then Minister of State also desired to discuss the new rules namely 135-A and 145-A prohibiting the use of cosmetics containing mercury compounds with some of the experts who were consulted earlier by the Drugs Controller of India. Accordingly, two skin specialists were requested to discuss the matter with the then Minister of State. As these specialists were very busy and the Drugs Controller of India was also out of India then, the meeting of the skin specialists could be arranged only in July, 1978. After this meeting the draft of the final rules was given final shape and sent to the Official Language Commission for obtaining Hindi version of the notification. The final notification was issued on 19. 8. 78 and was published in the Gazette of India on 2. 9. 78.

From the position stated above it will be seen that delay in final publication was due to the following reasons :-

1. Time taken for considering the large number of comments received on sub-rule (20) of rule 65 leading to a final decision to drop this amendment.
2. Difficulties in arranging early discussion between the Minister of State and skin specialists on the provisions of Rules 135-A and 145-A prohibiting the use to mercury compound in cosmetics."

(vi) *The Wool Grading and Marking (Amendment) Rules, 1982*
(S. O. 1671 of 1982).

".....the matter has been examined in consultation with Agricultural Marketing Adviser and it has been observed that it is the normal practice of the Directorate of Marketing and Inspection to wait for some time more than the statutory stipulated time limit for comments/suggestions from the different organisations before finalisation of the draft of the final Grading and Marking Rules under Agricultural Produce (Grading and Marking) Act. In the instant case, the Directorate finalised the draft of the final rules in November, 1981. The Ministry of Law took about 1½ months for vetting the draft notification as that Ministry after discussions desired certain changes in the draft notification. Thereafter, the Official Language Wing also took about 2½ months in furnishing Hindi translation of the draft notification. There was also some delay on the part of this Ministry in issuing the final notification. However, the delay in publishing the final rules in the Official Gazette, which occurred at different stages, is deeply regretted. All concerned have been requested to be careful in future to ensure that the final rules in such cases are notified expeditiously."

(vii) *The Saffron Grading and Marking (Amendment) Rules, 1979.*
(S. O. 2242 of 1979).

".....The matter has been investigated and it has been observed that it is the normal practice of the Directorate of Marketing and Inspection to wait for sometime more than the statutory stipulated time limit for comments/suggestions from the different organisations before finalisation of the draft of the final Grading and Marking Rules under Agricultural Produce (Grading and Marking) Act, 1937. In the instant case, the Directorate finalised the draft amendment of the final rules only in December, 1978. The Ministry of Law also took some time for vetting the draft notification. There was also delay in the part of this Ministry in issuing the final notification. However, the delay in publishing the final rules in the Official Gazette, which occurred at different stages, is deeply regretted. All concerned have been requested to be careful in future to ensure that the final rules in such cases are notified expeditiously."

67. The Committee are constrained to observe that instances of inordinate delays ranging from 14 to 27 months continue to occur in the matter of final publication of the rules and amendments thereto in spite of their explicit recommendation in this regard made in 1975. An analysis of the reasons attributed for delays, as revealed from the explanations furnished by the Ministries concerned, indicates that the following factors mainly account for the delay :

- (I) time taken in finalisation of the objections/suggestions received,
- (II) time taken in inter-departmental consultations, and
- (III) time taken in getting Hindi translation of the final rules from the Official Language Commission.

68. These difficulties are not of a serious nature and could have been overcome, if a sincere effort had been made to follow the Committee's recommendation in letter and spirit.

The Committee feel that in cases where large number of objections/suggestions are received from public, some delay in finalising those rules is inherent, but in cases where no objections/suggestions are received, the delay in their final publication cannot be overlooked. The Committee would like to emphasise the imperative need to reduce the time lag between the publication of draft rules and their final notification in the Gazette. The Committee feel that where a large number of objections/suggestions are received the gap should not be more than six months. Where the objections/suggestions received are few efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. However, where no objections/suggestions are forthcoming

ing on the draft rules, the final rules should be notified within a period of three months. The Committee urge upon the Department of Parliamentary Affairs to impress upon all Ministries/Departments to streamline their procedures to cut short the delays in the notification of the final rules to the minimum.

X

Giving of Retrospective Effect to the Rules/Regulations framed under the Acts of Parliament and under the Provision to Article 309 of the Constitution

69. While examining the Export Inspection Council Contributory Provident Fund Rules, 1969 framed under the Export (Quality Control and Inspection) Act, 1963, the Committee on Subordinate Legislation in Paragraph 57 of their Seventh Report (Fifth Lok Sabha) noted following observation of the Attorney-General made in connection with Exemption Notifications issued under the Central Exise and Salt Act, 1944 and the Rules framed thereunder :—

“The Legislature may make a law with retrospective effect. A particular provision of a law made by the Legislature may operate retrospectively if the law expressly or by necessary intendment so enacts. A law made by the Legislature may itself further empower subordinate legislation to operate retrospectively. Without such a law no subordinate legislation can have any retrospective effect.....”

70. In spite of the above observation of the Committee, the following cases have been noticed by the Committee where retrospective effect had been given to these Rules/Regulations without specific provision therefor in the parent Acts :—

(i) *The All India Institute of Medical Sciences
(Amendment) Regulations, 1981
(G.S.R. 914 of 1981)*

71. The Regulations 1(2) and 28 (1), as substituted by above amending Regulations, gave retrospective operation. The All India Institute of Medical Sciences Act, 1956 under which these Regulations had been framed did not empower for giving retrospective effect to the Regulations framed thereunder.

72. The Ministry of Health and family Welfare (Department of Health) to whom the matter was referred, have stated as under : —

“Under Section 29 (1) of the All India Institute of Medical Sciences Act, 1956, the Institute may, with the previous approval of the Central Government, may make regulations consistent with the Act and the

Rules made thereunder to carry out the purposes of the Act, whereas under Section 28 (1) the Central Government, after consultation with the Institute, is empowered to make Rules to carry out the purposes of the Act by notification in the Official Gazette. The All India Institute of Medical Sciences (Amendment) Regulations, 1981 were published in the Gazette of India (Part II Section 3 sub-Sec. (i) on the 10th October, 1981, but the regulations were actually issued by the Institute on the 25th July, 1981 and have been made effective from 1.8.1981 under the (Amendment) Regulation 1 (2). The publication of the (Amendment) Regulations in the Gazette of India has been made for general information and not as a requirement under the Act or Rules.”

73. The Committee note that retrospective effect has been given to the All India Institute of Medical Sciences (Amendment) Regulations, 1981 without due authority conferred by the All India Institute of Medical Sciences Act, 1956. The explanation offered by the Ministry is not acceptable to the Committee.

74. The Committee would like the Ministry of Health and Family Welfare to take necessary steps to ensure in future that Rules should either be made effective from the dates of their notifications in the gazettes, or, in the alternative, the relevant Acts should be amended to empower the concerned Ministries to give retrospective effect. In this connection the Committee would like to draw the attention of the Ministry of Health and Family Welfare to the recommendation made in their Seventh Report (Fourth Lok Sabha) vide para 40 thereof :

“Normally all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given, either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules.

(iii) *Retrospective Effect given to the Rules/Regulations framed Under Proviso to Article 309 of the Constitution.*

75. Regarding Rules/Regulations framed under proviso to Article 309 of Constitution, the Committee in paragraph 10 of their Second Report (Fourth Lok Sabha) presented on 14 December, 1968 observed as under :—

"The Committee are not satisfied with the explanations of the Ministries concerned and are of the view that normally all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if in any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given, either by way of an explanation in the rules to the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules."

76. In paragraph 102 of their Ninth Report (Fifth Lok Sabha), presented on 19 December 1973, the Committee observed as under :

"The Committee had recommended avoidance of giving retrospective effect to the rules and giving explanatory note that no one would be affected adversely, not because of legal necessity but because of propriety and check on abuse of power. The Committee feel that once the propriety of not issuing the Rules retrospectively is accepted, it does seem necessary to indicate in the explanatory note that the interests of no one are prejudicially affected by retrospective effect. There should also be no objection to publication of the explanatory note in the Gazette as it would go to prove that there is no *male fide*."

77. During the scrutiny of Rules/Regulations framed under proviso to Article 309 of the Constitution published in the year 1978 & 1979, the Committee have noticed that in the cases mentioned in Appendix — 11 retrospective effect had been given to the order. While in the cases mentioned at S. Nos. 2, 3 and 6 are being pointed out by the Committee, the usual explanatory memorandum had been issued or was going to be issued in the case of orders mentioned at S1. Nos. 1 and 4, the Explanatory Memorandum did not contain usual clarification to the effect that interest of no one would be adversely affected by] giving retrospective effect to Rules. In the case of Order at S. No. 5, the requisite Explanatory Memorandum had not been appended at all. The matter was taken up with the Ministries concerned and the gist of their replies is given in the Appendix.

78. The Committee note that, in the cases at S. Nos. (1) The Civilians in Defence Services (Revised Pay) Amendment Rules, 1978 (S.R.O. 217 of 1978) (3) The Lower Division Clerk (Import and Export & Trade Control Organisation) Recruitment (Amendment) Rules, 1978 (G.S.R. 1360 of 1978) and (4) The Fundamental (Amendment) Rules, 1979 (G.S.R. 621 of 1979), though necessary

explanatory Memorandum has been appended, after the matter was pursued with the Ministries concerned by the Committee but in the case of S. No. viz. (5) The Research, Design and Standard Organisation (Non-Gazetted Ministerial Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 358 of 1981) the necessary action has yet to be taken. In this connection the Committee would like to draw the attention of Government to the Circular issued by the Department of Parliamentary Affairs vide their O.M No. F. 32 (3) L.S.IV (29-32)/70-R & C dated 13.4.1970 to all Ministries/Departments directing them to implement the recommendations of the Committee so far as retrospective effects given to Rules are concerned.

79. The Committee would also like the Department of Personnel and Administrative Reforms who had circulated the guidelines to be followed by Ministries in the matter of framing of Recruitment Rules which also contained instructions about retrospective effect to once again impress upon all the Ministries/Departments for avoiding provision for retrospective effect to the Rules/Regulations unless the parent law itself specifically provide for it.

80. It is unfortunate that in case mentioned at SI. Nos. 1 and 4 the Ministry of law had failed to point out the need for clarification to the effect that interest of no one could be adversely affected by giving retrospective effect to the Rules. The Committee need hardly impress upon the Ministry of Law, Justice and Company Affairs who are primarily concerned with the vetting of Rules that they should ensure appending of an explanatory memorandum in all cases where retrospective effect has been given to the Rules and Regulations.

XI

Referred cases where Ministries have either agreed to the Suggestions made to them for the Amendment of Rules or where Ministries' Replies have been Found Satisfactory

81. After the Rules/Regulations/By-laws are laid on the Table of the House published in the Gazette, they are critically examined in the Secretariat of the Committee. The infirmities are pointed out to the Ministries concerned and their comments invited.

82. In the following cases, referred to Ministries for their comments, the Ministries have either agreed to the suggestions made to them for the amendment of Rules etc. or the replies furnished by them have been found to be satisfactory : —

(i) *The Sugarcane (Control) Second Amendment Order, 1978 (G.S.R. 197-E of 1978).*

(A)

83. Second proviso to clause 4, as inserted by G.S.R. 197-E of 1978, of the Sugarcane (Control) Order, 1966 read as under : —

“Provided also that the Central Government or, with the approval of the Central Government, the State Government, may in such circumstances and subject to such conditions as it may specify allow a suitable rebate in the price so fixed.”

84. The proviso was vague inasmuch as it did not spell out the circumstances of, and the conditions under which, the rebate in price would be allowed by the appropriate Government.

84 A. The Ministry of Food and Civil Supplies (Department of Food), with whom the matter was taken up, amended the proviso to clause 4 of the Order *vide* G.S.R. 427-E of 1981 so as to read as under : —

“Provided also that the Central Government or with the approval of the Central Government the State Government, may in such circumstances and subject to such conditions as specified in clause 4 A, allow a suitable rebate in the price so fixed.”

85. The Committee note with satisfaction that on being pointed out by them, the Ministry of Food and Civil Supplies have amended the second proviso to clause 4 of the Sugarcane (Control) Order, 1966, (*vide* G.S.R. 427-E of 1981) by indicating therein the circumstances and conditions under which rebate in the sugarcane price to be allowed, would be as specified in Clause 4A of the Order.

(B)

86. Part (iv) of the proviso to clause 4A, as inserted by G.S.R. 197-E of 1978, of the Sugarcane (Control) Order, 1966 read as under : —

“(iv) the Central Government or, with the approval of the Central Government, the State Government, may allow a suitable rebate in the minimum price or the agreed price as the case may be, for any other reasons to be specified by the Central Government or the State Government, as the case may be.”

87. It was felt that the reasons for allowing the rebate in the minimum price that could be deducted from the price paid for sugarcane by produceres

of khandsari sugar, should be spelt out in the order itself.

88. The Ministry of Food and Civil Supplies (Department of Food), with whom the matter was taken up, amended part (iv) of the proviso to clause 4A of the Order *vide* G.S.R. 427-E of 1981, so as to read as under : —

“(iv) The Central Government or the State Government or the Director of Agriculture or the Cane Commissioner or the District Magistrate, may allow a suitable rebate in the minimum price as the case may be when cane is supplied ex-field to khandsari units within their respective jurisdictions subject to the condition that the rebate so allowed shall not exceed the estimated expenditure on harvesting.”

89. The Committee note with satisfaction that on being pointed out by them, the Ministry of food and Civil Supplies have amended Part (iv) of proviso to Clause 4 A of the Sugarcane (Control) Order, 1966 (*vide* G.S.R. 427-E of 1981 to the desired effect which reads as follows :—

“(iv) The Central Government or the State Government or the Director of Agriculture or the Cane Commissioner or the District Magistrate, may allow a suitable rebate in the minimum price as the case may be when Cane is supplied ex-field to Khandsari units within their respective jurisdictions subject to the condition that the rebate so allowed shall not exceed the estimated expenditure on harvesting.”

(ii)

The Open Lines (Railways in India) General (Amendment) Rules, 1980 (G.S.R. 1303 of 1980)

90. While examining the above mentioned Rules, 1980 (G.S.R. 1303 of 1980,) it was observed that Section 47 and 71E of the Indian Railways Act, 1980 conferred powers on the Central Government/Railway Company to make rules consistent with the provisions of the Act. But the said Act did not contain a provision for laying of the rules framed thereunder before Parliament.

90-A. In this connection, the attention of the Ministry of Railways was invited to paragraph 37 of the Third Report of the Committee on Subordinate Legislation (First Lok Sabha) wherein the Committee had emphasized that in all Bills, which might seek to amend Acts and gave rule making power, suitable provision to lay the rules framed thereunder on the Table should be included. While pointing out that although the Indian Railways Act of 1890 had been amended a number of times, the said provision for laying of rules

framed thereunder had not so far been made, the Ministry were asked whether they had any objection to amend the Act to the desired effect. The Ministry in their reply dated 10 April, 1981 stated as follows : —

“.....in the Indian Railways Draft Bill seeking to amend the Indian Railways Act, 1890, Clause 225—dealing with rules to be laid before the Parliament — is being suitably amended in terms of para 33-34 of the Second Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) wherein the Committee have approved a Model Clause regarding laying of Rules/Regulations etc.”

91. The Indian Railways Act, 1890 does not provide for laying of Rules framed under Sections 47 and 71E *ibid* before Parliament. The Committee note that on being pointed out by them the Indian Railways Act, 1890 (Clause 225) dealing with Rules to be laid before Parliament is proposed to be suitably amended to incorporate the laying of Rules formula by the Committee. In paragraph 333 of 18th Report as already laid down (7 LS) the Committee had noted that Government was going to introduce a comprehensive Bill to revise the Indian Railways Act, 1890 which would include the above model Clause. The Committee would urge the Ministry of Railways (Railway Board) to introduce the aforesaid Bill at a very early date, in order to fulfill the assurance given to the Committee.

(iii) *The Ministry of Finance, Department of Economic Affairs,
Research Assistant (Work Study) Recruitment Rules, 1980
[G.S.R. 640 of 1980]*

92. Rules 6 of the Ministry of Finance, Department of Economic Affairs, Research Assistant (Work Study) Recruitment Rules, 1980 which reads as under indicated that these Rules were issued in replacement of earlier Rules on the subject : —

“6. These rules replace the Ministry of Finance (Department of Economic Affairs) Research Assistant, Recruitment Rules, 1975, notified *vide* the Department of Economic Affairs, Notification No./12018/3/74/Adm. II dated 23rd April, 1975.”

93. However, in the preamble to these Rules, it was not mentioned that these Rules were issued in supersession of the earlier Rules.

94. The Ministry of Finance (Department of Economic Affairs), with whom the matter was taken up, intimated that they had amended the pream-

ble suitably *vide* G.S.R. 104 dated 31 January, 1981, which now reads as follows :—

“In exercise of the powers conferred by the proviso to article 309 of the Constitution, and in supersession of the Ministry of Finance, Department of Economic Affairs, Research Assistant Recruitment Rules, 1975, the President hereby makes the following rules regulating the method of recruitment to the posts of Research Assistant (Work Study) in the Ministry of Finance, Department of Economic Affairs, namely.”

95. The Committee note with satisfaction that on being pointed out by them, the Ministry of Finance have amended preamble to the Research Assistant (Work Study) Recruitment Rules, 1980 (*vide* G.S.R. 104 of 1981) by indicating therein that these rules are in supersession of earlier Rules of 1975.

(iv) *The Directorate of Vanaspati Vegetable Oils and Fats (Administrative Officers) Recruitment Rules, 1980 (G.S.R. 776 of 1980).*

96. Entry under Column 13 of the Schedule to the Directorate of Vanaspati, Vegetable Oils and Fats (Administrative Officer) Recruitment Rules, 1980 (G.S.R. 776 of 1980) did not provide for consultation with the Union Public Service Commission while amending/relaxing any of the provisions of these Rules.

97. The Ministry of Civil Supplies (Directorate of Vanaspati, Vegetable Oils and Fats), with whom the matter was taken up, have since amended the Entry to the desired effect *vide* G.S.R. 31 published in the Gazette of India dated 10.1.1981.

98. The Committee note with satisfaction that on being pointed out by them, the Ministry of Civil Supplies (Directorate of Vanaspati, Vegetable Oils and Fats) have amended Column 13 of the said Rules (*vide* G.S.R. 31 of 1981) to the desired effect.

(v) *The National Institute of Communicable Diseases (Veterinary Officer) Recruitment Rules, 1980 [G.S.R. 523 of 1980]*

99. Entry under column 13 of the Schedule to the National Institute of Communicable Diseases (Veterinary Officer) Recruitment Rules, 1980 indicated that consultation with the Union Public Service Commission was necessary while amending/relaxing any of the provisions of the Rules in question. However, Rules 5 relating to ‘power to relax’ of the said Rules did not provide for consultation with the U.P.S.C. for the purpose of relaxing the rules.

100. Since all Recruitment Rules regarding Group 'A' and 'B' posts are required to provide for consultation with the U.P.S.C. for relaxing/amending any of the provisions thereof as per O.M No. 14017/24/70-Estt. (RR) dated 22.5.79 of the Department of personnel and Administrative Reforms regarding framing of Recruitment Rules, the matter was taken up with the Ministry of Health and Family Welfare (Department of Health), who intimated, *vide* their O.M. dated 6 April, 1981 that they had since modified Rule 5 *vide* Corrigendum No. A-12018/179-CCD dated 13 November, 1980, as pointed out to them.

101. The Committee note with satisfaction that on being pointed out by them, the Ministry of Health and Family Welfare (Department of Health) have amended Rule 5 of the said Rules (*vide* corrigendum No. A-12018/179-CCD dated 13th November, 1980) to provide for consultation with the Union Public Service Commission for the purpose of relaxing the Rules.

(vi) *The Ministry of Civil Supplies Recruitment Rules, 1980*
(G. S. R. 1922 of 1980).

102. The preamble to the Ministry of Civil Supplies Recruitment Rules, 1980 (G. S. R. 1022 of 1980) read as under :—

“In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the post of Staff Car Driver in the Ministry of Civil Supplies.”

103. It was observed from the preamble to the aforesaid Recruitment Rules that the short title *viz.* ‘The Ministry of Civil Supplies Recruitment Rules, 1980’ was too general inasmuch as it did not indicate the nomenclature of the post to which the said Rules pertained.

104. The Ministry of Civil Supplies, who were asked to state if that Ministry had any objection to indicate in the short title the precise nomenclature (Staff Car Driver) of the post to which the Rules related, intimated that they have since amended the short title to read as under *vide* G. S. R. 644 dated 11 July, 1981 :—

“The Ministry of Civil Supplies (Staff Car Drivers) Recruitment Rules, 1980.”

105. The Committee note with satisfaction that on being pointed out by them, the Ministry of Civil Supplies have amended the preamble to the said Rules (*vide* G. S. R. 644 of 1981) to indicate therein the nomenclature of the post to which the said Rules pertained.

(vii) *The All India Radio, New Delhi (Senior Cartographer) Recruitment Rules, 1980 (G. S. R. 1097 of 1980).*

106. In column 6 of the Schedule appended to the All India Radio, New Delhi (Senior Cartographer) Recruitment Rules, 1980 (G. S. R. 1097 of 1980), the age limit for direct recruits to the post of Senior Cartographer, a Group 'B' (non-Gazetted) post, was given as 30 years which was relaxable for Government servants. There was, however, no indication as to the number of years by which the age could be relaxed in the case of Government servants.

107. The Ministry of Information and Broadcasting with whom the matter was taken up, in their reply, dated 19 June, 1981, stated as under :

".....This Ministry have no objection to giving the age limit relaxation to Government servants upto the age of 35 years under column 6 of the Schedule to the Recruitment Rules for the post of Senior Cartographer in All India Radio. Accordingly, necessary steps are being taken to put this precise provision in the said Rules by formal amendment in consultation with Department of Personnel and Administrative Reforms (Ministry of Home Affairs)."

108. The Ministry have since amended the Rules *vide* G. S. R. 458 of 1982.

109. The Committee note with satisfaction that on being pointed out by them, the Ministry of Information and Broadcasting have amended the said Rules (*vide* G.S.R. 458 of 1982) to specify therein the precise limit for age relaxation in the case of Government servants.

(viii) *The Lady Hardinge College and Shrimati Sucheta Kriplani Hospital (Accounts Officer) Recruitment Rules, 1980.*

110. Entry under Column 13 of the Schedule to the Lady Hardinge Medical College and Shrimati Sucheta Kriplani Hospital (Accounts Officer) Recruitment Rules, 1980, against the post of (Accounts Officer), read as under :-

"Consultation with the Union Public Service Commission necessary while amending/relaxing of the provisions of these Rules."

111. The post of 'Accounts Officer' being a Group 'B' gazetted post, it was felt that the provision should be made for consultation with the Union Public Service Commission whenever Group 'B' Officers were considered for appointment to that post. The Ministry of Health and Family Welfare, with

whom the matter was taken up, stated in their reply dated 23 October, 1980, that it had been decided to amend the Entry in question to read as under :—

“Selection on each occasion shall be made in consultation with the Union Public Service Commission. Consultation with the Commission is also necessary while amending/relaxing any of the provisions of these rules.”

112. The Ministry have since issued the amendment *vide* G.S.R. 1270 dated 13 December, 1980.

113. The Committee note with satisfaction that on being pointed out by them, the Ministry of Health and Family Welfare, have amended the said Rules (vide G.S.R 1270 of 1980) to provide for consultation with the Union Public Service Commission not only on each occasion of selection to the post but also while amending/relaxing any of the provisions of the Rules.

(ix) *The Khadi and Village Industries Commission Employees (Conduct Discipline and Appeal) Amendment Regulations, 1979.*

113-A. Proviso (ii) to sub-rule (1)(a) of Regulation 24 of the Khadi and Village Industries Commission Employees (Conduct, Discipline and Appeal) Regulations, 1961, as inserted by the aforesaid Amendment Regulations, of 1979, reads as under :—

“(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reasons to be recorded in writing, directly attributable to the Commission’s employee.”

114. The Industry (Department of Industrial Development) were asked to state whether, before reduction the subsistence allowance of an employee under suspension after the first six months, (a) an employee, under suspension, was warned that the period of suspension was being prolonged for reasons directly attributable to him as a result of which his subsistence allowance was likely to be reduced; and (b) whether the reasons were recorded in writing by the authority for reducing the subsistence allowance and communicated to the employee concerned at any stage; if not, the reasons therefore.

115. In their reply dated 15 March, 1983, the Ministry stated as under :

“...the KVIC (CDA) Regulations, 1961 have been framed on the pattern of rules applicable to the Central Government employees. Under

the rules of the Central Government, there is no provision to warn an employee under suspension before reducing his subsistence allowance in the circumstances prescribed. However, a Central Government employee can appeal to the 'Appellate Authority' as provided in rule 23(v)(d) of CCS (CC & A) Rules, 1965. The KVIC Employees (CDA) Regulations do not provide for appeal by an employee of the Commission against reduction in subsistence allowance. The Commission, therefore, propose to amend their regulations accordingly. As regards part (b) of the observations of the Committee on Subordinate Legislation, regulation 24 of KVIC (CDA) Regulations, already provide for reasons to be recorded in writing."

116. The Committee note with satisfaction that the Ministry of Industry (Department of Industrial Development) propose to amend the said regulations on the lines of rule 23 of the CCS (CC & A) Rules, 1965 to provide for appeal by an employee of the Khadi and Village Industries Commission against reduction in his subsistence allowance. The Committee would like the Ministry to do so very early. The Committee also note that there is a provision in regulation 24 of KVIC (CDA) Regulations providing for reasons to be recorded in writing wherever reduction of subsistence allowance is made.

(x) *The Geological Survey of India (Group A and Group B Posts) Recruitment (Fourth Amendment) Rules, 1980 (G.S.R. 717 of 1980)*

117. During scrutiny of the Geological Survey of India (Group 'A' and Group 'B' Posts) Recruitment (Fourth Amendment) Rules, 1980, published in the Gazette of India, Part II, Section 3(i) dated 5 July, 1980, it was felt that since the post of 'Executive Engineer' indicated against S. No. 79 in the Schedule to these Rules was Group 'A' post, there should be a provision for consultation with the Union Public Service Commission whenever Group 'B' Officers were considered for appointment on deputation.

118. On the matter being taken up with the Ministry of Steel and Mines (Department of Mines), the entry under Column 13 of the Schedule had since been substituted *vide* Notification No. A-12018/9/80-M2 dated 26 May, 1983, published under G.S.R. 556 dated 13 June, 1981 to read as follows :-

"Selection on each occasion to be made in consultation with the Union Public Service Commission. The Union Public Service Commission shall also be consulted while amending/relaxing any of the provisions of these rules."

119. The Committee note with satisfaction that on being pointed out by them, the Ministry of Steel and Mines (Department of Mines) have amended entry under Column 13 of the Schedule appended to the said Rules (*vide* G.S.R. 556 of 1981) to provide for consultation with the Union Public Service Commission.

(xf) The Chief Labour Commissioner (Central) and the Joint Chief Labour Commissioner (Central) Recruitment Rules 1981 (G.S.R. 545 of 1981).

(A)

120. Rule 6 of the Chief Labour Commissioner (Central) and the Joint Chief Labour Commissioner (Central) Recruitment Rules, 1981 read as under :—

“6. Power to relax—Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category of persons.”

121. Usually, the relaxation clause in the recruitment rules pertaining to Group A and Group B Posts also provided for consultation with the Union Public Service Commission.

122. The Ministry of Labour, with whom the matter was taken up, amended Rule 6 of the Chief Labour Commissioner (Central) and Joint Chief Labour Commissioner (Central) Recruitment, 1981 *vide* their Notification No. A-12018/1/75-C.L.T. dated 8 April, 1983 to read as under :—

“6. Power to relax –Where the Central Government is of the opinion that it is necessary or expedient so to do, it may be, by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules in respect of any class or category of persons”.

123. The Committee note with satisfaction that on being pointed out by them, the Ministry of Labour have amended rule 6 of the said Rules to provide for consultation with the Union Public Service Commission before relaxing any provision of the Rules (*vide* Notification No. A-12018/1/75-C.L.T. dated 8 April 1983).

(B)

124. Entry against the post of Chief Labour Commissioner (Central), under column 13 (*viz.*, circumstances in which UPSC is to be consulted in making recruitment) of the Schedule appended to the Chief Labour Commissioner (Central) and the Joint Chief Labour Commissioner (Central) Recruitment Rules, 1981, read as under :—

“Consultation with the UPSC necessary while amending/relaxing any of the provisions of these rules.”

125. Usually, such provisions also provided for consultation with the Public Service Commission while making an appointment to Group 'A' post. The Ministry of Labour, with whom the matter was taken up, have since substituted the entry *vide* their Notification No. A-12018/1/75-C.L.T. dated 8 April 1983 so as to read as under :—

“Selection on each occasion shall be made in consultation with the Union Public Service Commission.”

126. The Committee note with satisfaction that on being pointed out by them, the Ministry of Labour have amended entry in Column 13 of the Schedule appended to the said Rules to provide that selection on each occasion shall be made in consultation with the Union Public Service Commission (*vide* Notification No. A-12018/1/75-C.L.T. dated 8 April, 1983).

(xii) *The Central Health Service (Amendment) Rules, 1978 (G.S.R. 439 of 1978).*

127. The above mentioned Rules were notified in the Gazette of India, Part, II, Section 3(i), dated 1 April, 1978 but were deemed to have come into force with effect from 16 October, 1976 retrospectively. However, the requisite explanatory note explaining the reasons for giving retrospective effect and stating that no one would be adversely affected by such retrospective operation of the rules, was not appended thereto.

128. The Ministry of Health and Family Welfare, with whom the matter was taken up, have since issued the necessary corrigendum so as to add the Explanatory Memorandum stating that nobody's interest would be adversely affected by giving retrospective effect to these amendments from 16 October, 1976, *vide* G.S.R. 710 dated 5 July 1980.

129. The Committee note with satisfaction that on being pointed out by them, the Ministry of Health and Family Welfare have issued necessary corrigenda (*vide* G.S.R. 710 of 1980) as to add the explanatory memorandum stating that no body's interest would be adversely affected as a result of retrospective effect given to the Rules.

XII

Implementation of Recommendations of the Committee on Subordinate Legislation Contained in Paragraphs 83 to 88 of Sixth Report (Seventh Lok Sabha) Regarding Printing and Publication of Compilations Containing General Statutory Rules and Orders interim Reply Received in Respect Thereof.

130. The Committee on Subordinate Legislation on 2 May, 1958 had recommended in their Third Report (Second Lok Sabha-Paragraphs 47-49) that there should be some publication of Statutory Rules and Orders on the lines of the U. K.'s annual publication of Compilation of statutory Instruments

for the convenience of the public. In the same Report the Committee had noted the assurance of the Ministry of Law that an up-to-date publication of the General Statutory Rules and Orders in force as recommended by the Committee would be brought out as soon as all the volumes of the India Code were published. As far back as 3 October, 1972 when the Ministry of Law were asked to intimate the progress made in this regard the Committee were informed that 2/3rd of the main Compilations of the General Statutory Rules and Orders and four supplements thereto had been brought out by that Ministry. Knowing this progress the Committee had commented in paragraphs 70-74 of their Tenth Report (Fifth Lok Sabha) presented on 3 April, 1974 that as against printing and release in the first five years (1960-1964) as many as 9 volumes, during the latter 9 years (1965-1973) only 11 volumes, of the main publication and 4 Supplements could be printed and released. The Committee while emphasising on the "usefulness of this Compilation which, when completed would make the whole subordinate legislation available at one place (in approximately 30 volumes) expressed the hope that the main Compilation would be completed and released for sale by the end of 1977, the target date fixed by the Ministry. The Committee had also desired that they might be furnished yearly progress report regarding publication of the main Compilation as well as of Supplements at the end of each year [Paragraphs 72-74, Tenth Report (Fifth Lok Sabha)]

131. The Committee also stressed in paragraph 71 *ibid* that the Ministry of Law might restore the original staff strength so that the work did not suffer for want of technical strength who are competent to do it.

132. On 12 January, 1976, the Committee's Eighteenth Report (Fifth Lok Sabha) was presented to the House. In paragraphs 139-140 of this report the Committee reiterated their earlier recommendation in paragraph 73 of the Tenth Report (Fifth Lok Sabha) that simultaneous action should be taken to bring out all the necessary Supplements to the earlier volumes of the main Compilation. These observations were made after knowing the progress report for 1973-74. Uptil end of 1974 only Twentyone Volumes had been published. During 1975 not single volume was brought out. Only part of the work for Volumes XXII-XXIV was done. The Committee were concerned at this slow progress and urged the Ministry again to make all out efforts to complete the work by the target date of 1977 and reiterate the necessity for simultaneous issue of Supplements [Paragraphs 103-104, Twentieth Report (Fifth Lok Sabha) presented on 3 November, 1976].

133. The Committee perused the progress report of the Ministry uptil 3 January, 1978 next and also heard the oral evidence of the representatives of the Ministry on 28 January, 1978. In paragraphs 26 to 27 of their Sixth Report (Sixth Lok Sabha) the Committee observed that during 1975-76 not a single complete volume was brought. In September, 1977 Volume 22 was printed,

leaving a balance of 8 volumes to be published and thus observed : "more than 17 years after the first volume was published in July, 1960 over one-fourth of the work still remains to be done."

134. As regards Supplements, the Committee noted that the Ministry had issued 4 Supplements from August, 1968 to October, 1971. Thereafter "the work of issuing Supplement was discontinued. Today no person referring to the Compilation can say with certainty whether a particular rule or set of rules contained therein is still in force, whether in original or amended form*."

135. After considering the request of the Ministry of Law for extension of time for completion of the main Compilation upto the end of 1980 the Committee desired that the Ministry should make earnest efforts to complete the main Compilation well ahead of the new target date suggested by them. They also desired the Ministry to go ahead without any further loss of time with the issue of the revised editions of the volumes already published. The Committee also did not insist on the publication of Supplements.

136. The Committee also drew attention to the recommendation in para 71 of their Tenth Report (Fifth Lok Sabha) for restoration of original staff strength in order to counter the Ministry's argument that there was paucity of staff. As regards difficulty in getting the material from the agencies issuing the rules the Committee suggested that as in the United States, where there was a Federal Registry, the Ministry, of Law might examine whether some similar system cannot be introduced here. Meanwhile the Committee suggested that Administrative Ministries should be asked to expeditiously supply the material. The Committee also recommended the feasibility of amending section 24 of the General Clauses Act so that Rules under the Repealed Act were not allowed to continue for more than a certain period after the commencement of the new Acts. The Committee also impressed upon the Ministry of Works and Housing to issue instructions to the Government Press to accord priority to the printing of the Compilation. The Committee further desire that Government should publish monthly or quarterly compilation of Rules issued during the preceding 6 months, issue an index to the Rules and in case of amending rules published in Gazette reference by means of foot-note should be given to the earlier relevant Rules. [Paras 20 to 27, Sixth Report (Sixth Lok Sabha).

137. On 26th March, 1980 i. e. 2 years after the presentation of the Sixth Report the Ministry of Law, Legislative Department furnished their progress Report as follows :—

- (i) G. S. R. O. Volumes 27 and 28 had since been released for sale. Volumes 16 and 19 were likely to be released by the end of March,

* Paragraph 20-27 6 R (Sixth Lok Sabha)

1980. Page proofs of G. S. R. O. volume XXX had been returned to the Press for final printing. Revision of Volumes I to III is in process.

- (ii) Proposals to augment staff strength were under consideration.
- (iii) The Ministry were not agreeable to create a Federal Registry as in the USA as it requires special legislation creation of fullfledged department and special cells and it might not be cost effective in the Indian context. Administrative Ministries which had been addressed suitably in the matter as regards this were in favour of the Ministry's proposal.
- (iv) As regards replacement of the Subordinate Legislation Survived by virtue of General Clauses Act, 1897 by fresh legislation, this had been communicated to the Ministries. The Ministry of Railways were against such amendments due to practical difficulties in notifying re-notifying Rules within the stipulated time.
- (v) The efforts were being made to implement the recommendation regarding monthly/quarterly compilation of Rules and Ministries/Departments had been addressed to publication of index and for giving footnotes to Rules including amending Rules. The latter has been inspected generally by Ministries/Departments.

138. At their sitting held on 5 January, 1981 the Committee after considering the above reply of Ministry of Law, Justice and Company Affairs decided to hear the oral evidence of the representatives of the Ministry of Railways and of law regarding amendment of Section 24 of General Clauses Act, 1897. On 24 January, 1981 the Committee took the evidence.

139. The Secretary, Ministry of Law asked for some more time *i. e.* for two years more before they came up with amendment although agreed that some time limit should be fixed for keeping operative Rules/Regulations framed under repealed and re-enacted Act. He also stated that the Law to amend Section 24 of the General Clauses Act might be brought forward after a year or so. He suggested that for a period of 5 years the rules/Regulations framed under repealed and re-enactment Act could survive. Later it could progressively be reduced to 3 years and to one year subsequently.

140. The Law Secretary also stated that the printing and publication of compilations of G. S. R.Os had been completed between the target date and all the 30 volumes had been published. During 1978-80 they had published volumes 23 to 30. The first 22 volumes had been published between 1960 to 1978.

141. The representative of the Ministry of Railways stated that they had been publishing the Rules in the Gazette but had not compiled them in a form of single manual. When the Committee desired them to do so they stated that they had identified 2 or 3 years in which a Compilation could be undertaken. The Committee observed that as desired by them the work should be completed by the end of 1981 and the entire work completed at the earliest.

142. In their Sixth Report (7th Lok Sabha) presented to the House on 21 April, 1981, the Committee observed as follows :—

- (i) Even though the Compilation of the 30 Volumes of the G. S. R. O. had been brought out for sale (the bulk of the work has already become out of date) and same is the case with the 4 Supplements issued between August 1968 to October, 1971. The Committee therefore, urged upon the Ministry to accelerate the pace of work regarding publication of the revised editions of the Compilation because without the latest revised editions the whole lot of compilation is nothing but an obsolete document.
- (ii) The Committee did not insist upon the introduction of a Federal Registry.
- (iii) The Committee also noted that the Ministry of Works and Housing had issued necessary instructions to the Government of India Press to accord priority to the work relating to printing of G. S. R. Os and felt that there should be adequate arrangements for printing of the revised editions as and when brought out.
- (iv) The Committee agreed with the suggestion of the Ministry of Law for bringing out Compilations of Rules including the amending Rules on an Annual basis instead of monthly or quarterly basis.
- (v) Unhappy to note that the recommendation regarding giving foot-notes to the amending Rules giving the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desired the Ministry to ensure that the practice was followed by all Ministries/Departments in letter and spirit.

143. The Committee agreed with the Ministry of Law that necessary legislation to amend Section 24 of the General Clauses Act might be brought forward within a year and period of operation of the Rules, orders should be fixed at 5 years initially then reduce to 3 years then to 11 year progressively. The concerned Ministries should invite fresh Rules during the period so fixed.

The Ministry of Law to whom this Report was forwarded on 22 April, 1981 intimated in their O. M. dated 12 September, 1981 that they had circulated to all Ministries the recommendations *vide* their O. M. dated 7 September, 1981 for implementing the said recommendations.

144. In their latest O. M. dated 9 April, 1983, the Ministry of Law have furnished a note giving the latest factual position in regard to the various matters. Information contained therein is summarised below :—

- (i) The various steps taken to accelerate the pace of preparation and publication of the revised edition of GSROs show that action has been taken for ensuring further progress in respect of publication of G. S. R. Os as part II companion Volume of Central Acts (Part-I).

The manuscripts have been sent to the Administrative Ministries for final printing, namely : the Ministries of Irrigation [(Brahmaputra Board Act (46 of 1980) Labour and Rehabilitation) (in respect of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979) and Maternity Benefit Act, 1961 (53 of 1961), and Department of Environment in respect of the Water (prevention and Control of Pollution) Cess Act, 1977 (36 of 1977)]. In respect of 14 Acts, Mss are in various stages of final printing in consultation with the administrative Ministries concerned. Mss. of GSROs of 5 Acts are under preparation while work in regard to 14 GSROs is to be commenced shortly.

- (ii) While thus indicating the number of volumes under finalisation the Ministries/Departments also stated that they have started receiving statutory notifications from the administrative Ministries/Departments of the Government of India to facilitate codification, indexing and retrieval of documents at short notice.
- (iii) Ministries/Departments have been requested to nominate one of their officers to serve as focal point for this purpose. Taken additional staff the Special Unit has lately been sanctioned by the Cabinet and (Section Officer I, Documentation Assistant—1) and action is being taken, to fill up the posts. Additional office accommodation has also been pursued with the Ministry of Works and Housing.
- (iv) As regards the progress made in regard to amendment to Section 24 of the General Clauses Act, 1897, the Ministry stated that views of most of the Ministries/Departments have been received and were being processed for submission for approval of the Cabinet thereafter.

145. The Committee note with concern that the Ministry of Law had taken 22 years, from 1958 to 1980, to complete the 30 volumes of the General Statutory Rules and Orders compilation, thus causing continued inconvenience to the general public who are so much in need of knowing the statutory rules. The Committee apprehend that in the process several volumes might have been outdated because they are not aware of any volumes being brought out.

146. From time to time, the Committee had taken into consideration the difficulties and arguments put forth by the Ministry of Law and granted them extension of time. But inspite of this Government have taken unduly long time to bring out those volumes. The principal excuse for the delay are stated to be the inadequacy of staff and the developing of responsibility for printing out such volumes on Administrative Ministries. As far back as 3 April, 1974, the Committee had recommended for the restoration of original staff strength in order that the Ministry should implement the recommendations in right earnest but the Ministry did not take this recommendation seriously and years later came out with the plea of paucity of staff. Even today while token additional staff has been sanctioned and action is being taken to fill up the posts, provision of additional office accommodation is still being pursued with the Ministry of Works and Housing.

147. Even when the Committee had agreed with the Government (taking into consideration their difficulties) that the Rules might not be published quarterly, but only annually and that there need not be Federal Registry had taken the Committee's other recommendations in a very leisurely manner. Instead of taking conclusive action on the recommendations they had merely circulated the recommendations to various Ministries/Departments. It is only after 8 April, 1982 that the revision of GSROs Volume I had been taken up. At this rate the Committee apprehend that the progress of revision of the GSROs, compilations of which in 30 volumes took over 22 years will also take a long time, the revision which might not be effectively up-to-date for benefit of public.

148. The Committee, therefore, reiterate their earlier recommendation made in paragraph 83 of their Sixth Report (Seventh Lok Sabha) to accelerate the pace of work regarding publication of the revised editions of the Compilations because without the latest revised editions, the whole lot of Compilations is nothing but an obsolete document.

149. In this connection the Committee also observe that the Ministry of Home Affairs had sought the concurrence of the Committee for postponement of the compilation till the Arms (Amendment) Bill, 1981 introduced in Parliament on 24 August, 1981 was passed so that the whole work of compilation might be brought up-to-date and whatever Rules are unnecessary might be comitted and the compilation is effective. The Arms (Amendment) Bill was passed by Parliament on 10 August, 1983. The Committee therefore, urge upon the Ministry of Home Affairs to update the Compilation of Armed Forces Rules at an early date.

150. The Committee are also unhappy about the progress made in regard to amendment of Section 24 of the General Clauses Act, 1897 so that Rules made under the Repealed Act were not allowed to continue for more than a certain period after the commencement of the new Acts. The Committee therefore,

reiterate their earlier recommendation made in paragraph 88 of their aforesaid Report and urge upon the Ministry of Law that necessary legislation to amend Section 24 of the General Clauses Act might be brought forward as expeditiously as possible.

XIII

Action Taken by Government on the Recommendations made by, and Assurances given to, the Committee on Subordinate Legislation.

151. The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix-IV

NEW DELHI ;

December 15, 1983.

Agrahayana 24, 1905 (Saka)

R. S. SPARROW,
Chairman,
Committee on Subordinate
Legislation.

APPENDICES

APPENDIX I

(Vide PARAGRAPH 5 OF THE REPORT)

Summary of main Recommendations/Observations made by the Committee

S. No.	Paragraph No.	Summary
1	2	3
1.	7	The Committee note that the Ministry of Commerce have conceded that payment of travelling and other allowances to members of the Tobacco Board, including an associated member or co-opted member of the said Board or any Committee, should have been regulated under Regulations to be framed under Section 33 (2) (c) of the Tobacco Board Act, 1955 and not under Rules framed under Sections 4 (8) and 7 (2). The Committee, therefore, desire the Ministry to amend the Rules/and frame necessary Regulations in that regard at an early date under intimation to the Committee.
2.	11	The Committee are happy to note that the Ministry of Shipping and Transport propose to amend Rule 10 (2) to provide for a Trade Test for the Tindals the Committee would like the Ministry to amend the rules at an early date.
3. (i)	14	The Committee are not convinced with the reply of the Ministry of Shipping and Transport so far as Rule 19 regarding adequate safeguards against any arbitrary exercise of powers by the Deputy Conservator is concerned.
3. (ii)	15	The Committee have repeatedly expressed their opinion stressing the need for spelling out the provisions of any statute or any order precisely and as far as possible, use of vague expressions, which may be inter-

1**2****3**

preted differently by different persons is avoided. The Committee, therefore, would like the Ministry to elaborate the expression 'reasonable excuse' to make it more precise.

4**23**

The Committee feel that the Rules should have been made self-contained and legislation by reference should have been avoided as far as possible. If the Rules tend to become bulky the details could be laid down by way of annexure or in regulations and in case any changes are called for, an amendment of the Rules might be issued as was recommended by the Committee as per para 33 of Seventh Report of Seventh Lok Sabha presented on 8 September, 1981. The Committee, therefore, desire the Ministry to take steps to ensure that the Rules are made self-contained.

5 (i)**31**

The Committee gather from the evidence taken that since the inception of the Central Health Scheme in 1963, there has been no clear cut policy on the part of the Government for recruitment of CGHS doctors for difficult areas. The Committee observe that, where Government found it convenient they recruited doctors by written examination as recommended by Third Pay Commission followed by an interview or by only interviews. whenever there was an urgent demand from any far-flung States. On each occasion they had to consult UPSC before formal recruitment was made. The Committee feel that the intention of the Ministry of Health to resort to 'interviews only' for recruitment to difficult areas should be spelled out in the rules so that there is no ambiguity in the the minds of the applicants.

5 (ii)**32**

The Committee also observe that, unlike the Armed Forces where there is an Apex Committee for considering the applications for re-transfer of doctors on medical grounds, there is no such compassionate committee in the case of Central Health Scheme even though the posts were divided into four categories viz. A, B, C and D with special allowance and an extra-allowance and

1

2

3

some leave travel concessions in 'C' and 'D' areas such as Andaman and Nicobar Islands. The Committee note that this is not adequate to attract the number of doctors for which there is demand in the far-flung and difficult areas. From the figures furnished by the Ministry, the Committee note that, as against the number of candidates recommended by the UPSC since 1980 to 1982 there has been a decline in the number of candidates who actually joined. For example, in 1980 as against 593 recommended only 232 joined and in 1982 as against 300 recommended only 60 joined.

5 (iii)

33

The Committee feel that all this is due to lack of adequate incentives and the recruitment policies aimed only at tiding over present difficulties and not on long term basis. The Committee would therefore, like the Ministry of Health and Family Welfare to provide for easy and attractive recruitment conditions, prompt transfer of staff on compassionate grounds, provisions of adequate incentives to attract doctors to far-flung and difficult areas as well as leave travel concession in order to attract and retain doctors in far-flung and difficult areas for longer spells.

6

38

The Committee note from the reply of the Ministry of Rural Development that 30 days' time was given to the public for sending their comments on the draft rules published under Delhi Administration's Notification No. 7 (64)/P/12575-890 dated 3 September, 1976 but the full particulars *viz.*, the date of the Gazette in which the draft rules were published, the last date fixed for receipt of public comments thereon and the date on which the Gazette copies containing the draft rules were made available to the public, were not specifically mentioned in the preamble to the final rules. The Committee he lapse on the part of the administrative Ministry in this regard.

7

41

The Committee note from the reply of the Ministry of Rural Reconstruction (now Ministry of Rural Development) that no guidelines have been issued by the

1

2

3

Delhi Administration in regard to determining the annual reasonable rent under the Delhi Panchayat Raj (Amendment) Rules, 1976. The Committee, however, observe that certain guidelines prescribed by the Ministry of Rural Reconstruction (now Ministry of Rural Development) under Secs. 74-75 of Delhi Land Reforms (Amendment) Orders, 1961 and these are kept in view while making allotments of immovable properties vested in the Gaon Panchayat by the Delhi Administration. The Committee would like that these guidelines should have statutory basis and thus should be incorporated in the Delhi Panchayat Raj Rules, 1954 to make them self-contained.

8

44

The Committee note that the Ministry of Rural Development had failed to attach the relevant extracts of the original Delhi Panchayat Raj Rules, 1954 while laying the amendment rules on the Table of the House. The Committee trust that in future Ministry will not allow any such lapse to recur.

9. (i)

48

The Committee however regret to note that inspite of clear instructions issued by the Department of Personnel and Administrative Reforms on 22.5.1979 regarding drafting of recruitments Rules the Ministries/Departments in the cases cited at Appendix other than the Ministry of Education and Culture had not followed the instructions about incorporating of a 'Saving clause' until the Committee had to point out to them again the need therefore. The Committee fail to understand why, inspite of their reiteration of their recommendations in their 10th Report (Seventh Lok Sabha) and the directives of the Department of Personnel and Administrative Reforms, these Ministries have omitted to provide the 'Saving Clause'. Obviously, there has been some laxity in vetting the Rules on the part of Ministry of Law. The Committee would like that Ministry to be more careful in future and to ensure uniformity in all such cases.

9 (ii)

49

The Committee would like the Ministries of Industries (Deptt. of Industrial Development) Mines, Tourism and Civil Aviation and Health and Family Welfare who have

1

2

3

agreed to provide 'Saving Clause' to take early steps for amendment of the Rules and to promulgate them in the Gazette as well as lay them on the Table of the House.

- 10 (i) 60 The Committee note that there was a time-lag of 3 months between the Publication of a Gazette and supply of its copies to the Secretariat of the Committee in connection with the examination of Orders.
- 10 (ii) 61 After the evidence taken by them on 25 June, 1983, there has been appreciable improvement in regard to the supply of copies of the Gazettes. The time lag between the publication of the Gazette and supply of copies thereof has been reduced from 3 months to 15 days to 1½ months. The Ministry is now sending copies of Gazettes through the Kitab Mahal and not through the Controller of Publications as was the practice earlier.
- 10 (iii) 62 The Committee hope that the Ministry of Works and Housing would keep up to the assurance given to them to minimise the time-lag between the publication of Gazettes and supply of copies thereof to the Lok Sabha Secretariat. The Committee hope that the Ministry would make further efforts to reduce the time-lag between publication of the Gazettes and supply of copies thereof to a period not exceeding 15 days.
- 11 (i) 67 The Committee are constrained to observe that instances of inordinate, delays ranging from 14 to 27 months continue to occur in the matter of final publication of the rules and amendments thereto inspite of their explicit recommendation in this regard made in 1975. An analysis of the reasons attributed for delays, as revealed from the explanations furnished by the Ministries concerned, indicates that the following factors mainly account for the delay :
- (i) time taken in finalisation of the objections/suggestions received,
 - (ii) time taken in inter-departmental consultations, and

1

2

3

(ii) time taken in getting Hindi translation of the final rules from the Official Language Commission.

These difficulties are not of a serious nature and could have been overcome, if a sincere effort had been made to follow the Committee recommendation in letter and spirit.

- 11 (ii) 68 The Committee feel that in cases where large number of objections/suggestions are received from public, some delay in finalising those rules is inherent, but in cases where no objections/suggestions are received, the delay in their final publication cannot be overlooked. The Committee would like to emphasise the imperative need to reduce the time-lag between the publication of draft rules and their final notification in the Gazette. The Committee feel that where a large number of objections/suggestions are received the gap should not be more than six months. Where the objections/suggestions received are few efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. However, where no objections/suggestions are forthcoming on the draft rules, the final rules should be notified within a period of three months. The Committee urge upon the Department of Parliamentary Affairs to impress upon all Ministries/Departments to streamline their procedures to cut short the delays in the notification of the final rules to the minimum.
- 12 (i) 73 The Committee note that retrospective effect has been given to the All India Institute of Medical Science (Amendment) Regulations, 1981 without due authority conferred by the All India Institute of Medical Sciences Act, 1956. The explanation offered by the Ministry is not acceptable to the Committee.
- 12 (ii) 74 The Committee would like the Ministry of Health and Family Welfare to take necessary steps to ensure in future that Rules should either be made effective from the dates of their notifications in the gazettes, or, in the alternative, the relevant Acts should be amended to empower the concerned Ministries to give retrospective effect. In this connection the Committee would like to draw the atten-

tion of the Ministry of Health and Family Welfare to the recommendation made in their Seventh Report (Fourth Lok Sabha) *vide* para 40 thereof :

“Normally all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if, any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given, either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules.

- 13 (i) 78 The Committee note that, in the cases at S. Nos. (1) The Civilians in Defence Services (Revised Pay) Amendment Rules, 1978 (S. R. O. 217 of 1978) (3) The Lower Division Clerk (Import and Export & Trade Control Organisation) Recruitment (Amendment) Rules, 1978 (G.S.R. 1360 of 1978) and (4) The Fundamental (Amendment) Rules, 1979 (G. S. R. 621 of 1979), though necessary explanatory Memorandum has been appended, after the matter was pursued with the Ministries concerned by the Committee but in the case of S. No. *viz.* (5) The Research Designs and Standard Organisation (Non-Gazetted Ministerial Posts) Recruitment (Amendment) Rules, 1979 (G. S. R. 358 of 1981), the necessary action has yet to be taken.

In this connection the Committee would like to draw the attention of Government to the Circular issued by the Department of Parliamentary Affairs *vide* their O. M. No. F. 32 (3) L. S. IV (29-32)/70-R & C dated 13.4.1970 to all Ministries/Departments directing them to implement the recommendations of the Committee so far as retrospective effects given to Rules are concerned.

1	2	3
13 (ii)	79	The Committee would also like the Department of Personnel and Administrative Reforms who had circulated the guidelines to be followed by Ministries in the matter of framing of Recruitment Rules which also contained instructions about retrospective effect to once upon impress upon all the Ministries/Departments for avoiding provision for retorspective effect to the Rules/Regulations unless the parent law itself specifically provide for it.
13 (iii)	80	It is unfortunate that in case mentioned at Sl. Nos. 1 and 4 the Ministry of Law had failed to point out the need for clarification to the effect that interest of no one could be adversely affected by giving retrospective effect to the Rules. The Committee need hardly impress upon the Ministry of Law, Justice and Company Affairs who are primarily concerned with the vetting of Rules that they should ensure appending of an explanatory memorandum in all cases where retrospective effect has been given to the Rules and Regulations.
14	85	The Committee note with satisfaction that on being pointed out by them, the Ministry of Food and Civil Supplies have amended the second proviso to clause 4 of the Sugarcane (Control) Order, 1966, (<i>Vide</i> G. S. R. 427—E of 1981) by indicating therein the circumstances and conditions under which rebate in the sugarcane price to be allowed, would be as specified in Clause 4A of the Order.
15	89	The Committee note with satisfaction that on being pointed out by them, the Ministry of Food and Civil Supplies have amended Part (iv) of the proviso to Clause 4A of the Sugarcane (Control) Order, 1966 (<i>Vide</i> G. S. R. 427—E of 1981, to the desired effect which reads as follows :
		“(iv) The Central Government or the State Government or the Director of Agriculture or the Cane Commissioner or the District Magistrate, may allow a suitable rebate in the minimum price as the case may be when cane is supplied ex-field to Khandsari units within their respective jurisdictions subject to the condition that the rebate so allowed shall

1	2	3
---	---	---

not exceed the estimated expenditure on harvesting.”

- 16 91 The Indian Railways Act, 1890 does not provide for laying of Rules framed under Sections 47 and 71 E *ibid* before Parliament. The Committee note that on being pointed out by them the Indian Railways Act, 1890 (Clause 225) dealing with Rules to be laid before Parliament is proposed to be suitably amended to incorporate the laying of Rules formula by the Committee. In paragraph 333 of 18th Report as already laid down (7 LS) the Committee had noted that Government was going to introduce a comprehensive Bill to revise the Indian Railways Act, 1890 which would include the above model clause. The Committee would urge the Ministry of Railways (Railway Board) to introduce the aforesaid Bill at a very early date, in order to fulfill the assurance given to the Committee.
- 17 95 The Committee note with satisfaction that on being pointed out by them, the Ministry of Finance have amended preamble to the Research Assistant (Work Study) Recruitment Rules, 1980 (*Vide* G. S. R. 104 of 1981) by indicating therein that these rules are in supersession of earlier Rules of 1975.
- 18 98 The Committee note with satisfaction that on being pointed out by them, the Ministry of Civil Supplies (Directorate of Vanaspati, Vegetable Oils and Fats) have amended Column 13 of the said Rules (*Vide* G. S. R. 31 of 1981) to the desired effect.
- 19 101 The Committee note with satisfaction that on being pointed out by them, the Ministry of Health and Family Welfare (Department of Health) have amended Rule 5 of the said Rules (*vide* corrigendum No. A—12018/1/79—CCD dated 13th November, 1980) to provide for consultation with the Union Public Service Commission for the purpose of relaxing the Rules.
- 20 105 The Committee note with satisfaction that on being pointed out by them, the Ministry of Civil Supplies have amended the preamble to the said Rules (*vide* G. S. R.
-

1	2	3
		644 of 1981) to indicate therein the nomenclature of the post to which the said Rules pertained.
21	109	The Committee note with satisfaction that on being pointed out by them, the Ministry of Information and Broadcasting have amended the said Rules (<i>vide</i> G. S. R. 458 of 1982) to specify therein the precise limit for age relaxation in the case of Government servants.
22	113	The Committee note with satisfaction that on being pointed out by them, the Ministry of Health and Family Welfare, have amended the said Rules (<i>vide</i> G. S. R. 1270 of 1980) to provide for consultation with the Union Public Service Commission not only on each occasion of selection to the post but also while amending/relaxing any of the provisions of the rules.
23	116	The Committee note with satisfaction that the Ministry of Industry (Department of Industrial Development) propose to amend the said regulations on the lines of rule 23 of the CCS (CC & A) Rules, 1965 to provide for appeal by an employee of the Khadi and Village Industries Commission against reduction in his subsistence allowance. The Committee would like the Ministry to do so very early. The Committee also note that there is a provision in regulation 24 of KVIC (CDA) Regulations providing for reasons to be recorded in writing wherever reduction of subsistence allowance is made.
24	119	The Committee note with satisfaction that on being pointed out by them, the Ministry of Steel and Mines (Department of Mines) have amended entry under Column 13 of the Schedule appended to the said Rules (<i>vide</i> G. S.R. 556 of 1981) to provide for consultation with the Union Public Service Commission.
25	123	The Committee note with satisfaction that on being pointed out by them, the Ministry of Labour have amended rule 6 of the said Rules to provide for consultation with the Union Public Service Commission before relaxing any provision of the Rules (<i>vide</i> Notification No. A—12018/1/75—C. L. T. dated 8 April, 1983).

1	2	3
26	126	The Committee note with satisfaction that on being pointed out by them, the Ministry of Labour have amended entry in Column 13 of the Schedule appended to the said Rules to provide that selection on each occasion shall be made in consultation with the Union Public Service Commission (<i>vide</i> Notification No. A-12018/1/75-C.L.T. dated 8 April, 1983).
27	129	The Committee note with satisfaction that on being pointed out by them, the Ministry of Health and Family Welfare have issued necessary corrigenda (<i>vide</i> G.S.R. 710 of 1980) as to add the explanatory memorandum stating that no body's interest would be adversely affected as a result of retrospective effect given to the Rules.
28 (i)	145	The Committee note with concern that the Ministry of Law had taken 22 years, from 1958 to 1980, to complete the 30 volumes of the General Statutory Rules and Orders compilation, thus causing continued inconvenience to the general public who are so much in need of knowing the statutory rules. The Committee apprehend that in the process several volumes might have been outdated because they are not aware of any volumes being brought out.
28 (ii)	146	From time to time, the Committee had taken into consideration the difficulties and arguments put forth by the Ministry of Law and granted then extension of time. But inspite of this Government have taken unduly long time to bring out those volumes. The principal excuse for the delay are stated to be the inadequacy of staff and the developing of responsibility for printing out such volumes on Administrative Ministries. As far back as 3 April, 1974, the Committee had recommended for the restoration of orginal staff strength in order that the Ministry should implement the recommendations in right earnest but the Ministry did not take this recommendation seriously and years later came out with the plea of paucity of staff. Even today while token additional staff has been

1	2	3
		sanctioned and action is being taken to fill up the posts, provision of additional office accommodation is still being pursued with the Ministry of Works and Housing.
28 (iii)	147	<p>Even when the Committee had agreed with the Government (taking into consideration their difficulties) that the Rules might not be published quarterly, but only annually and that there need not be Federal Registry, the Ministry had taken the Committee's other recommendations in a very leisurely manner. Instead of taking conclusive action on the recommendations they had merely circulated the recommendation to various Ministries/Departments.</p> <p>It is only after 8 April, 1982 that the reirson of GSROs volume I had been taken up. At this rate the Committee apprehend that the progress of revision of the GSROs, compilation of which in 30 volumes took over 22 years will also take a long time, the revision which might not be effectively up-to-date for benefit of public.</p>
28 (iv)	148	The Committee, therefor, reiterate their earlier recommendation made in paragraph 83 of their Sixth Report (Seventh Lok Sabha) to accelerate the pace of work regarding publication of the revised editions of the Compilations because without the latest revised editions, the whole lot of Compilations is nothing but an obsolete document.
28 (v)	149	In this connection the Committee also serve that the Ministry of Home Affairs had sought the concurrence of the Committee for postponement of the compilation till the Arms (Amendment) Bill, 1981 introduced in Parliament on 24 August, 1981 was passed so that the whole work of compilation/might be brought up-to-date and whatever Rules are unnecessary might be omitted and the compilation is effective. The Arms (Amendment) Bill was passed by Parliament on 10 August, 1983. The Committee therefore, urge upon the Ministry of Home Affairs to update the Compilation of Armed Forces Rules at an early date.
28 (vi)	150	The Committee are also unhappy about the progress made in regard to amendment of Section 24 of the Gene-

1

2

3

ral Clauses Act, 1897 so that Rules made under the Repealed Act were not allowed to continue for more than a certain period after the commencement of the new Acts. The Committee therefore, reiterate their earlier recommendation made in paragraph 88 of their aforesaid Report and urge upon the Ministry of Law that necessary legislation to amend Section 24 of the General Clauses Act might be brought forward as expeditiously as possible.

APPENDIX II

(Vide Paragraph 47 of the Report)

List of Recruitment Rules Examined by the Committee on Subordinate Legislation.

<i>S. No.</i>	<i>Name of the Rule</i>	<i>Ministry/Department</i>	<i>Gist of the reply</i>
1.	The Department of Commerce, Senior Analysts (Work Study) and Junior Analyst (Work Study) Recruitment Rules, 1980. (GSR 1807 of 1980).	Commerce	These have since been amended Vide G.S.R. 1117 dated 19.12.81
2.	The Ministry of Industry (Department of Industrial Development) Senior Analyst (Work Study) Recruitment Rules, 1980. (GSR 424 of 1981).	Industrial Development	Action to amend the Rules is being initiated separately. (O.M. No. A-12018/1/80-EI dated 13 July, 1982).
3.	The Ministry of Information and Broadcasting Senior Analyst (Works Study) Junior Analyst (Works Study) and Research Assistant (Works Study) Recruitment Rules, 1980 (GSR 774 of 1981).	Information & Broadcasting.	Notification No. 2/3/82-Admn. II dated 26 June, 1982 has since been published vide G.S.R. 798 dated 18.9.1982.
4.	The Central Water Commission Senior Analyst (Work Study), Junior Analyst (Work Study) and Research Assistant (Work Study) Recruitment Rules, 1981. (G.S.R. 561 of 1981).	Irrigation	Notification No. 4/82/F-39/1/78-Admn. I/Estt. dated May, 1982, has since been published vide G.S.R. 587 dated 3.7.1982.

5. The Ministry of Steel and Mines (Department of Mines) Research Assistant (Work Study) Recruitment Rules, 1981 (G.S.R. 821 of 1981).

Mines

Necessary amendment in the Rules is being issued separately. [O.M. No. 28 (4)/80-Estt. dated 2 January, 1982].

6. The Ministry of Civil Supplies Research Assistant (Work Study) Recruitment Rules, 1980 (GSR 1110 of 1980).

Civil Supplies

Notification No. A-12011/39/80-Estt. I dated 26 February, 1983 has since been issued.

7. The Ministry of Tourism & Civil Aviation Junior Analyst (Works Study) and Research Assistant (Work Study) Recruitment Rules, 1980. (GSR 1117 of 1980).

Tourism & Civil Aviation

It has been decided to insert the 'Saving' clause in the Rules [D.O. No. A-12018/2/77-Admn. (pt) dated 5 November, 1982].

8. The Rural Health Training Centre Najafgarh (Group 'C' and 'D' Posts) Amendment Rules, 1978. (GSR 201 of 1979).

Health and Family Welfare

Necessary amendment to this effect will be issued shortly after it is vetted by Ministry of Law. [D.O. A-12034/9/82-Admn. II/PH (CDL) RHS dated 4 April, 1983].

APPENDIX III

(Vide Paragraph 77 of the Report)

List of Orders framed under proviso to Article 309 of the Constitution and to Whom retrospective effect had been given by the Ministry without indicating that interest of no body would be affected by the retrospective operation of the Rules.

S.No.	Details of Orders	Ministries/Department	Gist of Ministry's Reply
1	2	3	4
1.	The Civilians in Defence Services (Revised Pay) Amendment Rules, 1978 (S.R.O. 217 of 1978).	Defence	The revised pay-scale of Security Assistant (B), had to be given effect from the retrospective date viz. 1.1.73 as was done in the case of other employees on the basis of the recommendations of the Third Pay Commission. As none was likely to be adversely affected by these amending rules, incorporation of a clause to the affect that "no one would be adversely affected by giving retrospective effect" in the notification in question was not considered necessary.

1	2	3	4
2.	The Central Civil Services (Classification, Control and Appeal) Second Amendment Rules, 1978 (S.O. 2464 of 1978).	Home Affairs (Deptt. of Personnel & A.R.).	The action to issue the Explanatory Memorandum will be completed as soon as the draft of the Explanatory Memorandum is furnished by the Ministry of Defence. In their reply dated 24 May, 1983 the Deptt. of personnel and A.R. intimated that the requisite Explanatory Memorandum has been published in the Gazette on 18 May, 1983. <i>Vide</i> Notification No. 11012/15/77-Estt (A) Commerce.
3.	The Lower Division Clerk (Import and Export & Trade Control Organisation) Recruitment (Amendment) Rules, 1978 (G.S.R. 1360 of 1978).	Commerce	The Recruitment Rules in question were notified in Gazette of India after these were approved by the Deptt. of Personnel and A.R. and the Ministry of Law who did not advise us at any stage on the need for appending an explanatory memorandum on the lines now advised by the Lok Sabha Sectt. However, the matter is being taken up with the Law Ministry once again and a decision arrived at will be intimated. In their reply dated 2 May, 1983 the Ministry intimated that

1

2

3

4

the requisite Explanatory Memorandum stating that no body's interest will be prejudicially affected by giving retrospective effect to the Rules had been published in the Gazette on 26 July, 1980. *Vide G.S.R. 774.*

4. The Fundamental (Amendment) Rules, 1979 (G.S.R. 621 of 1979). Home Affairs (Deptt. of Personnel & A.R.)

As regards giving retrospective effect to the amendment, attention is invited to para 5 of the explanatory Memorandum attached to the Notification. It has been made clear that the retrospective effect has been given only for the purpose of validating the disabilities already imposed under the executive instructions that were in force before the amendment came into effect and it was not the intention of the Government to impose any fresh disability by reopening the cases of the employees where no such orders were issued. The effect of this is that no body against whom action had not so far been taken would be affected at all by the

1	2	3	4
5.	<p>The Research, Designs and Standard Organisation (Non-Gazetted Ministerial Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 358 of 1981)</p>	<p>Railways (Railway Board)</p>	<p>issue of the amendment retrospectively. Thus the retrospective effect of the amendment does not in any way operate adversely in respect of any one whose case has not already been dealt with under the existing orders.</p> <p>“...prior to 1.11.78, the recruitment rules in respect of non-gazetted posts, as notified by the Railway Board in 1967, were applicable to R.D.S.O. Since the majority of the qualified candidates who come from and around Delhi, were reluctant to join posts in offices outside Delhi, a good number of vacancies used to remain unfilled in such offices. Therefore, on the advice of the Department of eq Personnel under their O.M. No. 8/48/71-CSII dt, 12.10.71 the RDSO was advised to make its own arrangements to fill the vacancies which were otherwise required to be filled by candidates sponsored by Union Public Service Commis-</p>

1.

2

3

4

sion. The situation obviously called for revision of the R & P Rules. In anticipation of finalisation of the Rules which were expected to be notified by the end of October, 1978, against a demand placed on them, the Staff Selection Commission nominated 23 candidates for appointment in RDSO on the basis of examination of 1977. The urgency of filling up of these vacancies, thus, warranted the Recruitment and Promotion Rules being introduced with effect from 1.11.78.

The RDSO administration are being advised to be very careful while framing Recruitment & Promotion Rules and to follow the prescribed norms and forms in this regard."

- (6) **The Canteen Stores Department Group 'A' and 'B' Posts Recruitment (Amendment) Rules, 1979 (S.R.O. 265 of 1979).** **Defence**

The Explanatory Memorandum has been published *vide* S.R.O. 57 dated 25 February, 1981.

APPENDIX IV

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

Sl. No.	Reference to para Nos. of Report	Summary of Recommendations Assurances	Gist of government's reply
(1)	(2)	(3)	(4)
	Thirteenth Report (Seventh Lok Sabha) 41-42	The Committee note from the reply of the Department of personnel and Administrative Reforms that it was with the intention of inculcating a sense of discipline and devotion to duty amongst the staff that direct recruitment of Peons was subjected to the condition that they would undergo training as Home Guards for a period of two to three years. The Committee further note with satisfaction that, on being pointed out, the Depart-	The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have already issued necessary instructions <i>vide</i> CSL 14017/2/82-Estt (RR) dated 6 December, 1982 requesting all the Ministries/Departments of the Government of India to ensure that the required modification in the recruitment Rules for the post of Peon is carried out.
			[Ministry of Home Affairs (Deptt.

ment have issued necessary instructions to the Commandants General Home Guards through the Home Secretaries of States/Union Territories that in cases where the period of training is reduced from three to two years, the reasons therefor must be recorded in writing by the Commandant General.

The Committee, however, observe (from the information furnished to them) that all the Ministries/Departments have not so far issued the requisite amendments to the respective Recruitment Rules wherein such training has been prescribed. The Committee, therefore, desire the Department of Personnel and Administrative Reforms to impress upon all Ministries/Departments to examine the respective Recruitment Rules and issue necessary amendments wherever necessary in order to have uniform provisions in various Recruitment Rules.

of Personnel and A.R.) O.M.
No. CSL. 14017/2/82-Estt. (R.R.)
dated 30 May, 1983].

(1)

(2)

Sixteenth Report
(Seventh Lok Sabha)
63-64

(3)

The Committee are unhappy to note that the Kandla Free Trade Zone Administration, Gandhidham, Administrative Officer, Recruitment Rules, 1978 were notified in the Gazette of India thrice *i.e.* on 29 April, 1978, 16 September, 1978 and 8 March, 1980. If the Explanatory Memorandum, which was sought to be appended to the rules, was left out at the time of first publication of the rules on 29 April, 1978, the best course for the Ministry of Commerce would have been to come out with a corrigendum to the necessary effect immediately. Instead, the Ministry moved the Government of India Press to re-publish the rules with Explanatory Memorandum. Unfortunately, the Explanatory Memorandum was again omitted when the notification was republished on 16 September, 1978. As a consequence, the rules had again been notified on 8 March, 1980 with the Explanatory Memorandum. Thus, one set of rules has been notified in the Official

(4)

The observations of the Committee have been noted by the Ministry of Commerce (Department of Commerce) *vide* their Office Memorandum No. 9/14/83-FTZ dated 15 September, 1983.

Gazette under three separate G.S.R. numbers leading to utter confusion. The Committee deplore this gross negligence on the part of the concerned authorities in the vital matter of publication of statutory rules in the Gazette.

The Committee also observe that the Ministry of Commerce move the Press authorities to rectify the error with regard to omission of the Explanatory Memorandum from being printed in the Gazette along with the recruitment rules only after it was so pointed out to them. The Committee cannot but re-stress that the Ministries/Departments concerned are not absolved of their responsibility after sending the rules etc. to the press for publication in the Official Gazette. It is also their duty to ensure that these are correctly printed in the Gazette and corrigendum issued wherever necessary without waiting for some one else to point out the mistakes therein.

(1)

(2)

**Seventeenth Report
(7th Lok Sabha)
72-73**

(3)

The Committee have come across a number of cases where the Ministries/Departments have taken unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 8, 11, 15, 18, 19, 20, 26, 28 and 34 of the Statement at Appendix III that the period of delay which occurred ranges between 2 and 8 years in implementing the recommendations made by the committee in various Reports during the Fifth and Sixth Lok Sabha.

The Committee cannot help in expressing their concern over the delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The Committee would like the Ministries/Departments to be more careful in future and should strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations and in sending timely intimation to them as and when the recommendations

(4)

The Ministry of Energy (Department of Coal) have since noted the recommendation of the Committee regarding implementation of their recommendations, for guidance.

[Ministry of Energy (Department of Coal) O. M. No. H-11012/2/83-CMW dated 13 April, 1983]

**Seventeenth Report
(7th Lok Sabha)
72-73**

made by the Committee are implemented.

The Committee have come across a number of cases where the Ministries/Departments have taken unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 8, 11, 15, 18, 19, 20, 26, 28 and 34 of the Statement at Appendix III that the period of delay occurred ranges between 2 and 8 years in implementing the recommendation made by the Committee in various Reports during the Fifth and Sixth Lok Sabha.

The Committee cannot help in expressing their concern over the delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The Committee would like the Ministries/Departments to be more careful in future and should strictly adhere to the time-limit fixed

The Ministry of Home Affairs have since noted the recommendation of the Committee regarding implementation of their recommendations for future guidance.

[Ministry of Home Affairs' Office Memorandum No. P-14017/6/83 Estt. (RR) dated 16 April, 1983]

by the Committee for implementation of their recommendations and in sending timely intimation to them as and when the recommendations made by the Committee are implemented.

**Seventeenth Report
(7th Lok Sabha)
72-73**

The Committee have come across a number of cases where the Ministries/Departments have taken unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 8, 11, 15, 18, 19, 20, 26, 28 and 34 of the Statement at Appendix III that the period of delay which occurred ranges between 2 and 8 years in implementing the recommendations made by the Committee in various Reports during the Fifth and Sixth Lok Sabha.

The Committee cannot help in expressing their concern over the delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The Committee would like

The Ministry of External Affairs have since noted the recommendation of the Committee regarding implementation of their recommendations in time for future compliance *vide* O. M. No. Q/125/30/Parl. 83 dated 4 April, 1983.

the Ministries/Departments to be more careful in future and should strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations and in sending timely intimation to them as and when the recommendations made by the Committee are implemented.

**Seventeenth Report
(Seventh Lok Sabha)
72-73**

The Committee have come across a number of cases where the Ministries/Departments have taken unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 8, 11, 15, 18, 19, 20, 26, 28, and 34 of the Statement at Appendix III that the period of delay which occurred ranges between 2 and 8 years in implementing the recommendations made by the Committee in various Reports during the Fifth and Sixth Lok Sabha.

The Ministry of Communications (P & T) Board have since brought to the notice of all Dy. Director Generals the recommendation of the Committee for strict compliance.

[Ministry of Communications's Office Memorandum No. 40-21/83-GA dated 5 May, 1983]

(1)

(2)

(3)

(4)

The Committee cannot help in expressing their concern over the delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The Committee would like the Ministries/Departments to be more careful in future and should strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations and in sending timely intimation to them as and when the recommendations made by the Committee are implemented.

**Eighteenth Report
(Seventh Lok Sabha)**

150

The Committee note that the Ministry of Agriculture have not yet amended the IARI (Allotment of Residences) Rules, 1977 as desired by them in paragraph 38 of their Eighth Report (Seventh Lok Sabha) which was presented on 18 September, 1981. Further it was only after the issue of reminders on 4 November, 1982 and 29 January, 1983 that the

The Indian Agricultural Research Institute have since incorporated the necessary amendment as sub-rule 6 under rule 22 of the IARI (Allotment of Residences) Rules, 1982 *vide* Amendment No. 2-2/82-H dated 28 June, 1983.

[Ministry of Agriculture &

Irrigation (Department of Agriculture Research and Education O.M. No. 3-1/69-EBIV dated 9 August, 1983.)

Ministry (Indian Council of Agricultural Research) furnished their reply in the matter vide their O.M. dated 18 February, 1983 and that too an interim one. The Committee would stress that instead of waiting for the reminders from the Committee, the Ministry should have acted *suo moto* in furnishing their reply. However, in view of the Ministry's reply dated 18 February, 1983, the Committee hope that the requisite amendment would now be issued with the least possible delay as desired by them.

In compliance with the recommendation made by the Committee in paragraph 74 of Twelfth Report (Fifth Lok Sabha) as reiterated in paragraphs 92 of Sixteenth Report (Fifth Lok Sabha) the Ministry have since separated the Rules relating to recruitment from those relating to conditions of

The Committee note that the recommendation made by them in paragraph 74 of their Twelfth Report (Fifth Lok Sabha) was reiterated in paragraphs 92 to 94 of their Sixteenth Report (Fifth Lok Sabha) presented to the House as far as back as on 9 May, 1975. The Committee in this connection, further note that the Committee had granted extension

**Eighteenth Report
(Seventh Lok Sabha)
191
9 May, 1983**

of time to the Ministry to implement their recommendations only upto the end of September, 1975. The Committee, however, observe that, as on 30.3.1983, the Ministry of Education are yet to issue the revised rules. Thus, in spite of the lapse of more than 7 years, the Ministry had been seeking extension of time off and on. The Committee further observe that, although the Ministry have accepted their recommendation, yet in actual practise the Ministry do not appear to be willing to implement them quickly. Therefore, the Committee in the normal course would have expected the Ministry to go into each stage of delay at the end of the Ministry as well as the University Grants Commission and fix responsibility for the lapse. However in view of the latest reply of the Ministry the Committee hope and trust there would be not further delay in notifying the requisite Rules.

service of U.G.C employee. The two sets of Rules, viz., (i) the UGC (Recruitment) Rules, 1983; and (ii) the UGC (Terms & Conditions) of Service of Employees) Rules, 1983 have since been published in the Gazette of India Extraordinary Part II Section 3 (i) dated 19 May, 1983 as GSR Nos, 433E and 434E.

[Ministry of Education & Culture Department of (Education) O. M. No. F. 18-4/83-Desk (by dated 16 June, 1983)]

**Eighteenth Report
(Seventh Lok Sabha)
239-241
9.5.1983**

The Committee note that in pursuance of their observation made in paragraph 99 of their Twenty-first Report (Sixth Lok Sabha) the Ministry of Agriculture (Department of Food) have since addressed a Circular letter dated 29 May, 1979 to all Sugar Producing State Governments/Union Territory Administrations on the subject as a result of which except the State Government of Madhya Pradesh all other State Governments/Union Territory Administrations concerned have furnished information to the Ministry in regard to the action taken by them.

The Committee, while expressing their satisfaction at the prompt action taken by the Ministry, desire that the matter might continue to be pursued with the State Government of Madhya Pradesh until the requisite information is received from them also.

The Ministry of Food and Civil Supplies (Department of Food) have stated that from the replies received from sugar producing State Governments/Union-Territory Administrations, it may be observed that most of the major sugar producing States have a provision for enquiry as envisaged in the Committee's recommendation. The other States, who have not felt so far the necessity of having a law to regulate the supply and purchase etc. of sugarcane, have promised to keep the recommendation in view whenever they introduce any legislation on the subject. Madhya Pradesh Government have already promised to incorporate a provision in the amendment to their Sugarcane Act.

[O.M. No. 15-5/78-SPY
(DII) dated 8 July, 1983]

The Committee observe that the essence of implementing their recommendations, however, lay in pursuing with the state Governments to make provisions in their laws for an inquiry into the circumstances leading to failure on the part of the growers to supply the agreed quantity of sugarcane. Since from Government's reply it is not clear to the Committee as to what replies have been received from the State Governments, etc the Committee observe that to that extent the reply of the Ministry can be called in interim one. The Committee, therefore, desire the Ministry to inform them of the precise position in respect of these States/Union territories within three months of the presentation of their Report in the matter.

MINUTES

LXXVI

MINUTES OF THE SEVENTY-SIXTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTH LOK SABHA) (1983-84)

The Committee met on Saturday, 25 June, 1983 from 11:00 to 12:40 hours.

PRESENT

Shri R. S. Sparrow—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri Amal Datta
5. Shri B.R. Nahata
6. Shri T. Damodar Reddy
7. Shri Satish Prasad Singh

WITNESSES

* * *
Representatives of the Ministry of Works and Housing

1. M. K. Mukharji, *Secretary.*
2. Shri M. Srinivasan, *Joint Secretary.*
3. Shri Krishan Pratap, *Director of Printing.*
4. Shri Amrik Singh, *Controller of Publications.*

SECRETARIAT

1. Shri H.G. Paranjpe—*Joint Secretary.*
2. Shri T.E. Jagannathan—*Senior Legislative Committee Officer.*

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

* * *

8. The Committee then heard the representatives of the Ministry of Works and Housing regarding the delay in supply of Gazette notifications meant for examination by the Committee on Subordinate Legislation.

9. During evidence, the witness stated that in May, 1982, certain instructions were issued as to the manner in which the different types of matters to be printed and places where these should be printed and how the issues of extraordinary gazette should be handled. The witness pointed out that a foremost difficulty had been that the covering letters containing the printing material for the press did not usually bear a date, which gave rise to complacency. The witness agreed that there was need for improvement both at printing and despatch stage and that he had given instructions to give priority to the Lok Sabha and Rajya Shaba Secretariats and the concerned Ministries. The witness admitted there had been slips that should not have happened.

10. The witness further explained that different parts of the gazette were got printed in different presses. The copies of the gazettes were despatched after collecting all the parts. To curb delays on that score, the witness suggested that if the Committee so wished, the gazette could be forwarded in parts as and when received without waiting for all parts to come as a complete whole.

11. When pointed out that a reappraisal of the whole scheme of work in the press was necessary, the witness agreed to make an in-depth review of each press and process as to how delay could be reduced. When told that the requirement of the Committee was limited to only gazettes which related to subordinate legislation, the witness reiterated that he had taken note of giving top priority to the requirements of the Lok Sabha and Rajya Sabha Committees.

12. When told that if the particular gazette, saw the light of the day ten to fifteen days after the actual date of its printing, it would mean giving retrospective effect to such subordinate legislation, the witness stated that whenever anything was to be printed overnight, they made use of extraordinary gazette, but in other cases notifications were printed in the subsequent issues of the Gazette.

13. To a question, the witness informed that gazette copies were supplied to the Kitab Mahal within one or two days. To a further question that when copies could be made available to Kitab Mahal within one or two days,

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

why could these not be made available to Lok Sabha also within the same time the witness stated that he already had a meeting for the purpose and was looking into it.

14. The witness further assured that a comprehensive note would be sent to the Committee after checking up all bottlenecks for not being able to adhere to the correct schedule of supply and that would also indicate the position in future in that regard.

(The witnesses then withdrew)

15. *The Committee then adjourned.*

LXXIX

**MINUTES OF THE SEVENTY-NINTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)
(1983-84)**

The Committee met on Wednesday, 10 August, 1983 from 15.30 to 16.30 hours.

PRESENT

Shri R. S. Sparrow—Chairman

MEMBERS

2. **Shri Mohammad Asrar Ahmad**
3. **Shri Ashfaq Husain**
4. **Shri B. R. Nahata**
5. **Shri M. S. K. Sathiyendran**

SECRETARIAT

Shri S. D. Kaura—Chief Legislative Committee Officer

2. The Committee took up for consideration Memoranda Nos. 191 to 197 and 190 which was considered and postponed by the Committee at their sitting held on 6 JULY, 1983 on the following subjects :—

- (i) (a) The Delhi Panchayat Raj (Amendment) Rules, 1976 (No. Misc. 7 (64)/P/75/16045-634 dated 25 November, 1976); (b) The Contract Labour (Regulation and Abolition) Central (Amendment) Rules, 1978 (G. S. R. 948 of 1978); (c) The Drugs and Cosmetics (Third Amendment) Rules, 1978 (G. S. R. 1074 of 1978); (d) The Jute Grading and Marking Rules, 1978 (S. O. 1741 of 1978); (e) The Saffron Grading and Marking (Amendment) Rules, 1979 (S. O. 2242 of 1979); (f) The Prevention of Food Adulteration (Fourth Amendment) Rules, 1978 (G. S. R. 393—E of 1978); (g) The Tobacco Grading and Marking

(Amendment) Rules, 1979 (S. O. 2243 of 1979); and (h) The Wool Grading and Marking (Amendment) Rules, 1982 (S.O. 1671 of 1982)—Delay in final publication of Rules—(Memorandum No. 191)

3. The Committee considered the above Memorandum regarding delay in final publication of Rules and noted that the main reasons for delay in final publication of Rules were—(a) time taken in finalisation of objections/suggestions received; (b) inter-departmental consultations; and (c) getting Hindi translation of the Rules from Official Language Commission.

4. The Committee, after considering the replies of the Ministries, decided not to insist upon the Ministry of Agriculture (Department of Rural Development) to amend the Delhi Panchayat Raj (Amendment) Rules, 1976, to indicate the particulars of previous publication because no useful purpose would be served to issue such an amendment at that stage. However, they cautioned the Ministry to be careful in such matters in future.

5. The Committee, however, impressed upon all the Ministries/Departments the imperative need to reduce the time-lag between publication of draft Rules and their final notification in the Gazette to one year where a large number of objections/suggestion had been received. The Committee were of the view that rather efforts should be made to further reduce that period to the barest minimum without impairing the fruitfulness of such legislation. However, where no objection/suggestion had been received on the draft Rules, the final Rules should invariably be notified in final form within a period of 3 months. The Committee desired the Department of Parliamentary Affairs to impress upon all Ministries/Departments to devise some procedure in their Departments to cut short the delays in notification of Rules in final form.

6. The Committee also desired that in future while referring the matter Ministries for enquiring about the delay in final publication of Rules, the particulars of various stages which led to such delays should also be enquired from Ministries/Departments and mentioned in the Memoranda placed before the Committee in order to enable them to assess the correct position.

- (ii) Giving of Retrospective effect to the Rules/Regulations framed under the Acts of Parliament and under the proviso to Article 309 of the Constitution—(Memorandum No. 192)

(A)

7. The Committee noted that retrospective effect had been given to the All India Institute of Medical Sciences (Amendment) Regulations, 1981 (G.S.R. 914 of 1981) and the Bengal Chemical and pharmaceutical Works Limited (Acquisition and Transfer of Undertakings, Maintenance of Accounts and Administration of Funds) Rules, 1981 (S. O. 478—E of 1981) without due autho-

rity therefor in the respective Acts viz. the All India Institute of Medical Sciences Act, 1956 and the Bengal Chemical and pharmaceutical Works Limited (Acquisition and Transfer of Undertakings) Act, 1980.

8. The Committee desired the Ministry of Health and Family Welfare and Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) that Rules should either be made effective from the dates of their notifications in the Gazettes or in the alternative the relevant Acts should be amended to empower the Ministries concerned to give retrospective effect.

9. The Committee further desired the Ministry of Petroleum, Chemicals and Fertilizers Department of chemicals & Fertilizers) to be prompt in sending replies to the communications referred to them by the Committee as the delay in sending final replies not only hampered the work of the Committee but also resulted in continuing the infirmities in the Rules.

(B)

10. The Committee noted that retrospective effect had been given to the following six Rules framed under proviso to Article 309 of the Constitution.

- (i) The Civilians in Defence Service (Revised Pay) Amendment Rules, 1978 (S. R. O. 217 of 1978).
- (ii) The Central Civil Services (Classification, Control and Appeal) Second Amendment, Rules, 1978 (S. O. 2464 of 1978).
- (iii) The Lower Division Clerk (Import and Export Trade Control Organisation) Recruitment (Amendment) Rules, 1978 (G. S. R. 1360 of 1978).
- (iv) The Fundamental (Amendment) Rules, 1979 (G. S. R. 621 of 1979).
- (v) The Research Designs and Standard Organisation (Non-Gazetted Ministerial Posts) Recruitment (Amendment) Rules, 1979 (G. S. R. 358 of 1981).
- (vi) The Canteen Stores, Department Group 'A' and 'B' Posts Recruitment (Amendment) Rules, 1979 (S. R. O. 265 of 1979).

11. The Committee further noted that in the case of orders mentioned at S. Nos. (i) and (iv), the Ministries had appended the necessary explanatory memorandum but it had not been made clear that interest of no one would be adversely affected. In the case of orders indicated at S. Nos. (ii), (iii) and (vi) above, the explanatory Memorandum had been appended after pursuing the matter with the concerned Ministries. The Committee also noted that necessary action was yet to be taken by the Ministry in respect of order indicated at S. No. (v). The Committee were of the opinion that no useful purpose would be served by insisting upon the Ministries to notify explanatory memorandum at that

stage. However, they desired the Department of Personnel and Administrative Reforms to impress upon all the Ministries/Departments the need for avoiding retrospective effect to the Rules/Regulations unless the parent law specifically provided for it. In the case of Rules/Regulations framed under proviso to Article 309 of the Constitution, the necessity for avoiding retrospective effect except in extraordinary circumstances, should be emphasised. If in any unavoidable circumstances, it was necessary to give such operation, an explanatory memorandum stating the reasons which necessitated the retrospective operation should invariably be printed along with the notification in the Gazette. The explanatory memorandum should indicate that the interests of no one would be prejudicially affected by reasons of the retrospective operation of the Rules/Regulations. The Committee also desired the Ministry of Law, Justice and Company Affairs (Legislative Department), who were concerned with vetting of Rules/Regulations, that whenever retrospective effect had been given to the Rules/Regulations they should ensure that the relevant Rules/Regulations should be accompanied with the requisite explanatory memorandum.

- (iii) The Ministry of Education and Culture, Senior Analyst (Work Study) Recruitment Rules, 1981 (G. S. R. 859 of 1981)—(Memorandum No. 193).

12. The Committee noted that above Rules did not contain the usual 'saving clause' regarding reservations, relaxations in age limit and other concessions required to be provided for the Scheduled Castes/Tribes. Similarly, eight other recruitment rules (See Annexure), also did not contain the 'Saving Clause.' The Committee further noted that on being pointed out, the Ministries had since amended or agreed to amend those Rules to the desired effect.

- (iv) Referred cases where Ministries have either agreed to the suggestions made to them for the amendment of Rules or where Ministries replies have been found satisfactory—(Memorandum No. 194)

- (1) The Sugarcane (Control) Second Amendment Order, 1978 (G. S. R. 197—E of 1978).

(A)

13. The Committee noted that on being pointed out by them, the Ministry of Food and Civil Supplies had amended the second proviso to clause 4 of the Sugarcane (Control) Order, 1966, (*Vide* G. S. R. 427—E of 1981) by indicating therein that circumstances and conditions under which rebate in the sugarcane price to be allowed, would be as specified in Clause 4 A of the Order.

(B)

14. The Committee noted that on being pointed out by them, the Ministry of Food and Civil Supplies had amended Part (iv) of the proviso to Clause

4 A of the Sugarcane (Control) Order, 1966 (*Vide* G. S. R. 427—E of 1981) by specifying therein that rebate could be allowed in the minimum price when cane was supplied ex-field to khandsari units within the respective jurisdictions.

- (2) The Open Lines (Railways in India) General (Amendment) Rules, 1980 (G. S. R. 1303 of 1980).

15. The Committee observed that the Indian Railways Act, 1890 did not provide for laying of Rules framed under Sections 47 and 71E, before Parliament. The Committee reiterated their earlier observations made in paragraph 333 of their Eighteenth Report (Seventh Lok Sabha), presented to the House on 9 May, 1983, that a Comprehensive Bill to revise the Indian Railways Act, 1890 providing for laying of Rules, framed thereunder, before Parliament, should be introduced in Parliament at an early date.

- (3) The Ministry of Finance, Department of Economic Affairs, Research Assistant (Work Study) Recruitment Rules, 1980 (G. S. R. 640 of 1980).

16. The Committee noted that on being pointed out by them, the Ministry of Finance had amended preamble to the Research Assistant (Work Study) Recruitment Rules, 1980 (*Vide* G. S. R. 104 of 1981) by indicating therein that those rules were in supersession of earlier Rules of 1975.

- (4) The Directorate of Vanaspati, Vegetable Oils and Fats (Administrative Officer) Recruitment Rules, 1980 (G. S. R. 776 of 1980).

17. The Committee noted that on being pointed out by them, the Ministry of Civil Supplies (Directorate of Vanaspati, Vegetable Oils and Fats) had amended Column 13 of the above Rules (*Vide* G. S. R. 31 of 1981) to provide for consultation with Union Public Service Commission while amending/relaxing any of the provisions of the Rules.

- (5) The National Institute of Communicable Diseases (Veterinary Officer) Recruitment Rules, 1980 (G. S. R. 523 of 1980).

18. The Committee noted that on being pointed out by them, the Ministry of Health and Family Welfare (Department of Health) had amended Rule 5 of the above Rules (*Vide* corrigendum No. A-12018/1/79—CCD dated 13 November, 1980) to provide for consultation with the Union Public Service Commission for the purpose of relaxing the Rules.

- (6) The Ministry of Civil Supplies Recruitment Rules, 1980 (G. S. R. 1922 of 1980).

19. The Committee noted that on being pointed out by them, the Ministry of Civil Supplies had amended the preamble to the above Rules (*Vide* G. S. R. 644 of 1981) to indicate therein the nomenclature of the post to which the said Rules pertained.

- (7) The All India Radio, New Delhi (Senior Cartographer) Recruitment Rules, 1980. (G. S. R. 1097 of 1980).

20. The Committee noted that on being pointed out by them, the Ministry of Information and Broadcasting had amended the above Rules (*Vide* G. S. R. 458 of 1982) to specify therein the precise limit for age relaxation in the case of Government servants.

- (8) The Lady Hardinge Medical College and Shrimati Sucheta Kriplani Hospital (Accounts Officer) Recruitment Rules, 1980.

21. The Committee noted that on being pointed out by them, the Ministry of Health and Family Welfare, had amended the above Rules (*Vide* G. S. R. 1270 of 1980) to provide for consultation with the Union Public Service Commission on each occasion of selection to the post.

- (9) the Khadi and Village Industries Commission Employees (Conduct, Discipline and Appeal) Amendment Regulations, 1979.

22. The Committee noted that the Ministry of Industry (Department of Industrial Development) had agreed to amend the above Regulations on the lines of rule 23 (v) (d) of the CCS (CC & A) Rules, 1965 to provide for appeal by an employee of the Khadi and Village Industries Commission against reduction in subsistence allowance. The Committee desired the Ministry to amend the Rules accordingly as also to provide for communicating the reasons for reduction of such allowance to the employee concerned.

- (10) The Geological Survey of India (Group A and Group B Posts) Recruitment (Fourth Amendment) Rules, 1980 (G. S. R. 717 of 1980).

23. The Committee noted that on being pointed out by them, the Ministry of Steel and Mines (Department of Mines) had amended entry under Column 13 of the Schedule appended to the above Rules (*Vide* G. S. R. 556 of 1981) to provide for consultation with the Union Public Service Commission.

- (11) The Chief Labour Commissioner (Central) and the Joint Chief Labour Commissioner (Central) Recruitment Rules, 1981 (G. S. R. 545 of 1981).

(A)

24. The Committee noted that on being pointed out by them, the Ministry of Labour had amended rule 6 of the above Rules to provide for consultation with the Union Public Service Commission before relaxing any provision of the Rules (*Vide* Notification No. A-12018/1/75-C. L. T. dated 8 April 1983).

(B)

25. The Committee noted that on being pointed out by them, the Ministry of Labour had amended entry in Column 13 of the Schedule appended to the above Rules to provide that selection on each occasion shall be made in consultation with the Union Public Service Commission (*Vide* Notification No. A—12018/1/75—CLT dated 8 April, 1983).

(12) The Central Health Service (Amendment) Rules, 1978 (G. S. R. 439 of 1978).

26. The Committee noted that on being pointed out by them, the Ministry of Health and Family Welfare had issued necessary corrigendum (*Vide* G. S. R. 710 of 1980) so as to add the explanatory memorandum stating that no body's interest would be adversely affected as a result of retrospective effect given to the Rules.

(v) The Tobacco Board (Second Amendment) Rules, 1980 (G. S. R. 902 of 1980)—(Memorandum No. 195).

27. The Committee noted that the Ministry of Commerce had conceded that payment of travelling and other allowances to members of the Board, including an associated member or coopted member of the Board or any Committee should have been regulated under Regulations to be framed under Section 33 (2) (c) of the Tobacco Board Act, 1955 and not under Rules framed under Sections 4 (8) and 7 (2). The Committee desired the Ministry to amend the Rules and frame necessary Regulations in that regard at an early date.

* * *

(viii) Implementation of recommendations of the Committee on Subordinate Legislation contained in paragraphs 83 to 88 of Sixth Report (Seventh Lok Sabha) *re*: printing and publication of compilations containing General Statutory Rules and Orders—Interim reply received in respect thereof—(Memorandum No. 190)

30. The Committee noted the progress made so far by the Ministry of Law, Justice and Company Affairs (Legislative Department) regarding printing and publication of compilations containing General Statutory Rules and Orders. The Committee felt unhappy that during the period of 22 years from 1958 to 1980, only 30 Volumes of the compilation had been brought out and those were still incomplete as many of the volumes had since become obsolete. The Committee decided to report the matter to the House in their next Report.

31. The Committee then considered their future programme of work and decided to hold their sittings on 6, 9, 21 September and again on 1 and 3 October, 1983 to consider and dispose of pending items of work.

32. Some Members thereafter raised the question of study tours by the Committee during inter-session period. The Chairman informed the Members that he would consult the Speaker, Lok Sabha in that regard and would let the Committee know if a study tour could be arranged.

The Committee then adjourned.

ANNEXURE

(Vide Paragraph 12 of the Minutes)

LIST OF RECRUITMENT RULES EXAMINED BY THE COMMITTEE ON SUBORDINATE LEGISLATION WHICH DID NOT CONTAIN SAVING CLAUSE

<i>S.No.</i>	<i>Name of the Rules</i>	<i>Ministry/Department</i>
1.	The Department of Commerce, Senior Analysts (Work Study) and Junior Analyst (Work Study) Recruitment Rules, 1980 (GSR 1307 of 1980).	Commerce
2.	The Ministry of Industry (Department of Industrial Development) Senior Analyst (Work Study) Recruitment Rules, 1980 (GSR 424 of 1981).	Industrial Development
3.	The Ministry of Information and Broadcasting Senior Analyst (Works Study) Junior Analyst (Works Study) and Research Assistant (Works Study) Recruitment Rules, 1980 (GSR 774 of 1981),	Information & Broadcasting
4.	The Central Water Commission Senior Analyst (Work Study), Junior Analyst (Work Study) and Research Assistant (Work Study) Recruitment Rules, 1981. (GSR 561 of 1981).	Irrigation
5.	The Ministry of Steel and Mines (Department of Mines) Research Assistant (Work Study) Recruitment Rules, 1981 (GSR 821 of 1981).	Mines

- | | | |
|----|--|-------------------------------------|
| 6. | The Ministry of Civil Supplies (Research Assistant (Work Study) Recruitment Rules, 1980 (GSR 1110 of 1980). | Civil Supplies |
| 7. | The Ministry of Tourism & Civil Aviation Junior Analyst (Works Study) and Research Assistant (Work Study) Recruitment Rules, 1980 (GSR 1117 of 1980). | Tourism & Civil Aviation |
| 8. | The Rural Health Training Centre Najafgarh (Group 'C' and 'D' Posts) Amendment Rules, 1978 (GSR 201 of 1979). | Health and Family Welfare |

LXXX

**MINUTES OF THE EIGHTIETH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTH LOK SABHA) (1983-84)**

The Committee met on Tuesday, 6 September, 1983 from 11.00 to 13.00 hours.

PRESENT

Shri R. S. Sparrow—*Chairman*

MEMBERS

2. **Shri Mohammad Asrar Ahmad**
3. **Shri Xavier Arakal**
4. **Shri A.E.T. Barrow**
5. **Shri Ashfaq Husain**
6. **Shri Dalbir Singh (Madhya Pradesh)**
7. **Shri Amal Datta**
8. **Shri B. Devarajan**
9. **Shri Chandrabhan Athare Patil**
10. **Shri T. Damodar Reddy**
11. **Shri Satish Prasad Singh**
12. **Shri Vijay Kumar Yadav**

SECRETARIAT

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

2. At the outset, the Chairman welcomed Shri A.E.T. Barrow, M.P., who was nominated to the Committee by the Speaker with effect from 3 September, 1983.

LXXXV

**MINUTES OF THE EIGHTY-FIFTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTH LOK SABHA) (1983—84)**

**The Committee met on Wednesday, 5 October, 1983 from 11.00 to 12.00
hours.**

PRESENT

Shri R. S. Sparrow—*Chairman*

MEMBERS

2. **Shri Mohammad Asrar Ahmad**
3. **Shri A.E.T. Barrow**
4. **Shri Ashfaq Husain**
5. **Shri B. Devarajan**
6. **Shri C. D. Patel**
7. **Shri Chandrabhan Athare Patil**
8. **Shri T. Damodar Reddy**
9. **Shri Satish Prasad Singh**
10. **Shri Vijay Kumar Yadav**

WITNESSES

1. **Shri S.V. Subramaniyan, Joint Secretary, Ministry of Health and Family Welfare.**
2. **Shri N. S. Bakshi, Director, Ministry of Health and Family Welfare.**

SECRETARIAT

1. **Shri S.D. Kaura—*Chief Legislative Committee Officer***

2. During the evidence before the Committee on 5 October, 1983 the representatives of the Ministry of Health and Family Welfare explained the mode of selections of CGHS doctors. He stated that the method of interview only was resorted for difficult areas. When asked the number of persons who were selected during the last three years in both the categories viz. (i) by written test followed by interview and (ii) by interview only, the representative of the Ministry furnished the following figures :

(i) Written test followed by interview

Year	Requisition sent to UPSC	Candidates recommended by UPSC	Actually joined
1980	600	593	232
1981	300	304	110
1982	300	300	60

(ii) Interview only

3. In 1978, requisition for 249 was placed for Arunachal Pradesh, A & N Islands; 217 candidates were recommended and 93 joined. Again requisition was placed for 28, all were recommended, but only 22 joined. Subsequently, in March, 1983 UPSC again advertised for selection by interview only for 200 candidates, in some case interviews were going on and for another batch of 200 posts for Assam; interviews had not yet been held.

4. On further enquiry regarding recruitment, the representative explained that as the service was an All India Service they could have only one set of rules. He also stated that the UPSC had suggested to them to have an alternative method of recruitment at short notice but as they could not do it unilaterally, they had to consult the UPSC on each occasion. In an emergency e.g. when Arunachal Pradesh and others wanted 200 doctors, as advertised by UPSC, they had dispensed with the examination and advertised for interview and doctors were recruited by issue of a notification. He further stated that, initially when the Central Health Service was constituted in 1963, recruitment was made on the basis of an interview only. On the recommendations of the Third Pay Commission, recruitment in this service was thereafter made through examination followed by an interview because it was a Class I Service. Since then, the UPSC conduct the examination annually for the Central Health Service Scheme.

5. When attention of the representative of the Ministry was drawn to the rules which were not clear regarding selection by interview only for difficult areas, he explained that previously in 1978, recruitment by examination was there but in 1982 both the alternatives were there *viz.* by oral interview and by written examination. Even though legal opinion was for not having any ambiguity for the clause "in case recruitment by examination fails", there was no clear interpretation and on each occasion they had to consult the UPSC. In reply to another question, the witness stated that

- (i) two hundred vacancies were there so far as the difficult areas were concerned ;
- (ii) it was difficult to say when each vacancy arose and at what point of time. They took advantage of the rules and evolved a yardstick ;
- (iii) about 50 per cent joined on the average ; and
- (iv) they wanted to give some special allowances to persons who worked in difficult areas.

6. When asked if they had received any representation from the staff side against these rules, the representative stated in the negative.

(The witnesses then withdrew)

The Committee then adjourned.

SECRETARIAT

1. Shri Ram Kishore—*Senior Personnel and Executive Officer*
2. Shri T.E. Jagannathan—*Senior Legislative Committee Officer*

2. Before hearing the oral evidence of the representatives of the Ministry of Works and Housing, the Chairman expressed his profound grief over the sad demise of Shri B.R. Nahata, a sitting Member of the Parliament and a member of the Committee at Houston in USA. The Committee then stood for two minutes as a mark of respect in memory of the departed soul and adopted the following resolution for being conveyed to the bereaved family of late Shri Nahata :

“The Committee place on record their profound sense of sorrow over the passing away of the esteemed colleague, Shri B. R. Nahata at Houston in the USA on 6th October, 1983 and send their heartfelt condolences to the members of the bereaved family.”

* * *

10. The Committee were satisfied with the evidence tendered by the representatives of the Ministry of Works and Housing in regard to the payment of fees to the Medical Board for the Central Electrical and Mechanical Engineering Services Group 'A' Recruitment as provided for in the relevant Rules; but felt that, as the policy relating to levy of fee had been regulated in accordance with the instructions of the Ministry of Health, they might call the representatives of the Ministry of Health also on a later date for the purpose of oral evidence.

11. The Committee then put up the oral evidence of the representatives of the Ministry of Defence.

12. During evidence before the Committee, taken on 25 October, 1983, the representative of the Ministry of Defence explained that these Scientific organisations being small cadre would have required every detailed service regulations and it would have been time consuming to prepare draft and may have resulted in avoidable problems. However, fresh consultations would be made with Department of Personnel and Administrative Reforms and Ministry of Law. He also pointed out that apart from the time implications, there was possibility of conflicts arising if any error took place. He also stated that when a public sector undertaking was set up, their rules started merely by saying that where there were no specific rules, Government rules would apply which were readily available to every body. Specific rules were framed in individual cases which were not covered by Government rules.

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

12. When asked whether the residuary power was used by Government to issue orders under the clause 'Subject to any order issued by the Government' under Rule 12, the representative of the Ministry stated they had not felt any need for delineation for other service conditions because they were there in similar organisations and have been well-understood and applied. He also stated that so far as the Central Civil Services Conduct Rules were concerned, any modification to those rules automatically became applicable to officers of the Defence Aeronautical Quality Assurance. When further asked whether there was any occasion for the Department to issue orders under this Rule the representative replied in negative.

13. When the attention of the representative was drawn to a portion of Rule 12 which stated :

".....Special orders issued by the Government in respect of the Services be the same as those applicable to officers, civilians of corresponding status in similar scientific institutions or organisations under the Government of India."

the representative of the Ministry explained [that originally there was the Defence Science Service in the fiftys which was now trifurcated and each one of these service regulations has such a provision.

14. On being pointed out that there was some scope of compartmentation and clarifying rules applicable in different departments, the witness stated that the rules had been existing for some time and they had not faced any problem.

The Committee then adjourned.

XC

**MINUTES OF THE NINETIETH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTH LOK SABHA) (1983—84)**

The Committee met on Thursday, 15 December, 1983 from 15.00 to 15.50 hours.

PRESENT

Shri R.S. Sparrow—*Chairman*

MEMBERS

2. **Shri Xavier Arakal**
3. **Shri A.E.T. Barrow**
4. **Shri Dalbir Singh (Madhya Pradesh) `**
5. **Shri Brajamohan Mohanty**

SECRETARIAT

1. **Shri S. D. Kaura—*Chief Legislative Committee Officer***
2. **Shri T.E. Jagannathan—*Senior Legislative Committee Officer***

2. **The Committee considered their draft Twenty-fourth Reports and adopted them.**

* * *

The Committee also authorised the Chairman and, in his absence, Shri Brajamohan Mohanty to present their Twenty-fourth Report to the House on their, behalf on 21 December, 1983.

* * *

The Committee then adjourned

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