

COMMITTEE ON SUBORDINATE LEGISLATION

(EIGHTH LOK SABHA)

TWENTIETH REPORT

(Presented on 7 December, 1988)



LOK SABHA SECRETARIAT
NEW DELHI

December, 1988/Agrahayana, 1910 (Saka)

Price Rs. 14.00

Agenda to the Twentieth Report of the
Committee on Subordinate Legislation (Eighth
Lok Sabha) presented on 7 December, 1988)

<u>Page</u>	<u>Paragraph</u>	<u>Line</u>	<u>for</u>	<u>Read</u>
	(i) Contents against	INTRODUCTION	(iv)	(v)
5	In Heading	1	after the word insert IN	CONTAINED
6	2.6	6	itst	its
21	After the word Annexure	insert I		

CONTENTS

PARA No. PAGE No.

COMPOSITION OF THE COMMITTEE		(iii)
--	--	-------

INTRODUCTION	1-4	(iv)
REPORT		

I. Amendment of 'Orders' issued by the Central Government under the provisions of Punjab Reorganisation Act, 1966	1.1 - 1.7	1
II. Implementation of recommendation contained in paragraph 41 of the Fourteenth Report (Eighth Lok Sabha) of the Committee on Subordinate Legislation	2.1—2.6	5
III. Implementation of recommendation contained in paragraph 21 of the Fourth Report (Eighth Lok Sabha) of the Committee on Subordinate Legislation	3.1—3.4	7
IV. Action taken by Government on the Recommendations contained in various Reports of the committee	4.1	9

APPENDICES

of recommendations made by the Committee	13
sed to be issued by Department of Personnel &	15
Cor be followed by the Ministries/Departments in framing regulations etc. under statutes/Acts	17
ent showing action taken by Government on the recommendations made by and assurances given to the Committee on Subordinate Legislation	26
V. Minutes of the Sixty-sixth and seventy-first sittings of the Committee on Subordinate Legislation	49

COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(1988-89)

1. Shri Zainul Basher—*Chairman*
2. Shri K. J. Abbasi
3. Shri G. S. Basavaraju
4. Shri Parasram Bhardwaj
5. Shri Satyendra Chandra Guria
6. Shri A. Jayamohan
7. Shri R. S. Khirhar
8. Shri Vishnu Modi
9. Shri Prakash V. Patil
10. Shri Mullappally Ramachandran
11. Shri Ebrahim Sulaiman Sait
12. Shri Kalicharan Sakargayen
13. Shri Natavarsinh Solanki
14. Shri Katuri Narayana Swamy
15. Shri Vijay Kumar Yadav

SECRETARIAT

1. Shri K. C. Rastogi—*Joint Secretary*
2. Shri G. S. Bhasin—*Deputy Secretary*
3. Shri Swarn Singh—*Officer on Special Duty*

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee (1987-88) at their sitting held on 31 May, 1988.

3. The Report was considered and adopted by the Committee at their sitting held on 6 December, 1988. The Minutes of the sittings relevant to the Report are appended thereto.

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

NEW DELHI;

6 December, 1988

15 *Agrahayana*, 1910 (*Saka*)

ZAINUL BASHER

Chairman,

*Committee on Subordinate
Legislation*

**AMENDMENT OF 'ORDERS' ISSUED BY THE CENTRAL
GOVERNMENT UNDER THE PROVISIONS OF PUNJAB
REORGANISATION ACT, 1966 WITH RETROSPECTIVE
EFFECT**

1.1 In a communication dated 23 December, 1987, the Department of Personnel and Training stated as under:—

“.....under Section 82(2) of the Punjab Reorganisation Act, 1966 (Central Act, No. 31 of 1966), orders have been issued by the Central Government finally allocating the individual employees of the former State of Punjab to the successor states of Punjab, Haryana, Himachal Pradesh and U.T. Chandigarh. As per the policy settled in the context of the reorganisation of States in 1956, the allocations of staff to the reorganised states are made effective from the date of re-organisation. Thus all orders issued for the purpose have retrospective effect. In the aforesaid case, these orders were made effective from 1-11-1966, the appointed day on which the erstwhile composite State of Punjab was reorganised.

Recently, it has been brought to the notice of this Department that the designations of some officials in a final allocation order have been shown wrongly. It is, therefore, necessary to rectify the order by issuing a suitable amendment/corrigendum thereto. Obviously, the amendment will also be retrospectively effective from 1-11-1966.

A question has been raised by the Ministry of Law (Legislative Department) to whom the drafts [See Appendices II(A) and (B)] in this regard were referred for vetting, whether it is necessary to append an explanatory memorandum regarding amending the aforesaid order with retrospective effect and certifying that the interest of no official shall adversely be affected by giving retrospective effect to the order, which is required to be appended to 'statutory orders' etc. issued with retrospective effect as per recommendations of the Committee on Subordinate Legislation. This Department is of the view that the orders in question are not of the type falling in the category of subordinate legislation which are required to be placed

before the Committee on Subordinate Legislation and consequently no such explanatory memorandum need be affixed to the amending order. However, as the position is not very clear, Lok/Rajya Sabha Secretariat may please clarify whether in the type of orders issued in individual case mentioned in para 1 above and the amendments issued thereto where necessary, an explanatory memorandum as stated above is required to be appended. They may please also send a copy of the relevant recommendations of the Committee on Subordinate Legislation for information of this Department."

1.2 The Committee considered the matter at their sitting held on 31 May, 1988. The Committee noted that under Section 82(2) of the Punjab Reorganisation Act, 1966, orders had been issued by the Central Government finally allocating the individual employees of the former State of Punjab to the successor States of Punjab, Haryana, Himachal Pradesh and Union Territory, Chandigarh. The Department of Personnel and Training and now sought to issue some amendment/corrigendum to these orders, which would also be retrospectively effective from 1-11-1966. The Ministry of Law (Legislative Department) to whom the draft amendments were referred by the Department of Personnel for vetting raised the point whether while issuing the amending order having retrospective effect it was necessary to append an explanatory memorandum also certifying that the interest of no official shall be adversely affected by giving retrospective effect to the orders, as per recommendations of the Committee on Subordinate Legislation.

1.3 In this connection, the Committee noted the following observations of the Attorney-General made with reference to the Exemption Notifications issued under the Central Excises and Salt Act, 1944 and the rules framed thereunder:

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

1.4 The Committee further noted that the Supreme Court in their judgement in *Hukam Chand vs. the Union of India* (AIR 1972, S.C. 2447), while commenting upon retrospective operation of a rule

framed under Section 40 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 had observed as under:—

“.....if there was nothing in the language of S. 40 to empower the Central Government either expressly or by necessary implication to make a rule retrospectively, the Central Government would be acting in excess of its power if it gave retrospective effect to any rule. The underlying principle is that unlike Sovereign Legislature which has power to enact laws with retrospective operation, authority vested with the power of making subordinate legislation has to act within the limits of its power and cannot transgress the same.....”.

1.5 With regard to giving retrospective effect to the statutory orders, the Committee also noted the following observations made in paragraph 10 of the Second Report (Fourth Lok Sabha) of the Committee on Subordinate Legislation:—

“However, if, in any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given, either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules.”

1.6 The Committee also noted that the Committee on Subordinate Legislation in paragraph 80 of their Twenty-fourth Report (Seventh Lok Sabha) had *inter alia* observed as under:

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

1.7 The Committee feel that the orders of allocation issued under Section 82(2) of the Punjab Reorganisation Act, 1966 and the proposed amendments/corrigenda to the orders were in the nature of executive orders and did not come in the category of Subordinate Legislation within the meaning of Section 97 of the above said Act. As such appending of an explanatory memorandum to the corrigendum/amendment to the effect that no one will be adversely affected as a result of retrospective effect being given to the proposed amendment/corrigendum was not necessary. However, the Committee desire that the Ministry should ensure that no one was adversely affected by giving retrospective effect to the executive orders proposed to be issued.

II

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 41 OF THE FOURTEENTH REPORT (EIGHTH LOK SABHA) OF THE COMMITTEE ON SUBORDINATE LEGISLATION

2.1 Rule 18 of the Food Corporation Rules, 1965, as amended, read as under:—

“18. Securities upon which Corporation may lend or advance money:

The Corporation may lend or advance money to any person engaged in the production of foodgrains upon the security of growing crops for any purpose connected with such production.”

2.2 While commenting on the above rule, the Committee on Subordinate Legislation had, in paragraph 41 of their Fourteenth Report (Eighth Lok Sabha), presented to the House on 27th April, 1967 observed as under:—

“In terms of Section 44 (2) (e) and (f), the Central Government may make rules to provide for the securities (other than foodgrains) upon which Food Corporation may lend or advance money and the manner in which Food Corporation may invest its funds. It flows therefrom that recovery of such funds being an essential ingredient of lending and investment should as well be laid down in some fair detail in the rule itself. Every care should, therefore, be taken that rules framed under the delegated powers of legislature are not reduced to mere skeleton omitting all necessary details of legislation. Besides, dependence on executive instructions or administrative guidelines should be the minimum as these are neither published in the Official Gazette nor laid before legislature and thus escape scrutiny by the Committee.”

2.3 The Committee had recommended that some details regarding the purpose of lending and the methods of recovery of loans may be incorporated in the rule 18 itself so as to make it comprehensive and self-contained.

2.4 In their action-taken note, the Ministry of Food and Civil Supplies (Department of Food) stated as follows:—

“Rule No. 18 deals with securities upon which Corporation may lend or advance money. It may be mentioned here that the Food Corporation of India does not generate any internal resources. The difference between the issue price of foodgrains and the cost of operations are reimbursed to Food Corporation of India in the form of subsidy. To improve its financial position all outstanding loans as on 31st March, 1995, viz., Rs. 330.16 crores, sanctioned to the Corporation for creation of permanent assets like godowns, silos, etc. were converted into equity in March, 1986. During the last financial year ending on 31st March, 1987, the Corporation was provided with a soft loan of Rs. 1200 crores to partially finance the maintenance of buffer stock of foodgrains and to reduce its interest burden. During the last Budget Session of the Parliament, a Bill was also introduced to diversify the channels of borrowings by the Corporation from other public sector undertakings etc. From all these, it is clear that there would not be any possibility to put this Rule in action in near future. The FCI also are of the same opinion and feel that since the above Rule has not been put to use by them in the past nor it likely to be operated in the near future, the same may be deleted. This Department is in agreement with the views of FCI in this regard”.

2.5 The Committee considered the above action taken note of the Ministry at their sitting held on 31 May, 1988.

2.6 The Committee feel that it is not desirable on the part of the Ministry to circumvent a well-considered recommendation of the Committee by suggesting that instead of amending Rule (18) in the light of the Committee's recommendation, the rule itself may be deleted. The Committee, therefore, recommend that even though the said Rule has not been in operation in the past, its use in future cannot be ruled out and hence the Rule needs to be suitably amended as recommended by them in para 41 of their Fourteenth Report (Eighth Lok Sabha).

III

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 21 OF THE FOURTH REPORT (EIGHTH LOK SABHA) OF THE COMMITTEE ON SUBORDINATE LEGISLATION

3.1 While examining the Industrial Employment (Standing Orders) General (Amendment) Rules, 1984 (G.S.R. 910 of 1984) the Committee had in para 21 of their Fourth Report (Eighth Lok Sabha), *inter alia* observed as under:—

“..... the Committee would like the Ministry of Parliamentary Affairs to examine the matter in detail in consultation with the Ministries/Departments of the Government of India, including the Ministry of Law and Justice, and draw suitable guidelines for the Ministries streamlining the procedure generally with regard to subordinate legislation and particularly with a view to minimise the time-gap between publication of the draft rules and their promulgation in the final form as such delays prove detrimental to the interests of the public at large.”

3.2 In their action-taken note dated 18 September, 1986 the Ministry of Parliamentary Affairs stated as under:—

“..... as recommended by the Committee, this Ministry in consultation with the Ministries/Departments of the Government of India including the Ministry of Law and Justice has finalised guidelines to be followed by the Ministries/Departments for streamlining the procedure, generally with regard to Subordinate Legislation and particularly with a view to minimising the time-gap between publication of the draft rules framed under Acts and their promulgation in final form.

A copy of the guidelines circulated to the Ministries/Departments *vide* this Ministry's O.M. of even number dated 18th September, 1986, for strict compliance is enclosed (See Appendix III). It is requested that these guidelines may please be placed before the Committee on Subordinate Legislation.”

3.3 The above action taken note alongwith the guidelines issued by the Ministry of Parliamentary Affairs was considered by the Committee at their sitting held on 31 May, 1988.

3.4 The Committee note with satisfaction that the Ministry of Parliamentary Affairs have issued comprehensive guidelines to be followed by the Ministries/Departments of the Government of India for streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimising the time-gap between the publication of the draft rules and their promulgation in final form. The Committee desire that all Ministries/Departments of the Government of India should follow these guidelines in letter and spirit.

IV

ACTION TAKEN BY GOVERNMENT ON THE RECOMMEN- DATIONS CONTAINED IN VARIOUS REPORTS..... OF THE COMMITTEE

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

NEW DELHI;
6 December, 1988
15 Agrahayana, 1910 (Saka)

ZAINUL BASHER
Chairman,
Committee on Subordinate
Legislation

APPENDICES

APPENDIX I

(Vide Paragraph 4 of Introduction)

Summary of main Recommendations/observations made by the Committee

S. No.	Paragraph No.	Summary
1	2	3
1	1.7	The Committee feel that the orders of allocation issued under Section 82(2) of the Punjab Reorganisation Act, 1966 and the proposed amendments/corrigenda to the orders were in the nature of executive orders and did not come in the category of Subordinate Legislation within the meaning of Section 97 of the above said Act. As such appending of an explanatory memorandum to the corrigendum/amendment to the effect that no one will be adversely affected as a result of retrospective effect being given to the proposed amendment/corrigendum was not necessary. However, the Committee desire that the Ministry should ensure that no one was adversely affected by giving retrospective effect to the executive orders proposed to be issued.
	2.6	The Committee feel that it is not desirable on the part of the Ministry to circumvent a well considered recommendation of the Committee by suggesting that instead of amending Rule (18) in the light of the Committee's recommendation, the rule itself may be deleted. The Committee, therefore, recommend that even though the said Rule has not been in operation in the past, its use in future cannot be ruled out and hence the Rule needs to be suitably amended as recommended by them in para 41 of their Fourteenth Report (Eighth Lok Sabha).

1	2	3
<hr/>		
1	3.4	The Committee note with satisfaction that the Ministry of Parliamentary Affairs have issued comprehensive guidelines to be followed by the Ministries/Departments of the Government of India for streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimising the time-gap between the publication of the draft rules and their promulgation in final form. The Committee desire that all Ministries/Departments of the Government of India should follow these guidelines in letter and spirit.
	4.1	The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix-IV.

APPENDIX II-A

(Vide Paragraph 1.1 of the Report)

No. 22/28/68-SR(S)

Deptt. of Personnel and Training

6th Floor, Nirvachan Sadan,

New Delhi.

O R D E R

In exercise of the powers conferred by Sub-Section (2) of Section 82 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central Government hereby makes the following amendments in the order of the Government of India in the Ministry of Home Affairs No. 22/28/68-SR(S) (2) dated the 31st May, 1968 namely:—

In the schedule appended to the said order No. 22/28/68-SR(S) (2) under the heading of 'PUNJAB TO HIMACHAL PRADESH', the entry pertaining to Shri Atma Ram Joshi, 264/ASR appearing on Page 10 of the schedule shall be shifted and inserted between those relating to S/Shri Des Raj and Jaishi Ram on the same page and his designation in column 2 shall be rectified as Assistant Sub-Inspector instead of 'Sub-Inspector Police Department'.

(A. S. TANEJA)

Deputy Secretary to the Government of India

APPENDIX II-B

(Vide Paragraph 1.1 of the Report)

No. 22/28/68-SR(S)

Deptt. of Personnel and Training

6th Floor, Nirvachan Sadan,

New Delhi.

O R D E R

In exercise of the powers conferred by Sub-Section (2) of Section 82 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central Government hereby makes the following amendments in the order of the Government of India in the Ministry of Home Affairs No. 22/28/68-SR(S) (3) dated the 31st May, 1968 namely:—

In the schedule appended to the said order No. 22/28/68-SR(S) (3) under the heading 'HARYANA TO HIMACHAL', the entry pertaining to Shri Dwarka Das Kalia, 37/Knl appearing on Page 10 of the Schedule, shall be shifted and inserted between those relating to S/Shri Gandarv Singh and Jitan Singh on the same page and his designation shall be rectified as 'Head Constable' instead of Sub-Inspector. The designation of the post indicated in Column 2 against the name of Shri Bahadur Singh, PAP/209 appearing under Column 1 on Page 10 of the said schedule, shall be rectified as 'Sub-Inspector' instead of 'Inspector'.

(A. S. TANEJA)

Deputy Secretary to the Government of India

APPENDIX III

(Vide Paragraph 3.2 of the Report)

Guidelines to be followed by the Ministries/Departments in framing the Rules, Regulations etc. under Statutes/Acts.

The Committee on Subordinate Legislation have from time to time expressed concern over the inordinate delay in framing and final notification of the Rules under the various Acts/Statutes. The Committee have, therefore, desired that a set of guidelines should be laid down streamlining the existing procedure in order to avoid such delays in future. After consultations with various Ministries/Departments of Government of India, the following guidelines are laid down in the matter for strict compliance in future:—

1. Rules and Regulations required to be made under a Statute should be framed and notified in the official Gazette as soon as possible but in no case later than 6 months from the date from which the statute comes into force.
2. The Committee has observed that executive instructions are no substitute to statutory rules and as such the Ministry should not take recourse to transitional provisions in the Statute or issue of administrative instructions to meet such eventualities.
3. Joint Secretary in-charge of Parliament Section in the Ministries/Departments should be made responsible in the Ministry/Department to ensure that the time schedule as mentioned below and also as given in the 'Activity time' appended as Annexure-I are strictly adhered to:—
 - (a) Where an Act passed by Parliament provides for rule making power, the rules should ordinarily be framed as soon as possible, after the commencement of the Act and in no case this period should exceed six months. Where the Act provides for inviting objections/suggestions from public on the draft rules, the rules should be notified in the Gazette as required in the Act and should ensure that at least a period of 30 clear days exclusive of the time taken in making available the Gazette copies to the public is given to the public.

- (b) If the suggestions/objections received are large, the final rules should be notified within a period of six months from the last date of receiving the comments. If no objections/suggestions are received or the number of objections/suggestions so received are small, the rules should be finally notified within a period of 3 months.

An Officer of the rank of Deputy Secretary/Director should be earmarked to coordinate the work of all the Sections dealing with the work of Subordinate Legislation.

The following stages are involved in the process:—

- (i) Framing of draft Rules in consultation with the Ministry of Law and Justice.
- (ii) Publishing of draft Rules in the official Gazette inviting objections/suggestions within the specified period wherever applicable;
- (iii) Consideration of objections/suggestions;
- (iv) Modification of the draft rules on the basis of objections/suggestions received;
- (v) Finalisation of the Rules in consultation with the Ministry of Law and Justice;
- (vi) Translation of rules into Hindi by the official language wing;
- (vii) Sending the Rules to the Government of India Press for printing after assigning the S. No. etc. and indicate the priority or the date by which these should be published;
- (viii) Laying the Rules so published on the Table of the House as soon as possible but within 15 days of their publication in the Gazette and if it is not in session then, within 15 days after the date of commencement of the next session. If delay exceed 15 days, a statement showing reasons for delay may also be laid.

4. It has been observed that in the aforesaid process much time is wasted through routine correspondence and also in the absence of any follow up action in the matter. Every effort should be made to finalise the matter by holding inter-departmental meetings, or inter-ministerial meetings as deemed necessary.

5. The Legislative Department, Ministry of Law and Justice, have identified a few factors which lead to avoidable delays in cases

relating to Subordinate Legislation referred to them by the Ministries/ Departments for vetting etc. To facilitate speedier disposal of cases, and avoid unnecessary correspondence, Ministries/Departments may ensure fulfilment of these points, appended in Annexure-II, before referring the cases relating to Subordinate Legislation to that Ministry.

6. Factors which result in undue delay in printing of the Rules/ Regulations/notifications in the Directorate of Printing are enumerated in Annexure-III. Ministries/Departments before sending the material relating to Subordinate Legislation for printing to that Department may ensure that the formalities as listed in the Annexure are complete in all respect.

7. If suggestions have to be obtained from interests concerned who are likely to be affected by the legislation, attempt should be made to get their comments at the earliest by sending registered letters to them and if necessary by publication of the draft rules in the national or regional newspapers.

8. As soon as an act comes into force, it should be examined to ascertain the specific sections conferring power to make rules, regulations, by-laws, orders, etc.

9. A register should be maintained in each Ministry/Department specifying the various stages of processing the legislation e.g. name of the enactment, date of its coming into force, sections (with any sub-section etc.) conferring legislative powers on the Government; whether power has been given to an agency other than Central Government for framing the Rules and also identify the various stages of processing the rules, namely, framing of the draft rules, notification thereof in the gazette if necessary, consideration of objection and suggestions, finalisation of rules in consultation with the Ministry of Law, the translation thereof and final notification in the gazette. The above register should be put up by the section concerned to the officers incharge for periodical check with a view to see that the process of legislation is not held up at any stage for any reasons.

10. As soon as the rules have been published in the gazette, the concerned Ministry/Department should scrutinise them carefully and issue corrigenda, wherever necessary.

11. A monthly return (Annexure-IV) should be put up by Sectional Incharge every month regularly to the Joint Secretary deputed for co-ordinating this work *vide* para 3 of this guidelines who shall monitor the progress and take remedial measures for avoiding any

delay in the matter and who shall further submit return alongwith the remedial action taken to the Additional Secretary/Secretary.

12. A quarterly report in respect of cases in which Rules/Regulations under a Statute have not been published within 6 months should be sent regularly to the Legislative Department of the Ministry of Law and Justice.

13. In case the Ministries/Departments are not able to frame the rules within the prescribed time of six months or more as the case may be, they should seek extension of time from the Committee stating reasons for such extension, such extension being not more than for a period of three months at a time. The request should be made after placing the matter before the Minister.

14. The Ministries/Departments should maintain up-to-date copies of the acts and rules and regulations, bye-laws etc. framed thereunder in sufficient numbers. In case the number of amendments are large, efforts should be made to reprint the acts or the rules as the case may be, so as to provide a continuous reading.

ANNEXURE

ACTIVITY TIME

Time prescribed for the activities/ framing of rules and regulations under a Statute

Activity

(A) For framing of rules and regulations where the Act does not provide for inviting objections/suggestions from the public on the draft rules :—

- | | |
|---|----------|
| (a) Framing of draft rules | 3 months |
| (b) Finalisation of the rules, vetting by the Ministry of Law,
Hindi translation and notification in the Gazette | 3 months |

TOTAL	6 months
-------	----------

(B) For framing of rules and regulations where the Act provides for inviting objections/suggestions from the public on the draft rules :—

- | | |
|--|---|
| (a) Framing of draft rules | 3 months |
| (b) Consultation with interests concerned and/or inviting
objections/suggestions from the public | 3 months |
| (c) Finalisation of the rules, vetting by the Ministry of Law
Hindi translation and notification in the Gazette | 3 months
(or 6 months in case
the objections/sug-
gestions received are
very large) |

TOTAL	9 months (or 12 months)
-------	----------------------------

ANNEXURE II

Points to be kept in mind by the Ministries/Departments while referring cases relating to Subordinate Legislation to the Legislative Department, Ministry of Law and Justice

1. As regards principal rules, regulations, orders etc:—

- (a) consultation with the authorities which are required to be consulted have been made by the administrative Ministry;
- (b) where rules, etc., are to have effect retrospectively (in cases where parent Act or the Constitution empower giving such retrospective operation), an explanatory memorandum has been added in the form of a note explaining that the interests of no person shall be adversely affected by such retrospective effect;
- (c) where existing rules, etc. are sought to be superseded or repealed, up-to-date copies of such rules, etc. are placed on the file for reference;
- (d) approval of authorities competent to approve such proposal has been obtained;

2. As regards amending rules, regulations, orders, etc.:—

- (a) up-to-date copies of the principal rules or copies of such rules along with subsequent amendments, are placed on the file for reference;
- (b) foot note indicating the gazette references of the principal rules and all subsequent amending rules is appended to the draft;
- (c) approval of authorities competent to approve such proposal has been obtained;
- (d) where rules, etc. are to have effect retrospectively (in cases where parent Act or the Constitution empowers giving of such retrospective operation), an explanatory memorandum has been added in the form of a note explanatory that the interests of no person shall be adversely affected;
- (e) consultation with the authorities which are to be consulted have been made.

3. As regards rules, etc., to be finally published after it has been previously published for general information, the preamble to the draft should contain—

- (i) The notification number with which the draft has been published and the date of the Gazette in which the draft rules were published;
- (ii) the date on which the Gazette copies containing the draft rules were made available to the public.
- (iii) the last date fixed for receipt of public comment.
- (iv) All references made to the Department should be accompanied with a self-contained note explaining the proposal.
- (v) In time bound cases the administrative Ministries should specifically indicate the same by some method in the file itself. Those cases wherever possible may be settled after discussion by an officer of appropriate level with the concerned Legislative Counsels."

ANNEXURE III

Points to be kept in mind by the Ministries/Departments while sending notifications relating to rules etc. for printing in the Weekly/Extraordinary Gazette.

- (i) The Department/Ministry should send the notification containing Rules, etc. required to be published by a particular date in the Weekly/Extra-ordinary Gazettes with a covering d.o. letter addressed to the Manager of the Press, *clearly indicating the date on which the same is to be published either in the Extra-ordinary Gazette or the date of the Weekly Gazette.*
 - (ii) Reasonable time, as far as possible should be allowed to the press to publish notifications relating to Rules which are of a bulky nature.
 - (iii) The number of spare copies required by the Department/Ministry should be clearly indicated in the d.o. letter and in the printing requisition.
 - (iv) As per the Directorate of Printing's revised instructions regarding printing and distribution of Gazette issued vide their O.M. No O-17034/1/83-P(III), dated 2-9-1985, all notifications received by the press upto 1.00 P.M. on Tuesday will be printed in the same week's Gazette of Saturday.
- (The Directorate of Printing have also issued to all Ministries/Departments of the Government of India O.M. No. O-17034/1/83-P(iv), dated 16-1-1986 which relates to streamlining the procedure regarding the printing and distribution of the various parts of the Gazette of India. Instructions contained in this O.M. as also their O.M. dated 2-9-1985 may strictly be adhered to by Ministries/Departments to ensure timely printing and Publication of the Rules/Notification in the Gazette).

ANNEXURE IV

Monthly return showing the time prescribed and actually taken in respect of each case pertaining to framing of rules and regulations under statute

Fine No..... Title of the Rule/Regulation :

S. No.	Activity	Time prescribed	Time taken	Remarks (Reasons in detail should be given where more time is taken to complete the activity)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Note : This return should be put to Additional Secretary/Secretary regularly (other than the co-ordinating Officer) for every month by 7th of the following month.

APPENDIX IV

(Vide Paragraph 4.1 of the Report)

Statement showing the Action Taken by Government on the recommendations made and assurances given to the Committee on Subordinate Legislation.

S. No.	Reference to para Nos. of Report	Summary of Recommendations/Assurances	Gist of Government's reply
(1)	(2)	(3)	(4)
Twenty-fourth Report (Seventh Lok Sabha) 31 to 33, 21-12-1983	31. The Committee gather from the evidence taken that since the inception of the Central Health Scheme in 1963, there has been no clear cut policy on the part of the Government for recruitment of CGHS doctors for difficult areas. The Committee observe that, where Government found it convenient they recruited doctors by written examination as recommended by Third Pay Commission followed by an interview or by only interviews, whenever there was an urgent demand from any farflung States. On each occasion they had to consult UPSC before formal recruitment was made. The	The Central Health Service Rules, 1963 have been repealed by the Central Health Service Rules, 1982 vide GSR 689 of 1982. In the Rules of 1982, there is a provision for a clear cut method of recruitment of Medical Officers on all India basis. There is also a provision to consult UPSC while selection of officers by interview and as such there is no scope for Cadre Controlling Authority to use any unfair means.	Requests for transfer on compassionate grounds are attended to promptly, and

Committee feel that the intention of the Ministry of Health to resort to 'interventions only, for recruitment to difficult areas should be spelled out in the rules so that there is no ambiguity in the minds of the applicants.

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

so there is no need for an Apex Committee as it exists in the Armed Forces.

[Office Memorandum No. A. 45011/2/75-CHS. III(V) (Vol. II) dated 15-6-1984 from the Ministry of Health & Family Welfare].

(1)

(2)

(3)

(4)

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

**Twenty-seventh report
(Seventh Lok Sabha)
27, 24.8.1984**

27. The Committee, after considering the matter in depth, recommended the Ministry of Food and Civil Supplies (Department of Civil Supplies) to amend the second proviso to rule 6(a)(ii) of the Indian Institute of Legal Metrology Rules, 1980, in order to provide field experience as one of the essential requisites for granting relaxation in the educational qualifications for admission to the Indian Institute of Legal Metrology. The Committee further direct the Ministry to lay down suitable guidelines in this respect in the above Rules.

**The Ministry of Food and Civil Supplies
(Department of Civil Supplies) (Weights and measures) have amended the Indian Institute of Legal Metrology Rules, 1980 vide G.S.R. 644-E dated 17-4-1986.**

[O.M. No. WM-9(6)/80 dated 6-5-1988
D.O. No. WM-9(6)/80 dated 21-5-1986]

Fourth Report (Eighth Lok Sabha)

10, 18-12-1985

10. The Committee note that the Ministry of Transport have taken corrective action to provide monitoring at each stage of rule-making process with a view to minimise the delays in this regard. They hope the Ministry would keep their assurance to the Committee that lapses of this nature would not recur in future. However, the Committee would like to re-emphasize the imperative need to reduce the time-lag between the publication of draft rules and their final notification in the Official Gazette. In this connection, the Committee reiterate their earlier recommendation made in paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented to the House on 21 December, 1983, that where a large number of objections/suggestions are received, the gap between publication of draft rules and notification of final rules should not be more than six months. Where the objections/suggestions received are few, efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. However, in cases where no objections/suggestions are forthcoming on the draft rules, the final rules should be notified within a period of three months. The Committee would like the Ministry of

The Ministry of Transport (Department of Surface Transport) have noted the recommendations/observations of the Committee for Compliance (*Vide* O.M. Mo. PW/PGL-1/86 dated 20-1-86)

(1)	(2)	(3)	(4)
		Transport to adhere to these recommendations in all cases in future.	
Fourth Report (Eighth Lok Sabha) 60, 65 and 66 18-12-1985		<p>(60) The Committee are unhappy to note that these delays persist on the part of the Ministries in the final publications of the Rules, inspite of their clear recommendations in this regard, made in paragraphs 13-14 of their Fifteenth Report (Fifth Lok Sabha) presented to the House on 15 April, 1975 and paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha) presented on 21 December, 1983.</p>	<p>The Ministry of Parliamentary Affairs have circulated the above observations of the Committee to all Ministries Departments for strict compliance [<i>vide</i> their O.M. No. F. 32(7)/85-R&C dated 27 January, 1986.]</p>
		<p>(65) As regards supply of Hindi translation of Rules by the Official Language Wing of the Ministry of Law, the Committee feel that there is a scope for further improvement in this regard. It has often been brought to the notice of the Committee that paucity of staff in the Commission had been the main factor for delay in furnishing Hindi translation of Rules etc. to the concerned Ministries. The Committee would like that the position in this regard is examined by the authorities concerned and staff commensurate with the work load is made available to the Official Language Wing</p>	

so that complaints of delays are avoided in future. The Committee would also like to impress upon the Ministries/Departments that after the Rules/Regulations-/Bye-laws etc. are sent for Hindi translation, the matter should be pursued with the Official Language Wing vigorously.

(66) The Committee would like to observe that the Ministries/Departments of the Government should ensure that copies of Acts, rules, regulations, bye-laws etc. supplied to the Committee are up-to-date and in order in all respect.

Fifth Report (Eighth Lok
Sabha)
9 & 10
20-3-1986

(9) The Committee agree with the views of the Ministry of Labour that the Manager of the Mine has necessarily to be a technical person devoting his efforts towards increasing production and ensuring safety and as such should be divested of other responsibilities not directly connected with his main work. They have therefore, no objection to the deletion of the word 'manager' from the Mines Crèche Rules, 1966 so as to bring them in line with the amended provisions of the Act.

(10) The Committee, however, cannot refrain from expressing their regret

The Ministry of Labour have noted the observations/instructions of the Committee contained in paragraph 10 of their report for future guidance and compliance.

(O.M. No. H-11013/3/85-MI dated 11-5-1987 from the Ministry of Labour).

(4)

(3)

(2)

(1)

over the delay in the notification of the Mines Creche (Amendment) Rules, 1985 in the final form. The Committee are not convinced with the reasons for delay advanced by the Ministry that they were taking simultaneous action regarding amendment of the various other rules and regulations. The Committee feel that the delay was obviously due to the casual attitude displayed and the scant regard shown by the Ministry in the matter, especially in the matter of obtaining comments of DGMS which has taken about 5½ months. In this connection, the Committee would like to draw the attention of the Ministry to the observations/recommendations made by them in paragraphs 67 and 68 of their Twenty-fourth Report (Seventh Lok Sabha) wherein the Committee have emphasised the imperative need to reduce the time lag between the publication of draft rules and their final notification in the Gazette. The Committee would like the Ministry to be more cautious and vigilant in such matters in future and strictly adhere to the time limit fixed by the Committee for the purpose.

(25) While the Committee accept the explanation of the Ministry for not being able to comply with their recommendation for uniformity in the issue of railway passes to the Gazetted and non-gazetted staff in Railways, they are constrained to observe that the procedure of issue of passes is still regulated under the Indian Railway Conference Association Rules which as indicated by the Committee earlier do not have any legal authority but are based on instructions issued by the Ministry from time to time. In this connection, the Ministry of Railways had informed the Committee in February, 1979, that a separate pass manual regarding travel facilities to railwaymen had been decided upon and the legal authority for the Rules would be cited in its preamble. However, in their further note dated 18 August 1984, the Ministry stated that powers to issue passes were derived from Section 3 and 47(1) of the Indian Railways Act, 1890. According to the Ministry, a set of Rules had been framed, in pursuance of Article 309 of the Constitution and the powers vested in Indian Railways Act, and these rules awaited vetting by the Ministry of Law.

(26) The Committee are unhappy over the inordinate delay in placing the matter regarding issue of passes etc. on a sta-

In compliance with the recommendations of the Committee, the Railway Pass Rules for Railway employees have been framed and notified in the Gazette of India dated 16-8-1986 as GSR No. 629.

(Ministry of Transport—Deptt. of Railways (Railway Board O.M. Nos. E(W)85PS5 1/12 dated 1-10-86 and 22-4-87)

(4)

(3)

(2)

(1)

tutory footing inspite of a categorical recommendation of the Committee made in December, 1978 and accepted by the Ministry in February, 1979. The Committee are of the view that the Ministry have not taken up the matter regarding framing of statutory rules with the urgency and seriousness it deserves. The result is that the whole system of issuing passes and PTOs which has absolutely no legal basis continued to be followed over all these years inspite of the fact that the Committee recommended as far back as 1978 that statutory rules to regulate these matters should have been notified. The Committee regret to note that the Department has failed to finalise the draft rules even after the lapse of a period of seven years.

(27) The Committee, therefore, reiterate their recommendation made in para 17 of the fourteenth Report (Sixth Lok Sabha) and urge upon the Ministry to take urgent steps to finalise and publish the Rules in this regard without any further delay.

41. The Committee note from the reply of the Ministry that the Tuticorin Port was entrusted to a Major Port Trust under the Major Port Trust Act, 1963 since April, 1979, and the rates and the conditions for the use of landing places etc. were to be framed under Section 49 of the Major Port Trust Act, 1963 with the prior approval of the Central Government as provided under Section 52 thereof. Accordingly, the Port Authorities had already notified the rates and conditions for use of landing places under the Major Port Trust Act. The provision regarding penal interest on defaulted rent was also included in the conditions.

42. With regard to provision of penal interest on the defaulted payment in the principal Act, the Ministry of Law (Legislative Department) opined that since Sections 117 and 124(3) of the Major Port Trust Act provided for the penalties to be provided in the regulations and 'Orders' framed by the Port Trust, it was not necessary to amend the Act as the object of the Committee's recommendation could be achieved by making specific provisions in the regulations and the 'Orders' for charging penalties upto the maximum limit provided under these Sections.

In accordance with the recommendation of the Committee, necessary provision has been incorporated in the Scale of Rates and Statement of Conditions framed under Section 49 of the Major Port Trust Act, 1963, as approved by the Central Government. The notification has been published by the Tuticorin Port Trust under Section 52 of the Major Port Trust Act, 1963 *vide* Tamil Nadu Government Gazette Part VI, Section 3(9) dated 25-2-1987.

(Ministry of Surface Transport—Ports Wing—O.M. No. PGL-47/82-Vol. II dated 16-4-1987).

(1)	(2)	(3)	(4)
-----	-----	-----	-----

43. The Committee cannot help expressing their anguish over the fact that the Ministry had misled the Committee and had failed to give correct information in the year 1982 on the basis of which the Committee had recommended to the Ministry to amend the Indian ports Act, 1908 which administered the Tuticorin Port. Had the Ministry guided the Committee properly by furnishing the correct information then that the Port of Tuticorin was administered under the Major Port Trusts Act, 1963 since 1979, the Committee's recommendation in this behalf and in fact, the whole exercise by the Committee could have been avoided.

44. The Committee while agreeing with the view points of the Ministry of Law (Legislative Department) in the matter desire the Ministry of Transport (Department of Surface Transport) to take early steps to frame fresh scale of rates and statement of conditions under the Major Port Trusts Act as advised by the Ministry of Law (Legislative Department) and notify them in the Official Gazette.

68. The Committee further observe that in the case of First Amendment Rules under reference, the main reason for delay in the finalisation of Rules is attributed to the time consumed in referring and cross referring of the matter between the Department dealing with the Agmark and Marketing Divisions. In such cases the Committee would like to observe that these delays could be reduced by having inter-departmental meetings of senior officers to sort out the matters across the table and come to definite conclusions speedily.

70. The Committee observe that in the case of Prevention of Food Adulteration (Second Amendment) Rules under reference, the main reason for delay of about four and half months was due to examination of the suggestions/objections received on the draft Rules. Taking note of the fact that rules related to sensitive matter of far reaching effect concerning the health of the Public at large, the Committee would like to reiterate their observation made in para 68 above that the Ministry can expedite their decision by having inter-departmental meetings of senior officers for the purpose, instead of resorting to protracted correspondence on files. The point that Committee would like to

The Ministry of Parliamentary Affairs have brought these recommendations to the notice of all Ministries/Departments for their information and compliance *vide* their O.M. No. F. 32(3)/86-R&C dated 26-7-1986.

(4)

(3)

(2)

(1)

emphasise is that such important matters as Rules regarding adulteration of food stuffs which affect public health should be dealt with by all concerned with deep sense of urgency as any delay would be detrimental to the very-very existence of millions of people of our country.

De.

77. The Committee observe that much time has been taken in inter-departmental references and consultations. In this regard the Committee have already observed in para 68 of this report that in such cases the Ministry should sort out the matter across the table by holding meetings of senior officers and come to definite conclusions speedily instead of solving the issue by way of regular correspondence.

D.A.

78. The Committee would like to reiterate their earlier recommendation contained in para 68 of their Twenty-fourth Report (Seventh Lok Sabha) presented on 21 December, 1983 wherein they had emphasised imperative need to reduce the time lag between the publication of the draft Rules and their final notification

Do.

in the Gazette without impairing the fruitfulness of such piece of legislation.

94. The Committee are not happy over the matter in which the matter regarding processing and finalisation of the Cantonment Fund Servaats (Amendment) Rules, 1985 has been dealt with in the Ministry of Defence even when no objections/suggestions on the draft rules had been received from the affected persons. In this connection the Committee would like to reiterate their earlier recommendations contained in paragraph 68 of their Twenty-fourth Report presented on 21 December, 1983 wherein they have inter alia desired that in cases where no objections/suggestions were forthcoming on the draft rules, the rules should be notified within a period of 3 months. The Committee desire the Ministries to follow the above direction of the Committee in future in letter and spirit.

Do.

107. The Committee are not convinced with the reply of the Ministry that the reason for delay in the final notification of the Aircraft (First Amendment) Rules, 1985, was due to the time involved in collecting the material from the various Directorates of the Director General of Civil Aviation. They are of the

(1)

(2)

(3)

(4)

view that the Ministry had not paid any serious attention to the collection of the requisite information from their various Directorates. The matter had also not been pursued with the urgency it deserved or any initiative taken to collect the information concurrently. In this connection, the Committee would like to recommend that such delays could be eliminated by having inter-departmental meetings of senior officers of the respective Directorates rather than resorting to routine correspondence in a complacent manner.

108. The Committee would also like to reiterate their earlier recommendation made in para 68 of their Twenty-fourth Report (Seventh Lok Sabha), presented on 21 December, 1983, wherein they have, *inter-alia*, observed that in cases where no objections/suggestions were received on the draft Rules, the final Rules should be notified within a period of three months exclusive of the time given to the public for raising objections/suggestions thereon and desire the Ministry of Transport (Department of Civil Aviation) to bring the above recom-

Do.

mentation to the notice of all concerned in their Ministry, for strict compliance in future.

**SIXTH REPORT
(EIGHTH LOK SABHA)
69 & 95
16-4-1986**

69. The Committee note that the Ministry of Urban Development took a little more time in making the Gazette copies available to the public. The Ministry have conceded that this delay could have been reduced and pleaded that it was due to the time taken in printing, binding etc. The Committee would like to point out that the delay in making the Gazette copies of draft rules available to public, adds to the delay in further processing of the Rules etc. and their publication in the final form. They desire the Ministry of Urban Development to take some suitable remedial steps in this direction for reducing such delays in future.

The Ministry of Parliamentary Affairs have brought the respective recommendations to the notice of Ministry of Urban Development and Controller of Publications (Ministry of Urban Development) for their information and future guidance *vide* their O.M. No. 32(3)/86-R&C dated 26-5-86.

[F. No. 42/10/6R/CII/86]

95. The Committee observe that the main reason for delay in publication of the said rules was non-availability of the date on which the draft rules were made public by the Controller of Publications. The Committee are dismayed to note that the Controller of Publications did

Do.

(1)

(2)

(3)

(4)

not furnish the requisite information to the Ministry of Defence in spite of repeated reminders and sending an official personally for the purpose. The Committee are unable to understand the difficulty on the part of the Controller of Publication to furnish this simple information. The Committee also feel that the Ministry of Defence also cannot completely absolve themselves of the responsibility for the delay in collecting the requisite information from the Controller of Publications.

**FIFTEENTH REPORT
(EIGHTH LOK SABHA)
8, 45 and 49**

7-5-1987.

1. The Committee note that on being pointed out by them, the Ministry of Transport (Deptt. of Surface Transport) have agreed to specify the term any other authority appearing in the Sub-Regulation 1 of Regulation 6 of the Cochin Port Employee (Temporary Services) Regulation, 1964. The Committee desire the Ministry to amend the Regulations and notify the same in the Official Gazette at an early date.

45. The Committee have considered the reply of the Ministry regarding the basis

In accordance with the recommendation of the Committee, the terms any other authority has been specified in the Regulation 6(1) of the Cochin Port Employees (Temporary Services) Regulation 1964 vide G.S.R. 950-F dated.

(O.M. No. PR 19024/1/86-PE. I dated 4-4-88.

In accordance with the recommendations of the Committee, the Ministry of Trans-

of allotment of quarters by the Cochin Port Trust to their employees as well as to other Government Departments closely connected with the working of the Port. The Committee, however, feel that with a view to obviate any scope of discrimination in the matter and in the interpretation of the Regulation in question, proper guidelines should be issued making the Regulations self-contained.

49. After pursuing the information furnished by the Ministry of Transport (Department of Surface Transport) the Committee desire the Ministry to issue suitable guidelines for out of turn allotment of quarters under Regulation 9 of the Cochin Port Trust Employees (Allotment of Residence) Regulations, 1965, and to incorporate the same in the Regulations itself for the information of all concerned and to make the Regulation self-contained.

FIFTEENTH REPORT (EIGHTH LOK SABHA)

57

7-5-1987

57. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that an Advisory Committee consisting of Deputy Conservator, Cochin Port Trust as Chairman, Financial Adviser and Chief

port have amended Sub regulation (4) of the Regulation 7 and 9 of the Cochin Port Trust employees (Allotment of Residence) Regulations, 1965, incorporating the guidelines for the allotment of quarters and guidelines for out of turn allotment of quarters by the Cochin Port Trust *vide* G.S.R. 968-E dated 9-12-1987.

[O.M. No.—PR—19024/1/86-PE.I dated 4.4.1988 from Ministry of Transport].

In accordance with the recommendations of the Committee, the Ministry of Transport have since amended Regulation 4 of the Cochin Port employees (Welfare Fund) Regulations, 1964 substituting the

(1)	(2)	(3)	(4)
		<p>Accounts Officer, Cochin Port Trust as Members and the Labour Officer, Cochin Port Trust as Convener has been constituted. Since the Advisory Committee has been constituted under Regulation 4 of the Cochin Port employees (Welfare Fund) Regulations, 1964, the Committee desire the Ministry to spell out precisely the composition, functions as allied details of the said Committee in the Regulation itself for the information of all concerned and to make the Regulation self-contained. Necessary amendment to the Regulation may be issued at an early date.</p>	<p>composition, function etc. of the Advisory Committee <i>vide</i> G.S.R. 81(E) dated 8.2.1988.</p> <p>[O.M. No. PR—19024/1/86-P.E.I. dated 4.4.1988 from Ministry of Transport].</p>

**FIFTEENTH REPORT
(EIGHT LOK SABHA)
65, 69, 73 & 74**

7-5-1987

65. The Committee note that on being pointed out by them the Ministry of Transport (Department of Surface Transport) have agreed to suitably amend the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964 so as to provide for recording of reasons in writing before making special provisions by agreement in res-

in accordance with the recommendations made by the Committee, the Ministry of Transport have since notified the amendments in respect of Regulations 4, 6(2) and 9(5) of the Cochin Port Employees (Classification, Control and Appeal) Regulation, 1984, in the Gazette *vide* G.S.R. 988-E dated 16-12-1987 [O.M.

No. PR-19024/1/88-P.E.I., dated 4-4-88
from Ministry of Transport].

pect of any employee under regulation 4 thereof. The Committee desire the Ministry to notify the proposed amendment in the Gazette expeditiously.

69. The Committee note that on being pointed out by the me Ministry of Transport (Department of Surface Transport) have agreed to define the term 'competent authority' appearing in Regulation 6(2) of the Cochlin Port Employees (Classification, Control and Appeal) Regulations, 1964. The Committee desire the Ministry to amend the Regulations and notify it in the Gazette at an early date.

73. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that the provision contained in Regulation 9(5) of the Cochlin Port Employees (Classification, Control and Appeal) Regulations 1964, was made on the lines of similar provision contained in Rule 19(4) of the Central Civil Service (Classification, Control and Appeal).

Rules but at the same time they observe that the following proviso should also form an integral part of the above Regulations.

"Provided that no such further inquiry shall be ordered unless it is intended

(4)

(3)

(2)

(1)

to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case."

74. The Committee are of the view, that if the Ministry want to retain the provision contained in Sub-Regulation(5) of Regulation 9 of the said regulations, then the Ministry should amend it on the lines of CCS(C.C. & A) Rules by incorporating the above proviso therein.

MINUTES

MINUTES OF THE SIXTY-SIXTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION

The Committee sat on Tuesday, 31 May, 1988 from 1500 to 1545 hours.

PRESENT

Shri Zainul Basher—*Chairman*

MEMBERS

2. Shri K. J. Abbasi
3. Shri G. S. Basavaraju
4. Shri Parasram Bhardwaj
5. Shri Satyendra Chandra Guria
6. Shri A. Jayamohan
7. Shri M. Raghuma Reddy
8. Shri Kalicharan Sakargayen
9. Shri Syed Shahabuddin
10. Shri Natavarsinh Solanki

SECRETARIAT

Shri G. S. Bhasin—*Chief Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 123 to 126 as under:—

- (i) *Amendment of 'Orders' issued by the Central Government under the provisions of Punjab Reorganisation Act, 1966 finally allocating the employees of the former State of Punjab to the successor States with retrospective effect—Issue of appending explanatory memorandum to the Orders—Clarifications regarding. (Memorandum No. 123)*

3. Under Section 82(2) of the Punjab Reorganisation Act, 1966. orders had been issued by the Central Government finally allocating the individual employees of the former State of Punjab to the

successor States of Punjab, Haryana, Himachal Pradesh and Union Territory, Chandigarh. The Department of Personnel and Training sought to issue some amendment/corrigendum to these orders, which would also be retrospectively effective from 1-11-1966. The Ministry of Law (Legislative Department) to whom the draft amendments were referred for vetting raised the point whether it was necessary to append an explanatory Memorandum regarding amending the aforesaid orders with retrospective effect and certifying that the interest of no official shall be adversely affected by giving retrospective effect to the orders, as per recommendations of the Committee on Subordinate Legislation. The Committee considered the matter and after some discussion agreed that the orders of allocation issued under Section 82(2) of the Punjab Reorganisation Act, 1966 and amendments/corrigenda to the orders were in the nature of executive orders and did not come in the category of Subordinate Legislation within the meaning of Rule, 97 of the above said act. As such, appending of an explanatory memorandum to the corrigendum/amendment, proposed to be given retrospective effect, was not necessary in the present case. However, the Committee desired that the Ministry should ensure that no one was adversely affected by giving retrospective effect to the executive orders proposed to be issued.

- (ii) *The Food Corporations Rules, 1965 (GSR 117 of 1965)—Implementation of recommendation made in paragraph 41 of the Fourteenth Report (Eighth Lok Sabha) of the Committee on Subordinate Legislation—(Memorandum No. 124)*

4. The Committee considered the action taken note of the Ministry of Food and Civil Supplies (Department of Food) on the recommendations of the committee relating to amendment of Rule 18 of the Food Corporation Rules, 1965. The Ministry has stated that since the said Rule had not been put to use in the past nor was it likely to be used in future, the same might be deleted. It was felt that it was not desirable on the part of the Ministry to circumvent a well-considered recommendation of the Committee by suggesting that instead of amending the rules in the light of Committee's recommendation, it was proposed to delete the rule itself. The Committee, therefore, recommended that even though the said Rule had not been in operation in the past, its use in future could not be ruled out and hence the Rule needs to be suitably amended as recommended by them in para 41 of their Fourteenth Report (Eighth Lok Sabha).

(iii) *Implementation of recommendations contained in paragraph 21 of the Fourth Report of the Committee on Subordinate Legislation (Eighth Lok Sabha)—(Memorandum No. 125)*

5. The Committee noted with satisfaction that the Ministry of Parliamentary Affairs have issued comprehensive guidelines to be followed by the Ministries/Departments of the Government of India for streamlining the procedure generally with regard to Subordinate Legislation and particularly with a view to minimising the time-gap between the publication of the draft rules and their promulgation in final form.

The Committee desired that all Ministries/Departments of the Government of India should follow these guidelines in letter and spirit.

(iv) *Action taken by Government on the recommendations made by, and assurances given to, the Committee on Subordinate Legislation—(Memorandum No. 126)*

6. The Committee considered the above Memorandum and expressed satisfaction over the action taken by Government on their earlier recommendations.

Being the last sitting of the present Committee (1987-88), the Chairman thanked all Members of the Committee for extending their co-operation to him. The Members also thanked the Chairman for his valuable guidance and conducting the deliberations of the Committee in a distinguished manner.

The Committee then adjourned.

LXXI

MINUTES OF THE SEVENTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(EIGHTH LOK SABHA)

The Committee met on Tuesday, the 6th December, 1968 from 10.00 to 10.40 hours.

PRESENT

Shri Zainul Basher—*Chairman*

MEMBERS

2. Shri K. J. Abbasi
3. Shri Parasram Bhardwaj
4. Shri Satyendra Chandra Guria
5. Shri Mullappally Ramachandran
6. Shri Ebrahim Sulaiman Sait
7. Shri Kalicharan Sakargayen
8. Shri Vijay Kumar Yadav

SECRETARIAT

1. Shri G. S. Bhasin—*Deputy Secretary.*
2. Shri Swarn Singh—*Officer on Special Duty.*

The Committee considered their draft Twentieth Report and adopted it.

2. The Committee authorised the Chairman to present the Twentieth Report to the House on 7th December, 1968.

3. The Committee also decided to meet at 15.00 hours on 27th December, 1968.

The Committee then adjourned.
