

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(FIFTH LOK SABHA)

EIGHTEENTH REPORT

(Presented on the 12th January, 1976)



**LOK SABHA SECRETARIAT
NEW DELHI**

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**CORRIGENDA TO THE EIGHTEENTH REPORT OF
THE COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABH)**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1975-76)**

1. Dr. Kailas—*Chairman*
2. Shri R. N. Barman
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri K. Chikkalingaiah
5. Shrimati Marjorie Godfrey
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13. Shri M. Satyanarayan Rao
14. Shri Tayyab Hussain
15. Shri Shiv Shankar Prasad Yadav

SECRETARIAT

Shri P. K. Patnaik—*Additional Secretary.*

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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 Eighteenth Report.

2. The Committee have held five sittings—on the 28th, 29th August, 15th September, 6th October and 27th December, 1975. At their sittings held on the 28th and 29th August, 1975, the Committee took evidence of the representatives of the Ministries of Agriculture and Irrigation (Department of Agriculture), Industry and Civil Supplies (Department of Civil Supplies and Cooperation), Commerce, Finance (Department of Revenue and Insurance), Health and Family Planning (Department of Health), Home Affairs, Law, Justice and Company Affairs (Department of Company Affairs), (Legislative Department) and (Department of Legal Affairs) on delay in exercise/non-exercise of rule-making power by Government delegated under various Acts being administered by these Ministries.

3. The Committee considered and adopted this Report at their sitting held on the 27th December, 1975. The Minutes of the sittings, which form part of the Report, are appended to it.

4. A statement showing the summary of recommendations/observations of the Committee is also appended to the Report (Appendix I).

II

DELAY IN EXERCISE/NON-EXERCISE OF RULE-MAKING POWER BY GOVERNMENT DELEGATED UNDER VARIOUS ACTS OF PARLIAMENT.

5. The Committee on Subordinate Legislation (Second Lok Sabha) had recommended in para 34 of their Fifth Report, presented to the House, on the 5th May, 1959, as follows:

“Ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case

this period should exceed six months. If no rules are framed within a reasonable period after the commencement of the Act, the Committee will take up the matter with the Ministry concerned and report to the House the cases where it is felt that undue delay has occurred in framing the rules."

6. On a representation made by the Government, the Committee had observed as under:

"The Committee do not consider it necessary to modify the existing recommendation as in every case of delay clarification from the Ministry will be sought and thereafter if it is felt that there has been undue delay in framing the rules the delay will be reported to the House."

[Col. (5) of Appendix IV to Sixth Report—Second Lok Sabha].

7. While accepting the above recommendation, the Department of Parliamentary Affairs, vide their O.M. No. SRIII/CB/58, dated 21-3-1961 had informed the Committee that subject to the statutory requirement of 'previous publication', every effort would be made to ensure that rules were framed as expeditiously as possible.

[Col. (4) of Appendix I (S. No. 3) to 13th Report—Second Lok Sabha].

8. While commenting upon the delay of 9 years in framing the Radiation Protection Rules, 1971, under the Atomic Energy Act, 1962, the Committee reiterated their earlier recommendation in para 126 of Eleventh Report (Fifth Lok Sabha) presented to the House on the 9th May, 1974.

9. As instances of delay continued to occur, the Committee at their sitting held on the 24th July, 1974, decided to undertake a horizontal study of the Acts providing for rule-making power to see whether the rules have been framed by Ministries/Departments within a period of six months from the coming into force of the relevant Acts. A circular was, therefore, addressed to all the Ministries/Departments on the 12th August, 1974, asking them to furnish information regarding rules, etc. made under various Acts of Parliament, which were being administered by them (as on 1st August, 1974) together with the reasons for delay (of more than 6 months) in exercise/non-exercise of rule-making power delegated to them under the relevant Acts.

10. The information received from the Ministries/Departments revealed that in 22 cases, the rule-making power had not been exercised and in 43 cases, there had been a delay in the exercise of such power. The break-up of the cases of delay was as follows:—

<i>Period of Delay</i>	<i>No. of cases</i>
6 months to 1 year	10
1 year to 2 years	10
2 years to 3 years	3
3 years to 4 years	5
4 years to 5 years	2
Over 5 years	13
TOTAL:	43

11. At their sitting held on the 16th July, 1975, the Committee considered the information received from the Ministries/Departments and decided to hear oral evidence of the representatives of nine Ministries/Departments, in whose case there had been a delay of more than five years in framing the rules or who had failed to exercise rule-making power for more than five years, after the commencement of the relevant Acts passed after 5th May, 1959, i.e., the date on which the Fifth Report of the Committee on Subordinate Legislation (Second Lok Sabha) was presented to the House.

12. A statement containing the names of the Acts administered by nine Ministries/Departments in case of which there had been a delay of more than five years in exercise of rule-making power or where such power had not been exercised even 5 years after the coming into force of the Acts, together with the reasons therefor (wherever given) is at Appendix II. A brief gist of these cases is given below:—

<i>S. No.</i>	<i>Ministry/ Department</i>	<i>Title of Act</i>	<i>Period of delay</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
1.	Agriculture and Irrigation (Deptt. of Agriculture).	Prevention of Cruelty to Animals Act, 1960.	5 to 12 years in framing 3 sets of rules. No reasons for delay given.
2.	Industry and Civil Supplies (Deptt. of Civil Supplies and Cooperation).	National Cooperative Development Corporation Act, 1962.	5 years and 9 months to make one set of Regulations. According to the Ministry, there was no delay.

(1)	(2)	(3)	(4)
3. Commerce.	(1) Cardamom Act, 1965.	5 years and 3 months to make service rules. Reasons for delay given.	
	(2) Enemy Property Act, 1968.	No rules have been made so far. Reasons given.	
4. Finance (Deptt. of Revenue and Insurance).	Customs Act, 1962.	8 years and 3 months to make one set of Regulations.	
		No reasons given by the Ministry.	
5. Health and Family Planning (Deptt. of Health).	Indian Medicine Central Council Act, 1970.	No rules have been framed so far. No reasons have been given by the Ministry.	
6. Home Affairs.	(1) Official Languages Act, 1963.	No rules have been framed so far. Reasons given.	
	(2) Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968.	No rules have been made so far. No reasons given by the Ministry.	
7. Law, Justice and Company Affairs (Deptt. of Company Affairs).	(1) Companies (Amendment) Act, 1960.	Over 5 years to make one set of rules. Reasons given.	
	(2) Companies (Amendment) Act, 1963.	9 years and 9 months to make a set of rules. Reasons given.	
	(3) Monopolies and Restrictive Trade Practices Act, 1969.	Two sets of rules not yet published. Reasons given.	
8. Law, Justice and Company Affairs (Legislative Department).	Dowry Prohibition Act, 1961.	No rules have been framed so far, as no need has arisen.	
9. Law, Justice and Company Affairs (Department of Legal Affairs).	Advocates Act, 1961.	Took 5 years and 7 months and 3 months to make 2 sets of rules. No reasons for delay given by the Ministry.	

13. At their sittings held on the 28th and 29th August, 1975, the Committee heard oral evidence of the representatives of the above nine Ministries/Departments for delay in exercise/non-exercise of rule-making power in the above cases. The explanations of the Ministries/Departments in these cases and the observations of the Committee thereon are set forth in the succeeding paragraphs.

(i) *Delay in exercise of rule-making power under the Prevention of Cruelty to Animals Act, 1960.*

14. Section 38 of the Prevention of Cruelty to Animals Act, 1960, which was brought into force on 26th October, 1960, empowers the Central Government to make rules to carry out the purposes of the Act. It was noticed from the information supplied by the Ministry of Agriculture and Irrigation (Department of Agriculture) in reply to the communication of the Committee sent in August, 1974, that in the case of 3 sets of the rules, viz.,—

- (1) the Committee for Controlling and Supervising Experiments on Animals (Administration) Rules, 1965;
- (2) Experiments on Animals (Control and Supervision) Rules, 1968; and
- (3) the Performing Animals Rules, 1973.

Government had taken 5 years, 7 years and 8 months, and 12 years and 5 months, respectively, to make these rules.

15. As regards delay of 5 years in framing the Committee for Controlling and Supervising Experiments on Animals (Administration) Rules, 1965, the Ministry of Agriculture and Irrigation (Department of Agriculture), in their written note dated the 16th September, 1975, have stated as follows:—

“Under provisions of Section 15(1) of the Prevention of Cruelty to Animals Act, the Government was required. on the advice of the Animal Welfare Board to appoint a Committee for Controlling and Supervising Experiments on Animals. Accordingly, the Committee was set up in September, 1964 after the Animal Welfare Board had recommended its setting up and after obtaining clearances from Ministry of Finance, Health, Council of Scientific and Industrial Research, Planning Commission and Ministry of Law.....

Since the Committee for Controlling and Supervising Experiments on Animals was itself constituted in September,

1964, the framing of the administration rules for the same was taken up after its constitution.

The rules were published on 23rd December, 1965 under provisions of Section 38 of the Act, i.e. *within a period of one year and 3 months of the formation of the Committee*. As it was necessary to consult the Ministry of Finance and the Ministry of Law before the notification was issued the 6 months limit could not be followed in this case. However, notification inviting objections was issued in September, 1965, and on the expiry of the period specified therein, the final notification was issued on 23rd December, 1956, after the draft was shown to the Ministry of Law. In future, the approval of the Committee will be obtained in cases where framing of rules take more than the stipulated period."

16. In regard to delay of 7 years and 8 months in framing the Experiments on Animals (Control and Supervision) Rules, 1968, the Ministry have in the above-mentioned note stated as under:—

"The main function of the Committee is to control and supervise experimentation on animals with a view to ensure that while experiments are carried out, the animals are not put to unnecessary pain and suffering. As (already) explained... this Committee itself was formed in September, 1964, on the advice of Animal Welfare Board. The Committee appointed a sub-Committee to obtain first-hand information on the nature and extent of experimentation carried out in the country, the methods used and measures taken to achieve the objective. The Sub-Committee submitted its report to the Experimentation Committee in 1966 and a proposal was received by the Government from the Committee in October, 1966. As experiments are carried out in laboratories under the administrative control of the Ministry of Health, it was necessary to consult that Ministry. First reference to the Ministry of Health was made on 10th February, 1967 while further clarification on points raised by the Ministry of Health was given in March, 1968. The draft notification inviting objections was issued on 13th July, 1968 after the proposal was finally cleared by the Ministry of Health. The

final notification was issued on the 4th September, 1968. Detailed examination of the proposals in consultation with Ministry of Health took some time and therefore the rules were notified within 2 years of the receipt of the proposal. It is regretted that approval of the Committee was not obtained for the extension of period beyond 6 months."

17. In regard to delay of 12 years and 5 months in framing the Performing Animals Rules, 1973, the Ministry have in the above-mentioned note, *inter alia*, stated as under:—

"The Prevention of Cruelty to Animals Act had made adequate provision under Chapter V to protect animals from unnecessary pain or suffering while these were exhibited at any entertainment or trained for that purpose. It was also provided that court could take cognizance of complaints made by police authorities. As such, cases in which violations were detected and reported, punishments could be ordered. The framing of rules as envisaged under Section 38(2) (j) therefore related only to prescribing the form of application for registration, fee payable and authority to which application may be made under Chapter V. Based on experience that the Animal Welfare Board had had in this regard and suggestions brought up by Societies for the Prevention of Cruelty to Animals, the Board suggested framing of rules prescribing application form etc. for performing animals in May, 1969. Although the notification inviting objections has issued within two months of the receipt of reference from Animal Welfare Board, the issue of final notification was unfortunately held up till May, 1973 which is regretted. It is also unfortunate that extension of time limit was not requested for the delay. The Department would ensure that such delays are not repeated."

18. During the course of evidence, the Committee desired to know how, in the absence of the rules, the matters envisaged to be regulated by the rules, were being regulated. In reply, the representative of the Ministry stated that as far as the Act was concerned, the inspectors of the society for Prevention of Cruelty to Animals visited the places and checked up all things. The rules were framed mainly to govern the control and supervision of experimentation on animals and to decide the efficacy of various drugs and medicines. Even to verify this thing, experiments were done in the various laboratories and industrial institutions.

19. In their written reply dated 16th September, 1975, the Ministry have stated that they are fully convinced of the need for framing rules and the urgency of notifying these for the guidance of the public and for effective implementation of the provisions of the Act. The Act has made adequate provisions to deal with cruelty in various forms, e.g., sections 11, 12, 13, 24 and 31. With the provisions made in the said sections, the Act was being implemented pending the framing of rules.

20. In reply to a query whether all the matters enumerated in sub-section (2) of section 38 of the Prevention of Cruelty to Animals Act have been covered by the rules, the Ministry have stated in their written note that—

“(a) With the framing of 7 sets of rules already, the following further rules remain to be framed under the provisions of the Act:—

- (i) Transport of Animals Rules [Section 38(2)(b)].
- (ii) Capture of Animals Rules [Section 38(2)(g)].
- (iii) Animal Houses Licensing Rules [Section 38(2)(i)].
- (iv) Overcrowding of Animals Rules [Section 38(2)(c)].
- (v) Use of fines realized under the Act [Section 38(2)(k)].

While rules at (i) above are expected to be notified by the end of September, 1975 calling objections, proposals are still awaited from Animal Welfare Board in respect of (ii), (iii), (iv) and (v).

(b) Notification calling objections in respect of Transport of Animals Rules with reference to Section 38(2)(h) is presently being vetted by Ministry of Law and is expected to be issued by the end of September, or the beginning of October, 1975. In case delay is anticipated, the Department will come up with a request for an extension of time limit.

In respect of rules under Section 38(2)(c)(g)(i) and (k), the Animal Welfare Board has been requested to suggest the draft rules. Proposals would be processed promptly after receipt. The matter will be pursued with Animal Welfare Board.

(c) As stated in (b) above, rules in respect of remaining aspects mentioned in Section 38(2), will be framed on receipt of proposals from the Board.

(d) While the Transport of Animals Rules are expected to be framed shortly (as already stated), the remaining rules will be processed promptly on receipt from Animal Welfare Board. If any delay is anticipated, the Committee will be requested to extend time limit for this purpose."

21. The Ministry have also stated that while the Department of Agriculture is fully convinced of the need for formulation of the rules under the Act covering various matters included in Section 38(2) of the said Act, the framing of these rules was delayed in some cases despite the best efforts to put the rules through within the minimum possible time, which is regretted. This was due to the consultations that were necessary to be made with the various authorities before the rules could be published. The Department will ensure that rules are framed hereafter within the minimum possible time and where it is not possible to frame such rules within the stipulated 6 months' period, the Committee will be approached for extension in the framing of these rules as per the decision of the Committee.

22. In a further communication dated the 8th October, 1975, the Ministry have stated as under:—

"The draft notification relating to 38(2) (h) i.e. Transport of Animals Rules has already been examined by Ministry of Law and Justice and certain clarifications required therein have been furnished. It is expected that the notification inviting objections will be issued shortly.

In regard to the remaining matters, the Animal Welfare Board, which was established under section 4 of the Act and is primarily responsible for implementation of the Act had been requested to suggest the rules. The Board is considering proposals in this regard and will suggest rules after these are discussed at the next annual general meeting of the Board in February, 1976. It is, therefore, requested that approval of the Committee on Subordinate Legislation to the framing and notifying of these rules by the 31st March, 1976, may kindly be obtained and intimated to us."

23. In para 34 of their Fifth Report (Second Lok Sabha), presented to the House on 5-5-1959, the Committee had desired that ordinarily rules should be framed under an Act as soon as possible after

the commencement of an Act and in no case this period should exceed six months. The Committee note that in case of three sets of rules framed by the Ministry of Agriculture and Irrigation (Department of Agriculture) under the Prevention of Cruelty to Animals Act, 1960, there had been delays of 5 years, 7 years and 8 months and 12 years and 5 months. The Committee are not satisfied with the explanation of the Ministry for delays in these cases. They feel that with a will and sense of urgency on the part of Government, the delays in these cases could have been considerably reduced. In particular, the Committee do not find any justification for the delay of 12 years and 5 months in framing the Performing Animals Rules, 1973. A more distressing fact is that even though more than 15 years have elapsed since the Act was brought into force, five sets of rules are still to be framed.

24. The Committee note that out of these 5 cases, in one case, viz., Transport of Animals Rules, the draft notification is under issue for inviting suggestions/objections from the public. In the case of remaining four matters, the Animal Welfare Board has been requested to suggest rules and extension of time up to 31st March, 1976, has been asked for from the Committee. While granting this extension, the Committee desire that all-out efforts should be made by the Ministry to finalise the rules by the extended date.

(ii) *Delay in exercise of rule-making power under the National Cooperative Development Corporation Act, 1962.*

25. Section 22(1) of the National Cooperative Development Corporation Act, 1962, which was enforced in September, 1962, empowers the Central Government to make rules to carry out the purposes of the Act. It was noticed from the information submitted by the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) in reply to the communication of the Committee sent in August, 1974, that only one set of rules, viz., the National Cooperative Development Corporation Rules, 1963, had been framed under this section so far. Sub-section (2) of section 22 lays down 9 specific matters on which rules are required to be made.

26. Section 23(1) empowers the National Cooperative Development Corporation, with the previous approval of the Central Government to make regulations not inconsistent with the Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of the Act. It was seen from the information supplied by the Ministry that two sets of regulations, viz., the National

Cooperative Development Corporation General Regulations, 1966 and the National Cooperative Development Corporation Service Regulations, 1967, had been framed under section 23(1) and (2) of the said Act on 24-10-1966 and 24-5-1968, which showed a delay of over 4 years and 5 years, respectively. The Ministry, however, contended that there was no delay in framing these regulations.

27. During evidence, the Committee desired to know whether all the 9 matters mentioned in section 22(2) of the National Cooperative Development Corporation Act, 1962, had been covered by the National Cooperative Development Corporation Rules, 1963. The representative of the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) stated that these rules covered all the 9 matters specified in section 22 of the Act.

28. Regarding the delay of 5 years and 9 months in framing National Cooperative Development Corporation Service Regulations, 1967, the representative of the Ministry submitted that those regulations were not framed by the Central Government but by the Corporation. Those were not required to be laid on the Table of the House as it was not subordinate legislation. These regulations were of a discretionary character. He further stated that there were two sections in the Act, one section required the Central Government to make rules and those rules were required to be laid on the Table of the House. The Act also provided for certain regulatory functions within the Corporation itself, for which Corporation framed the regulations and the above regulations were within this category. He further argued that the National Cooperative Development Corporation was a successor to an early body—the National Cooperative Development and Warehousing Board. That Board had general regulations as well as service regulations. In terms of the National Cooperative Development Corporation Act, the National Cooperative Development and Warehousing Board regulations will continue to operate, until modified by the National Cooperative Development Corporation under the new Act. The old regulations continued to be in force upto 1968, when the new regulations came into force. There had thus been no delay in the framing of the regulations in question.

29. In reply to a question whether the matters specified in subsection (2) of section 23 of the National Cooperative Development Corporation Act were covered by the two sets of regulations already framed by them, the representative of the Ministry stated that all those matters were fully covered by the regulations already framed.

30. While the Committee note that all the matters enumerated in sub-section (2) of section 22 and sub-section (2) of section 23 of the National Cooperative Development Corporation Act, 1962, are covered by the rules and regulations framed by Government/National Cooperative Development Corporation, they cannot accept the argument advanced by the Ministry that as the regulations in question were to be framed by the Corporation and not by the Central Government, these stood on a different footing from the rules. The Committee will like to make it clear that the time-limit of six months laid down by the Committee in para 34 of their Fifth Report (Second Lok Sabha) applies as much to statutory regulations to be framed by subordinate bodies as to statutory rules to be framed by the Central Government.

31. It was also urged during the course of evidence that as in terms of the National Cooperative Development Corporation Act, 1962, the regulations framed under an earlier act were to continue to operate, there had been no delay in framing the regulations in question. The Committee are unable to accept this argument also. They will like to point out that saving provisions such as these are only of a transitional character and do not take away the need for early framing of comprehensive rules and regulations under new Acts.

(iii-a) *Delay in exercise of rule-making power under the Cardamom Act 1965.*

32. Section 33(1) of the Cardamom Act, 1965, which was enforced from 5-4-1966, empowers the Central Government to make rules for carrying out the purposes of the Act. It was noticed from the information supplied by the Ministry of Commerce in reply to the communication of the Committee sent in August, 1974, that the Cardamom Board Service (Classification, Control and Appeal) Rules, 1971, were framed in June, 1971, after a period of 5 years and 3 months had elapsed. No reason for this delay had been given by the Ministry.

33. During evidence, the representative of the Ministry expressed regret for the delay of 5 years and 3 months in framing the Cardamom Board Service (Classification Control and Appeal) Rules, 1971.

34. In reply to a question how, in the absence of the Classification Control and Appeal Rules, the employees of the Cardamom Board were being governed for over 5 years and whether there was no case during that period, which required to be decided under the provisions laid down in those rules, the representative of the Ministry stated that such case had happened.

35. In their written note dated the 20th October, 1975, the Ministry of Commerce, while explaining the reasons for delay have stated that the Cardamom Board submitted the proposals to the Government for framing the classification, control and Appeal/Rules in April, 1968. The delay in submission of proposals to the Government by the Cardamom Board was that in the initial years of establishment of the Board with only a limited staff strength, the Board considered that the provisions of rule 30 of the Cardamom Rules, 1966, which governed service conditions of the Board's employees, were enough and there was no necessity for framing of separate service rules. Later, when the staff strength in the Board increased considerably, it was felt that separate set of rules would be desirable and accordingly draft rules for this purpose were sent by the Cardamom Board to the Government for approval in April, 1968. After the receipt of proposals from the Board, these were examined by that Ministry in consultation with the Ministries of Home Affairs and Law, which took considerable time before the rules were finalised. Hindi translation of the rules vetted by the Ministry of Law and cutting of stencils of the same also took a lot of time, which came to one year and 5 months in all. Since both English and Hindi versions of the notification had to be published simultaneously, the Ministry had no alternative but to wait till Hindi translation of the rules were received from the Official Language (Legislative) Commission, who took more than 1 year in translating the notification into Hindi, which ran into 45 typed pages.

36. As to whether all the matters enumerated in section 33(2) of the Act are covered by the existing four sets of rules, the Ministry of Commerce have, in their written note, ETAONI SHRDLUeaoT of framing of rules in respect of clauses (q) and (r) of sub-section (2) of section 33 of the Cardamom Act is being examined in consultation with the Cardamom Board, who will submit the proposal to the Ministry shortly for consideration. The Ministry have further stated in this connection that proposals for framing of rules are to be considered in the meetin gof the Cardamom Board and after these aer approved by the Board the draft rules will be furnished to the Ministry for consideration. The draft rules when received will be examined in consultation with the Ministry of Law, and then published in the Gazette of India. All these formalities are likely to take some time from 6 months to 1 year.

37. The Committee are not at all satisfied with the reply of the Ministry regarding the delay of over five years in the framing of the Cardamom Board Service (Classification, Control and Appeal) Rules, 1971. It was, inter alia, urged in extenuation that in the initial years of its establishment when the Board had only a limited

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staff strength, it did not consider the necessity of framing separate service rules. The Committee, however, note that even after the Board had felt the desirability of framing separate service rules and forwarded the same to Government for approval in April, 1968, the latter had taken more than three years to finalise them. The Official (Language) Legislative Commission alone had taken more than a year in translating the notification into Hindi, which ran into 45 typed pages only. The Committee cannot be happy over such delays. A still more distressing fact is that even though a period of over nine years has elapsed since the Act came into force, rules in respect of clauses (q) and (r) of sub-section 2 of section 33 of the Cardamom Act, 1965, are yet to be framed.

38. The Committee have now been informed that the question of framing rules in respect of these matters is under examination of the Ministry, in consultation with the Cardamom Board. According to the Ministry, necessary formalities are likely to take sometime—between 6 months and 1 year. The Committee desire that the Minister should finalise the rules in question within the stipulated period.

(iii-b) *Non-exercise of rule-making power under the Enemy Property Act, 1968.*

39. Section 23 of the Enemy Property Act, 1968, empowers Government to make rules, but no rules have been framed by Government so far.

40. In their earlier note dated the 19th September, 1974 submitted to the Committee, the Ministry of Commerce had stated that the Act had limited scope and provided for the continued vesting of enemy property already vested in the Custodian of Enemy Property, who had been able to carry on the management of the property under the various sections of the said Act, without framing the rules.

41. During the course of evidence, the representative of the Ministry again averred that there was no necessity of framing a separate set of rules under the Act.

42. In reply to a query as to why they had sought power of framing rules in the Act when there was no necessity for the same, the representative of the Ministry stated that this was an enabling clause and not a compelling clause. They found that there was no necessity of framing the rules, because, originally, in 1961, when the Defence of India Rules were framed, the first set of the Enemy

Property Rules were framed thereunder in 1962. Since the Defence of India Rules continued to operate till 1968, the rules already framed continued to operate. He further stated that four matters on which rules were required to be framed were covered by the action taken by the Custodian. As all matters were already covered by the action taken and also by the order of 1962, there was no point in framing an extra set of rules.

43. In their written reply, dated the 5th September, 1975, the Ministry have invited the attention of the Committee to section 24 of the Enemy Property Act, 1968, which reads as follows:—

“Every order which was made under the Defence of India Rules, 1962, by the Central Government or by the Custodian of Enemy Property for India appointed under those Rules, relating to enemy property and which was in force immediately before the expiration thereof shall, in so far as such order is not inconsistent with the provisions of this Act, be deemed to continue in force and to have been made under this Act.”

The Ministry have stated that in view of these provisions, the Custodian is carrying on the management of vested enemy property under the Enemy Property (Custody and Registration) Order, 1962, made under the Defence of India Rules, 1962.

44. The Committee note that all the matters specified in section 23(2) of the Enemy Property Act, 1968, in respect of which rules are required to be framed are covered by the Enemy Property (Custody and Registration) Order, 1962, made under the Defence of India Rules, 1962, which, in terms of section 24 of the said Act, shall be deemed to continue in force and to have been made under the said Act. As the said Act only provided for the continued vesting of the enemy property already vested in the Custodian of Enemy Property, no need for framing fresh rules under this Act had arisen. The Committee, however, fail to understand why in their reply to the Committee's communication of August, 1974, the Ministry of Commerce had not brought all the facts to the notice of the Committee. The aforesaid reply of the Ministry made no mention of the Order issued under the Defence of India Rules, 1962; on the other hand, it stated that the Custodian “had been able to carry on the management of the property under the various sections of the Act”. Had the Ministry, ab initio, given all the facts, there would have been no need to take oral evi-

dence of the representatives of the Ministry. The Committee desire the Ministry to note for their future guidance that the replies sent for the consideration of the Committee are complete in all respects so that infructuous work is avoided.

(iv) *Delay in exercise of rule-making power under the Customs Act, 1962.*

45. The Ministry of Finance (Department of Revenue and Insurance) took 8 years and 3 months for making the Import Manifest (Vessels) Regulations, 1971, under section 157(2) of the Customs Act, 1962.

46. In reply to the communication of the Committee sent in August, 1974, the Ministry did not state the reasons for this inordinate delay. However, on 27-8-1975 one day before the oral evidence of the representatives of the Ministry was to take place, a note was received from the Ministry which read as follows:

"The Customs Act, 1962 came into force with effect from 1-2-1963, replacing the Sea Customs Act, 1878. In terms of section 55 of the Sea Customs Act, the Collectors of Customs were empowered to prescribe the form and contents of the Import General Manifest. After the introduction of the Customs Act, 1962, the forms prescribed by the respective Collectors remained in force in terms of section 160(3) of the Customs Act which deals with repeal and savings. Certain difficulties were pointed out by the Collector of Customs, Cochin. These difficulties were looked into and the Directorate of Inspection were requested to frame regulations on the subject in terms of section 157(2) of the Customs Act, 1962, and also the form of import Manifest. The Directorate of Inspection framed draft regulations in consultation with the Collectors of Customs. The matter was finally settled at the Collectors' Conference in 1970, and was thereafter referred to the Ministry of Law for vetting. The Law Ministry made certain observations which were accepted and the regulations were duly notified in April, 1971.

It is true that considerable time was taken in finalising the Regulations, but as the form and the contents of import manifest were matters which were already regulated by the orders in respective Customs Houses and remained

effective by virtue of section 160(3) of the Customs Act, there has been no delay as such, which has caused prejudice either to the Government or to the public.

In view of the position explained herein, it is submitted that it would not be a case of delay, as such, in the exercise of the rule-making power by the Government under the Customs Act, 1962."

47. During the course of evidence, the representative of the Ministry offered an unconditional apology for a delay of over one year in sending the above reply. As regards delay in framing the regulations, he explained that the Ministry had assumed that the regulations were already in existence and were carried forward by virtue of the provisions of section 160 of the Customs Act, 1962. The Sea Customs Act had been in existence for many years and so had been the rules under that Act. The rules under the new Act have been issued afresh with all the changes considered necessary not only on account of the changes in law but also on account of the various circumstances which required changes and improvements.

48. In a further written reply dated the 21st November, 1975, the Ministry have stated that matters enumerated in sub-section (2) of section 157 of the Customs Act, but not covered by the regulations so far, are being governed by orders under the Sea Customs Act, 1878, which are being regulated in terms of section 160(3) of the Customs Act, 1962. However, in order to streamline the position, the Ministry propose to frame regulations in respect of these matters under the Customs Act, 1962. That is expected to take about six months.

49. In reply to a query as to when the Ministry asked the Directorate of Inspection to frame the regulations in question and when these were framed by the Directorate, they have, in their written note, stated as under:—

"The Director of Inspection, Customs and Central Excise were requested to frame draft regulations on 31-10-1964. Draft Regulations were sent by Director of Inspection, Customs and Central Excise on 16-11-1967. These were held back with the Customs Study Team recommendation on the form and size of manifest. These were examined further in the context of the recommendation of the Customs Study Team, and with certain suggested changes was discussed in the Conference of Collectors on 9-4-1970. The

view of Collectors were sought on certain points which arose during discussions in the Conference. The draft was finalised on 11-11-1970 and sent to Ministry of Law for vetting. Thereafter, after incorporating the suggestions of Ministry of Law, the Regulations were notified in April, 1971."

50. The Committee note that while admitting that considerable time was taken by Government to finalise the Import Manifest (Vessels) Regulations, 1971, the Ministry of Finance (Department of Revenue and Insurance) have contended that as the forms prescribed by the respective Collectors under the Sea Customs Act, 1878, remained in force in terms of section 160(3) of the Customs Act, 1962, there had been no delay as such, which had caused prejudice either to the Government or to the public. The Committee can hardly accept this explanation. As pointed out by the Committee in an earlier case, saving provisions for continuing the operation of rules and regulations framed under the repealed enactments are in the nature of transitional provisions, which do not take away the need for early framing of comprehensive rules and regulations under new Acts.

51. The Committee are distressed at the lackadaisical manner in which the Departmental machinery had acted in this case. Certain difficulties were pointed out by the Collector of Customs, Cochin. These were looked into by the Ministry who asked the Directorate of Inspection to frame draft regulations on 31-10-1964. The Directorate took over 3 years to frame the draft regulations and sent these to the Ministry on 16-11-1967. For another 2½ years, these remained with the Customs Study Team and were discussed in the Conference of Collectors on 9th April, 1970. It took the Ministry one more year to finally publish the regulations on 17th April, 1971. It is not known how the difficulties pointed out by the Collector of Customs Cochin, in 1964, were dealt with during the intervening period of about 7 years. The Committee desire the Ministry to show more promptness in future, particularly in cases where difficulties in the working of rules and regulations are pointed out by the field formations.

52. The Committee also note that some of the matters enumerated in sub-section (2) of section 157 of the Customs Act, 1962, are still being regulated by orders issued under the Sea Customs Act, 1878. In order to streamline the position, the Ministry propose to frame regulations in respect of these matters in 'about six months'. The Committee desire the Ministry to frame the proposed regulations within the contemplated period of 6 months.

(v) *Non-exercise of rule-making power under the Indian Medicine Central Council Act, 1970.*

53. Section 35 of the Indian Medicine Central Council Act, 1970, empowers the Central Government to make rules to carry out the purposes of the Act. Section 36 empowers the Central Council to make regulations, with the previous sanction of the Central Government on 15 matters enumerated therein. But no rules/regulations appeared to have been made so far under the Act, as the Ministry of Health and Family Planning (Department of Health) had furnished a 'nil' statement in reply to the communication of the Committee sent in August, 1974. Also no reasons for non-framing of rules/regulations were given by the Ministry.

54. The Committee heard oral evidence of the representatives of the Ministry on 29th August, 1975, in regard to non-framing of rules/regulations under the Indian Medicine Central Council Act, 1970, which was brought into force on 15th August, 1971. During the course of evidence, the representative of the Ministry of Health stated that the rules should have been framed within 6 months of the passing of the Act, but there were certain extenuating circumstances for delay in framing the rules. During the course of discussion on the Bill in Parliament, the then Minister of State had stated that in so far as the integrated doctors were concerned, the Schedule to the Act would be split up while making rules. The Ministry of Law, however, advised that since the Schedule formed part of the Act, it could not be split up under the rule-making power. This matter was considered by the Central Council of Health first in 1974 and again in April, 1975. The representative of the Ministry further stated that the rules had since been finalised and sent to the Press for publication. One set of regulations under Section 36(a) had already been framed in 1971. Action was under way for framing regulations under Section 36(b). Regulations under sub-section (i) had been prepared and referred to the States for comments. As regards sub-section (j), it raised the question of qualification etc. and there had been a lot of discussion on this. The matter had been referred to the States for their concurrence. Likewise, regulations in respect of matters specified in sub-sections (k), (l) and (m) had been sent to States for concurrence.

55. When asked as to the time they will take in finalising the regulations, the representative of the Ministry stated that he was quite sure they would be able to issue the regulations during the current financial year. Further asked whether it could not be

possible for the Ministry to finalise the regulations by December, 1975, the representative of the Ministry stated that they would make every effort to do so.

56. It was pointed out by the Committee that the reply dated 3rd September, 1974 received from the Ministry did not give any information on the subject. The representative of the Ministry apologized and said that there was no intention to conceal anything from the Committee.

57. While the Committee note that the rules to be framed under section 35 of the Act have since been finalised and sent to the Press for publication, they cannot help expressing regret over the leisurely manner in which Government had proceeded in the matter. According to the representative of the Ministry of Health and Family Planning (Department of Health), the question of framing rules under the Act was considered by the Central Council of Health in 1974 for the first time. The Committee feel that, having regard to the recommendation of the Committee in para 34 of their Fifth Report (Second Lok Sabha), the Council should have taken up the question of framing rules immediately after the commencement of the Act. They desire that such inordinate delays should be avoided in future.

58. As regards framing of regulations under section 36 of the Act, the Committee note that only one set of regulations has so far been framed. In so far as the remaining 14 matters laid down in section 36 are concerned, the Ministry have promised to make every effort to finalise the regulations by the end of December, 1975. The Committee trust that the Ministry will finalise the regulations in respect of all the remaining 14 matters by the contemplated date.

59. The Committee cannot help expressing displeasure over the casual manner in which the communication of the Committee sent in August, 1974, was treated by the Ministry. Although one set of regulations had been issued by the Ministry as far back as 1971, they had forwarded a 'nil' statement to the Committee giving an impression that no regulations under the Act had so far been issued. Also, no reasons were given for non-framing of rules and regulations. The Committee desire the Ministry to be careful in future while giving replies to the points raised by the Committee so that unnecessary waste of time and correspondence is avoided.

- (vi) *None-exercise of rule-making power under the Official Languages Act, 1963 and the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968.*

(a) The Official Languages Act, 1963.

60. Section 8(1) of the Official Languages Act, 1963, which was brought into force on 10-5-1963, empowers the Central Government to make rules for carrying out the purposes of the Act, but no rules under the Act have been framed so far. The Ministry of Home Affairs were asked to state the reasons for not framing the rules. In their reply dated 17-9-1974, the Ministry stated as under:—

“It was decided that the question of framing of rules may be taken up after position with regard to the implementation of the administrative instructions has been established and various issues and points that may be raised by different Ministries/Departments are clarified.”

61. During the course of evidence, the representative of the Ministry of Home Affairs explained to the Committee that at the time the Act was passed, they had thought that difficulties would arise in its implementation. The Act was amended in 1967 to meet the requirements of non-Hindi speaking people. He further said that an Act relating to language could not be treated in the same way as other enactments. Therefore, they wanted the position to crystallize before making rules under the Act. The instructions were issued in 1968. Subsequently, in 1971, it was felt that certain experience having been gained in the matter, time had come for proceeding with the rules. Questionnaire was drawn up and issued to the Ministries. The replies of the Ministries had been received. As to the latest position, he stated that draft rules framed by the Ministry had been sent to the Ministry of Law for scrutiny. The Ministry of Law had raised certain doubts. These were proposed to be discussed with them and the rules would be issued in the near future.

62. The representative of the Ministry also stated that a Parliamentary Committee would soon be constituted to go into the whole matter of development of official language. The question was whether it would be desirable to issue the rules at this juncture when the Parliamentary Committee would be seized of the whole matter. He felt that it would be better if the present procedure was allowed to be followed for sometime more.

63. In reply to a question, the representative stated that the position being fluid in the initial years, the delay in framing the rules should count from 1965.

64. In another note received on 23-9-1975, the Ministry of Home Affairs (Department of Official Language) have further clarified the position in regard to the issue of administrative instructions *instead* of framing rules as envisaged by section 8:

"It was no doubt realised that rules had to be framed under the Act, but it was felt that this may take some time. All the same, inasmuch as section 3 was quite detailed and cast mandatory obligations on the administration, instructions to implement provisions of the law had to be issued to Ministries, Departments, etc., even before the rules had been framed. This was done in order to bridge the gap in the interim period and to enable the Ministries, etc., to plan for the implementation of the provisions of the Act. It would, thus, be seen that these instructions were issued preparatory to the issue of the rules and not *instead* of the rules."

65. The Committee regret to note that rules to carry out the purposes of the Official Languages Act, 1963, are yet to be issued. The delay in framing the rules exceeds 10 years, even if, as urged by the representative of the Ministry in evidence, the delay is counted from 1965: The Committee are not satisfied with the explanation of the Ministry for delay in framing the rules. Even granting that the matter was sensitive one and some time had to elapse before the Ministry could proceed with the framing of rules, the Committee feel that a period of over 8 years for the purpose is too long. In the opinion of the Committee, the gap between the time-limit laid down by the Committee in para 34 of their Fifth Report (Second Lok Sabha) and the time taken by the Ministry in framing the rules is so wide as to lead the Committee to the conclusion that the Ministry had practically paid no heed to the recommendation of the Committee.

66. While assuring the Committee that the rules in question were nearing finalisation, the representative of the Ministry urged in evidence that as a Parliamentary Committee would soon be seized of the whole question of the development of the Official Language, it would be better if the present position was allowed to continue for some time more. The Committee are unable to accept this plea. They desire that the rules in question should be issued without any further delay. It is open to Government to make any amendments to the rules it may consider necessary to give effect to the recommendations of the Parliamentary Committee proposed to be constituted.

(b) The Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968

67. Section 19 of the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968, empowers the Central Government to make rules, but no rules have been framed so far.

68. In their reply to the communication of the Committee sent in August, 1974, the Ministry of Home Affairs did not give reasons for not making the rules.

69. During the course of evidence, the representative of the Ministry of Home Affairs explained that provision for rule-making was made in every Act dealing with States Reorganisation. But in a number of cases it was not found necessary to make the rules as the provisions contained in the Act were self-operating and did not require any rules. The Andhra Pradesh and Mysore (Transfer of Territory) Act had already been implemented and it was not found necessary to frame rules.

70. In reply to a question, the representative of the Ministry stated that the rule-making provision was included in the Act as while enacting law one did not know the problems that might arise in future. In this case, no difficulties arose and hence it was not necessary to make rules.

71. When asked as to why the reasons for non-framing of rules had not been furnished to the Committee while replying to their communication of August, 1974, the representative of the Ministry apologised for this omission.

72. In their written note dated 22-9-1975, the Ministry have stated that the provisions of the Act were self-operative and the implementation of the scheme of the Act did not give rise to any situation requiring the framing of rules. Further, the transfer of the territory as envisaged in the Act having already been effected, provisions of the Act have been implemented. The object of the enactment has been duly achieved without having to invoke the rule-making power.

73. The Committee note that in this particular case the need to frame rules has not arisen as the provisions of the Act which have since been implemented, were found to be self-operative.

74. The Committee are unhappy over the casual manner in which the Ministry had dealt with the communication of the Committee sent in August, 1974. Had the Ministry explained the position in their reply to said communication of the Committee, there would have been no need to take the oral evidence of the representatives of the Ministry in this case. The Committee desire the Ministry to note for future guidance that the replies given are complete in all respects so that the time of the Committee is not unnecessarily wasted.

(vii-a) Delay in exercise of rule-making power under the Companies (Amendment) Acts, 1960 and 1963.

75. Sub-section (IA) of Section 163 of the Companies Act, 1956, under which the Companies (Preservation and Disposal of Records) Rules, 1966, have been framed, was inserted by the Companies (Amendment) Act, 1960, which came into force on 28-12-1960. The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) took over 5 years to make the above rules.

76. Similarly, section 153A, under which the Companies (Public Trustees) Rules, 1973, have been framed, was inserted by the Companies (Amendment) Act, 1963, which was enforced on 1-1-1964. It took the Ministry over 9 years and 9 months to frame the above rules.

77. The Ministry were asked to state the reasons for delay in framing the above 2 sets of rules. In their reply, the Ministry have stated as under in so far as the Companies (Preservation and Disposal of Records) Rules, 1966, are concerned:—

"Sub-section (IA) of section 163 under which these rules are to be framed was inserted by the Companies (Amendment) Act, 1960, which came into force on 28-12-1960. Through over-sight the rules were not framed immediately thereafter. Action was initiated in 1964 and it took time to consult field officers and Law Ministry (Legislative Department)."

78. As regards the Companies (Public Trustees) Rules, 1973, the Ministry have stated as under:—

"A decision on the final form of Rules is to be taken in consultation with various Departments of Government and the U.P.S.C. which is the cause of delay."

79. During the course of evidence, the representative of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) explained that prior to the coming into the force of 1960 Act, the Companies Act was being administered by the State Governments under delegated powers. Provision for preservation of records was made in the Act through the amendment of 1960 as sometimes, the records of the Company were not available or they found it difficult to locate them or the company might have destroyed them. They had no experience as the amendment related to the documents being kept by the Company. It was not clear for how long these were to be kept. So, they had to collect necessary information from the Registrar of Companies and Regional Directors. They also discussed the matter with Chambers of Commerce and others in regard to the manner in which those documents should be preserved. It took sometime to do the preliminary work. He, however, admitted that there was a delay in doing this work, which was started sometime in 1964.

80. The representative of the Ministry apologized for the inordinate delay in framing the Companies (Public Trustees) Rules, 1973, under Section 153(A) of the Companies Act. He said that framing of rules was taken up in 1967, almost three years after the section was incorporated in the Act. The matter became a little controversial as the view taken by the Ministry and the Minister at that time was that the public trustees had to discharge certain functions which required independence of action as also certain qualifications and, therefore, the appointment to that post should be outside the purview of the U.P.S.C. The matter was referred to the Ministry of Home Affairs who did not agree to keep the post outside their purview. It was decided to take public trustees from the existing services. After the settlement of this major issue, other ancillary issues regarding the terms of appointment, remuneration to be paid etc. were taken up. The scale of Rs. 2500—2750 was eventually agreed. The next question considered was whether non-officials also could be appointed. All these issues took time. Repeated references had to be made to the Legislative Department, Department of Personnel and the U.P.S.C. before the rules could be framed.

81. In reply to a question as to how in the absence of the rules the functions of the public trustees were discharged, the representative of the Ministry explained that except for a short period, there was almost a continuous appointment of public trustees. The functions he was supposed to discharge were laid down in the Act itself. The guidelines in regard to the functions were also laid down in the Act.

82. The Committee are not satisfied with the explanation of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs), for the delays of 5 years and 9 years and 9 months in framing the Companies (Preservation and Disposal of Records) Rules, 1966, and the Companies (Public Trustees) Rules, 1973, respectively. They cannot help expressing regret over the casual manner in which the Department had proceeded in these 2 cases. In the former case, the rules were not framed through over-sight for 4 years and in the latter case, necessary action was initiated 3 years after the commencement of the amending Act. The Committee are surprised how the executive could be indifferent for years to matters, to regulate which they had obtained specific sanction of Parliament by getting the principal Act amended. The Committee desire the Department of Company Affairs to take care to see that such cases of inordinate delays do not recur.

(vii-b) Non-exercise of rule-making power under the Monopolies and Restrictive Trade Practices Act, 1969.

83. Section 67(1) of the Monopolies and Restrictive Trade Practices Act, 1969, which was brought into force on 1-6-1970, empowers the Central Government to make rules to carry out the purposes of the Act. It was noticed from the information supplied by the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) in reply to the communication of the Committee sent in August, 1974, that 2 sets of rules, viz., (1) the M.R.T.P. Commission (Conditions of Service of Director of Investigation) Rules; and (2) the M.R.T.P. Commission (Conditions of Service of Registrar/Joint/Deputy/Assistant Registrars) Rules, had not yet been published in the Gazette, even though a period of over 5 years had elapsed after the commencement of the Act. In their note dated 16-9-1974, the Ministry gave the following reason for delay in exercise of rule-making power in the above 2 cases:

"A decision on the final form of the Rules was to be taken in consultation with the M.R.T.P. Commission, various Departments of Government and the U.P.S.C. which caused the delay."

84. During the course of evidence, the representative of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) informed the Committee that the rules regarding the Director of Investigation were ready. The matter was first taken up in August, 1972, and the Ministry of Finance, Department of Personnel and U.P.S.C. and the Law Ministry had to be consulted. The rules

had been sent to the Legislative Department for final vetting and they would be published within 3 months at the most.

85. Asked, whether in the absence of rules, the appointment of the Director had been made, the representative of the Ministry said that the Act came into force in June, 1970 and the Director of Investigation had been in position since 1st June, 1971. There was no dissatisfaction in the absence of the rules. The post was filled by a very senior officer of the Indian Revenue Service and the appointment was approved by the Appointments Committee of the Cabinet. The post carried a scale of Rs. 2000—2250. The Commission had recommended him from year to year and there was no representation against him. The post of Registrar was filled in June, 1970 and three Assistant Registrars were appointed in 1971. These posts were filled by deputation.

86. As regards the rules relating to conditions of service of Registrar/Joint/Deputy/Assistant Registrars to be framed under section 34 of the Act, the representative of the Ministry stated that certain points had been raised by the U.P.S.C. The draft rules had again been sent to them on 27-8-1975, after meeting their objections. The witness assured the Committee that they were doing their best to see that the rules were published as soon as possible.

87. In reply to a question, the representative of the Ministry admitted that the Rules must be framed in time and he apologized for delay.

88. In another written note received on 26-11-1975, the Ministry have stated that the MRTTP Commission (Conditions of Service of Director of Investigation) Rules, 1975, have since been finalised and sent to Government of India Press on 22-11-1975, for publication in the Gazette.

89. The Committee regret to note that the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have taken more than five years to frame the two sets of rules in question. In the opinion of the Committee, the time taken by Government in framing these rules is too long, even allowing for the fact that various other Government agencies had to be consulted. The Committee note in this connection that necessary action to frame one of the two sets of rules in question—the MRTTP Commission (Conditions of Service of Director of Investigation) Rules, 1975, was initiated more than two years after the Act had come into force. The Committee need hardly emphasise that the Ministries/Departments

should initiate necessary action to frame rules, regulations, etc. immediately after an Act comes into force.

(viii) *Non-exercise of rule-making power under the Dowry Prohibition Act, 1961.*

90. Section 9 of the Dowry Prohibition Act, 1961, which was brought into force on 1-7-1961, empowers the Central Government to make rules for carrying out the purposes of the Act, but no rules under the Act have been framed so far. The Ministry of Law, Justice and Company Affairs (Legislative Department) on being asked the reasons for not exercising the rule-making power have stated in their reply as under:—

"Soon after the passing of the Act, the question of framing rules was considered. It was then decided that it was not necessary to frame rules for the effective and successful implementation and operation of the Act. Even after the enforcement of the Act, no need has arisen for framing any rules."

91. The representative of the Ministry of Law, Justice and Company Affairs (Legislative Department) explained during the course of evidence that after examination of the Act they found three sections which required action on the part of Central Government: (i) under section 1(3), fixation of the date on which the Act was to come into force. It was decided to bring it into force from 1-7-1961; (ii) framing of rules under section 9; and (iii) penalty under section 4 for demanding dowry. An officer had to be designated under the proviso to section 4 whose permission is to be taken before action can be taken against a person demanding dowry. Notifications had been issued in this regard by the State Governments. The Notification in respect of the Union Territory of Delhi was issued on 22-7-1961, designating the District Magistrate of Delhi as the officer whose sanction is to be taken before a court takes cognizance of any offence under this section.

92. As regards rules to be framed under section 9, he said that there was no matter on which any rules were called for. He explained that a provision for rule-making power was incorporated in Acts so that rules could be framed if necessity arose. In the case of the Dowry Prohibition Act, they felt that there was no need of making the rules.

93. When it was pointed out by the Committee that the offence under the Act was not cognisable and as such rules should be fram-

ed to give the procedure of making complaints, the representative of the Ministry stated that executive authority under the Act vested in the State Governments. Everybody who wanted to file a complaint knew the law or otherwise he could seek the guidance of those who knew it. There was no necessity for laying down the procedure. However, having regard to the feelings of the Members, they will examine the matter further.

94. In reply to another question, he stated that there was no need for laying down a separate procedure for moving in the matter. Although the Dowry Prohibition Act did not specifically say that the Code of Criminal Procedure would apply, the idea of enacting the Code was that wherever a separate procedure is not provided for, the procedure laid down in the Code of Criminal Procedure would apply.

95. In their written note forwarded to the Committee on 26-11-75, the Ministry have stated that certain proposals for amending the Act have been made by the Committee on Status of Women and they are receiving consideration of the Government. The question whether it is necessary to frame any rules for the effective implementation of any provision that may be made in the Act would depend on the decisions taken on the said proposals.

96. In reply to another question whether, without framing any rules, the provisions contained in the Act, were being implemented effectively and successfully, the Ministry have, in their aforesaid note, *inter-alia*, stated as follows:

"No State Government has come forward for the framing of rules. Since the executive authority vests in the State Governments, it is not possible to say much on this aspect. However, there is a general feeling that the Dowry Prohibition Act has failed to achieve the purpose of eradicating the dowry system....."

97. The Committee note that the rules to carry out the purposes of the Dowry Prohibition Act, which was brought into force on 1-7-1961, have not yet been framed. The explanation of the Ministry of Law, Justice and Company Affairs (Legislative Department) was that it was not considered necessary to frame rules for the effective and successful implementation and operation of the Act. According to them, no need for framing the rules had arisen even after enforcement of the Act. The Committee are unable to accept the above explanation. In their opinion, the Ministry of Law had

taken only a technical view of the matter. The Committee note that, according to the Ministry of Law's own admission, the general feeling was that the Dowry Prohibition Act had failed to achieve the purpose of eradicating the dowry system. The Committee grant that a mass social consciousness rather than a piece of legislation can eradicate the evil of dowry. But all the same, a commonly known comprehensive law can play its own part. Here comes in the role of rules, which are said to provide, as it were, blood and flesh to statutes. In the opinion of the Committee, it could have certainly facilitated matters if a detailed procedure could have been laid down through rules, indicating how a person from whom dowry had been demanded was to proceed in the matter. This was particularly necessary, as the Act was skeletal and the offence non-cognisable. Such rules could, inter alia have laid down simple forms for lodging complaints which could meet the requirements of law. The Committee desire the Ministry to examine the matter afresh.

(ix) *Delay in exercise of rule-making power under the Advocates Act, 1961.*

98. The Advocates Act was enforced in 1961, but the two sets of rules, viz., (i) the Admission as Advocates (Exemption from Training and Examination) Rules, 1965, and (ii) the Admission as Advocates (Training and Examination) Rules, 1968, were framed and published in the Gazette on 15-12-1965 and 8-3-1968, respectively. From the information supplied by the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in reply to the communication of the Committee sent in August, 1974, it was noticed that a period of 5 years and 7 years and 3 months had been taken for framing and publication of the above 2 sets of rules. No reasons for this inordinate delay in exercise of rule-making power were given by the Ministry.

99. During the course of oral evidence on 29-8-1975, the representative of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) stated that the Advocates Act was passed in 1961. Though some sections of the Act were brought into force on 1-12-1961, the rule-making provision was incorporated for the first time on 16-5-1964 by the Advocates (Amendment) Act, 1964. From 1961 to 1964 neither the Central Government nor the Bar Council of India specifically had any power to make rules. Clause (b) of sub-section (2) of Section 49A gave power to make rules to provide for the category of persons who may be exempted from training and examination. During the period 1961 to 1964 when they did not have power to exempt any person from training, they had to go to Parliament for amendment of the Act twice.

100. In reply to a question the representative of the Ministry stated that the qualifications and dis-qualifications for membership of a Bar Council had been given in the Act and also in the rules framed by the Bar Council of India. Therefore, they had not framed any rules in the matter. No difficulty had been experienced by not framing any rules. The Bar Council of India had framed the rules to be followed by the Disciplinary Committee.

101. The Committee note that the power to make rules was conferred on Government in May, 1964, by the Advocates (Amendment) Act, 1964. They are surprised why the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) did not explain the factual position in their reply to the communication of the Committee sent in August, 1974. The Committee will like the Ministry of Law to be more careful while sending replies to the communications of the Committee in future.

102. The Committee observe that the Ministry had taken a period of more than one and a half years in framing the Admission as Advocates (Exemption from Training and Examination) Rules, 1965, and a period of nearly four years in framing the Admission as Advocates (Training and Examination) Rules, 1968. The time taken by the Ministry in framing the two sets of rules was far in excess of the time prescribed by the Committee for the purpose. The Committee will like the Ministry to take care to see that the time-limit laid down by the Committee in this regard is strictly adhered to in future.

CONCLUSION

103. In paragraph 34 of their Fifth Report, presented to the House on the 5th May, 1959, the Committee on Subordinate Legislation had recommended that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. A study made by the Committee has revealed that the above recommendation of the Committee has not been complied with by the Ministries/Departments of Government of India in a large number of cases. In case of 22 Acts, the rule-making power had not been exercised at all and in 43 cases, there had been a delay in the exercise of rule-making power. The delay ranges from over 6 months to over 12 years. In addition, several other cases came to notice where rules in respect of some of the matters enumerated in the Acts had been framed but rules in respect of other matters enumerated in the Acts had not yet been framed. In one such case, it was noticed that as many as 5 sets of rules are still to be framed, even though the relevant Act had come into force more than 15 years back. In another case, rules in respect of two matters have not yet been framed even though the Act has come into force more than 9 years back. The Committee are distressed over such cases.

104. The study made by the Committee has also revealed that some of the Ministries had initiated action to frame rules long after the Acts had come into force. In one case the Ministry had initiated necessary action to frame rules about 8 years after the commencement of the relevant Act. The Committee need hardly point out that if the time-limit laid down by the Committee is to be adhered to by the Ministries/Departments, there is no alternative for them but to initiate such action immediately after the Acts come into force.

105. Another major reason for delay was that an unduly long time was taken by the Ministries/Departments in consultations with the Ministry of Law and other Ministries/Departments. The Committee will like to impress upon the Ministries/Departments of the imperative need of expedition in such cases. They will also like the Ministry of Law to show more promptness in vetting rules, regulations, etc.

106. One of the Ministries was found to be labouring under an impression that the time-limit of 6 months laid down by the Committee applies only to rules framed by the Central Government and not to regulations to be framed by subordinate authorities. The Committee will like to make it clear that the time-limit of 6 months laid down by the Committee applies not only to rules to be framed by the Central Government but also to other forms of subordinate legislation (such as regulations, bye-laws, schemes, etc.) to be framed whether by the Central Government or by other subordinate authorities.

107. In two cases the explanation given by the Ministries for delay in exercise of rule-making power was that the Acts in question contained saving provisions, in terms of which operation of the regulations framed under the repealed Acts had been continued. The Committee will like to re-emphasise that such provisions are only transitional in nature and do not take away the need for early framing of regulations under the new Acts.

108. The Committee re-stress their earlier recommendation that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed 6 months. In case, however, a Ministry/Department finds that for any unavoidable reasons it is not possible for them to adhere to the prescribed time-limit in an exceptional case, they should at the expiration of 6 months from the commencement of the relevant Acts, explain the reasons to the Committee and seek a specific extension of time from them.

109. Another aspect to which the Committee will like to draw attention is supply of incomplete/incorrect information by the Ministries/Departments in reply to the Committee's communication sent in August, 1974. In 8 cases the Ministries/Departments had not furnished reasons for non-exercise/delay in exercise of rule-making power. In one case, the Ministry had given an impression that exercise of rule-making power had not been felt necessary, as the provisions of the Act were found to be sufficient. A subsequent reply of the Ministry, however, revealed that matters envisaged to be regulated by the rules had already been regulated by 'Order' made under the Defence of India Rules, 1962. In another case, the Ministry had furnished a 'nil' statement, which gave an impression that no regulations under the Act had been framed, whereas the fact was that one set of regulations had already been framed by the Ministry as far back as 1971. In yet another case, the Ministry had failed to indicate that in an Act passed by Parliament in 1961, the provision

relating to rule-making power had been inserted only in 1964. The Committee are not happy over the casual manner in which the Ministries/Departments had given replies in the above cases. The Committee will like to stress that the information furnished to the Committee by the Ministries/Departments should be complete in all respects, so that the time of the Committee is not unnecessarily wasted.

110. The Committee desire the Department of Parliamentary Affairs to bring the above recommendation of the Committee to the notice of all the Ministries/Departments of Government of India for strict compliance. They will also like each Ministry/Department to enjoin on the officer dealing with Parliamentary work in the Ministry/Department to keep a watch over the exercise of rule-making power delegated under Acts within the stipulated time-limit of six months.

III

THE WHEAT (PRICE CONTROL) ORDER, 1974 (G.S.R. 261-E OF 1974).

111. Under Clause 4 of the above-noted Order, powers of search and seizure were conferred on any police officer not below the rank of Assistant Sub-Inspector or any other officer authorised in this behalf by the Central Government or the Government of the seller State.

112. The Committee on Subordinate Legislation which examined the above 'Order' at their sitting held on the 6th November, 1974, desired to know the reasons for not specifying the minimum rank of the officers other than police officers, who might be authorised by the Central or State Governments for carrying out searches, seizures, etc.

113. In their reply dated the 11th April, 1975, the Ministry of Agriculture and Irrigation (Department of Food) have stated as under:

".....the Wheat (Price Control) Order, 1974 was drafted by the Legislative Department. The Order was issued at very short notice. There was no time to consult the State Governments of Punjab, Haryana, Madhya Pradesh, Rajasthan and Uttar Pradesh and the Chandigarh Administration about the minimum ranks of the officers of these Governments who might be authorised to exercise the powers conferred by Clause 4 of the Order. This was the reason

why the minimum ranks were not specified in the Order itself.

On 31st March, 1975, the Wheat (Price Control) Order, 1974 was rescinded. A copy of the rescission Order No. G.S.R. 177(E) dated 31-3-75 is enclosed. In view of the rescission of the Order, it may not be necessary to consider this matter further."

114. The Committee are not satisfied with the explanation of the Ministry of Agriculture and Irrigation (Department of Food) that the Wheat (Price Control) Order, 1974, was issued at very Short notice and there was no time to consult the State Governments concerned about the minimum ranks of officers of these Governments who might be authorised to exercise the powers of search and seizure. The Committee note that the Order in question has since been rescinded by Government on 31-3-1975 and no further action is called for in so far as this particular case is concerned. They, however, desire that the Ministry of Agriculture and Irrigation should, while issuing such 'Orders' in future bear in mind the recommendation of the Committee regarding specifying minimum rank of officers who might be authorised to conduct searches/seizures made in para 15 of their Fifth Report (Third Lok Sabha) and reiterated several times in their subsequent Reports.

115. The Committee will also like to impress upon all Ministries/ Departments the need of complying with their oft-repeated above recommendation whenever such 'Orders' are issued by them in future.

IV

THE GENERAL INSURANCE (RATIONALISATION AND REVISION OF PAY SCALES AND OTHER CONDITIONS OF SERVICE OF SUPERVISORY, CLERICAL AND SUBORDINATE STAFF) SCHEME, 1974 (S.O. 326-E OF 1974).

116. Paragraphs 5(1) and 5(5) of the above Order, which was examined by the Committee on Subordinate Legislation at their sitting held on the 30th September, 1974, read as under:

"5(1). Categorisation of employees.—The employees shall be categorised into the appropriate categories on the basis of their substantive positions and nature of work as on the 1st day of January, 1973, as specified in sub-paragraphs (2) to (4)."

• • • • •

"5(5). The decision of the Custodian regarding the category to which an employee shall be assigned for the purpose of fitting such employee in the new scale shall be binding on the employee."

The Committee felt that the employee concerned should have the opportunity to represent against the decision of the Custodian about the category to which he is assigned.

117. The Ministry of Finance (Department of Revenue and Insurance), with whom the matter was taken up, have replied as under:

"The Scheme is applicable to the Supervisory, Clerical and Subordinate staff of the General Insurance Corporation and its subsidiaries. The broad criteria on the basis of which the Custodian or the Chairman-cum-Managing Director is to do the categorisation of an employee are indicated in the Scheme itself and no discretion is available to him and the Scheme is in that respect, self-regulating. There are, therefore, little chances of any injustice being done to any employee. The Custodian (now designation, Chairman-cum-Managing Director) is the Head of the employer company and is, therefore, reasonably the highest authority available for any aggrieved employee to represent his case."

118. While the Committee agree that the broad criteria on the basis of which categorisation is to be done are given in paragraphs 5(2) and (3), there is scope for the Chairman-cum-Managing Director using his discretion under paragraph 5(4) of the Scheme. The Committee are of the opinion that if an employee feels aggrieved by the decision of the Chairman-cum-Managing Director, it will meet the ends of natural justice if he is given an opportunity to represent against that decision and ask for its review in the light of the facts stated in his representation. The Committee desire the Ministry of Finance (Department of Revenue and Insurance) to take early steps to amend the scheme accordingly.

V

RE-PUBLICATION OF THE COTTON TEXTILES (CONTROL) ORDER, 1948.

119. In para 29 of their Fourth Report (First Lok Sabha), the Committee on Subordinate Legislation had observed as follows:

"29. The Committee recommend, that whenever there are extensive amendments to any rules, the rules should be

re-printed. The question of economy should be balanced against the convenience to the persons for whose use rules are made."

120. While examining the Cotton Textiles (Control) Amendment Order, 1973, at their sitting held on the 6th November, 1974, the Committee on Subordinate Legislation noted that the Cotton Textiles (Control) Order, 1948, had been drastically amended during the last more than 25 years. The Committee desired the Ministry of Commerce to re-publish the 'Order' in up-to-date form for the convenience of the public.

121. In their reply, dated the 15th May, 1975, the Ministry of Commerce have stated as under:—

".....the Indian Cotton Mills' Federation will be shortly publishing the latest edition of their publication entitled. 'The Handbook of Textile Control Orders', which would *inter alia* contain an up-to-date version of the Cotton Textiles (Control) Order, 1948."

122. The Committee are not satisfied with the above reply of the Ministry of Commerce. They feel that a private publication cannot be considered a substitute for a Government publication, which alone will be taken by the general public as an authoritative version. Also, the private publication may not be easily available to the public at large and even if it is available, its price may be too high. The Committee, therefore, recommend that the Ministry of Commerce should republish the Cotton Textiles (Control) Order, 1948, as amended up-to-date, at a very early date.

VI

THE CINEMATOGRAPH (SECOND AMENDMENT) BILL, 1973 (AS PASSED BY RAJYA SABHA)—INSERTION OF PROVISION FOR LAYING OF RULES FRAMED UNDER SECTION 16 OF THE PRINCIPAL ACT BEFORE PARLIAMENT.

123. The Cinematograph (Second Amendment) Bill, 1973, as passed by Rajya Sabha on 27-8-1973, was laid on the Table of Lok Sabha on 20-8-1973*. The Bill which sought further to amend the Cinematograph Act, 1952, was examined under Direction 103(2) of the Directions by the Speaker. While examining the parent Act of

*The Bill has since been passed by Parliament (*vide* Act No. 27 of 1974).

1952 in this connection, it was noticed that Section 16 in Part III of the Act empowers the Central Government to make rules by notification in the Official Gazette, for regulation of exhibitions by means of cinematographs. There is no provision in the said section that rules framed thereunder will be laid before Parliament, as has been provided for in the case of rules made under Section 8 in part II of the Act. The Committee on Subordinate Legislation had recommended in para 37 of their Third Report (First Lok Sabha), presented to the House on 3-5-1955, that in all future Bills which might seek to amend earlier Acts giving power to make rules, regulations, etc., suitable provisions to lay them on the Table should be included therein.

124. After the presentation of the above Report, the Cinematograph Act has been amended four times by Act Nos. 36 of 1957, 3 of 1959, 58 of 1960 and 25 of 1973. Although the old laying formula contained in sub-section (3) of Section 8 has since been substituted by the new formula as approved by the Committee on Subordinate Legislation (Fifth Lok Sabha), vide Section 4 of the Cinematograph (Amendment) Act, 1973, no laying provision has been made in respect of rules framed under section 16.

125. The matter was taken up with the Ministry of Information and Broadcasting and they were asked to state the special reasons, if any, for not providing the laying provision originally in section 16 and also for not complying with the aforesaid recommendation of the Committee on Subordinate Legislation (First Lok Sabha). In their reply, the Ministry have stated as under:—

“.....in accordance with provisions contained in section 1(2) of the Cinematograph Act, 1952, Part III of the Act extends to Union Territories only. Its application is carried out by the Union Territories.

The point raised....was considered by the Ministry of Law at the time of the drafting of the Cinematograph (Second Amendment) Bill, 1973. This Ministry took the view that section 16 of the Act may not be amended to include therein the laying provision because the section relates to Union Territories and the Cinematograph Act as originally enacted made no such provision although section 8 of the Act made such provision. No rules have been made so far by the Central Government under section 16 of the Act, but the Union Territories have framed their own rules.

If the Committee on Subordinate Legislation is of the opinion that section 16 should also contain a laying provision

necessary amendment will be proposed when the Cinematograph Act comes up for amendment next."

126. In a further communication, the Ministry were asked to state—

- (a) the reasons for not framing the rules under section 16 of the Act, even after 21 years;
- (b) authority under which the Union Territories were empowered to make their own rules for carrying out the purposes laid down in Part III of the Act;
- (c) which of the Union Territories had framed their own rules so far; and
- (d) which of the Union Territories had not yet framed their own rules and how the matters laid down in Part III of the Act were being regulated in those Union Territories regarding exhibitions by means of cinematographs.

127. The Ministry have stated in their reply as follows:—

".....in accordance with the provision contained in section 1(2) of the Cinematograph Act, 1952, Part III of the said Act extends to the Union Territories only. As the application of Part III is done by the Union Territories, it was not considered necessary for the Central Government to frame rules under section 16 of the Act.

As regards....(b) it is stated that the powers of the Central Government under sections 16 and 17 have been delegated to the Administrators of the following union Territories by notifications mentioned against each:

S. No.	Union Territory	Sections under which powers have been delegated	No. and date of notification
(1)	(2)	(3)	(4)
1	Delhi, Andaman and Nicobar Islands.	16	*Ministry of Home Affairs' notification No. S.R.O. 1312, dated 23-7-52.

*See Appendix III.

(1)	(2)	(3)	(4)
2	Lakshadweep (formerly Laccadive, Minicoy and Amindivi Islands).	16	*Ministry of Information and Broadcasting No. S.R.O. 1267, dated 12-4-57.
3	Delhi, Ar.daman and Nicobar Islands and Lakshadweep (formerly Laccadive, Minicoy and Amindivi Islands).	17	*Ministry of Home Affairs' Notification No. S.O. 82, dated 5-1-1961.
4	Goa, Daman and Diu	16 & 17	*Ministry of Home Affairs' Notification No. S.O. 251, dt. 16-1-65.
5	Dadra & Nagar Haveli	16 & 17	*Ministry of Home Affairs, Notification No.S.O. 1688, dt. 4-5-1972.

No powers under the Cinematograph Act, 1952 have so far been delegated by the Ministry of Home Affairs to the Administrators of the Union Territories of Arunachal Pradesh, Chandigarh and Mizoram. The Cinematograph Act, 1952 was extended to Pondicherry by the French Establishments (Application of Laws) Order, 1954, subject to the modification indicated in the Schedule to the said Order. Sections 10 to 18 of the Act were omitted while applying it to Pondicherry. The question of delegating any powers under section 16 or 17 of the Cinematograph Act to the Administrator of Pondicherry would not, therefore, arise.

As regards....(c) and (d)....the requisite information has been obtained from the Union Territories and is given in the enclose@ statement, which is self-explanatory."

128. The Committee note the assurance given by the Ministry of Information and Broadcasting that necessary amendment for laying the rules under section 16 before Parliament will be proposed when the Cinematograph Act comes up for amendment next. The Committee desire that this should be done at the first available opportunity.

129. The Committee are surprised to note that in the Union Territory of Arunachal Pradesh, no rules have been made so far and the exhibition of cinematograph is being regulated through executive

*See Appendix III.

@See Appendix IV.

orders issued in August, 1970. The Committee are not happy about it. They feel that the existing state of affairs could have been avoided, had the statutory requirement of framing the rules under section 16 by the Central Government been complied with in the same way as had been done in the case of rules made under section 8 of the Act. The Committee recommend that the Ministry of Information and Broadcasting should frame rules under Section 16 of the Act at an early date for making them applicable uniformly to all the Union Territories, or in the alternative, they should come forward for getting the Act amended suitably, so as to empower the Administrators of Union Territories to make their own rules.

VII

IMPLEMENTATION OF RECOMMENDATIONS

(i) *The Small Scale Industries Organisation (Class III Non-Ministerial Posts) Recruitment Rules, 1968 (S. O. 1464 of 1968) (Paras 40-41 of Seventh Report—Fifth Lok Sabha).*

130. In paras 40-41 of their Seventh Report, the Committee on Subordinate Legislation (Fifth Lok Sabha) had recommended as follows:—

“The Committee are not convinced by the arguments given by the Ministry of Industrial Development for vesting in the Development Commissioner the power to relax age and educational qualifications under the Small Scale Industries Organisation (Class III—Non-Ministerial Posts) Recruitment Rules, 1968. It is true that there is no statutory order which requires that the power to relax recruitment rules should vest only with the Central Government. Normal practice, however, is that in case of non-Gazetted posts the power to relax rules lies with the Central Government. There are no special circumstances which warrant an exception to be made in the case of the office of the Development Commissioner, Small Scale Industries.

It is not very often that cases for relaxation of age and qualifications arise and approval of the Ministry can be obtained without difficulty in a deserving case. For the sake of uniformity also in the pattern of recruitment rules, it is not desirable that the Development Commissioner, Small Scale Industries should have the power to relax age and qualifications in addition to the power of the Central Government in this regard. The Committee, therefore, desire the Ministry of Industrial Development to am-

end the Rules so as to delete therefrom the provision giving power to the Development Commissioner to relax age and educational qualifications."

131. The erstwhile Ministry of Industrial Development have not accepted the above recommendation. They have stated in their reply as under:—

"...some new development has taken place lately which has a vital bearing on the issue under consideration. The post of Development Commissioner (Small Scale Industries) has been upgraded to that of Additional Secretary to the Government of India. As such the present incumbent of the upgraded post of Development Commissioner (Small Scale Industries) may be considered as appropriate and adequate authority for exercising the powers of relaxation in regard to age and qualifications for Class III posts.

Moreover, there are two categories of Class III posts in respect of which Development Commissioner (Small Scale Industries) has been empowered to relax age and qualifications at his discretion in the Recruitment Rules, viz.

- (a) Posts (Class III) for which Directors of Small Industries Service Institutes are the appointing authority; and
- (b) Posts of Investigator (Class III) for which Development Commissioner (Small Scale Industries) himself is the appointing authority.

For the posts at (a) above, Development Commissioner (Small Scale Industries) is the next higher authority to the appointing authority. Development Commissioner (Small Scale Industries) has also been vested with the powers of Appellate Authority in respect of these posts. There may, therefore, be no objection to the powers in question being continued to be vested in the Development Commissioner (Small Scale Industries).

As regards posts of Investigators at (b) above, since the Development Commissioner (Small Scale Industries) also holds the rank of an Additional Secretary, it appears that it would not be necessary for him to refer the exceptional cases (where the power to relax age limits is to be exercised) to the Ministry of Industrial Development.

Lok Sabha Secretariat are requested kindly to bring these facts to the notice of Committee on Subordinate Legislation so that they may consider the matter in the light of the position explained above and agree to the *status quo* being retained."

132. The Committee are not satisfied with the reply of the Ministry of Industry and Civil Supplies (Department of Industrial Development) that the post of Development Commissioner (Small Scale Industries) has been upgraded to that of **Additional Secretary** to the Government of India, and therefore, he may be considered as appropriate and adequate authority for exercising the power to relax in regard to age and education qualifications for Class III posts. The Committee are of the view that the upgradation of the post is not very germane to the point at issue in this case. They note that rule 5 of the Small Scale Industries Organisation (Class III Non-Ministerial Posts) Recruitment Rules, 1968, specifically vests the power to relax in the Central Government. The Committee are of the opinion that once this power has been vested in the Central Government under the main rules, the question of empowering another authority, viz., the Development Commissioner, Small Scale Industries under the Schedule to the above-mentioned Rules appears to be redundant. The Committee, therefore, reiterate their earlier recommendation made in paras 40-41 of their Seventh Report (Fifth Lok Sabha) that the Ministry should take early steps to amend the rules so as to delete therefrom the provision giving power to the Development Commissioner to relax age and educational qualifications.

(ii) *The Registration of Electors (Third Amendment) Rules, 1969* (S. O. 4540 of 1969) (Paras 42-43 of Ninth Report—Fifth Lok Sabha)

133. In paras 42-43 of their Ninth Report (Fifth Lok Sabha), the Committee on Subordinate Legislation had recommended as follows:

"The Committee are not satisfied with the drastic reduction in the period of 30 days allowed for lodging claims and objections. In one case (Orissa), the period was reduced to just one day and in two cases (West Bengal), it was reduced to 7 days. In another case (Jammu and Kashmir), period was reduced to 8 days. The Committee strongly feel that while the Election Commission should have the power to reduce the normal period of 30 days for filing claims and objections in case of actual emergency, the reduced period should not be so short as to deprive the electors of a fair opportunity of filing claims and objections.

The Committee, therefore, desire the Ministry of Law, Justice and Company Affairs (Legislative Department) to take early steps to amend the Registration of Electors Rules, 1960, for fixing a reasonable minimum period which should be available to the electors for filing claims and objections."

134. The Ministry of Law, Justice and Company Affairs (Legislative Department) have not accepted the above recommendation. In their reply, they have stated as under:—

"...the entire matter was considered afresh in consultation with the Election Commission and it is felt that for the following reasons it may not be feasible to make an amendment in rule 12 for the purpose of fixing a reasonable minimum period which should be available to the electors for filing claims and objections as has been suggested by the Committee.

Attention may be invited to rule 25 of the Registration of Electors Rules, 1960, which envisages three different modes of preparation or revision of the electoral rolls of a constituency—intensive, summary and partly intensive and partly summary. In actual practice, an intensive revision is undertaken before every general election and if necessary before every bye-election. A summary revision is undertaken in any area if the Election Commission feels the necessity for such revision or in connection with a bye-election in a constituency shortly after an earlier intensive revision in respect thereof. These apart, a special revision under section 21(3) of the Act is ordered by the Commission in cases where the Commission is satisfied that a large number of names of eligible persons in a particular village, area or part of a constituency has been omitted either inadvertently or through lapse on the part of the registration authorities and at time this type of omission is noticed even after the issue of the notification calling an election in the constituency. It may happen in the following manner:—

- (i) The names of eligible persons in the enumeration cards prepared as a result of house to house visit by enumerators in respect of a particular locality or area might not have been included in the draft electoral rolls by oversight, mistake or lapse on the part of the registration authority which might not be noticed till after the final publication of the rolls.
- (ii) The registration authority might have left out an entire street, ward or locality at the time of house to house enu-

meration by oversight and this omission is brought to the notice of the Commission either by the Public, political parties, etc, or by the registration authority, after the final publication of the rolls.

It may be mentioned that special revision is the only effective method in such cases where expeditious action is called for. That being so, if the Commission were to undertake the revision following the procedure connected with summary revision or intensive revision, then necessarily the process of revision will have to be spread over a long period. In the case of special revision, therefore, as the list of all eligible persons of the area in which the house to house enumeration has been done, will already be available with the registration authority, these persons are registered by the process of special revision without the need of individual application. Therefore, in cases of this kind, the publication in draft of the roll allowing only a day or two for filing claims and objections, etc. is just meant only to complete the legal formalities. A statement setting out the reasons for giving a reduced period for filing claims and objections in respect of cases pointed out in paragraph 41 of the Report of the Committee is enclosed*. From the statement it would be seen that almost all the cases where the period for filing claims and objections was reduced to less than 15 days, related *only to special revision* undertaken on the eve of an election in respect of a few parts of the electoral roll of a constituency and not of the entire constituency.

In brief, it may be stated that the Election Commission normally allows a full period of 30 days or more whenever an ordinary revision, whether intensive or summary, is undertaken. In the case of intensive revision, the draft electoral rolls are prepared after house to house enumeration by the registration authority. It is only in cases of special revision when expeditious action is called for, a lesser period is allowed for filing claims and objections and this reduction effected in the period, as stated above, is a necessary consequence of the expeditious mode adopted.

It is requested that the above facts and special circumstances connected with special revision, which necessitates a reduced period being given for filing claims and objections may

*See Appendix V.

kindly be placed before the Committee on Subordinate Legislation for their consideration and the Committee may be requested to re-consider their earlier recommendation in this behalf."

135. The Committee are not satisfied with the above reply of the Ministry of Law, Justice and Company Affairs (Legislative Department). They feel that to avoid undue reduction of the prescribed period for filing claims and objections, rule 12 of the Registration of Electors Rules, 1960, should be amended so as to clearly indicate therein that the power to reduce the normal period of 30 days will be exercised by the Election Commission in case of a special revision only ordered under section 21(3) of the Representation of the People Act, 1950, and that even in such a case, the reduced period should not be so short as to deprive the electors of a fair opportunity of filing claims and objections.

(iii) *Printing and publication of compilation containing General Statutory Rules and Orders* (Paras 70—74 of Tenth Report—Fifth Lok Sabha).

136. The Committee on Subordinate Legislation had noted the assurance given by the Ministry of Law that an up-to-date publication of the General Statutory Rules and Orders in force, on the lines of the U.K.'s annual publication of Statutory Instruments, for the convenience of the public, would be brought out as soon as all the volumes of India Code were published (*vide* paras 51-52 of Third Report—Second Lok Sabha—presented on 2-5-1958).

137. To know the progress made in the printing and publication of the above compilation during all these years, the Ministry of Law and Justice (Legislative Department) were asked to furnish the relevant information as to the total number of volumes already printed, the number of remaining volumes to be brought out and the target date by which all the volumes would be published and put on sale to the public. After processing the information supplied by the Ministry, the Committee on Subordinate Legislation recommended in paras 70—74 of their Tenth Report (Fifth Lok Sabha) as follows:—

"While the Committee are glad to note that 2/3rd of the main compilation of General Statutory Rules and Orders and four Supplements thereto have been brought out by the Ministry of Law, Justice and Company Affairs (Legislative Department), they cannot help observing that whereas during the first five years (1960 to 1964), as many as nine volumes were printed and released for sale, during the latter nine years (1966 to 1973), only eleven volumes of

the main publication and four Supplements could be printed and released. The Committee regret the slackening of the pace with the passage of time. In the opinion of the Committee, too long a period (more than 15 years) has been taken by the Ministry in publishing twenty volumes and four Supplements. The Ministry of Law should have at least periodically informed the Committee of the progress in the matter. They feel that if the Ministry had taken little more care, at least the main compilation would have been published by now.

One of the difficulties in early completion of the work as put forth by the representative of the Ministry during evidence was lack of adequate technical staff. If so, the Committee fail to understand why the Ministry should have reduced the strength of the staff deployed on the job from 4 Assistants to 2 Assistants (one of which is non-technical hand) and now express the difficulty in raising the staff strength. The Committee feel that the work would have been completed, if it had not been neglected in this manner. They desire the Ministry to restore the original staff strength and if needed to further increase staff strength, so that the work does not suffer for want of technical personnel who are competent to do it.

The Committee need hardly emphasise the usefulness of this Compilation, which when completed, would make the whole subordinate legislation available at one place (in approximately 30 volumes). The Committee would, in this connection, like to point out that it is not only the Executive Authorities but also the public at large, especially the Advocates as well as the Courts, who are concerned with the rules and orders, as cases arise under the rules and orders in the form of writ petitions, etc. It is indeed difficult, if not impossible, for an ordinary citizen to lay hands upon all the amendments to a given set of rules that might have been issued by the Executive from time to time. The said Compilation would go a long way in obviating the difficulty and inconvenience caused to the public in location and referencing.

The Committee trust that the main Compilation will be completed and released for sale by the end of 1977—the target date fixed by the Ministry. They also desire that simultaneous action should be taken to bring out all the necessary Supplements to earlier volumes of the main Compilation, so that they are kept up-to-date as far as possible.

The Committee would further like to be furnished with a yearly progress report regarding the publication of the main Compilation as well as of the Supplements, at the end of each year, to keep them abreast of the latest position."

138. In their yearly progress report, the Ministry of Law, Justice and Company Affairs (Legislative Department) have stated as under:—

"During the year 1974, Volume XXI of the G.S.R.O. covering the subject-heading 'Revenue' [up to and including the Income-tax Act, 1961 (43 of 1961)] has been released. A copy thereof has already been sent for the information of the Committee. About fifty per cent of the work involved in G.S.R.O. Volume XXII, covering the remaining Acts under the subject-heading 'Revenue' has been completed. The Manuscripts of this Volume have been prepared and are being checked in consultation with the Ministry of Finance. However, to save time the Manuscripts as compiled by this Ministry have been sent to press. The necessary corrections, if any, arising as a result of the scrutiny in consultation with the Ministry of Finance (Department of Revenue and Insurance) will be incorporated at the stage of reading proofs.

As priority is being given to the work relating to main Volumes of the G.S.R.O., the work relating to further Volumes of Supplement to G.S.R.O. will be taken up as soon as possible.

Efforts are being made to secure sanction for extra staff for doing this work."

139. The Committee note that during the year 1974, only one volume (XXI) of the General Statutory Rules and Orders, covering the subject heading 'Revenue' (up to and including Income-tax Act, 1961) has been released for sale to the public. They further note that fifty per cent of the work involved in volume XXII has been completed and manuscripts have been sent to the Press. According to the Ministry of Law, Justice and Company Affairs (Legislative Department), approximately 30 volumes of this Compilation are to be brought out by the end of 1977—the target date fixed by them for the completion of the work. The Committee are not satisfied with the slow progress made in this regard, as only one volume has been issued in one year and 9 more volumes still remain to be released. The Committee desire that steps should be taken to accelerate

the pace of work so that all the 30 volumes are released within the target period.

140. The Committee are also not satisfied with the reply of the Ministry in regard to the publication of Supplements to earlier volumes of the main Compilation. According to the Ministry this work will be taken up as soon as possible, as priority is being given to the work relating to main volumes of the General Statutory Rules and Orders. The Committee reiterate their earlier recommendation made in para 73 of Ninth Report (Fifth Lok Sabha) that simultaneous action should be taken to bring out all the necessary supplements to earlier volumes of the main Compilation, so that they are kept up-to-date as far as possible.

(iv) (a) *The Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 (G.S.R. 1352 of 1971); and (b) the Central Vigilance Commission (Stenographer) Recruitment Rules, 1971 (G.S.R. 975 of 1972)*—(Para 71 of Eleventh Report—Fifth Lok Sabha).

141. The Committee on Subordinate Legislation (Fifth Lok Sabha) recommended in para 71 of their Eleventh Report as follows:

“The Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 and the Central Vigilance Commission (Stenographer) Recruitment Rules, 1971, have a special provision for making temporary arrangements for 3 months in case suitable persons are not available. The Committee have noticed that generally Recruitment Rules do not contain such a provision. They, therefore, desire the Cabinet Secretariat (Department of Personnel and Administrative Reforms) to issue necessary instructions to all Ministries/Departments that a uniform pattern should be followed in framing Recruitment Rules.”

142. The Cabinet Secretariat (Department of Personnel and Administrative Reforms) have not accepted the above recommendation of the Committee and have stated in their reply as under:

“....the recommendations of the Committee on Subordinate Legislation (Fifth Lok Sabha) contained in paras 69—71 of their Eleventh Report have been considered by this Department. This Department has not come across any Recruitment Rules other than the Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 and CVC (Stenographer) Recruitment Rules, 1972, which contain a special provision regarding making temporary appointments for a period not exceeding three months.”

Recruitment Rules are framed in order to make regular appointments to a post in accordance with the provisions laid down therein. However, pending finalisation of the Rules or due to any other reasons like non-availability of eligible officers etc., Ministries|Departments may make *ad hoc* appointments for short durations in the exigencies of public service. In the case of Class I and Class II Services, such appointments upto a period of one year are covered under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958. For Class III and IV posts, no general instructions have been issued. However, the Ministries and Departments have been told that as far as possible appointments should be made strictly in accordance with the provisions of the Recruitment Rules.

It may be stated that *ad hoc* appointment is a stop-gap arrangement and such appointment does not confer any right on the holder of the post to count such period for seniority or for eligibility for promotion to the next higher grade. As such, it is considered that a provision need not be made in the Recruitment Rules for making such short term appointments, in fact the intention in making statutory recruitment rules is to ensure that Ministries|Departments follow it for making regular appointment.

This Department has already presented a standard proforma and all Recruitment Rules are being framed in that proforma and as such it is not considered necessary to issue any further instructions on the subject."

143. The Committee are not satisfied with the reply of the Department of Personnel and Administrative Reforms that as a standard proforma has already been prescribed by them and all recruitment rules are being framed in that proforma. It is not considered necessary to issue any further instructions on the subject. The Committee are surprised to note that both the sets of rules in question have been issued by the Department of Personnel and Administrative Reforms who had not cared to follow the standard proforma themselves.

144. The Committee reiterate their earlier recommendation made in para 71 of their Eleventh Report that necessary instructions should be issued to all concerned for following a uniform pattern in framing recruitment rules. They also desire the Department to take early action to delete rule 5 from both the sets of rules in question to bring them in uniformity with other recruitment rules.

(v) *The Homoeopathy Central Council Bill, 1973 (as passed by Rajya Sabha)—Provisions regarding Subordinate Legislation (paras 12-13 of Twelfth Report—Fifth Lok Sabha).*

145. The Committee on Subordinate Legislation (Fifth Lok Sabha) recommended in paras 12-13 of their Twelfth Report as under:—

“The Committee are not convinced with the explanation given by the Ministry of Health and Family Planning for not providing in the Homoeopathy Central Council Act, 1973*, for publication of Regulations framed thereunder in the Gazette. According to the Ministry, even though it is not specifically mentioned in the Act, the Regulations will normally be notified in the Gazette. The Committee desire the Ministry of Health and Family Planning to amend the Central Health Council Act so as to provide therein specifically for publication of Regulations.

The Committee are also not happy over the inclusion of an omnibus provision like clause (p) of Clause 33. In their opinion, such a provision is in the nature of excessive delegation as it gives an impression that matters other than those enumerated in sub-clauses (a) to (o) could also be included in the Regulations. The Committee desire the Ministry to delete similar provision from the Indian Medicine Central Act, 1970 and the Indian Medical Council Act, 1956”.

146. In their para-wise reply, the Ministry have stated as follows:—

“Para 12.

The recommendation of the Committee is acceptable to Government and necessary amending legislation will be undertaken at the earliest opportunity.

Para 13.

As regards the points raised in paragraph 13 of the Report, it may be stated that the drafting device adopted in clause (p) of section 33 of the Homoeopathy Central Council Act, 1973 is well recognised and is based on precedents. Such provisions are also to be found in

*The Bill was passed by Lok Sabha on 19-11-1973.

the rule making section in numerous statutes, a few of which are given by way of illustration (List annexed)*. Clause (p) is intended to provide for matters not enumerated earlier, but for which under the Act provision may be made by regulations. Further, the power to make regulations under the various clauses of section 33 is without prejudice to generality of the power of the Central Council to make regulations generally to carry out the purposes of the Act (*vide* opening portion of section 33). For example in this Act, Section 27 provides that a person shall have to make an application so as to get his additional degree or diploma entered in the register in the prescribed manner. This matter may not be covered by clause (m) of section 33. This would be naturally covered by clause (p) which provides for any matter for which regulations may not be covered by clause (m) of section 33. This would be naturally covered by clause (p) which provides for any matter for which regulations may be made under Act. Again the scheme for section 33 is the same as that adopted in the case of sections conferring power to make rules. Ordinarily the section starts by saying that the Government shall have the power to make rules to carry out the purposes of the Act and either in a separate sub-section or in continuation provides that without prejudice to the generality of this power, Government may also provide for certain specified matters including any matter which has to be or may be prescribed by rules so that any matter not specifically enumerated could be provided for by rules if there be an enabling provision in this behalf in the substantive provision of the Act. Further, the enumeration of particular matters either in the rule-making provision or the regulation-making provision is only intended to be illustrative and not restrictive.

In this view of the matter, there seems to be no legal objection to the provision made in the Act. It may be mentioned that even the Indian Medical Council Act, 1933 (which was repealed and re-enacted as the Indian Medical Council Act, 1956) contained an identical provision in section 18(1)(h) thereof. The Committee is requested to re-consider their recommendations in view of the foregoing comments."

* See Appendix VI.

147. The Committee note the assurance given by the Ministry of Health and Family Planning (Department of Health) that necessary amending legislation to provide for publication of regulations framed under the Homoeopathy Central Council Act, 1973, will be undertaken at the earliest opportunity.

148. As regards inclusion of clause (p) in section 33 of the Act, the Committee are satisfied with the reply of the Ministry that similar provisions are also to be found in the rule-making section in numerous Acts and this drafting device is based on precedents. In view of this, they do not want to pursue the matter further.

NEW DELHI;
The 23rd December, 1975.

DR. KAILAS,
Chairman,

Committee on Subordinate Legislation.

APPENDICES

APPENDIX I

(Vide para 4 of the Report)

Summary of main recommendations/observations made by the Committee

No.	Para No.	Summary
(1)	(2)	(3)
1	23	<p>In para 34 of their Fifth Report (Second Lok Sabha), presented to the House on 5-5-1959, the Committee had desired that ordinarily rules should be framed under an Act as soon as possible after the commencement of an Act and in no case this period should exceed six months. The Committee note that in case of three sets of rules, viz., (1) the Committee for Controlling and Supervising Experiments on Animals (Administration) Rules, 1965, (2) the Experiments on Animals (Control and Supervision) Rules, 1968, and (3) the Performing Animals Rules, 1973, framed by the Ministry of Agriculture and Irrigation (Department of Agriculture) under the Prevention of Cruelty to Animals Act, 1960, there had been delays of 5 years, 7 years and 8 months and 12 years and 5 months respectively. The Committee are not satisfied with the explanation of the Ministry for delays in these cases. They feel that with a will and sense of urgency on the part of Government, the delays in these cases could have been considerably reduced. In particular, the Committee do not find any justification for the delay of 12 years and 5 months in framing the Performing Animals Rules, 1973. A more distressing fact is that even though more than 15 years have elapsed since the Act was brought into force, five sets of rules are still to be framed.</p>
24		<p>The Committee note that out of these 5 cases, in one case, viz., Transport of Animals Rules, the draft notification is under issue for inviting suggestions/objections from the public. In the case of remaining four matters, the Animals Welfare Board has been requested to suggest rules and extension of time up to 31st March, 1976, has been asked for from the Committee. While granting this extension, the Committee desire that all our efforts should be made by the Ministry to finalise the rules by the extended date.</p>

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2 30 While the Committee note that all the matters enumerated in sub-section (2) of section 22 and sub-section (2) of section 23 of the National Cooperative Development Corporation Act, 1962, are covered by the rules and regulations framed by Government/National Cooperative Development Corporation, they cannot accept the argument advanced by the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) that as the National Cooperative Development Corporation General Regulations, 1966 and the National Cooperative Development Corporation Service Regulations, 1967, were to be framed by the Corporation and not by the Central Government, these stood on a different footing from the rules. The Committee will like to make clear that the time-limit of six months laid down by the Committee in para 34 of their Fifth Report (Second Lok Sabha) applies as much to statutory regulations to be framed by subordinate bodies as to statutory rules to be framed by the Central Government.

31 It was also urged during the course of evidence that as in terms of the National Cooperative Development Corporation Act, 1962, the regulations framed under an earlier Act were to continue to operate, there had been no delay in framing the regulations in question. The Committee are unable to accept this argument also. They will like to point out that saving provisions such as these are only of a transitional character and do not take away the need for early framing of comprehensive rules and regulations under new Acts.

3 37 The Committee are not at all satisfied with the reply of the Ministry of Commerce regarding the delay of over five years in the framing of the Cardamom Board Service (Classification, Control and Appeal) Rules, 1971. It was, *inter alia*, urged in extenuation that in the initial years of its establishment when the Board had only a limited staff strength, it did not consider the necessity of framing separate service rules. The Committee, however, note that even after the Board had felt the desirability of framing separate service rules and forwarded the same to Government for approval in April, 1968, the latter had taken more than three years to finalise them. The Official (Language) Legislative Commission alone had taken more than a year in translating the notification into Hindi, which ran into 45 typed pages only. The Committee cannot be happy over such delays. A still more dis-

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treassing fact is that even though a period of over nine years has elapsed since the Act came into force—rules in respect of clauses (q) and (r) of sub-section 2 of section 33 of the Cardamom Act, 1965, are yet to be framed.

38 The Committee have now been informed that the question of framing rules in respect of these matters is under examination of the Ministry, in consultation with the Cardamom Board. According to the Ministry, necessary formalities are likely to take some time—between 6 months and 1 year. The Committee desire that the Ministry should finalise the rules in question within the stipulated period.

4 44 The Committee note that all the matters specified in section 23(2) of the Enemy Property Act, 1968, in respect of which rules are required to be framed are covered by the Enemy Property (Custody and Registration) Order, 1962, made under the Defence of India Rules, 1962, which, in terms of section 24 of the said Act, shall be deemed to continue in force and to have been made under the said Act. As the said Act only provided for the continued vesting of the enemy property already vested in the Custodian of Enemy Property, no need for framing fresh rules under this Act had arisen. The Committee, however, fail to understand why in their reply to the Committee's communication of August, 1974, the Ministry of Commerce had not brought all the facts to the notice of the Committee. The aforesaid reply of the Ministry made no mention of the Order issued under the Defence of India Rules, 1962; on the other hand, it stated that the custodian "had been able to carry on the management of the property under the various sections of the Act". Had the Ministry, *ab initio*, given all the facts, there would have been no need to take oral evidence of the representatives of the Ministry. The Committee desire the Ministry to note for their future guidance that the replies sent for the consideration of the Committee are complete in all respects so that infructuous work is avoided.

5 50 The Committee note that while admitting that considerable time was taken by Government to finalise the Import Manifest (Vessels) Regulations, 1971, the Ministry of Finance (Department of Revenue and Insurance) have contended that as the forms prescribed by the respective Collectors under the Sea Customs

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Act, 1878, remained in force in terms of section 160(3) of the Customs Act, 1962, there had been no delay as such, which had caused prejudice either to the Government or to the public. The Committee can hardly accept this explanation. As pointed out by the Committee in an earlier case, saving provisions for continuing the operation of rules and regulations framed under the repealed enactments are in the nature of transitional provisions, which do not take away the need for early framing of comprehensive rules and regulations under new Acts.

51 The Committee are distressed at the lackadaisical manner in which the Departmental machinery had acted in this case. Certain difficulties were pointed out by the Collector of Customs, Cochin. These were looked into by the Ministry who asked the Directorate of Inspection to frame draft regulations on 31-10-1964. The Directorate took over 3 years to frame the draft regulations and sent these to the Ministry on 16-11-1967. For another 2½ years, these remained with the Customs Study Team and were discussed in the Conference of Collectors on 9-4-1970. It took the Ministry one more year to finally publish the regulations on 17-4-1971. It is not known how the difficulties pointed out by the Collector of Customs, Cochin, in 1964, were dealt with during the intervening period of about 7 years. The Committee desire the Ministry to show more promptness in future, particularly in cases where difficulties in the working of rules and regulations are pointed out by the field formations.

52 The Committee also note that some of the matters enumerated in sub-section (2) of section 157 of the Customs Act, 1962, are still being regulated by Orders issued under the Sea Customs Act, 1878. In order to streamline the position, the Ministry propose to frame regulations in respect of these matters in 'about six months'. The Committee desire the Ministry to frame the proposed regulations within the contemplated period of 6 months.

53 While the Committee note that the rules to be framed under section 35 of the Indian Medicine Central Council Act, 1970, have since been finalised and sent to the Press for publication, they cannot help expressing regret over the leisurely manner in which Government had proceeded in the matter. According to the representative of the Ministry of Health and Family Plan-

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ning (Department of Health), the question of framing rules under the Act was considered by the Central Council of Health in 1974 for the first time. The Committee feel that, having regard to the recommendation of the Committee in para 34 of their Fifth Report (Second Lok Sabha), the Council should have taken up the question of framing rules immediately after the commencement of the Act. They desire that such inordinate delays should be avoided in future.

58 As regards framing of regulations under section 36 of the Act, the Committee note that only one set of regulations has so far been framed. In so far as the remaining 14 matters laid down in section 36 are concerned, the Ministry have promised to make every effort to finalise the regulations by the end of December, 1975. The Committee trust that the Ministry will finalise the regulations in respect of all the remaining 14 matters by the contemplated date.

59 The Committee cannot help expressing displeasure over the casual manner in which the communication of the Committee sent in August, 1974, was treated by the Ministry. Although one set of regulations had been issued by the Ministry as far back as 1971, they had forwarded a 'nil' statement to the Committee giving an impression that no regulations under the Act had so far been issued. Also, no reasons were given for non-framing of rules and regulations. The Committee desire the Ministry to be careful in future while giving replies to the points raised by the Committee so that unnecessary waste of time and correspondence is avoided.

7 65 The Committee regret to note that rules to carry out the purposes of the Official Languages Act, 1963, are yet to be issued. The delay in framing the rules exceeds 10 years, even if, as urged by the representative of the Ministry of Home Affairs in evidence, the delay is counted from 1965. The Committee are not satisfied with the explanation of the Ministry for delay in framing the rules. Even granting that the matter was a sensitive one and some time had to elapse before the Ministry could proceed with the framing of rules, the Committee feel that a period of over 8 years for the purpose is too long. In the opinion of the Committee, the gap between the time-limit laid down by the Committee in para 34 of their Fifth Report (Second Lok Sabha) and the time taken by the

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Ministry in framing the rules is so wide as to lead the Committee to the conclusion that the Ministry had practically paid no heed to the recommendation of the Committee.

- 66 While assuring the Committee that the rules in question were nearing finalisation, the representative of the Ministry urged in evidence that as a Parliamentary Committee would soon be seized of the whole question of the development of the Official Language, it would be better if the present position was allowed to continue for some time more. The Committee are unable to accept this plea. They desire that the rules in question should be issued without any further delay. It is open to Government to make any amendments to the rules it may consider necessary to give effect to the recommendations of the Parliamentary Committee proposed to be constituted.
- 8 73 The Committee note that in this particular case the need to frame rules has not arisen as the provisions of the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968, which have since been implemented, were found to be self-operative.
- 74 The Committee are unhappy over the casual manner in which the Ministry of Home Affairs had dealt with the communication of the Committee sent in August, 1974. Had the Ministry explained the position in their reply to said communication of the Committee, there would have been no need to take the oral evidence of the representatives of the Ministry in this case. The Committee desire the Ministry to note for future guidance that the replies given are complete in all respects so that the time of the Committee is not unnecessarily wasted.
- 9 82 The Committee are not satisfied with the explanation of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs), for the delays of 5 years and 9 years and 9 months in framing the Companies (Preservation and Disposal of Records) Rules, 1966, and the Companies (Public Trustees) Rules, 1973, respectively. They cannot help expressing regret over the casual manner in which the Department had proceeded in these 2 cases. In the former case, the rules were not framed through oversight for 4 years and in the latter case, necessary action was initiated 3 years after the commencement of the amending Act.

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The Committee are surprised how the executive could be indifferent for years to matters, to regulate which they had obtained specific sanction of Parliament by getting the principal Act amended. The Committee desire the Department of Company Affairs to take care to see that such cases of inordinate delay do not recur.

10 89 The Committee regret to note that the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have taken more than five years to frame the two sets of rules viz. (1) the M.R.T.P. Commission (Conditions of Service of Director of Investigation) Rules, and (2) the M.R.T.P. Commission (Conditions of Service of Registrar/Joint/Deputy/Assistant Registrars) Rules. In the opinion of the Committee, the time taken by Government in framing these rules is too long, even allowing for the fact that various other Government agencies had to be consulted. The Committee note in this connection that necessary action to frame one of the two sets of rules in question—the MRTP Commission (Conditions of Service of Director of Investigation) Rules, 1975, was initiated more than two years after the Act had come into force. The Committee need hardly emphasise that the Ministries/Departments should initiate necessary action to frame rules, regulations, etc. immediately after an Act comes into force.

11 97 The Committee note that the rules to carry out the purposes of the Dowry Prohibition Act, which was brought into force on 1-7-1961, have not yet been framed. The explanation of the Ministry of Law, Justice and Company Affairs (Legislative Department) was that it was not considered necessary to frame rules for the effective and successful implementation and operation of the Act. According to them, no need for framing the rules had arisen even after enforcement of the Act. The Committee are unable to accept the above explanation. In their opinion, the Ministry of Law had taken only a technical view of the matter. The Committee note that, according to the Ministry of Law's own admission, the general feeling was that the Dowry Prohibition Act had failed to achieve the purpose of eradicating the dowry system. The Committee grant that a mass social consciousness rather than a piece of legislation can eradicate the evil of dowry. But all the same, a commonly-known comprehensive law can play its own part. Here comes in the role of rules, which are said to provide, as it were, blood and

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flesh to statutes. In the opinion of the Committee, it could have certainly facilitated matters if a detailed procedure could have been laid down through rules, indicating how a person from whom dowry had been demanded was to proceed in the matter. This was particularly necessary, as the Act was skeletal and the offence non-cognisable. Such rules could, *inter alia* have laid down simple forms for lodging complaints which could meet the requirements of law. The Committee desire the Ministry to examine the matter afresh.

12 101 The Committee note that the power to make rules was conferred on Government in May, 1964, by the Advocate (Amendment) Act, 1964. They are surprised why the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) did not explain the factual position in their reply to the communication of the Committee sent in August, 1974. The Committee like the Ministry of Law to be more careful while sending replies to the communications of the Committee in future.

102 The Committee observe that the Ministry had taken a period of more than one and a half years in framing the Admission as Advocates (Exemption from Training and Examination) Rules, 1965, and a period of nearly four years in framing the Admission as Advocates (Training and Examination) Rules, 1968. The time taken by the Ministry in framing the two sets of rules was far in excess of the time prescribed by the Committee for the purpose. The Committee will like the Ministry to take care to see that the time-limit laid down by the Committee in this regard is strictly adhered to in future.

13 103 In paragraph 34 of their Fifth Report, presented to the House on the 5th May, 1959, the Committee on Subordinate Legislation had recommended that ordinary rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. A study made by the Committee has revealed that the above recommendation of the Committee has not been complied with by the Ministries/Departments of Government of India in a large number of cases. In case of 22 Acts, the rule-making power had not been exercised at all and in 43 cases, there had been a delay in the exercise of rule-making power. The delay ranges from over 6 months

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- to over 12 years. In addition, several other cases came to notice where rules in respect of some of the matters enumerated in the Acts had been framed but rules in respect of other matters enumerated in the Acts had not yet been framed. In one such case, it was noticed that as many as 5 sets of rules are still to be framed, even though the relevant Act had come into force more than 15 years back. In another case, rules in respect of two matters have not yet been framed even though the Act has come into force more than 9 years back. The Committee are distressed over such cases.
- 104 The study made by the Committee has also revealed that some of the Ministries had initiated action to frame rules long after the Acts had come into force.—In one case the Ministry had initiated necessary action to frame rules about 8 years after the commencement of the relevant Act. The Committee need hardly point out that if the time-limit laid down by the Committee is to be adhered to by the Ministries/Departments, there is no alternative for them but to initiate such action immediately after the Acts come into force.
- 105 Another major reason for delay was that an unduly long time was taken by the Ministries/Departments in consultations with the Ministry of Law and other Ministries/Departments. The Committee will like to impress upon the Ministries/Departments of the imperative need of expedition in such cases. They will also like the Ministry of Law to show more promptness in vetting rules, regulations, etc.
- 106 One of the Ministries was found to be labouring under an impression that the time-limit of 6 months laid down by the Committee applies only to rules framed by the Central Government and not to regulations to be framed by subordinate authorities. The Committee will like to make it clear that the time-limit of 6 months laid down by the Committee applies not only to rules to be framed by the Central Government but also to other forms of subordinate legislation (such as regulations, by-laws, schemes, etc.) to be framed whether by the Central Government or by other subordinate authorities.
- 107 In two cases the explanation given by the Ministries for delay in exercise of rule-making power was that the Acts in question contained saving provisions, in terms of which operation of the regulations framed under the repealed Acts had been continued. The Committee
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will like to re-emphasise that such provisions are only transitional in nature and do not take away the need for early framing of regulations under the new acts.

- 108 The Committee re-stress their earlier recommendation that ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed 6 months. In case, however, a Ministry/Department finds that for any unavoidable reasons it is not possible for them to adhere to the prescribed time-limit in an exceptional case, they should at the expiration of 6 months from the commencement of the relevant Acts, explain the reasons to the Committee and seek a specific extension of time from them.
- 109 Another aspect to which the Committee will like to draw attention is supply of incomplete/incorrect information by the Ministries/Departments in reply to the Committee's communication sent in August, 1974. In 8 cases the Ministries/Departments had not furnished reasons for non-exercise/delay in exercise of rule-making power. In one case, the Ministry had given an impression that exercise of rule-making power had not been felt necessary, as the provisions of the Act were found to be sufficient. A subsequent reply of the Ministry, however, revealed that matters envisaged to be regulated by the rules had already been regulated by 'order' made under the Defence of India Rules, 1962. In another case, the Ministry had furnished a 'nil' statement, which gave an impression that no regulations under the Act had been framed, whereas the fact was that one set of regulations had already been framed by the Ministry as far back as 1971. In yet another case, the Ministry had failed to indicate that in an Act passed by Parliament in 1961, the provision relating to rule-making power had been inserted only in 1964. The Committee are not happy over the casual manner in which the Ministries/Departments had given replies in the above cases. The Committee will like to stress that the information furnished to the Committee by the Ministries/Departments should be complete in all respects, so that the time of the Committee is not unnecessarily wasted.
- 110 The Committee desire the Department of Parliamentary Affairs to bring the above recommendation of the Committee to the notice of all the Ministries/Departments of Government of India for strict compliance. They will also like each Ministry/Department to enjoin on the officer dealing with Parliamentary work in the Ministry/

(1)	(2)	(3)
		Department to keep a watch over the exercise of rule-making power delegated under Acts within the stipulated time-limit of six months.
14.	114	The Committee are not satisfied with the explanation of the Ministry of Agriculture and Irrigation (Department of Food) that the Wheat (Price Control) Order, 1974, was issued at very short notice and there was no time to consult the State Governments concerned about the minimum ranks of officers of these Governments who might be authorised to exercise the powers of search and seizure. The Committee note that the Order in question has since been rescinded by Government on 31-3-1975 and no further action is called for in so far as this particular case is concerned. They, however, desire that the Ministry of Agriculture and Irrigation should, while issuing such 'Orders' in future bear in mind the recommendation of the Committee regarding specifying minimum rank of officers who might be authorised to conduct searches/seizures made in para 15 of their Fifth Report (Third Lok Sabha) and reiterated several times in their subsequent Reports.
	115	The Committee will also like to impress upon all Ministries/ Departments the need of complying with their oft-repeated above recommendation whenever such 'Orders' are issued by them in future.
15.	118	While the Committee agree that the broad criteria on the basis of which categorisation is to be done are given in paragraphs 5(2) and (3), there is scope for the Chairman-cum-Managing Director using his discretion under paragraph 5(4) of the General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974. The Committee are of the opinion that if an employee feels aggrieved by the decision of the Chairman-cum-Managing Director, it will meet the ends of natural justice if he is given an opportunity to represent against that decision and ask for its review in the light of the facts stated in his representation. The Committee desire the Ministry of Finance (Department of Revenue and Insurance) to take early steps to amend the scheme accordingly.
16.	122	The Committee are not satisfied with the reply of the Ministry of Commerce contained in para 121 of the Report. They feel that a private publication cannot be considered a substitute for a Government publication, which alone will be taken by the general public as an authoritative version. Also the private publication

(1)

(2)

(3)

may not be easily available to the public at large and even if it is available, its price may be too high. The Committee, therefore, recommend that the Ministry of Commerce should republish the Cotton Textiles (Control) Order, 1948, as amended up-to-date, at a very early date.

17. 128

The Committee note the assurance given by the Ministry of Information and Broadcasting that necessary amendment for laying the rules under section 16 before Parliament will be proposed when the Cinematograph Act comes up for amendment next. The Committee desire that this should be done at the first available opportunity.

129

The Committee are surprised to note that in the Union Territory of Arunachal Pradesh, no rules have been made so far and the exhibition of cinematograph is being regulated through executive orders issued in August, 1970. The Committee are not happy about it. They feel that the existing state of affairs could have been avoided, had the statutory requirement of framing the rules under section 16 by the Central Government been complied with in the same way as had been done in the case of rules made under section 8 of the Act. The Committee recommend that the Ministry of Information and Broadcasting should frame rule under Section 16 of the Act at an early date for making them applicable uniformly, to all the Union Territories, or in the alternative, they should come forward for getting the Act amended suitably, so as to empower the Administrators of Union Territories to make their own rules.

18. 132

The Committee are not satisfied with the reply of the Ministry of Industry and Civil Supplies (Department of Industrial Development) that the post of Development Commissioner (Small Scale Industries) has been upgraded to that of Additional Secretary to the Government of India, and therefore, he may be considered as appropriate and adequate authority for exercising the power to relax in regard to age and educational qualifications for Class III posts. The Committee are of the view that the upgradation of the post is not very germane to the point at issue in this case. They note that rule 5 of the Small Scale Industries Organisation (Class III Non-Ministerial Posts) Recruitment Rules, 1968, specifically vests the power to relax in the Central Government. The Committee are of the opinion that

(1) (2)

(3)

once this power has been vested in the Central Government under the main rules, the question of empowering another authority, viz., the Development Commissioner, Small Scale Industries under the Schedule to the above-mentioned Rules appears to be redundant. The Committee, therefore, reiterate their earlier recommendation made in paras 40-41 of their Seventh Report (Fifth Lok Sabha) that the Ministry should take early steps to amend the rules so as to delete there from the provision giving power to the Development Commissioner to relax age and educational qualifications.

19. 135 The Committee are not satisfied with the reply of the Ministry of Law, Justice and Company Affairs (Legislative Department) contained in para 134 of the Report. They feel that to avoid undue reduction of the prescribed period for filing claims and objections, rule 12 of the Registration of Electors Rules, 1960, should be amended so as to clearly indicate therein that the power to reduce the normal period of 30 days will be exercised by the Election Commission in case of a *special revision only* ordered under section 21(3) of the Representation of the People Act, 1950, and that even in such a case, the reduced period should not be so short as to deprive the electors of a fair opportunity of filing claims and objections.
20. 139 The Committee note that during the year 1974, only one volume (XXI) of the General Statutory Rules, and Orders covering the subject heading 'Revenue' (up to and including Income-tax Act, 1961) has been released for sale to the public. They further note that fifty per cent of the work involved in volume XXII has been completed and manuscripts have been sent to the Press. According to the Ministry of Law, Justice and Company Affairs (Legislative Department), approximately 30 volumes of this Compilation are to be brought out by the end of 1977—the target date fixed by them for the completion of the work. The Committee are not satisfied with the slow progress made in this regard, as only one volume has been issued in one year and 9 more volumes still remain to be released. The Committee desire that steps should be taken to accelerate the pace of work so that all the 30 volumes are released within the target period.
- 140 The Committee are also not satisfied with the reply of the Ministry in regard to the publication of Supplements to earlier volumes of the main Compilation. According

(1) (2)

(3)

to the Ministry, this work will be taken up as soon as possible, as priority is being given to the work relating to main volumes of the General Statutory Rules and Orders. The Committee reiterate their earlier recommendation made in para 73 of Ninth Report (Fifth Lok Sabha) that simultaneous action should be taken to bring out all the necessary supplements to earlier volumes of the main compilation, so that they are kept up-to-date as far as possible.

21. 143 The Committee are not satisfied with the reply of the Department of Personnel and Administrative Reforms that as a standard proforma has already been prescribed by them and all recruitment rules are being framed in that proforma, it is not considered necessary to issue any further instructions on the subject. The Committee are surprised to note that both the sets of rules in question have been issued by the Department of Personnel and Administrative Reforms who had not cared to follow the standard proforma themselves.
- 144 The Committee reiterate their earlier recommendation made in para 71 of their Eleventh Report that necessary instructions should be issued to all concerned for following a uniform pattern in framing recruitment rules. They also desire the Department to take early action to delete rule 5 from both the sets of rules, viz., the Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 and the Central Vigilance Commission (Stenographer) Recruitment Rules, 1971, to bring them in uniformity with other recruitment rules.
- 22 147 The Committee note the assurance given by the Ministry of Health and Family Planning (Department of Health) that necessary amending legislation to provide for publication of regulations framed under the Homoeopathy Central Council Act, 1973, will be undertaken at the earliest opportunity.
- 148 As regards inclusion of clause (p) in section 33 of the Act, the Committee are satisfied with the reply of the Ministry that similar provisions are also to be found in the rule-making section in numerous Acts and this drafting device is based on precedents. In view of this, they do not want to pursue the matter further.

APPENDIX II

(Vide para 12 of the Report)

Statement showing the number of Ministries/Departments who have not framed/have taken more than 5 years to make the rules under the Acts being administered by them (as on 1-8-1974)

S. No.	Ministry/ Department	Title of Act passed after 5-5-1959, i.e. the date of recommendation (with date of commencement)	Short title of rules, etc., not framed so far/framed after 5 years (with date of publi- cation)	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Agriculture and Irrigation (Deptt. of Agriculture).	Prevention of Cruelty to Animals Act, 1960 (26-12-1960).	(1) Committee for Control- ling and Supervising Ex- periments on Animals (Administration) Rules, 1965 (23-12-65).	Took 5 years to make these rules. No explanation for delay has been given by the Ministry.
			(2) Experiments on Animals (Control and Supervision) Rules, 1968 (4-9-68).	Took 7 years and 8 months to make these rules. No reasons for delay given.
			(3) Performing Animals Rules, 1973 (23-5-73).	Took 12 years and 5 months to make these rules. No explanation for this inordinate delay has been given by the Ministry.

(1)	(2)	(3)	(4)	(5)
2.	Industry & Civil Supplies (Deptt. of Civil Supplies and Cooperation).	National Development Corporation Act, 1962 (September, 1962).	National Cooperative Development Corporation Service Regulations, 1967 (24-5-1968).	They say no delay. Actually, they have taken 5 years and 9 months to make these regulations.
3.	Commerce.	(1) Cardamom Act, 1965 (5-4-66).	Cardamom Board Service (Classification, Control and Appeal) Rules, 1971 (22-6-71).	No explanation for delay given. Took 5 years and 3 months.
		(2) Enemy Property Act 1968 (28-8-68).	No rules have been framed so far.	Section 23 of the Act empowers Government to make rules, but no rules have been framed so far. The Ministry have stated in their note that this Act has limited scope and provides for the continued vesting of enemy property already vested in the Custodian of Enemy Property, who has been able to carry on the management of the property under the various Sections of the said Act, without framing the rules.
4.	Finance (Deptt. of Revenue and Insurance)	Customs Act, 1962 (1-2-63).	Import Manifest (Vessels) Regulations, 1971 (17-4-71).	Took 8 years and 3 months to make ^e these regulations. No reasons given by the Ministry for this inordinate delay.

5. Health & Family Planning (Deptt. of Health). Indian Medicine Central Council Act, 1970 (15-8-71). No rules have been framed so far. Section 35 of this Act empowers Government to frame rules, but this has not been done so far. No reason for not framing the rules has been given by the Ministry.
6. Home Affairs. (1) Official Languages Act, 1963 (10-5-63). No rules have been framed so far. Section 8 empowers Government to make rules, but no rules have been framed so far. The Ministry of Home Affairs have stated in their note that it was decided that the question of framing of rules may be taken up after position with regard to the implementation of the administrative instructions has established and various issues and points that may be raised by different Ministries/Departments are clarified.
- (2) Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968 (1-10-68). No rules have been framed so far. Section 19 of the Act empowers the Central Government to make rules, but no rules have been made so far. The Ministry of Home Affairs have not given any reasons for not framing the rules.
7. Law, Justice and Company Affairs (Deptt. of Company Affairs.) (1) Companies (Amtd.) Act, 1960 (28-12-60). Companies (Preservation and Disposal of Records) Rules, 1966 (15-1-66). Took over 5 years to make these rules. The Ministry have stated in their note that sub-section (IA) of section 163 under which these

(1)	(2)	(3)	(4)	(5)
				rules are to be framed was inserted by the Companies (Amendment) Act, 1960, which came into force on 28-12-60. Through over-sight the rules were not framed immediately thereafter. Action was initiated in 1964 and it took time to consult field officers and Law Ministry (Legislative Department).
	(2) Companies (Amdt.) Act, 1963 (1-1-64).	Companies (Public Trustees) Rules, 1973 (15-9-73).		Government took 9 years and 9 months to frame the rules. The Ministry have stated in their note that a decision on the final form of the rules was to be taken in consultation with the M.R.T.P. Commission, various Departments of Government and the U.P.S.C. which is the cause of the delay.
	(3) Monopolies and Restrictive Trade Practices Act, 1969 (1-6-70).	(1) M.R.T.P. Commission (Conditions of Service of Director of Investigation) Rules,		Not yet published. The Ministry have stated in their note that a decision on the final form of the Rules was to be taken in consultation with the M.R.T.P. Commission, various Departments of Government and the U.P.S.C. which caused the delay.

Do.

(2) M.R.T.P. Commission
(Conditions of Service
of Registrar/Joint/Deputy/
Asstt. Registrars) Rules.

8. Law, Justice and
Company Affairs
(Legislative Depart-
ment).

Dowry Prohibition Act,
1961 (1-7-61).

Section 9 of the Act empowers the Central Government to make rules for carrying out the purposes of this Act. The Ministry have stated in their note that soon after the passing of the Act, the question of framing rules was considered. It was then decided that it was not necessary to frame rules for the effective and successful implementation of the Act. Even after the enforcement of the Act, no need has arisen for framing any rules.

25

9. Law, Justice and
Company Affairs
(Deptt. of Legal
Affairs).

The Advocates Act,
1961 (1961).

(1) Admission as Advocates
(Exemption from Training
and Examination) Rules,
1965 (15-12-65).

Took five years to make these rules.
No explanation for this delay has
been given by the Ministry.

(2) Admission as Advocates
(Training and Examination
Rules, 1968 (8-3-68).

Took 7 years and 3 months. No
explanation has been given for
this delay.

APPENDIX III

(Vide para 127 of the Report)

Notifications issued under Article 239 of the Constitution

CHIEF COMMISSIONER OF DELHI, AJMER, COORG AND ANDAMAN AND NICOBAR ISLANDS TO EXERCISE POWERS AND DISCHARGE FUNCTIONS OF A STATE GOVERNMENT AND CENTRAL GOVERNMENT UNDER PART III AND SECTIONS 12(4) AND 16 RESPECTIVELY OF THE CINEMATOGRAPH ACT, 1952.

MINISTRY OF HOME AFFAIRS

S.R.O. 1312, dated the 23rd July, 1952.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Chief Commissioners of Delhi, Ajmer, Coorg and Andaman and Nicobar Islands, shall, subject to the control of the President and until further orders, exercise the powers and discharge the functions of—

- (a) a State Government under Part III of the Cinematograph Act, 1952 (XXXVII of 1952);
- (b) the Central Government under sub-section (4) of section 12 and section 16 in Part III of the said Act.

[No. 20/8/52-Judl.]

[Gazette of India, 1952, Pt. II, sec. 3, p. 1161].

ADMINISTRATORS OF THE LACCADIVE, MINICOY AND AMINDIVI ISLANDS TO EXERCISE POWERS AND DISCHARGE FUNCTIONS OF STATE AND CENTRAL GOVERNMENTS UNDER CERTAIN PROVISIONS OF THE CINEMATOGRAPH ACT, 1952.

MINISTRY OF INFORMATION AND BROADCASTING

S.R.O. 1267, dated the 12th April, 1957.—In pursuance of clause (1) of article 239 of the Constitution the President hereby directs that the Administrator of the Union Territory of the Laccadive,

Minicoy and Amindivi Islands shall, subject to the control of the President exercise the powers and discharge the functions of—

- (a) a State Government under Part III of the Cinematograph Act, 1952 (37 of 1952); and
- (b) the Central Government under sub-section (4) of section 12 and section 16 in Part III of the said Act.

[No. 3/1/57-FC].

[Gazette of India, 1957, Part II, Sect. 3, p. 792].

MINISTRY OF HOME AFFAIRS

New Delhi, the 5th January, 1961.

S.O. 82.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Administrators of the Union Territories of Delhi, Himachal Pradesh, Manipur, Tripura, the Andaman and Nicobar Islands and the Lacadive, Minicoy and Amindivi Islands shall, subject to the control of the President and until further orders, exercise the powers and discharge the functions of the Central Government under section 17 of the Cinematograph Act, 1952 (37 of 1952), within their respective jurisdictions.

[No. 2/18/60-Judl. II].

MINISTRY OF HOME AFFAIRS

New Delhi, the 16th January, 1965.

S.O. 251.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Lieutenant Governor of the Union Territory of Goa, Daman and Diu, shall, subject to the control of the President and until further orders, exercise the powers and discharge the functions of the Central Government under sub-section (4) of Section 12, section 16 and section 17 of the Cinematograph Act, 1952 (37 of 1952) within the Union Territory of Goa, Daman and Diu.

[GI|GOA|19|28|63-UTL].

[PUBLISHED IN THE GAZETTE OF INDIA, PART II, SECTION 3,
SUB-SECTION (ii) DATED 15-7-1972].

GOVERNMENT OF INDIA

(BHARAT SARKAR)

MINISTRY OF HOME AFFAIRS

(GRIH MANTRALAYA)

New Delhi, the 4th May, 1972.

NOTIFICATION

S.O. 1688.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Administrator of the Union Territory of Dadra and Nagar Haveli shall, subject to the control of the President and until further orders, also exercise the powers and discharge the functions of the Central Government under sub-section (4) of section 12, section 16 and section 17 of the Cinematograph Act, 1952 (37 of 1952) within the said Union Territory.

[No. F. 2/3/72-UTL].

Sd/-

W. R. SACHDEVA,

Under Secretary to the Govt. of India.

To
The Manager,
Government of India Press,
Main Wing, New Delhi.

APPENDIX IV

(Vide para 127 of the Report)

Statement showing the delegation of the powers of Central Government under sections 16 and 17 of the Cinematograph Act, 1952 to the Administrators of Union Territories and framing of the Cinema rules by the Union Territories

S. No.	Union Territory	Section under which powers have been delegated	No. and date of notification issued by the Ministry of Home Affairs	Whether framed their own rules	d	
					If not yet frame their own rules how exhibition of films is regulated	
1	2	3	4	5	6	
1.	Delhi	16	Ministry of Home Affairs notification No. S. R. O. 1312, dated 23-7-52	Yes vide notification No. F. 10 (43)/52-P&P, dated 28-8-53 published in part V of the Delhi Govt. Gazette, Delhi.	—	
		17	Ministry of Home Affairs notification No. S. O. 82, dated 5-1-1961.		—	

2. Andaman & Nicobar Islands 17 Ministry of Home Affairs notification No. S.O. 82, dated 5-1-1961. Yes. *vide* notification No. C. A. /16/1 dated 7th March, 1960 issued by Chief Commissioner A & N Islands.

3. Goa, Daman & Diu 16 & 17 Ministry of Home Affairs notification No. S. O. 251, dated 16-1-1965. Yes. *vide* Govt. of Goa, Daman & Diu notification No. I & L/VII/14/65 published in the Govt. Gazette No. 18, Series I, dated 29-7-1965.

4. Dadra and Nagar Haveli 16 & 17 Ministry of Home Affairs notification No. S. O. 1688 dated 4-5-72. No. Govt. of Dadra and Nagar Haveli intimated that "the Cinematograph Act, 1952 has been extended to this Union territory but the rules under the Act are not yet framed. There is only one cinema theatre in this territory coming up in near future. The temporary licence for exhibiting film shows has been issued to the existing theatre on the lines of rule 96

of the rules in force in the Govt. of Goa, Daman and Diu."

5 Lakshadweep (formerly Laccadive, Minicoy and Amin-divi Islands). 16
 Ministry of I & B No. S. R. O. 1267. dated 12-4-57
 17 Ministry of Home Affairs notification No. S.O. 82 dt. 5-1-61.

6 Chandigarh

The Chandigarh Administration intimated that the Cinemas in Chandigarh are governed under the Punjab Cinemas (Regulation) Act/Rules, 1952.

7 Mizoram

The Government of Mizoram intimated that the Assam Cinemas (Regulation) Act, 1953 is applicable to Mizoram as the Act extends to the whole of Assam State including the erstwhile Mizo District by virtue of Section 77 of

1	2	3	4	5	6
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7 Mizoram (Continued)

N.E.A. (Re-organisation) Act, 1971 all the Assam laws in Force in the erstwhile Mizo District continue to be in Force in the Union Territory of Mizoram. Therefore the Assam Cinemas (Regulation) Act, 1953 is applicable to Mizoram.

8 Arunachal Pradesh

The Government of Arunachal Pradesh intimated that the exhibition of films in the Union Territory of Arunachal Pradesh is being regulated under the executive order No. Jud 65/70 dated 1st August, 1970 issued by Government of India North East Frontier Agency.

9 Pondicherry . . .

The Cinematograph Act, 1952 was extended to Pondicherry by the French Establishments (Application of Laws) Order, 1954, subject to the modification indicated in the Schedule to the said Order. Section 10 to 18 of the Act were omitted while applying it to Pondicherry. The question of delegating any powers under section 16 or 17 of the Act to the Administrator of Pondicherry would not, therefore, arise.

Yes. Framed rules under the Pondicherry Cinemas (Regulation) Act, 1964 *vide* notification No. G.S.R. No. 5 dated 22-3-1966 under which the public exhibition of films is being regulated in this territory.

APPENDIX V

(Vide para 134 of the Report)

Statement showing particulars of cases in which a shorter period than a period of 30 days under rule 12(1) of the Registration of Electors Rules, 1960 has been fixed and the reasons therefor

S. No.	Details of Cases	Period allowed for lodging claims and objections	Reasons
(1)	(2)	(3)	(4)

1 Revision of electoral rolls in 1969 with 1-1-1970 as the qualifying date in respect of all the 27 States/Union Territories :

(a) 25 States/Union Territories

Period reduced to 15 days.

(b) Maharashtra State

Period reduced to 22 days.

The countrywide revision of electoral rolls in 1969 with qualifying date as 1-1-1970 was undertaken, in view of the uncertain political conditions prevailing then and to meet any contingency of holding a mid term general election to the Lok Sabha. As the rolls in respect of all these constituencies were prepared on the basis of house to house enumeration made by the registration authority,

it was felt that a shorter period under rule 12(1) would meet the needs. It was expedient then to complete the process of revision of all the electoral rolls as quickly as possible so that the constitutional crisis of a Lok Sabha not being reconstituted within due time could be avoided.

In all these three cases intensive revision with qualifying date as 1-1-1973 was undertaken following the procedure of house to house enumeration and preparation of electoral cards. There was an earlier intensive revision done in 1971 with qualifying date as 1-1-71. In view of these successive intensive revisions, the Commission felt that a period of 15 days would be more than sufficient for lodging claims and objections.

This special revision was undertaken with a view to include the names of eligible persons of a particular village which had been omitted inadvertently at the time of the earlier intensive revision. As the names of all eligible persons were available with the Electoral/

(c) West Bengal

236 Assembly constituencies Period reduced to 16 days.

44 Assembly constituencies Period reduced to 25 days.

2 MAHARASHTRA

(a) Revision of rolls in 1973—Period reduced to 15 days.
for bye-election from 20—
Ramtek Parliamentary constituency.

(b) Revision of rolls in 1973—
for bye-election from 1—
Swantwadi assembly constituency.
Period reduced to 15 days.

(c) Revision of rolls in 1973—
for bye-election from 210—
Sangola assembly constituency.
Period reduced to 15 days

3 ORISSA

Special revision of electoral rolls in 1971 for bye-election from 1973—Mohana assembly constituency.
Period reduced to one day.

Registration Officer the publication of the part relating to that village in draft and one day period allowed for lodging claims and objections under special revision are only to complete the legal formalities. It may be pointed out that except one village, the rest of the constituency was not affected and no person has been deprived of the reasonable opportunity of getting himself registered as an elector.

4 WEST BENGAL

- (a) Special revision of electoral rolls in 1970 for bye-election from 246—Barabani assembly constituency. Period reduced to 7 days.
- (b) Intensive revision of electoral rolls in 1970 for bye-election from 24—Phansidewa assembly constituency. Period reduced to 7 days.
- (c) Summary revision of Electoral rolls in 1971 for entire State. Period reduced to 29 days.

1. A special revision in respect of—246 Barabani assembly constituency was ordered to rectify the failure to enroll eligible persons in particular areas of Chittaranjan Township, a part of the constituency. As house to house enumeration was undertaken simultaneously with the draft publication of the part of the roll relating to the area, the 7 days period allowed for lodging claims and objections was quite sufficient.

2. In the case of 24—Phansidewa assembly constituency an intensive revision by house to house enumeration was earlier ordered in 1969 with qualifying date as 1-1-1970. But

it was reported that due to wide spread disturbances in Siliguri Town in January, 1970 the entire records and copies relating to enumeration papers were destroyed by fire. Therefore, house to house enumeration for another intensive revision was again undertaken in January, 1970 simultaneously with the publication of the rolls in draft on 11-2-1970.

In view of the house to house enumeration, 7 days period was allowed for filing claims and objections which was quite sufficient.

3. The electoral rolls of the entire State were revised summarily in 1971 with the qualifying date as 1-1-1971. Though, it was a summary revision the house to house verification of the entries in the electoral roll in all these constituencies was undertaken and a period of full 30 days i.e. from 1-7-1971 to 31-7-1971 was allowed though by mistake, in Appendix 5, the period has been mentioned as 29 days.

5 JAMMU AND KASHMIR

Special revision in 1970 for bye-election from Srinagar Parliamentary constituency. Period reduced to 8 days.

A special revision in this case was necessitated on account of the report to the Election Commission that a large number of eligible persons of 3 villages in Srinagar Parliamentary constituency had been left out from the rolls and the particulars of these eligible persons were available with the E.R.O. In these circumstances, the special revision was ordered and

(1)	(2)	(3)	(4)
			the period of 8 days allowed for lodging claims and objections was quite sufficient.
6 KERALA			
(a)	Revision of rolls in 1972 for bye-election from 5—Manjeri Parliamentary Constituency.	Period reduced to 15 days.	In all these cases, an intensive revision with qualifying date as 1-1-1972 by house to house visit had been undertaken. As the rolls were published in draft after such house to house enumeration, the period of 15 days was felt sufficient. It may also be pointed out that in all these cases there was an intensive revision in 1970 in connection with the general election to the Legislative Assembly of Kerala in September, 1970 and the general election to the Lok Sabha in March, 1971.
(b)	Revision of rolls in 1972 for bye-election from 64—Parur Assembly Constituency.	Period reduced to 15 days.	
(c)	Revision of rolls in 1972 for bye-election from 4—Nilavwar Assembly Constituency.	Period reduced to 15 days.	
(d)	Revision of rolls in 1973 for bye-election from 31—Kondotty Assembly Constituency.	Period reduced to 14 days.	The actual period allowed for filing claims and objections in respect of 31—Kondotty assembly constituency was 15 days i.e. from 13-2-1973 to 27-2-1973 (both days inclusive) and not 14 days as mentioned by mistake.

APPENDIX VI

(Vide para 146 of the Report)

List of Acts which contain provisions similar to clause 33(p) of the Homoeopathy Central Council Bill, 1973.

1. Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970) S. 35(2) (P)—Rules.
2. The Patents Act, 1970 (39 of 1970) S. 159(2) (XVI)—Rules.
3. General Insurance (Emergency Provisions) Act, 1971 (17 of 1971): 16(1)(d)—Rules.
4. Delhi Sikh Gurdwaras (Management) Act, 1971 (24 of 1971): S. 17(2)(f)—Rules.
5. Medical Termination of Pregnancy Act, 1971 (34 of 1971) S. 6(2)(b)—Rules.
6. Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) S. 18(2)(g)—Rules.
7. Defence of India Act, 1971 (42 of 1971) S. 32(2)(f)—Rules.
8. International Airports Authority Act, 1971 (43 of 1971): S. 36(2)(g)—Rules.
9. The Coking Coal Mines (Nationalisation) Act, 1972 (36 of 1972): S. 34(2)(d)—Rules.
10. The Antiquities and Art Treasures Act, 1972 (52 of 1972) S. 31(2)(j)—Rules.
11. The Wild Life Protection Act, 1972 (53 of 1972): S. 64(2)(h)—Rules.
12. The General Insurance Business (Nationalisation) Act, 1972 (57 of 1972): S. 39(2)(f)—Rules.
13. The Richardson and Cruddas Ltd. (Acquisition and Transfer of Undertaking) Act, 1972 (78 of 1972): S. 31(2)(c)—Rules.
14. The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 (22 of 1969): S. 22(2)(d)—Rules, S. 24(2)(m)—Regulations.

15. **The Additional Emoluments (Compulsory Deposit) Ordinance, 1974 (8 of 1974): S. 20(2)(d)—Rules.**
16. **Delhi Development Act, 1957 (61 of 1957): S. 56(2)(i)—Rules, S. 57(1)(i)—Regulations.**
17. **Delhi Municipal Corporation Act, 1957 (66 of 1957: S. 481 L(7)—Bye-laws.**
18. **The State Agricultural Credit Corporation Act, 1968 (60 of 1968): S. 46(2)(h)—Rules S. 47(2)(j)—Regulations.**

In addition to Indian Medical Council Act, 1956 and the Central Council of Indian Medicine Act, 1970.

MINUTES

APPENDIX VII
(Vide para 3 of the Report)

LIX

MINUTES OF THE FIFTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1974-75)

—

The Committee met on Wednesday, the 24th July, 1974, from 16.00 to 16.50 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri K. Chikkalingaiah
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri Khemchandbhai Chavda
5. Shri Md. Jamilurrahman
6. Shri A. Kamala Prasad
7. Shri Mohan Swarup
8. Shri Paokai Haokip
9. Shri Ebrahim Sulaiman Sait
10. Shri R. R. Sharma
11. Shri Tayyab Hussain.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2-3. * * * *

4. The Committee also decided to undertake a horizontal study of the Acts providing for rule-making power to see whether the rules, etc. had been framed by Government within a period of six months from the coming into force of the relevant Acts.

* * * *

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

LXIV

MINUTES OF THE SIXTY-FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Monday, the 30th September, 1974 from 15.00 to 16.00 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Smt. Premalabai Dajisaheb Chavan
3. Shri Md. Jamilurrahman
4. Shri Dinesh Joardar
5. Shri Kamala Prasad
6. Shri Mohan Swarup
7. Shri R. R. Sharma

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee examined in detail certain 'Orders' (*vide* ANNEXURE) laid on the Table during the Eleventh Session (Fifth Lok Sabha).

3. The Committee decided that the comments of the Ministries concerned might be obtained in respect of the following 'Orders' on points shown against them:—

S. No.	Short title and No. of 'Order'	Points on which comments to be invited
(1)	(2)	(3)
12.	•	•

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

APPENDIX VII
(Vide para 3 of the Report)

LIX

MINUTES OF THE FIFTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1974-75)

—

The Committee met on Wednesday, the 24th July, 1974, from 16.00 to 16.50 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri K. Chikkalingaiah
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri Khemchandbhai Chavda
5. Shri Md. Jamilurrahman
6. Shri A. Kamala Prasad
7. Shri Mohan Swarup
8. Shri Paokai Haokip
9. Shri Ebrahim Sulaiman Sait
10. Shri R. R. Sharma
11. Shri Tayyab Hussain.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2-3. * * * *

4. The Committee also decided to undertake a horizontal study of the Acts providing for rule-making power to see whether the rules, etc. had been framed by Government within a period of six months from the coming into force of the relevant Acts.

* * * *

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

LXIV

MINUTES OF THE SIXTY-FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Monday, the 30th September, 1974 from 15.00 to 16.00 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Smt. Premalabai Dajisaheb Chavan
3. Shri Md. Jamilurrahman
4. Shri Dinesh Joardar
5. Shri Kamala Prasad
6. Shri Mohan Swarup
7. Shri R. R. Sharma

SECRETARIAT

Shri H. G. Paranjpe—Deputy Secretary.

2. The Committee examined in detail certain 'Orders' (vide ANNEXURE) laid on the Table during the Eleventh Session (Fifth Lok Sabha).

3. The Committee decided that the comments of the Ministries concerned might be obtained in respect of the following 'Orders' on points shown against them:—

S. No.	Short title and No. of 'Order'	Points on which comments to be invited
(1)	(2)	(3)
1.2	•	•

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

(1)	(2)	(3)
4. The General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974. (S.O. 326-E of 1974)	<p>(i) <i>Rule 5(5)</i> : Right to represent against the decision of the Custodian should be given to the employees.</p> <p>(ii) <i>Rule 6(2)</i> : Difference between the basic salary and the ceiling of the new scale to be given as personal pay.</p> <p>(iii) <i>Rule 8(1) (a) & (b)</i> : Reasons for differentiation between the hours of work of the supervisory and clerical staff and that of the subordinate staff.</p>	

4.

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ANNEXURE III

(Vide para 2 of the Minutes)

List of 'Orders'

S. No.	No. of Order Date of publication in the Gazette	Title of 'Order'
(1)	(2)	(3)
1	S.O. 291(E) 14-5-74	The Income-tax (Second Amendment) Rules, 1974.
2	G.S.R. 528 1-6-74	The Central Excise (Third Amendment) Rules, 1974.
3	G.S.R. 612 22-6-74	The Central Excise (Fifth Amendment) Rules, 1974.
4	G.S.R. 613 22-6-74	The Central Excise (Sixth Amendment) Rules, 1974.
5	G.S.R. 614 22-6-74	The Central Excise (Fourth Amendment) Rules, 1974.
6	G.S.R. 264 (E) 11-6-74	The Customs and Central Excise Duties Drawback (Amendment) Rules, 1974.
7	G.S.R. 252(E) 1-6-74	The Liquefied Petroleum Gas (Restriction on Use) Order, 1974.
8	G.S.R. 284(E) 26-6-74	The Registration and Licensing of Industrial Undertakings (Third Amendment) Rules, 1974.

(1)	(2)	(3)
9 G.S.R. 661 <hr/> 29-6-74	The Indian Police Service (Fixation of Cadre Strength) Third Amendment Regulations, 1974.	
10 G.S.R. 662 <hr/> 29-6-74	The Indian Police Service (Pay) Third Amendment Rules, 1974.	
11 G.S.R. 665 <hr/> 29-6-74	The Indian Police Service (Fixation of Cadre Strength) Fourth Amendment Regulations, 1974.	
12 G.S.R. 666 <hr/> 29-6-74	The Indian Police Service (Pay) Fourth Amendment Rules, 1974.	
13 G.S.R. 686 <hr/> 6-7-74	The Indian Police Service (Probation) Amendment Rules, 1974.	
14 G.S.R. 214(E) <hr/> 7-5-74	The Defence of India (Amendment) Rules, 1974.	
15 G.S.R. 521 <hr/> 25-5-74	The Employees' Provident Funds (Fourth Amendment) Scheme, 1974.	
16 G.S.R. 606 <hr/> 15-6-74	The Employees' Provident Funds (Fifth Amendment) Scheme, 1974.	
17 S.O. 326 (E) <hr/> 27-5-74	The General Insurance (Rationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974.	
18 G.S.R. 734 <hr/> 13-7-74	The Foreign Travel Tax (Amendment) Rules, 1974.	
19 G.S.R. 444 <hr/> 4-5-74	The National Welfare Board for Seafarers (Amendment) Rules, 1974.	

LXVII

MINUTES OF THE SIXTY-SEVENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Wednesday, the 6th November, 1974 from 15.00 to 16.00 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Shri T. Balakrishnaiah
3. Smt. Premalabai Dajisaheb Chavan
4. Shri Khemchandbhai Chavda
5. Shri Md. Jamilurrahman
6. Shri Dinesh Joarder
7. Shri Kamala Prasad
8. Shri Paokai Haokip
9. Shri Tayyab Hussain

SECRETARIAT

Shri H. S. Kohli—Section Officer.

2-3.

4. The Committee desired that comments of the Ministries/ Departments concerned might be obtained in respect of the following 'Orders' on points shown against them:

S.No.	Short title and No. of 'Order'	Points on which comments to be obtained
1	2	3
1-3

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

1	2	3
4	The Wheat (Price Control) Order, 1974 (G.S.R. 261-E)	<i>Clause 4 :</i> As repeatedly emphasised by the Committee, the minimum rank of the officers, other than Police officers, who may be authorised by the Central and State Governments for carrying out searches, seizures etc. should be specified.
5-8

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

LXXII

MINUTES OF THE SEVENTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Friday, the 21st February, 1975, from 10.15 to 11.00 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri K. Chikkalingaiah
4. Shrimati Premalabai Dajisaheb Chavan
5. Shri Paokai Haokip

SECRETARIAT

Shri H. G. Paranjpe—Chief Financial Committee Officer.

2. The Committee considered Memoranda Nos. 288 to 293 and 295 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
(i)-(vi)	288-293	• • •
(vii)	295	Delay in exercise /non exercise of rule-making power by Government delegated under various Acts of Parliament.

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

1	2	3
4	The Wheat (Price Control) Order, 1974 (G.S.R. 261-E)	<i>Clause 4 :</i> As repeatedly emphasised by the Committee, the minimum rank of the officers, other than Police officers, who may be authorised by the Central and State Governments for carrying out searches, seizures etc. should be specified.
5—8	**	**

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

LXXII

MINUTES OF THE SEVENTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Friday, the 21st February, 1975, from 10.15 to 11.00 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri K. Chikkalingaiah
4. Shrimati Premalabai Dajisaheb Chavan
5. Shri Paokai Haokip

SECRETARIAT

Shri H. G. Paranjpe—Chief Financial Committee Officer.

2. The Committee considered Memoranda Nos. 288 to 293 and 295 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
(i)-(vi)	288-293	• • •
(vii)	295	Delay in exercise /non exercise of rule-making power by Government delegated under various Acts of Parliament.

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

(vii) *Delay in exercise/non-exercise of rule-making power by Government delegated under various Acts of Parliament— (Memorandum No. 295).*

11. The Committee considered the above Memorandum and after some discussion authorised the Chairman to select the Ministries/ Departments whose evidence was to be taken in the matter.

The Committee then adjourned.

**MINUTES OF THE SEVENTY-NINTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1975-76)**

PRESENT

Dr. Kailas—Chairman

2. Shri R. N. Barman
3. Shrimati Premalabai Dajisaheb Chavan
4. Shrimati Marjorie Godfrey
5. Shri Md. Jamilurrahman
6. Shri Dinesh Joarder
7. Shri M. Satyanarayan Rao

Shri Y. Sahai, Chief Legislative Committee Officer.

2 . . .

3. The Committee decided to hear oral evidence of the representatives of the Ministries/Departments in whose case there had been a delay of more than five years in framing rules after the commencement of the relevant Acts and authorised the Chairman to select suitable cases for evidence.

4-7.

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

(vii) *Delay in exercise/non-exercise of rule-making power by Government delegated under various Acts of Parliament— (Memorandum No. 295).*

11. The Committee considered the above Memorandum and after some discussion authorised the Chairman to select the Ministries/ Departments whose evidence was to be taken in the matter.

The Committee then adjourned.

**MINUTES OF THE SEVENTY-NINTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1975-76)**

PRESENT

MEMBERS

2. Shri R. N. Barman
3. Shrimati Premalabai Dajisaheb Chavan
4. Shrimati Marjorie Godfrey
5. Shri Md. Jamilurrahman
6. Shri Dinesh Joarder
7. Shri M. Satyanaravan Rao

Shri Y. Sahai, Chief Legislative Committee Officer.

2.

3. The Committee decided to hear oral evidence of the representatives of the Ministries/Departments in whose case there had been a delay of more than five years in framing rules after the commencement of the relevant Acts and authorised the Chairman to select suitable cases for evidence.

4-7.

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

LXXXI

MINUTES OF THE EIGHTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1975-76)

The Committee met on Thursday, the 28th August, 1975 from 15.30 to 17.30 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri R. N. Barman
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri K. Chikkalingaiah
5. Shrimati Marjorie Godfrey
6. Shri Md. Jamilurrahman
7. Shri Dinesh Joarder
8. Shri D. K. Panda
9. Shri Ram Singh Bhai
10. Shri M. S. Sanjeevi Rao
11. Shri Shiv Shankar Prasad Yadav

I. Representatives of the Ministry of Agriculture and Irrigation (Department of Agriculture)

1. Shri I. J. Naidu, *Additional Secretary*
2. Shri P. G. Ramrakhiani, *Deputy Secretary*
3. Shri Gurdial Mohan, *Under Secretary*

II. Representatives of the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation)

1. Shri S. S. Puri, *Additional Secretary*
2. Shri A. Das, *Joint Secretary*

3. Shri K. S. Bawa, *Managing Director, National Cooperative Development Corporation.*
4. Shri K. Sundarajulu, *Deputy Chief Director, Department of Civil Supplies and Cooperation.*
5. Shri R. V. Gupta, *Secretary, National Cooperative Development Corporation.*
6. Shri Jaidev Singh, *Administrative Officer, National Co-operative Development Corporation.*

III. Representatives of the Ministry of Commerce

1. Shri P. N. Kapur, *Joint Secretary*
2. Shri Raj Pal, *Director*
3. Shri M. K. Rangachari, *Custodian of Enemy Property*
4. Shri K. V. Balasubramanian, *Deputy Director*
5. Shri Swaran Singh Boparai, *Deputy Secretary*
6. Shri S. Mahadeva Iyer, *Under Secretary*

IV. Representatives of the Ministry of Finance (Department of Revenue and Insurance)

1. Shri M. A. Rangaswamy, *Additional Secretary*
2. Shri H. Narayan Rao, *Under Secretary*

SECRETARIAT

Shri Y. Sahai—Chief Legislative Committee Officer.

- (i) Delay in exercise of rule-making power by Government delegated under the Prevention of Cruelty to Animals Act, 1960.

The Committee heard oral evidence of the representatives of the Ministry of Agriculture and Irrigation (Department of Agriculture) regarding delay in exercise of rule-making power by Government delegated under the Prevention of Cruelty to Animals Act, 1960.

2. Explaining the reasons for delay regarding framing (i) the Committee for controlling and Supervising Experiments on Animals (Administration) Rules, 1965; (ii) Experiments on Animals (Control and Supervision) Rules, 1968; and (iii) the Performing Animals Rules, 1973, under the Prevention of Cruelty to Animals Act, 1960, the representative of the Ministry of Agriculture and Irrigation (Department of Agriculture) stated that after receiving communication from the Committee, they studied various files as the entire thing happened over a span of 13 to 14 years. The first proposal for

setting up Animal Welfare Board came to them in January, 1961. After the receipt of this proposal, they had to consult State Governments and the letter in this connection was issued to various State Governments on the 2nd May, 1961. After receiving replies from State Governments a reference was made to the Ministry of Law in March, 1962. On receipt of advice of the Ministry of Law, a notification for establishment of the Animal Welfare Board was issued on the 20th March, 1962. Rules for the administration of the Board were also issued in June, 1962. After the Board was constituted, the Ministry had to await the suggestions and proposals of the Board in regard to the rules for the Experimentation Committee. The representative of the Ministry promised to submit a statement showing the chronological order in which various steps had been taken by them in this regard.

3. Regarding question whether there were still some States which had not formed the Boards, the representative of the Ministry was asked to send the details in writing.

4. In reply to a question how, in the absence of the rules, the matters were being regulated, the representative of the Ministry stated that as far as the Act was concerned, the inspectors of the society for Prevention of Cruelty to Animals visited the places and checked up all things. The rules were framed mainly to govern the control and supervision of experimentation on animals and to decide the efficacy of various drugs and medicines. Even to verify this thing, experiments were done in the various laboratories and industrial institutions.

5. In reply to a query whether all the matters enumerated in sub-section (2) of section 38 of the Prevention of Cruelty to Animals Act have been covered by the rules, the representative of the Ministry promised to send the details in writing.

6. The Committee expressed their dissatisfaction and displeasure over the fact that the Ministry did not send satisfactory replies to the queries sent to them by the Committee.

(The witnesses then withdrew)

(ii) *Delay in exercise of rule-making power by Government delegated under the National Cooperative Development Corporation Act, 1962.*

7. The Committee heard oral evidence of the representative of the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) in regard to delay in exercise of rule-

making power by Government delegated under the National Co-operative Development Corporation.

8. In reply to a question whether all the 9 matters mentioned in section 22(2) of the National Co-operative Development Corporation Act, 1962, have been covered by the National Co-operative Development Corporation Rules, 1963, the representative of the Ministry stated that these rules covered all the 9 matters specified in section 22 of the Act.

9. Regarding delay in framing National Co-operative Development Corporation Service Regulations, 1967, the representative of the Ministry submitted that those regulations were not framed by the Central Government but by the Corporation. Those were not required to be laid on the Table of House as it was not a Subordinate Legislation. Those regulations were of a discretionary character. He further stated that there were two sections in the Act, one section required the Central Government to make rules and those rules were required to be laid on the Table of the House. The Act also provided for certain regulatory functions within the Corporation itself, for which Corporation frames the regulations and above regulations were within this category.

10. In reply to a question whether the matters specified in sub-section (2) of section 23 of the National Co-operative Development Corporation Act were covered by the two sets of regulations already framed by them, the representative of the Ministry stated that all those matters were fully covered by the regulations already framed.

11. Regarding laying of regulations framed under section 23 of the Act on the Table of the House the representative of the Ministry stated that it was not a Subordinate Legislation. When attention of the representative of the Ministry was invited to Rule 317 of the Rules of Procedure and Conduct of Business in Lok Sabha wherein it had been provided that the Committee could scrutinise the regulations also, the representative of the Ministry stated that the Act did not provide for this and the Law Ministry's advice too was that such a provision was not necessary as it was not a Subordinate Legislation. He, however, stated that if the Committee took a different view, they would go by the directions of the Committee and will have no objection to lay the same on the Table of the House, if considered necessary. He was asked to send a copy of the advice of the Ministry of Law on the matter for the information of the Committee.

(The witnesses then withdrew)

- (iii) *Delay in exercise/non-exercise of rule-making power by Government delegated under the Cardamom Act, 1965 the Enemy Property Act, 1968.*

12. The Committee heard oral evidence of the representatives of the Ministry of Commerce in regard to delay in exercise of rule-making power by Government delegated under the Cardamom Act, 1965 and the Enemy Property Act, 1968.

I

The Cardamom Act, 1965

13. The representative of the Ministry expressed at the outset his regrets for the delay in framing the Cardamom Board Service (Classification, Control and Appeal) Rules, 1971. He stated that they had looked into the reasons of delay and had prepared a statement of those reasons which he promised to furnish to the Committee.

14. In reply to a question how, in the absence of the Classification, Control and Appeal Rules, the employees of the Cardamom Board were being governed and was there no case during that period, which required to be decided under the provisions laid down in those rules, the representative of the Ministry stated that no such case had happened. He promised to furnish written reply to this question.

15. When asked whether all the 22 matters specified in section 33(2) of the Cardamom Act, 1965 had been covered by the 4 sets of rules which the Ministry had framed so far, the representative of the Ministry replied that almost all of them had been covered. He promised to send written reply to the above question also.

II

The Enemy Property Act, 1968

16. When asked to state why no rules had been framed so far under the Enemy Property Act, when it had been brought into force since 28th August, 1968, the representative of the Ministry replied that there was no necessity of framing separate set of rules under that Act.

17. In reply to a query as to why did they seek power of framing rules in the Act when there was no necessity for the same, the representative of the Ministry stated that this was an enabling clause and not a compelling clause. They found that there was no necessity

framing the rules, because, originally, in 1961, when the Defence of India Rules were framed, the first set of the Enemy Property Rules were framed thereunder in 1962. Since the Defence of India Rules continued to operate till 1968, the rules already framed continued to operate. He further stated that four matters on which rules were required to be framed were covered by the action taken by the Custodian. As all matters were already covered by the action taken and also by the order of 1962, there was no point in framing an extra set of rules.

18. When asked to state whether the rules on all the 4 matters specified under Section 23(2) of the Enemy Property Act had been framed, the representative of the Ministry stated that the Enemy Property Act of 1968 only repeated the order that was promulgated in 1962 and all action under that Act had already been completed much earlier before the Act of 1968 came into force.

19. The representative of the Ministry was asked to send written replies to the questions given in the list a copy of which had been given to the witness.

(The witnesses then withdrew)

(iv) Delay in exercise of rule-making power by Government delegated under the Customs Act, 1962.

20. The Committee heard oral evidence of the representatives of the Ministry of Finance (Department of Revenue and Insurance) regarding delay in exercise of rule-making power by Government delegated under the Customs Act, 1962.

21. At the outset, the representative of the Ministry tendered unconditional apology for delay in framing the Import Manifest (Vessels) Regulations, 1971. Regarding reasons for this delay, he stated that they had gone on the assumption that the regulations were already in existence and they were carried forward by virtue of the provisions contained in section 160 of the new Act. The Sea Customs Act was already in existence for many years and there were rules also. Those rules were continued to be in force.

22. The representative of the Ministry was asked to send written replies to the following questions:

- (a) How many sets of regulations [other than the Import Manifest (Vessels) Regulations, 1971] have been framed so far?

- (iii) *Delay in exercise/non-exercise of rule-making power by Government delegated under the Cardamom Act, 1965 the Enemy Property Act, 1968.*

12. The Committee heard oral evidence of the representatives of the Ministry of Commerce in regard to delay in exercise of rule-making power by Government delegated under the Cardamom Act, 1965 and the Enemy Property Act, 1968.

I

The Cardamom Act, 1965

13. The representative of the Ministry expressed at the outset his regrets for the delay in framing the Cardamom Board Service (Classification, Control and Appeal) Rules, 1971. He stated that they had looked into the reasons of delay and had prepared a statement of those reasons which he promised to furnish to the Committee.

14. In reply to a question how, in the absence of the Classification, Control and Appeal Rules, the employees of the Cardamom Board were being governed and was there no case during that period, which required to be decided under the provisions laid down in those rules, the representative of the Ministry stated that no such case had happened. He promised to furnish written reply to this question.

15. When asked whether all the 22 matters specified in section 33(2) of the Cardamom Act, 1965 had been covered by the 4 sets of rules which the Ministry had framed so far, the representative of the Ministry replied that almost all of them had been covered. He promised to send written reply to the above question also.

II

The Enemy Property Act, 1968

16. When asked to state why no rules had been framed so far under the Enemy Property Act, when it had been brought into force since 28th August, 1968, the representative of the Ministry replied that there was no necessity of framing separate set of rules under that Act.

17. In reply to a query as to why did they seek power of framing rules in the Act when there was no necessity for the same, the representative of the Ministry stated that this was an enabling clause and not a compelling clause. They found that there was no necessity

framing the rules, because, originally, in 1961, when the Defence of India Rules were framed, the first set of the Enemy Property Rules were framed thereunder in 1962. Since the Defence of India Rules continued to operate till 1968, the rules already framed continued to operate. He further stated that four matters on which rules were required to be framed were covered by the action taken by the Custodian. As all matters were already covered by the action taken and also by the order of 1962, there was no point in framing an extra set of rules.

18. When asked to state whether the rules on all the 4 matters specified under Section 23(2) of the Enemy Property Act had been framed, the representative of the Ministry stated that the Enemy Property Act of 1968 only repeated the order that was promulgated in 1962 and all action under that Act had already been completed much earlier before the Act of 1968 came into force.

19. The representative of the Ministry was asked to send written replies to the questions given in the list a copy of which had been given to the witness.

(The witnesses then withdrew)

(iv) Delay in exercise of rule-making power by Government delegated under the Customs Act, 1962.

20. The Committee heard oral evidence of the representatives of the Ministry of Finance (Department of Revenue and Insurance) regarding delay in exercise of rule-making power by Government delegated under the Customs Act, 1962.

21. At the outset, the representative of the Ministry tendered unconditional apology for delay in framing the Import Manifest (Vessels) Regulations, 1971. Regarding reasons for this delay, he stated that they had gone on the assumption that the regulations were already in existence and they were carried forward by virtue of the provisions contained in section 160 of the new Act. The Sea Customs Act was already in existence for many years and there were rules also. Those rules were continued to be in force.

22. The representative of the Ministry was asked to send written replies to the following questions:

(a) How many sets of regulations [other than the Import Manifest (Vessels) Regulations, 1971] have been framed so far?

- (b) Whether all the matters enumerated in section 157(2) of the Act have been covered by the regulations? If not, how the uncovered matters are being regulated.
- (c) Do they propose to frame regulations on the matters, which have not been covered so far; and if so, how much time is likely to be taken for publishing them in the Gazette.

(The witnesses then withdrew)

23. The Committee then adjourned to meet again on 29th August, 1975 at 11.00 hours.

LXXXII

MINUTES OF THE EIGHTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1975-76)

The Committee met on Friday, the 29th August, 1975 from 11.00 to 13.30 hours.

PRESENT

Dr. Kailas—Chairman.

MEMBERS

2. Shri R. N. Barman
3. Shri K. Chikkalingaiah
4. Shrimati Marjorie Godfrey
5. Shri Md. Jamilurrahman
6. Shri Dinesh Joarder
7. Shri Ram Singh Bhai
8. Shri M. S. Sanjeevi Rao
9. Shri M. Satyanarayan Rao
10. Shri Tayyab Hussain
11. Shri Shiv Shankar Prasad Yadav

WITNESSES

I. Representatives of the Ministry of Health and Family Planning (Department of Health)

1. Shri Gian Prakash, Secretary.
2. Shri P. N. V. Kurup, Adviser (ISM)

II. Representatives of the Ministry of Home Affairs

1. Shri R. P. Naik, Secretary, Department of Official Language and Hindi Adviser.
2. Shri K. R. Prabhu, Additional Secretary.

III. Representatives of the Ministry of Law Justice and Company Affairs (Department of Company Affairs)

1. Shri P. B. Menon, *Joint Secretary.*
2. Shri M. K. Kukreja. *Joint Secretary.*

IV. Representative of the Ministry of Law Justice and Company Affairs (Legislative Department)

Shri K. K. Sundaram, *Secretary.*

V. Representative of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs)

Shri V. V. Vaze, *Joint Secretary and Legal Adviser.*

SECRETARIAT

Shri Y. Sahai, *Chief Legislative Committee Officer.*

I

2. The Committee first heard oral evidence of the representatives of the Ministry of Health and Family Planning (Department of Health) in regard to non-framing of rules under the Indian Medicine Central Council Act, 1970. The representative of the Ministry of Health explained that there were certain extenuating circumstances for delay in framing rules under the Act. During discussion on the Bill in Parliament the then Minister of State had stated that in so far as the integrated doctors were concerned, the Schedule to the Act would be split up while making rules. The Ministry of Law, however, advised that since the Schedule formed part of the Act, it could not be split under the rule-making power. This matter was considered by the Central Council of Health first in 1974 and again in April, 1975. The representative of the Ministry further stated that the rules had since been finalised. One set of regulations under Section 36(a) had already been framed in 1971. Action was under way for framing regulations under Section 36(b). Regulations under sub-section (i) had been prepared and referred to the States for comments. As regards sub-section (j), it raised the question of qualification etc. and there had been a lot of discussion on this. The matter had been referred to the States for their concurrence. Likewise, regulations in respect of matters specified in sub-sections (k), (l) and (m) had been sent to States for concurrence.

3. When asked as to the time they will take in finalising the regulations, the representative of the Ministry stated that he was quite

sure they would be able to issue the regulations during the current financial year. Further asked whether it could not be possible for the Ministry to finalise the regulations by December, 1975, the representative of the Ministry stated that they would make every effort to do so.

4. It was pointed out by the Committee that the reply dated 3rd September, 1974 received from the Ministry did not give any information on the subject. The representative of the Ministry apologized and said that there was no intention to conceal anything from the Committee.

(The witnesses withdrew)

II

5. The Committee then heard oral evidence of the representatives of the Ministry of Home Affairs in regard to the non-framing of rules by Government under the Official Languages Act, 1963 and the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1908.

Official Languages Act, 1963

6. Explaining the delay in framing rules under the Official Languages Act, 1963, the representative of the Ministry stated that at the time when the Act was passed, they thought that difficulties would arise in its implementation. The Act was amended in 1967 to meet the requirements of non-Hindi speaking people. He further said that an Act relating to language could not be treated in the same way as other enactments. Therefore, they wanted the position to be crystallized before making rules under the Act. The instructions were issued in 1968. Subsequently, in 1971 it was felt that certain experience having been gained in the matter, time had come for proceeding with the rules. A questionnaire was drawn up and issued to the Ministries. The replies of the Ministries had been received. As to the latest position, he stated that draft rules framed by the Ministry had been sent to the Ministry of Law for scrutiny. The Ministry of Law had raised certain doubts. These were proposed to be discussed with them.

7. The representative of the Ministry also stated that a Parliamentary Committee would soon be constituted to go into the whole matter of development of official language. The question was whether it would be desirable to issue the rules at this juncture when the Parliamentary Committee would be seized of the whole matter. He felt that it would be better if the present procedure was allowed to be followed for sometime more.

8. In reply to a question, he stated that the position being fluid in the initial years, the delay in framing the rules should count from 1965.

9. In reply to another question he stated that the issues raised by the Ministries related to teaching of Hindi to non-Hindi speaking people and the translation of Mannuals and Acts.

Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968

10. In regard to non-framing of rules under the Andhra Pradesh and Mysore (Transfer of Territory) Act, the representative of the Ministry explained that provision for rule making was made in every Act dealing with States Reorganisation. But in a number of cases it was not found necessary to make the rules as the provisions contained in the Act were self-operating and did not require any rules. The Andhra Pradesh and Mysore (Transfer of Territory) Act had already been implemented and it was not found necessary to frame rules.

11. In reply to a question the representative of the Ministry stated that the rule-making provision was included in the Act as while enacting law one did not know the problems that might arise in future. In this case no difficulties arose and hence it was not necessary to make rules.

12. When asked as to why the reasons for non-framing rules had not been furnished to the Committee, while replying to their letter, the representative of the Ministry apologized, and promised to send a note in this regard. The Committee also desired the witness to furnish written information on all the points enumerated in the list a copy of which had been given to the witness.

(The witnesses then withdrew)

13. The Committee next heard oral evidence of the representative of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) in regard to delay in framing rules under the following Acts:

(i) The Companies (Amendment) Acts of 1960 and 1963.

(ii) The Monopolies and Restrictive Trade Practices Act, 1969.

14. The representative of the Ministry explained that prior to the coming into force of 1960 Act, the Companies Act was being administered by the State Governments under powers received through delegation. Provision for preservation of records was made

in the Act through the amendment of 1960 as sometimes the records of the Company were not available or they found it difficult to locate them or the company might have destroyed them. They had no experience as the amendment related to the documents being kept by the Company. It was not clear for how long these were to be kept. So they had to collect necessary information from the Registrar of Companies and Regional Directors. They also discussed the matter with Chambers of Commerce and others in regard to the manner in which those documents should be preserved. It took sometime to do the preliminary work. He, however, admitted that there was a delay in doing this work which was started sometime in 1964.

15. The representative of the Ministry apologized for the inordinate delay in framing the Companies (Public Trustees) Rules, 1973 under Section 153(A) of the Companies Act. He said that framing of rules was taken up in 1967, almost three years after the section was incorporated in the Act. The matter became a little controversial as the view taken by the Ministry and the Minister at that time was that the public trustees had to discharge certain functions which required independence of action as also certain qualifications and therefore, the appointment to that post should be outside the purview of the U.P.S.C. The matter was referred to the Ministry of Home Affairs who referred to the U.P.S.C. Eventually the U.P.S.C. did not agree to keep the post outside their purview. It was decided to take public trustees from the existing services. After the settlement of this major issue, other ancillary issues regarding the terms of appointment, remuneration to be paid etc. were taken up. The scale of Rs. 2500-2750 was eventually agreed. The next question considered was whether non-officials also could be appointed. All these issues took time. Repeated references had to be made to the Legislative Department, Department of Personnel and the U.P.S.C. before the rules could be framed.

16. In reply to a question as to how in the absence of the rules the functions of the public trustees were discharged, the representative of the Ministry explained that except for a short period, there was almost a continuous appointment of public trustees. The functions he was supposed to discharge were laid down in the Act itself. The guidelines in regard to the functions were also laid down in the Act.

In reply to a question whether the Department of Company Affairs was aware of the recommendation of the Committee on Subordinate Legislation (Second Lok Sabha) made in para 34 of their Fifth Report, that ordinarily rules should be framed under an Act

as soon as possible after the commencement of the Act and in no case this period should exceed six months, the representative of the Department replied in affirmative.

Monopolies and Restrictive Trade Practices Act

17. The representative of the Ministry then explained the delay in framing rules under the Monopolies and Restrictive Trade Practices Act. Two sets of rules were required to be framed under the Act, one relating to the conditions of service of the Director of Investigation as required under Section 8 and the other relating to the conditions of service of the Registrar, Joint Registrar and Deputy and Assistant Registrars under Section 34. The rules regarding the Director of Investigation were now ready. The matter was first taken up in August, 1972 and the Ministry of Finance, Department of Personnel and U.P.S.C. and the Law Ministry had to be consulted. The rules had been sent to the Legislative Department for final vetting and they would be published within 3 months at the most.

18. Asked whether, in the absence of rules, the appointment of the Director had been made, representative of the Ministry said that the Act came into force in June, 1970 and the Director of Investigation had been in position since 1st June, 1971. There was no dissatisfaction in the absence of the rules. The post was filled by a very senior officer of the Indian Revenue Service and the appointment was approved by the Appointments Committee of the Cabinet. The post carried a scale of Rs. 2000-2250. The Commission had recommended him from year to year and there was no representation against him. The post of Registrar was filled in June, 1970 and three Assistant Registrars were appointed in 1971. These posts were filled by deputation.

19. As regards the rules relating to conditions of service of Registrar/Joint/Deputy/Assistant Registrars to be framed under section 34 of the Act, the representative of the Ministry stated that certain points had been raised by the U.P.S.C. The draft rules had again been sent to them on 27th August, 1975, after meeting their objections. The witness assured the Committee that they were doing their best to see that the rules were published as soon as possible.

20. In reply to a question, the representative of the Ministry admitted that the Rules must be framed in time and he apologized for delay.

21. Before taking up the evidence of the next Department, the Committee asked the witness to send written replies to the questions enumerated in the list of points a copy of which had been furnished to him.

(The witnesses then withdrew)

22. The Committee thereafter heard oral evidence of the representative of the Ministry of Law, Justice and Company Affairs (Legislative Department) in regard to non-framing of rules by Government under the Dowry Prohibition Act, 1961. The representative of the Ministry explained that after examination of the Act they found three sections which required action on the part of Central Government (i) under section 1(3), the date on which the Act was to come into force. It was decided to bring it into force from 1st July, 1961; (ii) framing rules under section 9; and (iii) penalty under section 4 for demanding dowry. An officer had to be designated under the proviso to section 4 whose permission is to be taken before action can be taken against a person demanding dowry. Notifications had been issued in this regard by the State Governments. The Notification regarding Delhi was issued on 22-7-1961 designating the District Magistrate of Delhi as the officer whose sanction is to be taken before a court takes cognizance of any offence under this section.

23. As regards rules to be framed under section 9, he said that there was no matter on which any rules were called for. He explained that a provision for rule-making power was incorporated in Acts so that rules could be framed if necessity arose. In the case of the Dowry Prohibition Act, they felt that there was no need of making the rules.

24. When it was pointed out by the Committee that the offence under the Act was not cognizable and as such rules should be framed to give the procedure of making complaints, the representative of the Ministry stated that executive authority under the Act vested in the State Governments. Everybody who wanted to file a complaint knew the law or otherwise he could seek the guidance of those who know it. There was no necessity for laying down the procedure. However, having regard to the feelings of the Members, they will examine the matter further.

Apart from any amendments which might be necessitated by the recommendations of the Committee, the status of women, they could bring out a pamphlet on the Act and the rights given under it. The Committee asked the representative to send written replies to all the questions enumerated in the list of points a copy of which had been given to him.

The Committee desired to know the number of complaints so far filed under the Act. The representative of the Ministry gave the following figures: Kerala 1, Madhya Pradesh 3, Himachal Pradesh 8 and Punjab 19. No reply had been received from Assam, Bihar, Rajasthan, Andhra Pradesh and West Bengal.

25. In reply to another question, he stated that there was no need for laying down a separate procedure for moving in the matter. Although the Dowry Prohibition Act did not specifically say that the Code of Criminal Procedure would apply, the idea of enacting the Code was that wherever a separate procedure is not provided for, the procedure laid down in the Code of Criminal Procedure would apply.

(The witnesses then withdrew)

26. The Committee last heard the representative of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in regard to delay in making rules by Government under the Advocates Act, 1961. The representative of the Ministry stated that the Advocates Act was passed in 1961. Though some sections of the Act were brought into force on 1st December, 1961, the rule-making provision was incorporated for the first time on 16th May, 1964 by the Advocates (Amendment) Act, 1964. From 1961 to 1964 neither the Central Government nor the Bar Council of India specifically had any power to make rules. Clause (b) of sub-section (2) of Section 49A gave power to make rules to provide the category of persons who may be exempted from training and examination. During the period 1961 to 1964 when they did not have power to exempt any person from training, they had to go to Parliament for amendment of the Act twice.

27. In reply to a question the representative of the Ministry stated that the qualifications and dis-qualifications for membership of a Bar Council had been given in the Act and also in the rules framed by the Bar Council of India. Therefore they had not framed any rules in the matter. No difficulty had been experienced by not framing any rules. The Bar Council of India had framed the rules to be followed by the Disciplinary Committee.

(The witnesses then withdrew)

The Committee adjourned to meet again on Monday, the 15th September, 1975.

LXXXIII

**MINUTES OF THE EIGHTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1975-76)**

The Committee met on Monday, the 15th September, 1975 from 11.00 to 12.00 hours.

PRESENT

Dr. Kallas—Chairman

MEMBERS

2. Shri R. N. Barman
3. Smt. Premalabai Dajisaheb Chavan
4. Shri K. Chikkalirgaiah
5. Smt. Marjorie Godfrey
6. Shri Md. Jamilurrahman
7. Shri Dinesh Joarder
8. Shri Ram Singh Bhai
9. Shri M. S. Sanjeevi Rao
10. Shri M. Satyanarayan Rao
11. Shri Tayyab Hussain
12. Shri Shiv Shankar Prasad Singh

SECRETARIAT

Shri Y. Sahai—Chief Legislative Committee Officer

2. The Committee considered Memoranda Nos. 326 to 332 on the following subjects:

S. No.	Memo No.	Subject
1	2	3
1	326-A	The Wheat (Price Control) Order, 1974 (G.S.R. 261-E of 1974).
2	327	The General Insurance (Rationalisation and Revision of Pay Scales and other conditions of

1	2	3
		service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974 (S.O. 326-E of 1974)
3	328	Re-publication of the Cotton Textiles (Control) Order, 1948.
4	329	* * *
5	330	Implementation of recommendation made in paras 40-41 of Seventh Report of Committee on Subordinate Legislation (Fifth Lok Sabha) <i>re</i> : the Small Scale Industries Organisation (Class III-Non-Ministerial Posts) Recruitment Rules, 1968 (S.O. 1464 of 1968).
6	331	Implementation of recommendations made in paras 70-74 of Tenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) <i>re</i> : printing and publication of compilation containing General Statutory Rules and Orders.
7	332	Implementation of recommendations made in para. 71 of Eleventh Report of Committee on Subordinate Legislation (Fifth Lok Sabha) <i>re</i> : (i) the Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971; and (ii) the Central Vigilance Commission (Stenographer) Recruitment Rules, 1971.

(i) *The Wheat (Price Control) Order, 1974 (G.S.R. 46 of 1974)*
(Memorandum No. 326-A)

3. The Committee considered the above Memorandum and were not satisfied with the explanation of the Ministry of Agriculture and Irrigation (Department of Food) that the Order was issued at very short notice and there was no time to consult the State Governments concerned about the minimum ranks of the officers of these Governments who might be authorised to exercise the powers of search and seizure. The Committee desired the Ministry to bear the recommendation of the Committee in mind while issuing such 'Orders' in future. The Committee also decided to once again impress upon all Ministries/Departments the need of complying with their oft-repeated recommendation regarding specification of minimum ranks of persons who might be authorised to conduct searches/seizures.

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

- (ii) *The General Insurance (Rationalisation and Revision of Pay scales and other conditions of service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974 (S.O. 326-E of 1974) (Memorandum No. 327).*

4. The Committee considered the above Memorandum and noted that although the broad criteria on the basis of which categorisation was to be done were given in paragraphs 5(2) and 5(3) there was scope for the Chairman using his discretion under paragraph 5(4). They were of the opinion that if an employee felt aggrieved by the decision of the Custodian, it would meet the ends of the natural justice if he was given an opportunity to represent against that decision and ask for its review in the light of the facts stated in his representation.

- (iii) *Re-publication of the Cotton Textiles (Control) Order, 1948 (Memorandum No. 328).*

5. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Commerce that the Indian Cotton Mills' Federation would be shortly publishing the latest edition of their publication entitled 'The Handbook of Textile Control Orders' which would *inter alia* contain an up-to-date version of the Cotton Textiles (Control) Order, 1948. The Committee felt that a private publication could not be considered a substitute for a Government publication which alone will be taken by the general public as an authoritative version. Also, the private publication may not be easily available to the public at large. The Committee, therefore, desired the Ministry of Commerce to republish the Cotton Textiles (Control) Order as amended up-to-date.

(iv)

* * *

- (v) *Implementation of recommendations made in paras 40-41 of the Seventh Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) re. the Small Scale Industries Organisation (Class III—Non-Ministerial Posts) Recruitment Rules, 1968 (S.O. 1464 of 1968). (Memorandum No. 330).*

7. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Industrial Development that the post of Development Commissioner (Small Scale Industries) had been upgraded to that of Additional Secretary to the Government of India and therefore he might be considered as ap-

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

propriate and adequate authority for exercising the power to relax in regard to age and educational qualifications for Class III posts. The Committee were of the view that the upgradation of the post was not very germane to the point at issue. They observed that Rule 5 specifically vested the power to relax in the Central Government. Once this power had been vested in the Central Government under the main rules, the question of empowering another authority viz. the Development Commissioner, Small Scale Industries under the Schedule to the Rules appeared to be redundant. The Committee reiterated their earlier recommendation made in paras 40-41 of their Seventh Report (Fifth Lok Sabha).

(vi) *Implementation of recommendations made in paras 70—74 of Tenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) re: printing and publication of compilation containing General Statutory Rules and Orders, (Memo. No. 331).*

8. The Committee considered the above Memorandum and noted with satisfaction that during the year 1974, Vol. XXI of the G.S.R.O. covering the subject heading 'Revenue' (upto and including Income tax Act, 1961) had been released. Fifty per cent of the work involved in Vol. XXII had been completed. The Committee desired the Ministry to speed up the work relating to Supplements to earlier volumes also so that they were kept up-to-date as far as possible.

(vii) *Implementation of recommendations made in para 71 of Eleventh Report of Committee on Subordinate Legislation (Fifth Lok Sabha) re: (i) the Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971; and (ii) the Central Vigilance Commission (Stenographer) Recruitment Rules, 1971—(Memorandum No. 332).*

9. The Committee considered the above Memorandum and were not satisfied with the reply of the Department of Personnel and Administrative Reforms. They noted that both the sets of rules in question had been issued by the Department of Personnel and Administrative Reforms who had not cared to follow the standard proforma themselves. The Committee decided to reiterate their earlier recommendation made in para 71 of Eleventh Report and also desired the Department of Personnel and Administrative Reforms to delete rule 5 from both the sets of rules in question.

The Committee adjourned to meet again on Monday, the 6th October, 1975.

LXXXIV

MINUTES OF THE EIGHTY-FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)

The Committee met on Monday, the 6th October, 1975, from 15.30 to 16.15 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Shri R. N. Burman
3. Shrimati Premalabai Dajisaheb Chavan
4. Shrimati Marjorie Godfrey
5. Shri Md. Jamilurrahman
6. Shri Dinesh Joarder
7. Shri Ram Singh Bhai
8. Shri M. Satyanarayan Rao
9. Shri Tayyab Hussain
10. Shri Shiv Shankar Prasad Yadav

SECRETARIAT

Shri Y. Sahai—Chief Legislative Committee Officer.

2-3

4. The Committee then considered Memoranda Nos. 333 to 336 on the following subjects:—

S. No.	Memo. No.	Subject
(i)	333	
(ii)	334	The Cinematograph (Second Amendment) Bill, 1973 (as passed by Rajya Sabha).
(iii)	335	Implementation of recommendation made in paras 42-43 of Ninth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) re:

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

S. No.	Memo. No.	Subject
		the Registration of Electors (Third Amendment) Rules, 1969.
(iv)	336	Implementation of recommendations made in paras 12-13 of Twelfth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) re: the Homoeopathy Central Council Bill, 1973 (as passed by Rajya Sabha).

(i)

5.

(ii) *The Cinematograph (Second Amendment) Bill, 1973 (as passed by Rajya Sabha)*—(Memorandum No. 334).

6. The Committee considered the above Memorandum and noted the assurance given by the Ministry of Information and Broadcasting that necessary amendment for laying the rules under section 16 before Parliament would be proposed when the Cinematograph Act came up for amendment next.

7. As regards non-framing of rules by the Central Government under section 16 of the Act, the Committee were not convinced with the argument advanced by the Ministry that application of Part III in the Act was done by the Union Territories and it was, therefore not considered necessary by the Central Government to frame rules under that section. The Committee noted that the power to frame rules vested in the Central Government under section 16 had been sub-delegated to the Administrators of Union Territories by issuing separate notifications under Article 239(1) of the Constitution. The Committee felt that the scheme and purport of the Act nowhere indicated this intention. If this was the intention of the Legislature, the power to frame rules under section 16 would have been conferred on the Administrators of the Union Territories and not vested in the Central Government. In a similar case relating to the Delhi Sikh Gurdwaras Rules, 1973, framed under the Delhi Sikh Gurdwaras Act, 1971, by the Administrator of Union Territory of Delhi, the Committee had already sought the legal opinion of the Attorney-

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

General on the question whether the Central Government could sub-delegate their power to frame rules to the Administrators of Union Territories. The Committee decided to await the opinion of the Attorney-General on the above issue.

8. As regards framing/non-framing of rules by the Union Territories, the Committee noted from a statement submitted by the Ministry that there was no uniformity in regulating the cinematograph exhibitions in Union Territories. The Union Territories of Delhi; Andaman and Nicobar Islands, Goa, Daman and Diu and Pondicherry had framed their own rules. In the case of Chandigarh and Mizoram, no powers had been delegated to them under sections 16 and 17, as had been done in the case of others, and the Cinematographs were being regulated under the Punjab Cinemas (Regulation) Act/Rules, 1952 and the Assam Cinemas (Regulation) Act, 1953, respectively. The Committee were surprised to note that in the Union Territory of Arunachal Pradesh, no rules had been made so far and the exhibition of cinematographs was being regulated through executive orders issued in August, 1970. The Committee were not happy about it. They felt that the existing state of affairs could have been avoided, had the statutory requirement of framing the rules under section 16 by the Central Government been complied within the same way as had been done in the case of rules made under section 8 of the Act. The Committee desired the Ministry to frame rules under section 16 of the Act for making them applicable uniformly to all the Union Territories, or in the alternative, Government should come forward for getting the Act amended suitably, so as to empower the Administrators of Union Territories to make their own rules.

(iii) *Implementation of recommendation made in paras 42-43 of Ninth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Registration of Electors (Third Amendment) Rules, 1969 (Memorandum No. 335).*

9. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Law, Justice and Company Affairs (Legislative Department). To avoid undue reduction of the prescribed period for filing claims and objections, the Committee felt that rule 12 of the Registration of Electors Rules, 1960, should be amended so as to clearly indicate therein that the power to reduce the normal period of 30 days would be exercised by the Election Commission in case of a special revision only ordered under section 21(3) of the Representation of the People Act, 1950.

and that even in such a case the reduced period should not be so short as to deprive the electors of a fair opportunity of filing claims and objections.

- (iv) *Implementation of recommendations made in paras 12-13 of Twelfth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Homoeopathy Central Council Bill, 1973 (As passed by Rajya Sabha)—(Memorandum No. 336).*

10. The Committee considered the above Memorandum and noted the assurance given by the Ministry of Health and Family Planning (Department of Health) that necessary amending legislation to provide for publication of regulations framed under the Homoeopathy Central Council Act, 1973, would be undertaken at the earliest opportunity.

11. As regards inclusion of clause (p) in section 33 of the Act, the Committee were satisfied with the reply of the Ministry that similar provisions were also to be found in the rule-making section in numerous Acts and this drafting device was based on precedents. The Committee decided that the matter might not be pursued further.

The Committee then adjourned.

LXXXVIII

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

The Committee met on Saturday, the 27th December, 1975 from 11.00 to 11.45 hours.

PRESENT

Dr. Kailas—Chairman

MEMBERS

2. Shri R. N. Barman
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri K. Chikkalingaiah
5. Shrimati Marjorie Godfrey
6. Shri Md. Jamilurrahman
7. Shri Dinesh Joarder
8. Shri Ram Singh Bhai
9. Shri M. S. Sanjeevi Rao
10. Shri M. Satyanarayan Rao
11. Shri Tayyab Hussain
12. Shri Shiv Shankar Prasad Yadav

SECRETARIAT

Shri Y. Sahai—Chief Legislative Committee Officer.

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

3. The Committee authorised the Chairman to present the Eighteenth Report to the House on their behalf on a date to be fixed by the Chairman.

The Committee also authorised the Chairman to nominate an alternate member to present the Report to the House in his absence.

The Committee then adjourned.