

COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTH LOK SABHA)

FOURTEENTH REPORT

(Presented on the 15th December, 1978)



**LOK SABHA SECRETARIAT
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Corrigenda to the Fourteenth Report
of the Committee on Subordinate
Legislation (Sixth Lok Sabha)
(Presented to the House on the
15th December, 1978).

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(1978-79)

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15. Shri C. N. Visvanathan

SECRETARIAT

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

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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 Fourteenth Report.

2. The matters covered by this Report were considered by the Committee at their sitting held on the 4th October, 1978.

3. The Committee considered and adopted this Report at their sitting held on the 8th December, 1978. 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.

II

THE KHADI AND VILLAGE INDUSTRIES COMMISSION EMPLOYEES (GRATUITY) REGULATIONS, 1975 (G.S.R. 2257 of 1975).

5. Regulation 4(2) of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 reads as follows:—

“(2) Gratuity shall not be paid to an employee who resigns from service or whose services are terminated for misconduct, insolvency or inefficiency.”

6. It was felt that in certain cases an employee may have to resign from his service for reasons beyond his control and that in such cases benefit of gratuity must be given to him.

7. In this connection, attention of the Ministry of Industry and Civil Supplies (Department of Industrial Development) was invited to paragraph 17 of the General Insurance (Rationalisation of Pay

Scales and Other Conditions of Service of Development Staff) Scheme, 1976 which provides for admissibility of gratuity to an employee even on his resignation provided he has rendered service for not less than 5 years.

8. In their reply dated the 19th April, 1977, the Ministry of Industry and Civil Supplies (Department of Industrial Development) have stated as under:—

“.....that this Ministry has under consideration a proposal regarding modification of the notified Khadi and Village Industries Employees (Gratuity) Regulations, 1975 so as to incorporate therein such provisions of the Payment of Gratuity Act, 1972 as are beneficial to the employees of the Khadi and Village Industries Commission. One of the provisions proposed to be incorporated is that gratuity would be admissible to an employee even on his/her resignation provided he/she has rendered service of not less than five years.

The proposal is being processed in consultation with the Ministry of Law and a further communication will follow as soon as the matter has been finalised.”

9. In their further communication dated the 23rd August, 1978, the Department have stated as under:

“.....the draft Notification, duly approved, has been sent to the Khadi and Village Industries Commission, for countersignature of Chief Executive Officer. As soon as the draft Notification is received from the Commission, it will be sent to the Government of India Press for publication in the Gazette of India and the Lok Sabha Secretariat will be informed accordingly.”

10. The Committee note with satisfaction that, on being pointed out, the Ministry of Industry and Civil Supplies (Department of Industrial Development) have agreed to amend regulation 4(2) of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 so as to provide for payment of gratuity to an employee of the Commission even on his/her resignation provided he/she has rendered service for not less than 5 years.

11. The Committee desire the Ministry to issue the amendment at an early date.

III

- (i) DIFFERENTIATION IN THE SCALES OF PASSES ADMISSIBLE TO VARIOUS CATEGORIES OF RAILWAY EMPLOYEES; AND
- (ii) THE INDIAN RAILWAY CONFERENCE ASSOCIATION—CONFERENCE RULES.

12. It was observed from the reply to Lok Sabha Unstarred Question No. 5425 dated the 8th April, 1975 regarding values of Passes and P.T.Os to Railway Staff, that Class I and II Railway employees were entitled to 6 sets of passes per annum, whereas Class III and IV Railway employees could avail of only 1 set of passes per annum upto five years' service and 3 sets of passes per annum after five years' service. The Ministry of Railways (Railway Board) were asked on the 9th April, 1975 to state the reasons for differentiation in the number of sets of passes admissible to various categories of Railway employees and also to furnish a copy of the rules governing the scales of passes and P.T.Os. issued to Railway staff for the information of the Committee on Subordinate Legislation.

13. On the 19th September, 1975, the Ministry of Railways (Railway Board) forwarded a copy of the Indian Railway Conference Association—Conference Rules Part II (in force from the 1st March, 1972) containing Pass Rules in its Chapter VI. The Ministry also appended a note indicating the reasons for the differentiation in the number of sets of passes admissible to Class I and II, and Class III and IV Railway employees. The note reads as follows:—

“It has been the endeavour of the Railway Board to grant Class III and Class IV staff more or less the same privileges and concessions as are admissible to Gazetted Officer. In pursuance of this policy, the Rules relating to pass facilities are reviewed from time to time with a view to providing the same facilities to all classes of the staff as far as practicable without causing serious administrative difficulties.

Prior to 1933, the officers were entitled to an unlimited number of passes. It was decided in 1933 that officers should be granted only 6 sets of passes per annum. However, as the then H.M. felt that the reduction was too drastic, the number was raised from 6 to 12 sets in 1935 per annum.

In 1948, it was again decided to reduce the number of passes to 6 sets and 12 sets of PTOs per annum for officers. The matter was again reviewed in the year 1957 and it was decided that all staff should be granted 6 sets of PTOs. It was also decided that Class III and IV staff may be granted passes and PTOs from the first year of the service instead of from the second year as hitherto.

The only substantial difference between Gazette and non-gazetted staff at present in regard to passes is that gazetted officers (Class I and II) are entitled to 6 sets of passes as against non-Gazetted staff who are granted one set of passes upto 5 years and 3 sets of passes after completion of 5 years' service. This has been due to the following considerations:—

- (i) Officers have liability for all-India service. During the past few years, the Board have also been adhering to the policy of posting officers outside their home States. Non-gazetted staff are generally recruited from the same region and their service liability is also limited to that extent;
- (ii) In 1933, when the question of reduction in the number of passes of officers came up for consideration, H.M. observed that the concession is valued by the officers more for the sake of their families than themselves. If the number of passes is reduced, officers will be forced on economic grounds to restrict their and their families movements and therefore, there would be no actual benefit to the State;
- (iii) Officers should be encouraged, particularly during their leave, to travel widely in India so that they may gain first hand knowledge of the country and the developments that are taking place and also the general conditions prevailing on railways."

14. It was noticed from the copy of the Indian Railway Conference Association—Conference Rules part II that it contained no preamble which normally makes a reference to the authority under which such rules are made. The Ministry of Railways (Railway Board) were accordingly asked on the 15th April, 1976 to state the precise legal authority under which the rules were framed and the reasons for not incorporating a preamble indicating such authority and whether they had any objection to publish the requisite preamble to the Indian Railway Conference Association Rules together with the year in which the rules were first brought into force:

15. In their reply dated the 24th June, 1978 to this Secretariat. O.M. dated the 15th April, 1976, the Ministry of Railways (Railway Board) have stated as under:—

“.....IRCA Conference Rules do not by itself have any legal authority but are based on the instructions issued from this Ministry from time to time.”

15A. A note on the Indian Railway Conference Association, as received from the Ministry of Railways (Railway Board) is at Appendix II.

16. The Committee are not satisfied with the reply of the Ministry of Railways (Railway Board) regarding differentiation in the number of passes issued to the Gazetted and non-gazetted staff of Railways. The Committee are of the view that both the Gazetted and Non-Gazetted Staff make use of the passes for their family members. Like the Gazetted Staff the Non-Gazetted Staff also needs to travel widely in India to gain first hand knowledge of the country and the developments that are taking place and the general conditions prevailing on the Railways. The Committee, therefore, hardly see any ground for discrimination between the Gazetted and non-Gazetted staff in the matter of issue of passes to them. The Committee note that the Ministry of Railways are already issuing equal number of P.T.Os. to all categories of their staff. The Committee, therefore, urge upon the Ministry to grant identical pass facilities also to all members of the staff whether gazetted or non-gazetted.

17. The Committee are surprised to know that the Indian Railway Conference Association Rules under which these passes are issued to the staff do not have any legal authority but are based on instructions issued by the Ministry from time to time. In the absence of any legal authority, the rules cannot be enforced in a court of law. They must have some sanction of law either emanating from the constitution or from some other enactment. In this regard, the Committee have time and again pointed out that executive instructions are no substitute for statutory rules framed under legal authority. The Committee, therefore, desire the Ministry to regulate the matters now covered by the Indian Railway Conference Association Rules which are nothing but executive instructions, by statutory rules framed under some legal authority flowing either from an Act of Parliament or the Constitution. The Committee also desire that the legal authority should be cited in the preamble to such rules which should be published in the official gazette for the information of the public.

18. The Committee note that a reply to their communication dated the 15th April, 1978 was received from the Ministry of Railways after a period of more than two years on the 24th June, 1978. The Committee deprecate the inordinate delay on the part of the Ministry in sending their comments to the points referred to them by the Committee. The Committee expect the Ministries/Departments to be prompt in attending to the communications sent to them by a Parliamentary Committee.

IV

THE DELHI MILK SCHEME DAIRY ENGINEERING BRANCH (CLASS III AND CLASS IV POSTS) RECRUITMENT RULES, 1975 (G.S.R. 2739 OF 1975)

19. Rule 8 of the Delhi Milk Scheme Dairy Engineering Branch (Class III and Class IV Posts) Recruitment Rules, 1975 reads as under:—

“Repeal.—Any rules corresponding to these rules in respect of any of the posts specified in column 2 of the Schedule annexed to these rules and in force immediately before the commencement of these rules are hereby repealed.”

20. The Ministry of Agriculture and Irrigation (Department of Agriculture) were requested to state the precise name of the Rules which were sought to be repealed by rule 8 *ibid.* In case there were no such rules, it was not necessary to have the repealing provision in the rules.

21. In their reply dated the 24th August, 1978, the Ministry have stated as follows:—

“...it is noticed that the point of reference relates to Rule No. 8 of the Dairy Engineering Branch (Class III and Class IV Posts) Recruitment Rules, 1975. This point has been examined in consultation with the Department of Personnel and it has been decided to delete this rule (rule 8) in the Notification mentioned above. Necessary action is accordingly being taken to issue a Notification in consultation with the Ministry of Law deleting Rule No. 8 from the said rule....”

22. The Committee note with satisfaction that, on being pointed out, the Ministry of Agriculture and Irrigation (Department of Agriculture) have decided to delete the repealing provision of rule 8 of the Delhi Milk Scheme Dairy Engineering Branch (Class III and

Class IV Posts) Recruitment Rules, 1975 as it was unnecessary. The Committee desire the Ministry to issue the necessary amendment at an early date.

V

The Port of New Mangalore (Regulation of the use of landing places) Rules, 1977—G.S.R. 467 of 1977.

(A)

23. The Indian Ports Act, 1908 under which the above rules have been framed does not contain the usual provision for laying of rules before Parliament and for its modification by Parliament.

24. In this connection, attention of the Ministry of Shipping and Transport (Transport Wing) was invited to the recommendation made by the Committee on Subordinate Legislation contained in para 11 of their Fourteenth Report (Fifth Lok Sabha).

25. The Ministry of Shipping and Transport (Transport Wing) who were asked to state the action taken by them in regard to incorporating of the provision for laying of rules before Parliament in the Indian Ports Act, 1908 have stated as under in their reply dated the 20th January, 1978:

“It is true that the Indian Ports Act, 1908 does not contain a provision for laying the rules framed thereunder on the Table of Parliament. This Ministry has already finalised an amendment to the Indian Ports Act, 1908 in consultation with the Law Ministry, so as to make such a provision in the Act. As there are various other amendments also presently under consideration of this Ministry on the same Act, the necessary provision will be incorporated in the Act at the time of amendment.....”

26. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to incorporate a provision in the Indian Ports Act, 1908 for laying of rules framed thereunder before Parliament. The Committee desire the Ministry to bring forward necessary legislation for the purpose at an early date. The Committee, however, stress that in case other amendments to the Act presently under the consideration of the Ministry are not expected to be finalised early, the Ministry should take necessary steps for amending the parent Act for the purpose of incorporating therein only the laying provision without any further delay.

(B)

27. Sub-rule (4) of Rule 2 of the Port of New Mangalore (Regulation of the use of landing places) Rules, 1977 provide that failure to pay the rent in the manner as specified in the permit or the lease deed, as the case may be, may result in the cancellation of the lease deed and the levy of penal rent which shall be specified in the said permit or the lease deed.

28. The Ministry of Shipping and Transport (Transport Wing) were requested to clarify whether the failure to pay rent will result in both cancellation of the lease deed and levy of penal rent or either of these two. The Ministry were also requested to state whether they had any objection to specify the rates of penal rent in the rules or the schedule thereto as envisaged in section 6(2) of the Indian Ports Act, 1908 and also to specify in the rules the date from which penal rent would be charged.

29. The Ministry of Shipping and Transport (Transport Wing) in their reply dated the 20th January, 1978 have stated as under:—

“Sub-rule 4 of rule 2:—In the lease deed and the permit card which is being entered into by the Port authorities with the use of Landing places, provision exists for payment of penal interest in the first instance. In case the lease fails to pay the arrears of rent as well as the penal rent within the stipulated period provision exists for cancellation of lease/permit. The penal rent charged is 15 per cent per annum on the accumulated arrears and such arrears as also the penal rent shall have to be paid within 7 days in the case of permit card and one month in the case of lease deed, failing which the port can invoke the provision of cancellation. In other words the penal rent and cancellation do not become operative simultaneously. If only the party fails to pay the arrears and penal rent within the stipulated period, the deed is cancelled. However, in order to make the rule more clear this Ministry proposes to amend the sub-rule as under:—

- (4) The rent shall be payable in the manner specified in the permit card or the lease deed as the case may be and failure to pay the rent in the manner so specified may after giving a reasonable opportunity of being heard to the person, result in the levy of penal rent which shall be 15 per cent per annum on the accumulated arrears from the date on which it becomes due to the date of actual payment which shall in no case

exceed seven days in case of permit card and one calender month in the case of lease deed. For any reason, if the payment is delayed beyond 7 days of one calender month as the case may be, from the date on which it becomes due, the lessor shall have the right to terminate the lease deed or permit card and to resume the land so allotted in which case the lesee shall not be entitled to claim any compensation on any account or to remove and take away the improvements if any thereon."

30. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (4) of rule 2 of the Port of New Mangalore (Regulation of the use of landing places) Rules, 1977 so as to make clear that if the lessee or the permit card holder failed to pay the rent on the due date, he shall be asked to pay the penal interest in the first instance failing which provision for cancellation of the lease deed/permit will be invoked.

31. However, after its perusal, the Committee feel that the proposed amendment has not been properly drafted. The Committee, therefore, desire that the Ministry should first get the amendment vetted by the Ministry of Law before it is issued.

VI

THE NATIONALISED BANKS (MANAGEMENT AND MISCELLANEOUS PROVISIONS) (SECOND AMENDMENT) SCHEME, 1976 (S.O. 421-E OF 1976).

32. Sub-clause (IA) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, as inserted by the Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme, 1976 (S.O. 421-E of 1976), reads as under:—

"(1A) Notwithstanding anything contained in sub-clause (1), the Central Government shall have the right to terminate the term of office of a whole-time Director, including the Managing Director, at any time before the expiry of the term specified under that sub-clause by giving to him notice of not less than three months in writing or 'three months' salary and allowances in lieu of notice, and the whole-time Director including the Managing Director, shall also have the right to relinquish his office at any time before the expiry of the term specified under that sub-clause by giving

to the Central Government notice of not less than three months in writing."

33. Normally, natural justice demands that opportunity of being heard should be given to a person against whom action is being taken. It appeared from the wording of sub-clause (1A) *ibid* that no such provision has been made therein. The Ministry of Finance (Department of Revenue and Banking) were, therefore, asked to state the reasons for not making the above provision in the Scheme, and whether they had any objection to providing for giving a reasonable opportunity of being heard to a whole-time Director, including a Managing Director, before his term was terminated under sub-clause (1A) *ibid*.

34. In their reply, the Ministry of Finance (Department of Revenue and Banking) have stated as under:

"...that apart from the amendment in June, 1976 to the Nationalised Banks (Management and Miscellaneous provisions) scheme, 1970 certain other Acts relating to Banking and Public Financial Institutions were also amended for the same purpose through the Banking and Financial Laws (Amendment) Act, 1976 which was passed by both the Houses of Parliament in May, 1976.

In the relevant statutes, provision has been made by the recent amendment, for the termination of the term of the top executives of the institutions concerned *viz.*, Chairman, Vice-Chairman, and Managing Director of the State Bank of India, Chairman or Managing Director of Industrial Development Bank of India, Chairman of Industrial Finance Corporation and Chairman of the Regional Rural Banks, by giving notice of not less than three months in writing or three months' salary and allowances in lieu of such notice. No provision by the Government has, however, been made in these cases for giving the functionary concerned an opportunity of showing cause against the proposed action. At the same time, the concerned functionary would be allowed an option to be relieved of his office by giving to the Government a notice of not less than three months. Analogous provisions have been incorporated in the 'Nationalisation Scheme'.

The 'Nationalisation Scheme' as well as the Acts governing State Bank of India, Industrial Development Bank of India, Industrial Finance Corporation and Regional Rural Banks have, besides the provision for termination of the tenure

of the Chief Executives before its specified expiry, a provision for removal from service of the chief executives 'Nationalisation Scheme' as well as 'the relevant statutes provide for showing cause by the affected functionary against removal from service, as removal from service is treated as punishment and is resorted to on the basis of specific charges of misconduct. Termination of the term, on the other hand, is contemplated in a different set of circumstances e.g., Government may like to dispense with the services of a functionary on grounds of inefficiency or lack of dynamism or where an incumbent fails to deliver the goods or is acting at variance with the policy directives of Government or not in the best interests of the public or the institution. The course of termination of services adopted under such circumstances will strictly speaking, not amount to punishment, and it has, therefore, been considered not necessary to provide for a regular enquiry and consequently the opportunity of showing cause'.

35. The Committee are not convinced by the reply of the Ministry of Finance (Department of Revenue and Banking) for not giving an opportunity of being heard to the whole-time Director including the Managing Director of a Nationalised Bank before terminating the term of his office. The Committee note that in the case of State Bank of India, Industrial Development Bank of India, Industrial Finance Corporation and Regional Rural Banks, provision for termination of the tenure of executives of these institutions before its specified expiry has been made by amendments in the relevant Acts but in the case of Nationalised Banks such a provision has been made by the Central Government in exercise of power delegated to it under sub-section (4) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. The Committee observe that there is no provision in the Act empowering the Government to provide for premature termination of the term of a whole-time Director or the Managing Director in the 'Scheme'. As it is a substantive matter the Committee feel that such a provision in respect of the executives of the Nationalised Banks should also more appropriately be made in the Act itself as has been done in regard to the other aforesaid institutions.

36. The Committee further note that in respect of a similar provision in the Bhakra Management Board Rules, 1974 the Committee in para 30 of their Second Report (Sixth Lok Sabha) had desired the Ministry of Energy to amend these rules so as to provide for

recording of reasons in writing before a notice for termination of the term of office of the Chairman was issued.

37. The Committee, therefore, recommend that either sub-clause (1A) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, be deleted from the scheme or in case the Ministry feel that such a provision is necessary, it should be incorporated in the parent Act or in the alternative the Ministry provide in the scheme the safeguard of recording of reasons in writing before issue of notice terminating the term of office prematurely to the person concerned.

VII

ATTACHMENT OF RELEVANT EXTRACTS FROM ORIGINAL RULES TO AMENDING RULES WHEN LAID ON THE TABLE

38. In para 81 of their Sixth Report (First Lok Sabha) presented to the House on the 22nd December, 1956, the Committee on Subordinate Legislation had recommended as under:—

“When new Rules amending the original rules are laid on the Table of the House, the relevant extracts from original rules should also be attached to such rules.”

39. The above recommendation of the Committee has been accepted by Government and the Department of Parliamentary Affairs circulated it to all Ministries/Departments of the Government of India for their compliance *vide* their O.M. No. 5(6)V/L-57-P.A., dated the 13th February, 1958.

40. Subsequently, the Department of Parliamentary Affairs again drew the attention of all Ministries/Departments of the Government of India *inter alia* to the above recommendation of the Committee *vide* their O.M. No. F. 32 (7) 75-R&C, dated the 6th October, 1976.

41. It was, however, seen during the course of examination of various notifications issued by Government that the relevant extracts from the original rules were not being attached to the amending orders when they were laid on the Table. Barring a few, the amending orders laid on the Table of the House from the 27th October, 1976 to the 8th August, 1977 were not accompanied by the relevant extracts of the original rules. A statement giving particulars of 91 such orders may please be seen at Appendix III.

42. The matter was taken up with the concerned Ministries/Departments who were asked to state:—

- (i) whether they were aware of the recommendation of the Committee in this regard;
- (ii) the reasons for not complying with the same in the cases under reference; and
- (iii) the steps taken to avoid recurrence of such lapses in future.

43. The replies received from the Ministries/Departments concerned in this regard indicated that by and large they were aware of the above recommendation of the Committee made in 1956. Some of them had, however, not received the circular letter issued by the Department of Parliamentary Affairs in 1976. The main reason for not annexing the extracts from the original rules was inadvertance or oversight on the part of the concerned Ministry/Department. Almost in all cases, the Ministries/Departments have offered apology for their omission and assured scrupulous compliance with the recommendation of the Committee in future.

44. The Committee note that in a number of cases Ministries/Departments concerned have not cared to comply with the Committee's earlier recommendation made in para 81 of their Sixth Report (First Lok Sabha) that while laying the amending Rules on the Table of the House extracts from the original rules should also be attached to them. The Committee are surprised to note that as many as 91 amending orders laid on the Table of the House during the period 27th October, 1976 to 8th August, 1977 were not accompanied by the relevant extracts from the original rules. By and large the Ministries/Departments concerned in their replies have given inadvertance or oversight on their part as the reason for this lapse. The Committee take a serious note of this lapse on the part of Ministries/Departments who do not appear to have paid due attention to the recommendation of the Committee on this subject more so when it has been brought to their notice by the Department of Parliamentary Affairs twice—once in 1958 and again in 1976. The Committee stress that attaching relevant extracts from the original rules to amending rules is necessary to facilitate reference not only by Members but also by the Committee while examining the latter under Direction 103 of the Directions by the Speaker.

45. The Committee recommend that the Ministries/Departments devise some procedure so that the recommendations of the Committee are strictly complied with and not lost sight of while laying the amending orders on the Table of Lok Sabha.

VIII

PUBLICATION OF CENTRAL CIVIL SERVICES (REVISED PAY)
(SECOND AMENDMENT) RULES, 1975 (G S.R. 2514 of 1975).

46. It was seen during the scrutiny of 'Orders' that the Central Civil Services (Revised Pay) (Second Amendment) Rules, 1975 had been published in the Gazette of India, dated the 11th October, 1975 in their Hindi version only. Normally English and Hindi versions of Notifications containing rules etc. are published simultaneously.

47. The Ministry of Finance (Department of Expenditure) were, therefore requested to state the reasons for not publishing the English and Hindi versions of the Notification simultaneously.

48. In their reply dated the 15th May, 1976, the Ministry have stated as under:—

"English version of the gazette notification corresponding to the Hindi Notification No. G S.R. 2514 dated the 11th October, 1975 has already been issued *vide* Ministry of Finance Notification No. G.S.R. 60(E) dated the 28th February, 1975 (copy enclosed). The reasons for not bringing out bilingual publication of these rules are briefly recapitulated below:

- (i) The Implementation Cell which brings out these notifications did not have any Hindi Translation Unit and hence the translation work has either got done through the Central Translation Bureau or the Hindi Unit attached to the Department of Expenditure. These amendments are subject to final vetting by the Official Languages (Legislative) Commission.
- (ii) The amendment rules are first prepared in English and the translation work will, therefore, take time as the appropriate approved Hindi designations have to be obtained from the Ministries/Departments etc.
- (iii) The vetting of the notifications in English is done by the Ministry of Law (Proper) whereas the Hindi notifications are vetted by the Official Languages (Legislative) Commission. This would mean that after vetting of the English Notification by the Ministry of Law Hindi Notification after necessary corrections, if any, could be sent to the Official Languages (Legislative) Commission who also require sufficient time for vetting.

The Notifications in question related to promulgation of revised scales for various posts on the recommendations of the Third Pay Commission. As the processes mentioned in para 1 above are time-consuming and involve considerable delay in the notification of the revised scales causing hardship to the employees concerned. The Ministries and Departments are also very keen to have very early notification of the revised pay scales so as to avoid unrest particularly among the Class III and IV employees concerned. In the circumstances, the Notifications in English are, therefore, published first after obtaining the necessary concurrence from the Ministry of Home Affairs."

49. The Committee note the reply of the Ministry of Finance (Department of Expenditure) for not being able to publish simultaneously the English and Hindi versions of the Central Civil Services (Revised Pay) (Second Amendment) Rules, 1975. The Committee, however, recommend that in cases where due to urgency, English version of a notification containing Rules is first published, a footnote should be given to the notification that its Hindi version will be published later on, and, when the Hindi version is published subsequently, an indication should be given therein regarding the previous publication of its English version also mentioning therein the Notification No. and the date of the Gazette in order to facilitate easy referencing.

50. The Committee would like the Department of Parliamentary Affairs to bring the above recommendation of the Committee to the notice of all Ministries/Departments of the Government of India for strict compliance in future.

IX

- (i) THE NEWSPRINT CONTROL (AMENDMENT) ORDER, 1975 (S.O. 622-E of 1975);
- (ii) THE MERCHANT SHIPPING (SHIPPING OFFICE FORMS) AMENDMENT RULES, 1976 (G.S.R. 1005 OF 1976);
- (iii) THE PATENTS (AMENDMENT) RULES, 1976 (S.O. 2908 OF 1976); AND
- (iv) THE MEAT FOOD PRODUCTS (AMENDMENT) ORDER, 1976 (S.O. 1776 OF 1976)—

NON-COMPLIANCE WITH STATUTORY REQUIREMENT OF LAYING ON THE TABLE.

51. It was noticed during scrutiny that the undermentioned orders were required to be laid on the table under the Acts under which they had been issued but they had not been laid even long after the time stipulated by the Committee for laying had expired:

- (i) The Newsprint Control (Amendment) Order, 1975 (S.O. 622-E of 1975);
- (ii) The Merchant Shipping (Shipping Office Forms) Amendment Rules, 1976 (G.S.R. 1005 of 1976);
- (iii) The Patents (Amendment) Rules, 1976 (S.O. 2908 of 1976); and
- (iv) The Meat Food Products (Amendment) Order, 1976 (S.O. 1776 of 1976).

Particulars of these 'Orders' are given in Appendix IV.

52. Attention of the Ministries concerned was invited to the oft-repeated recommendation that all 'Orders' which were required to be laid on the Table under an Act of Parliament should be so laid within 15 days of their publication if the House is then in Session or within 15 days of the commencement of the next session if the House is then not in Session. The Ministries were asked to state the reasons for not laying the 'Orders' on the Table during the stipulated period.

53. The Ministries of Shipping and Transport (Transport Wing) and Agriculture and Irrigation (Department of Rural Development) in their replies took the plea of inadvertence/administrative oversight for their lapse in not laying the Merchant Shipping (Shipping Office Forms) Amendment Rules, 1976 and the Meat Food Products (Amendment) Order, 1976 while the Ministry of Industry expressed their regret in respect of the Patents (Amendment) Rules, 1976. These Orders were subsequently laid on the Table.

54. In their reply dated the 27th June, 1977, the Ministry of Commerce (Office of the Chief Controller of Imports and Exports) stated as under in regard to Newsprint Control (Amendment) Order, 1975:

"The Newsprint (Control) Order, 1962 was issued by the erstwhile Ministry of Commerce and Industry in 1962. In 1975, the erstwhile Ministry of Industry and Civil Supplies felt the necessity to amend the Order in order to provide—

- (a) provision of rejected waste paper (such as may be specifically approved) for newspapers/magazines, within the definition of newsprint;

- (b) provision for Register of Newspapers to make the allotment;
- (c) provision for sale of "rejects and wastes" by Nepa Mill for any purpose; and
- (d) provision for quarterly allotment.

The draft Order to be issued, was finalised by them and forwarded to this office for issue. At this stage, it was pointed out to them that this office was not concerned with the issue of amendment to the Newsprint (Control) Order and that the Order should be issued by the Ministry of Industry and Civil Supplies. The paper was thereafter forwarded by the Ministry of Industry and Civil Supplies to the Ministry of Commerce for issue of the Order. The Ministry of Commerce got the draft amendment Order vetted by the Ministry of Law and Justice and again forwarded the file to this office for issue of amendment Order. The amendment Order was ultimately issued by this office under the signature of Shri Mani Narayanan Swami, the then Joint Secretary in the Ministry of Commerce.

This Office is only concerned with the Imports and Exports (Control) Act and not with the Essential Commodities Act. However, as stated above, the amendment Order was issued at the instance of the Ministry of Commerce. Moreover, after issue of the amendment order, a copy of the Essential Commodities Act was not available with this office and this office was not aware that it was necessary to lay a copy of the amendment order on the Table of the House. Hence, a copy of the amendment order could not be laid on the Table of the House. This lapse has occurred only due to inadvertance which is very much regretted. It is requested that the lapse on the part of this office may kindly be condoned.

55. After explaining the above circumstances the Ministry did not take any action to lay the Order on the Table even at the late stage to comply with the statutory requirement. The Order was ultimately laid on the Table on the 21st July, 1978 when the Ministry were specifically asked to do so.

56. The Committee are surprised to note that the 'Orders' indicated in the Appendix IV had not been laid on the Table of the House until the lapse was brought to the notice of the Ministries concerned by the Committee. The Committee feel that had they not point-

ed it out, the Ministries might have failed to comply with the statutory requirement of laying them on the Table of the House and consequently Members of Parliament would have been deprived of their statutory right of suggesting modifications to those Orders. The Committee cannot but take a serious view of this lapse on the part of the Ministries concerned.

57. The usual plea of 'inadvertance' and 'administrative oversight' taken by the Ministries of Shipping and Transport (Transport Wing) and Agriculture and Irrigation (Department of Rural Development) on their part for this lapse is not acceptable to the Committee. The Committee have already made recommendation in para 32 of their Ninth Report (Fifth Lok Sabha) presented to the House on the 19th November, 1973, that the Ministries/Departments should maintain a register for entering notifications issued under various Acts and the statutory requirements to be fulfilled in regard thereto.

58. On the 18th December, 1973, the Department of Parliamentary Affairs had brought the above recommendation of the Committee to the notice of all Ministries/Departments. Subsequently the Cabinet Secretary had also addressed a D.O. to all Ministries of Government laying down procedure to be followed to facilitate timely compliance with the statutory requirements relating to subordinate legislation.

59. The Committee express their deep anguish that inspite of exhortations from time to time, such lapses on the part of Ministries/Departments continue to occur. The Committee urge the Ministries/Departments to review their existing procedure for checking the loopholes, if any, so that such lapses do not recur.

60. The Committee are astonished to note the reply of the Ministry of Commerce (Office of the Chief Controller of Imports and Exports) in regard to Newsprint Control (Amendment) Order, 1975 that they did not have a copy of the Essential Commodities Act nor were they aware of the relevant provisions of the Act. The Committee expect the Ministries to be equipped with atleast the India Code. The Committee cannot but emphasise that the Ministry which issues an 'Order' is primarily responsible for complying with the statutory requirement for laying it before Parliament within the stipulated period.

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAS 34 AND 40 OF THE FOURTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING INTERNATIONAL AIRPORTS AUTHORITY OF INDIA (CONDITIONS OF SERVICE OF CHAIRMAN AND OTHER WHOLE-TIME MEMBERS) RULES, 1973 (S.O. 717-E OF 1973).

'A'

61. The International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973 (S.O. 717-E of 1973) were published in the Gazette of India on the 29th November, 1973 but were enforced *w.e.f.* 1-2-1972. Explanatory Memorandum certifying that no one would be adversely affected by giving retrospective effect to the rules was appended thereto.

62. The International Airports Authority Act, 1971, under which above rules had been framed does not empower the Government to give retrospective effect to the rules framed thereunder.

63. The matter was referred to the Ministry of Tourism and Civil Aviation. The Committee was not satisfied with the reply of the Ministry and in para 34 of their Twentieth Report (Fifth Lok Sabha), they recommended as under:—

“The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to the retrospective effect given to the International Airports Authority of India (Conditions of Service of the Chairman and whole-time Members) Rules, 1973. The Committee were of the view that the Ministry are mistaken in quoting recommendations of the Committee made in para 101—103 of their Ninth Report (Fifth Lok Sabha). These recommendations relate to the giving of retrospective effect to the rules framed under the proviso to Article 309 of the Constitution whereas under the present case the rules have been framed under an Act of Parliament which do not expressly or by intendment authorise giving retrospective effect to rules. The Committee, therefore, desire the Ministry either to enforce the rules from the date of their publication in the Gazette or to amend the International Airports Authority Act, 1971, so that it expressly empowers the Government to give retrospective effect to this rule.”

64. In their action taken note dated the 28th July, 1976, the Ministry of Tourism and Civil Aviation have stated that action is being taken to amend the International Airports Authority Act, 1971 so that rules made by the Government can be given retrospective effect.

65. On further pursuing the matter, the Ministry in their reply dated the 12th May, 1978, have stated that the question of amendments to the International Airports Authority Act is still under consideration. It is likely that the Act will be amended some time next year after consultation with the Ministry of Law and other concerned Ministries/Departments.

'B'

66. Rule 7 of the International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973 provides as under:—

"Other allowances and conditions of Service—the other allowances and conditions of service of the Chairman and every other whole-time Member shall be such as may be determined by the Central Government at the time of their appointment.

Provided that as respects any matter which is not so specifically determined by the Central Government, the regulations applicable in that behalf to the highest category of officers in the whole-time employment of the Authority shall apply to the Chairman and every other whole-time Member."

67. It was noticed from Section 36(2) of the International Airports Authority Act, 1971 that other allowances and conditions of Service of the Chairman and every other member were to be determined through the rules and not as determined by the Central Government at the time of the appointment.

68. Not being satisfied with the reply of the Ministry of Tourism and Civil Aviation, the Committee in para 40 of their Fourteenth Report (Fifth Lok Sabha) observed as under:—

"The Committee are not satisfied with the reply of the Ministry of Tourism and Civil Aviation in regard to the determination of allowances and conditions of service of the Chairman and every other whole-time Member by the Central Government through administrative Orders. The International Airports Authority Act, 1971 does not empower

the Central Government to determine allowances and conditions of service of the Chairman and other whole-time Members through administrative orders. Sub-section (2) (a) of section 36 of the Act clearly lays down that these will be determined through rules to be framed under the said Act. The Committee, therefore, desire the Ministry to amend rule 7 of the International Airports Authority of India (Conditions of Service of the Chairman and other whole-time Members) Rules, 1973 in order to lay down the allowances and conditions of services of the Chairman and other whole-time Members rather than to leave it to be determined through administrative orders."

69. In their action taken note dated the 30th August, 1976 the Ministry of Tourism and Civil Aviation have stated as under:—

".....amendment of rule 7 of the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 as suggested by the Committee on Subordinate Legislation in para 40 of the Fourteenth Report, involves giving retrospective effect to the amended rule, for which purpose amendment of the International Airports Authority Act is necessary. Once the Government is empowered to make rules with retrospective effect, the rule can be amended as per the directions of the Committee on Subordinate Legislation.

As already indicated in this Ministry's O.M. dated the 28th July, 1976, amendment of the International Airports Authority Act is under consideration and amendment of rule 7 will be taken up immediately after the necessary amendment to the International Airports Authority Act is made."

70. The Committee note with concern that even after three and a half years of the presentation of their Fourteenth Report (Fifth Lok Sabha) to the House on the 20th December, 1974, the Ministry of Tourism and Civil Aviation in their reply dated the 12th May, 1978 have stated that the amendment of the International Airports Authority Act is still under their consideration. The Committee deprecate this delay and desire the Ministry to incorporate the necessary amendment in the Act without any further delay but in no case later than three months after presentation of this Report to the House. In case the finalisation of other amendments to the Act is likely to take more time, the Committee desire the Ministry to bring the amending legislation exclusively for the above specific purpose of empowering Government to give retrospective effect to the rules.

71. The Committee note with satisfaction that the Ministry have agreed to amend rule 7 of the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 on the lines indicated by them. The Committee desire that amendment to the said rule may be made as early as possible after necessary action to amend the Act has been taken as indicated in the foregoing para.

NEW DELHI;
The 8th December, 1978.

SOMNATH CHATTERJEE,
*Chairman,
Committee on Subordinate Legislation.*

APPENDIX I

(Vide para 4 of the Report)

Summary of main Recommendations|Observations made by the Committee

Sl. No.	Para	Summary
(1)	(2)	(3)
1 (i)	10	The Committee note with satisfaction that, on being pointed out, the Ministry of Industry and Civil Supplies (Department of Industrial Development) have agreed to amend regulation 4(2) of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 so as to provide for payment of gratuity to an employee of the Commission even on his/her resignation provided he/she has rendered service for not less than 5 years.
1 (ii)	11	The Committee desire the Ministry to issue the amendment at an early date.
2 (i)	16	The Committee are not satisfied with the reply of the Ministry of Railways (Railway Board) regarding differentiation in the number of passes issued to the Gazetted and Non-gazetted staff of Railways. The Committee are of the view that both the Gazetted and Non-gazetted staff make use of the passes for their family members. Like the Gazetted staff the Non-gazetted staff also needs to travel widely in India to gain first hand knowledge of the country and the developments that are taking place and the general conditions prevailing on the Railways. The Committee, therefore, hardly see any ground for discrimination between the Gazetted and non-Gazetted staff in the matter of issue of passes to them. The Committee note that the Ministry of Railways

(1)	(2)	(3)
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are already issuing equal number of P.T Os. to all categories of their staff. The Committee, therefore, urge upon the Ministry to grant identical pass facilities also to all members of the staff whether Gazetted or non-Gazetted.

2 (ii) 17

The Committee are surprised to know that the Indian Railway Conference Association Rules under which these passes are issued to the staff do not have any legal authority but are based on instructions issued by the Ministry from time to time. In the absence of any legal authority, the rules cannot be enforced in a court of law. They must have some sanction of law either emanating from the Constitution or from some other enactment. In this regard, the Committee have time and again pointed out that executive instructions are no substitute for statutory rules framed under legal authority. The Committee, therefore, desire the Ministry to regulate the matters now covered by the Indian Railway Conference Association Rules which are nothing but executive instructions by statutory rules framed under some legal authority flowing either from an Act of Parliament or the Constitution. The Committee also desire that the legal authority should be cited in the preamble to such rules which should be published in the official gazette for the information of the public.

2 (iii) 18

The Committee note that a reply to their communication dated the 15th April, 1976 was received from the Ministry of Railways after a period of more than two years on the 24th June, 1978. The Committee deprecate the inordinate delay on the part of the Ministry in sending their comments to the points referred to them by the Committee. The Committee expect the Ministries/Departments to be prompt in attending to the communications sent to them by a Parliamentary Committee.

(1)	(2)	(3)
3 (i)	22	<p>The Committee note with satisfaction that, on being pointed out, the Ministry of Agriculture and Irrigation (Department of Agriculture) have decided to delete the repealing provision of rule 8 of the Delhi Milk Scheme Dairy Engineering Branch (Class III and Class IV posts) Recruitment Rules, 1975 as it was unnecessary. The Committee desire the Ministry to issue the necessary amendment at an early date.</p>
3 (ii)	26	<p>The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to incorporate a provision in the Indian Ports Act, 1908 for laying of rules framed thereunder before Parliament. The Committee desire the Ministry to bring forward necessary legislation for the purpose at an early date. The Committee, however, stress that in case other amendments to the Act presently under the consideration of the Ministry are not expected to be finalised early, the Ministry should take necessary steps for amending the parent Act for the purpose of incorporating therein only the laying provision without any further delay.</p>
3 (iii)	30	<p>The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (4) of rule 2 of the Port of New Mangalore (Regulation of the use of landing places) Rules, 1977 so as to make clear that if the lessee or the permit card holder failed to pay the rent on the due date, he shall be asked to pay the penal interest in the first instance failing which provision for cancellation of the lease deed/permit will be invoked.</p>
	31	<p>However, after its perusal, the Committee feel that the proposed amendment has not been pro-</p>

(1)	(2)	(3)
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perly drafted. The Committee, therefore, desire that the Ministry should first get the amendment vetted by the Ministry of Law before it is issued.

4(i) 35 The Committee are not convinced by the reply of the Ministry of Finance (Department of Revenue and Banking) for not giving an opportunity of being heard to the whole-time Director including the Managing Director of a Nationalised Bank before terminating the term of his office. The Committee note that in the case of State Bank of India, Industrial Development Bank of India, Industrial Finance Corporation and Regional Rural Banks, provision for termination of the tenure of executives of these institutions before its specified expiry has been made by amendments in the relevant Acts but in the case of Nationalised Banks such a provision has been made by the Central Government in exercise of power delegated to it under sub-section (4) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. The Committee observe that there is no provision in the Act empowering the Government to provide for premature termination of the term of a whole time Director or the Managing Director in the 'Scheme'. As it is a substantive matter the Committee feel that such a provision in respect of the executives of the Nationalised Banks should also more appropriately be made in the Act itself as has been done in regard to the other aforesaid institutions.

4(ii) 36 The Committee further note that in respect of a similar provision in the Bhakra Management Board Rules, 1974 the Committee in para 30 of their Second Report (Sixth Lok Sabha) had desired the Ministry of Energy to amend these rules so as to provide for recording of reasons in writing before a notice for termination of the term of office of the Chairman was issued.

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4(iii)

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The Committee, therefore, recommend that either sub-clause (1A) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, be deleted from the Scheme or in case the Ministry feel that such a provision is necessary, it should be incorporated in the parent Act or in the alternative the Ministry provide in the scheme the safeguard of recording of reasons in writing before issue of notice terminating the term of office prematurely to the person concerned.

5(i)

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The Committee note that in a number of cases Ministries/Departments concerned have not cared to comply with the Committee's earlier recommendation made in para 81 of their Sixth Report (First Lok Sabha) that while laying the amending Rules on the Table of the House extracts from the original rules should also be attached to them. The Committee are surprised to note that as many as 91 amending orders laid on the Table of the House during the period 27th October, 1976 to 8th August, 1977 were not accompanied by the relevant extracts from the original rules. By and large the Ministries/Departments concerned in their replies have given inadvertance or oversight on their part as the reason for this lapse. The Committee take a serious note of this lapse on the part of Ministries/Departments who do not appear to have paid due attention to the recommendation of the Committee on this subject more so when it has been brought to their notice by the Department of Parliamentary Affairs twice—once in 1958 and again in 1976. The Committee stress that attaching relevant extracts from the original rules to amending rules is necessary to facilitate reference not only by Members but also by the Committee while examining the latter under Direction 103 of the Directions by the Speaker.

(1)	(2)	(3).
5 (ir)	45	The Committee recommend that the Ministries/Departments devise some procedure so that the recommendations of the Committee are strictly complied with and not lost sight of while laying the amending orders on the Table of Lok Sabha.
6 (i)	49	The Committee note the reply of the Ministry of Finance (Department of Expenditure) for not being able to publish simultaneously the English and Hindi versions of the Central Civil Services (Revised Pay) (Second Amendment) Rules, 1975. The Committee, however, recommend that in cases where due to urgency, English version of a notification containing Rules is first published, a foot-note should be given to the notification that its Hindi version will be published later on, and, when the Hindi version is published subsequently, an indication should be given therein regarding the previous publication of its English version also mentioning therein the Notification No. and the date of the Gazette in order to facilitate easy referencing.
6 (ii)	50	The Committee would like the Department of Parliamentary Affairs to bring the above recommendation of the Committee to the notice of all Ministries/Departments of the Government of India for strict compliance in future.
7 (i)	56	The Committee are surprised to note that the 'orders' indicated in the Appendix IV had not been laid on the Table of the House until the lapse was brought to the notice of the Ministries concerned by the Committee. The Committee feel that had they not pointed it out, the Ministries might have failed to comply with the statutory requirement of laying them on the Table of the House and consequently Members of Parliament would have been deprived of their statutory right of suggesting modifications to those Orders. The

(1)	(2)	(3)
		Committee cannot but take a serious view of this lapse on the part of the Ministries concerned.
7 (ii)	57	The usual plea of 'inadvertance' and 'administrative oversight' taken by the Ministries of Shipping and Transport (Transport Wing) and Agriculture and Irrigation (Department of Rural Development) on their part for 'this lapse is not acceptable to the Committee. The Committee have already made recommendation in para 32 of their Ninth Report (Fifth Lok Sabha) presented to the House on the 19th November, 1973, that the Ministries/Departments should maintain a register for entering notifications issued under various Acts and the statutory requirements to be fulfilled in regard thereto.
7 (iii)	58	On the 18th December, 1973, the Department of Parliamentary Affairs had brought the above recommendation of the Committee to the notice of all Ministries/Departments. Subsequently the Cabinet Secretary had also addressed a D.O. to all Ministries of Government laying down procedure to be followed 'to facilitate timely compliance with the statutory requirements relating to subordinate legislation
7 (iv)	59	The Committee express their deep anguish that inspite of exhortations from time to time, such lapses on the part of Ministries/Departments continue to occur. The Committee urge the Ministries/Departments to review their existing procedure for checking the loopholes, if any, so that such lapses do not recur.
7 (v)	60	The Committee are astonished to note the reply of the Ministry of Commerce (Office of the Chief Controller of Imports and Exports) in regard to Newsprint Control (Amendment) Order, 1975 that they did not have a copy of the Essential Commodities Act nor were they aware of the

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relevant provisions of the Act. The Committee expect the Ministries to be equipped with atleast the India Code. The Committee cannot but emphasise that the Ministry which issues an 'Order' is primarily responsible for complying with the statutory requirement for laying it before Parliament within the stipulated period.

8(i)

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The Committee note with concern that even after three and a half years of the presentation of their Fourteenth Report (Fifth Lok Sabha) to the House on the 20th December, 1974, the Ministry of Tourism and Civil Aviation in their reply dated the 12th May, 1978 have stated that the amendment of the International Airports Authority Act is still under their consideration. The Committee deprecate this delay and desire the Ministry to incorporate the necessary amendment in the Act without any further delay but in no case later than three months after presentation of this Report to the House. In case the finalisation of other amendments to the Act is likely to take more time, the Committee desire the Ministry to bring the amending legislation exclusively for the above specific purpose of empowering Government to give retrospective effect to the rules.

8(ii)

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The Committee note with satisfaction that the Ministry have agreed to amend rule 7 of the International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 on the lines indicated by them. The Committee desire that amendment to the said rule may be made as early as possible after necessary action to amend the Act has been taken as indicated in the foregoing para.

APPENDIX II

(Vide para 15A of the Report)

INDIAN RAILWAY CONFERENCE ASSOCIATION

Indian Railway Conference Association was formed in 1904. It came into being as an Association of the then railway companies including Government Railways.

This Association has served a useful forum for framing rules for the management of traffic inter-change with the Railways to maintain records of wagon inter-change to conduct the neutral control of wagons at inter-change points to determine normal issues with different railways. The rules framed by this Association were published as Conference Rules Part I, Part II and Part III, which were binding on all the members of the Association. The Association also notified and published the Tariff Rules and Tariffs, which were acceptable to all the Railways for uniform application. Initially, Conference Rules were contractual in nature. After nationalisation and re-grouping of Railways, IRCA continue to function as Association of 9 Zonal Railways, 3 Port Trust Railways and a few Railway Companies which are still being managed by private bodies. It also continue to publish the Conference Rules with such modification, additions and deletions which the Railway Board applied from time to time. The Conference Rules published by the IRCA have the tacit approval of the Railway Board and for the Government Railways can be considered to be compendium of the Administrative instructions. These publications cannot by themselves be called as statutory, as these have not been framed under any specific provision of any Act. As far as Goods Tariff and Coaching Tariffs are concerned they now contain Rules and Rates authorised by the Railway Board and IRCA is merely publishing and selling them to public as regards non-Government Railways, Conference Rules as well as Tariff Rules are still of contractual nature.

The IRCA Conference Rules do not by themselves have any legal authority but are based on the instructions issued from the Ministry of Railways from time to time.

[Min. of Rlys. (Rly. Board) O.M. No. E(W) 75P.S. 5-1/12
dated 19-8-78]

APPENDIX—III

(Vide para 41 of the Report)

Statement showing particulars of the amending orders not accompanied by relevant extracts from the original rules while laying them on the Table of the House

Sl. No.	Short title of the Order	Date of laying on the Table	Ministry/Department	
1	2	3	4	
1	The Inter-Zonal Wheat and Wheat Products (Movement Fourth Amendment Order, 1976 (G. S. R. 844-E of 1976).	30-10-76	Agriculture and Irrigation (Department of Food)	23
2	The Food Corporations (Second Amendment) Rules, 1977 (G. S. R. 413-E of 1977).	11-7-77	Do.	
3	The Rubber (Amendment) Rules, 1976 (G. S. R. 1497 of 1976)	4-11-77	Commerce (Department of Export Promotion).	
4	The Coffee (Amendment) Rules, 1977 (G.S.R. 4062 of 1977)	15-7-77	Commerce	
5	The Central Silk Board (Amendment) Rules, 1977 (G.S.R. 948 of 1977)	6-8-77	Commerce	
6	The Tea (Amendment) Rules, 1977 (G.S.R. 921 of 1977)	8-8-77	Commerce	
7	The Indian Telegraph (Eighth Amendment) Rules, 1976 (G. S. R. 1320 of 1976).	28-10-76	Communications (The Indian Posts and Telegraphs Department)	
8	The Indian Wireless Telegraphy (Commercial Radio Operators Certificates of Proficiency and Licence to Operate Wireless Telegraphy) Amendment Rules, 1977 (G. S. R. 726 of 1977).	23-6-77	Communications (Wireless Planning and Coordination Wing)	

9	The Reserve and Auxiliary Air Forces Act (Second Amendment) Rules, 1976 (S. R. O. 295 of 1976).	15-6-77	Defence
10.	The Naval Ceremonial, Conditions of Service and Miscellaneous (First Amendment) Regulations, 1977 (S. R. O. No. 8-E of 1977).	15-6-77	Defence
11.	The Navy Leave (Amendment) Regulations, 1977 (S.R.O. 233 of 1977)	20-7-77	Defence
12.	The Navy (Pension) Third Amendment Regulation, 1977 (S. R. O. 238 of 1977).	20-7-77	Defence
13.	The Diplomatic and Consular Officers (Fees) Amendment Rules, 1976 (G. S. R. 817-E of 1977).	11-7-77	External Affairs
14.	The National Savings Certificates (V Issue) (Third Amendment) Rules, 1976 (G. S. R. 824-E of 1976)	28-10-76	Finance (Department of Economic Affairs)
15.	The Central Excise (Twenty-Fourth Amendment) Rules, 1976 (G. S. R. 833-E of 1976).	28-10-76	Finance (Department of Revenue)
16.	The Post Office Savings Banks (Fifth Amendment) Rules, 1976 (G. S. R. 1469 of 1976).	28-10-76	Do.
17.	The Central Excise (Eighth Amendment) Rules 1977 (G. S. R. 175-E of 1977).	11-6-77	Do.
18.	The Gold Control (Forms, Fees and Miscellaneous Matters) Amendment Rules, 1977 (S.O. 280-E 1977).	11-6-77	Finance (Department of Economic Affairs).
19.	The Customs and Central Excise Duties Drawback (Second Amendment) Rules, 1977 (G. S. R. 254-E of 1977).	15-6-77	Finance (Department of Revenue)
20.	The Subsidiary Banks (Appointment of Employee Directors) (Amendment) Rules, 1976 (S. O. 1090 of 1976).	17-6-77	Finance (Department of Banking)
21.	The Notified Goods (Prevention of Illegal Import) Amendment Rules, 1977 (G. S. R. 490-E of 1977)	8-7-77	Finance (Department of Revenue)
22.	The Customs and Central Excise Duties Drawback (Amendment) Rules, 1977 (G. S. R. 177-E of 1977).	11-7-77	Do.

(1)	(2)	(3)	(4)
23.	The Central Excise (Fifteenth Amendment) Rules, 1977 (G. S. R. 511-E of 1977).	15-7-77	(Finance Department of Revenue)
24.	The Central Excise (Sixteenth Amendment) Rules, 1977 (G. S. R. 513-E of 1977).	15-7-77	Do.
25.	The Central Excise (Eighteenth Amendment) Rules, 1977 (G. S. R. 1008 of 1977).	8-8-77	Do.
26.	The Prevention of Food Adulteration (Fourth Amendment) Rules, 1976 (G. S. R. 1417 of 1976).	2-11-76	Health and Family Welfare (Department of Health).
27.	The Indian Administrative Service (Appointment by Promotion) Fifth Amendment Regulations, 1976 (G. S. R. 1461 of 1976).	28-10-76	Home Affairs (Department of Personnel and Administrative Reforms).
28.	The Indian Police Service (Appointment by Promotion) Second Amendment Regulations, 1976 (G. S. R. 1462 of 1976).	28-10-76	Do.
29.	The Indian Forest Service (Appointment by Promotion) Third Amendment Regulations, 1976 (G. S. R. 1463 of 1976).	28-10-76	Do.
30.	The Border Security Force Leave (First Amendment) Rules, 1976 (G.S.R. 1302 of 1976).	29-10-76	Do.
31.	The All India Services (Leave Travel Concession) First Amendment Rules, 1977 (G.S.R. 236-E of 1977).	15-6-77	Do.
32.	The Indian Administrative Service (Fixation of Cadre Strength) Ninth Amendment Regulations, 1977 (G.S.R. 237-E of 1977).	15-6-77	Do.
33.	The Indian Administrative Service (Fixation of Cadre Strength) Sixth Amendment Regulations, 1977 (G.S.R. 436 of 1977).	15-6-77	Do.
34.	The Indian Administrative Service (Pay) Fourth Amendment Rules, 1977 (G.S.R. 437 of 1977).	15-6-77	Do.

		Home Affairs (Department of Personnel and Administrative Reforms).	
35.	The Indian Administrative Service (Fixation of Cadre Strength) Eighth Amendment Regulations, 1977 (G.S.R. 609 of 1977).	15-6-77	Do.
36.	The All India Services (Conduct) Amendment Rules, 1977 (G.S.R. 678 of 1977).	15-6-77	Do.
37.	The Union Public Service Commission (Exemption from Consultation) Amendment Regulations, 1976 (G.S.R. 1063 of 1976).	22-6-77	Do.
38.	The Union Public Service Commission (Members) Amendment Regulations, 1976 (G.S.R. 1331 of 1976).	22-6-77	Do.
39.	The Indian Police Service (Recruitment) Amendment Rules, 1977 (G.S.R. 550 of 1977).	22-6-77	Do.
40.	The Indian Police Service (Appointment by Promotion) Amendment Regulations, 1977 (G.S.R. 551 of 1977).	22-6-77	Do.
41.	The Union Public Service Commission (Exemption from Consultation) Amendment Regulations, 1977 (G.S.R. 610 of 1977).	22-6-77	Do.
42.	The All India Services (Leave) Third Amendment Rules, 1977 (G.S.R. 431-E of 1977).	13-7-77	Do.
43.	The All India Services (Leave) Amendment Rules, 1977 (G.S.R. 816 of 1977).	13-7-77	Do.
44.	The All India Services (Leave) Second Amendment Rules, 1977 (G.S.R. 815 of 1977).	13-7-77	Do.
45.	The Indian Administrative Service (Recruitment) Second Amendment Rules, 1977 (G.S.R. 477-E of 1977).	20-7-77	Do.
46.	The Indian Police Service (Recruitment) Third Amendment Rules 1977 (G.S.R. 478-E of 1977).	20-7-77	Do.
47.	The All India Services (Death-cum-Retirement Benefits) Second Amendment Rules, 1977 (G.S.R. 890 of 1977).	20-7-77	Do.

			Home Affairs (Department of Personnel and Administrative Reforms)
48.	The Indian Administrative Service (Appointment by Promotion) Second Amendment Regulations, 1977 (G.S.R. 864 of 1977).	27-7-77	
49.	The Indian Administrative Service (Recruitment) Amendment Rules, 1977 (G.S.R. 865 of 1977).	27-7-77	Do.
50.	The Indian Police Service (Uniform) Amendment Rules, 1977 (G.S.R. 938 of 1977).	3-8-77	Do.
51.	The Indian Police Service (Uniform) Second Amendment Rules, 1977 (G.S.R. 939 of 1977).	3-8-77	Do.
52.	The Indian Police Service (Recruitment) Second Amendment Rules, 1977 (G.S.R. 942 of 1977).	3-8-77	Do.
53.	The Coal Industry (First Amendment) Rules, 1976 (G.S.R. 1122 of 1976)	29-10-76	Industry (Department of Industrial Development)
54.	The Patents (Amendment) Rules, 1976 (S.O.) (2908 of 1976)	15-6-77	Do.
55.	The Household Electrical Appliances (Quality Control) Amendment Order, 1977 (S.O. 367-E of 1977).	6-7-77	Do.
56.	The Household Electrical Appliances (Quality Control) Amendment Order, 1977 (S.O. 424-E of 1977).	20-7-77	Do.
57.	The Paper (Control of Production) Amendment Order, 1977 (S.O. 416-E, of 1977).	27-7-77	Do.
58.	The Cement (Quality Control) Amendment Order, 1977 (S.O. 178-E of 1977).	3-8-77	Do.
	The Coal Mines Provident Fund (Second Amendment) Scheme, 1976 (G.S.R. 1391 of 1976).	27-10-76	Labour

65. The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Rules, 1976 (G.S.R. 1718 of 1976).	30-6-77	Labour
66. The Disputed Elections (Prime Minister and Speaker) Amendment Rules, 1977 (S.O. 297-E of 1977).	14-6-77	Law, Justice and Company Affairs (Legislative Department).
62. The Company Law Board (Bench) Amendment Rules, 1977 (G.S.R. 601 of 1977).	21-6-77	Law, Justice and Company Affairs (Department of Company Affairs).
63. The Companies (Acceptance of Deposits) Amendment Rules, 1977 (G.S.R. 386-E of 1977).	12-7-77	Do.
64. The Companies (Acceptance of Deposits) Second Amendment Rules, 1977 (G.S.R. 424-E of 1977).	19-7-77	Do.
65. The Cost Accounting Records (Cement) Amendment Rules, 1977 (G.S.R. 772/1977).	19-7-77	Do.
66. The Cost Accounting Records (Castic Soda) Amendment Rules, 1977 (G.S.R. 773/1977).	19-7-77	Do.
67. The Cost Accounting Records (Cycles) Amendment Rules, 1977 (G.S.R. 774/1977).	19-7-77	Do.
68. The Cost Accounting Records (Rubber Tyres and Tubes) Amendment Rules, 1977 (G.S.R. 775/1977).	19-7-77	Do.
69. The Cost Accounting Records (Tractors) Amendment Rules, 1977 (G.S.R. 776/1977).	19-7-77	Do.
70. The Cost Accounting Records (Aluminium) Amendment Rules, 1977 (G.S.R. 777/1977).	19-7-77	Do.
71. The Cost Accounting Records (Automobile Batteries) Amendment Rules, 1977 (G.S.R. 778/1977).	19-7-77	Do.
72. The Cost Accounting Records (Electric Lamps) Amendment Rules, 1977 (G.S.R. 779/1977).	19-7-77	Do.
73. The Cost Accounting Records (Vanaspatti) Amendment Rules, 1977 (G.S.R. 780/1977).	19-7-77	Do.

74. The Cost Accounting Records (Refrigerators) Amendment Rules, 1977 (G.S.R. 781/1977).	19-7-77		Law, Justice and Company Affairs (Department of Company Affairs).
75. The Cost Accounting Records (Motor Vehicles) Amendment Rules, 1977 (G.S.R. 786/1977).			Do.
76. The Cost Accounting Records (Sugar) Amendment Rules, 1977 (G.S.R. 789/1977).	19-7-77		Do.
77. The Cost Accounting Records (Room Airconditioners) Amendment Rules, 1977 (G.S.R. 784/1977).	19-7-77		Do.
78. The Cost Accounting Records (Electric Fans) Amendment Rules, 1977 (G.S.R. 785/1977).	19-7-77		Do.
79. The Cost Accounting Records (Paper) Rules, 1977 (G.S.R. 787/1977)	19-7-77		Do.
80. The Cost Accounting Records (Rayon) Amendment Rules 1977 (G. S. R. 788/1977).	19-7-77		Do.
81. The Cost Accounting Records (Bull Drugs) Amendment Rules, 1977 (G.S.R. 789/1977).	19-7-77		Do.
82. The Cost Accounting Records (Soda Ash) Amendment Rules, 1977 (G.S.R. 790/1977).	19-7-77		Do.
83. The Cost Accounting Records (Dyes) Amendment Rules, 1977 (G.S.R. 791/1977).	19-7-77		Do.
84. The Cost Accounting Records (Industrial Alcohol) Amendment Rules, 1977 (G.S.R. 792/1977).	19-7-77		Do.
85. The Cost Accounting Records (Jute Goods) Amendment Rules, 1977 (G.S.R. 793/1977).	19-7-77		Do.

86. The Cost Accounting Records (Infant Milk Food) Amendment Rules, 1977 (G.S.R. 794/1977).	19-7-77	Do.
87. The Railway Red Tariff (Eighth Amendment) Rules, 1976 (G.S.R. 1486 of 1976).	5-11-76	Railways (Railway Board)
88. The Dock Workers (Regulation of Employment) Amendment Rules, 1976 (S.O. 3559 of 1976).	28-10-76	Shipping and Transport (Transport Wing)
89. The Mineral Concession (Amendment) Rules, 1977 (G.S.R. 952 of 1977).	4-8-77	Steel and Mines (Department of Mines)
90. The Aircraft (Fourth Amendment) Rules, 1976 (G.S.R. 1202 of 1976).	2-11-76	Tourism and Civil Aviation.
91. The Central Board for the Prevention and Control of Water Pollution (Procedure for Transaction of Business) Amendment Rules, 1976 (G.S.R. 1489 of 1977).	29-10-76	Works and Housing.

APPENDIX IV

(Vide para 51 of the Report)

S. No.	Name of the Order	G.S.R. No. and date of issue	Statutory provision for laying before Parliament	Date when lapse was brought to notice of Ministry	Date when laid on the Table
1	2	3	4	5	6
1.	The Newscprint (Control) Amendment Order, 1978— (Ministry of Commerce, Civil Supplies & Coopera- tion—Department of Commerce).	S.O. 622-E 30-10-1975	Section 3(6) of Essential Commodi- ties Act, 1955.	30-4-76	27-5-1978
2.	The Merchant Shipping (Shipping Office Forms) Amendment Rules, 1976 (Ministry of Shipping and Transport—Transport Wing);	G.S.R. 1005 10-7-1976	Section 458(3) of the Merchant Shipping Act, 1958.	15-3-77	3-8-1977
3.	The Patents (Amendment) Rules, 1976 (Ministry of Industry—Department of Industrial Development)	S.O. 2908 14-8-1976	Section 160 of the Patents Act, 1970.	11-5-77	15-6-1977
4.	The Meat Food Products (Amendment) Order, 1976 (Ministry of Agriculture and Irrigation—Depart- ment of Rural Development)	S. O. 1776 29-5-76	Section 3(6) of the Essential Com- modities Act, 1955.	17-3-77	5-12-1977

MINUTES

MINUTES OF THE TWENTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1978-79)

The Committee met on Wednesday, the 4th October, 1978 from 10.30 hours to 11.00 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Shri Ram Sewak Hazari
4. Shri B. K. Nair
5. Shri T. S. Negi
6. Kumari Maniben Vallabhbhai Patel
7. Shri G. S. Reddi
8. Shri Saeed Murtaza
9. Shri Madan Lal Shukla
10. Shri Sachindralal Singha
11. Shri Ramji Lal Suman
12. Shri Krishnarao Thakur
13. Shri C. N. Visvanathan

SECRETARIAT

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

2. The Committee considered Memorandum Nos. 164 to 174 on the following subjects:

S. No.	Memorandum No.	Subject
(1)	(2)	(3)
	*	*
(iii)	166	The Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257 of 1975).
(iv)	167	(a) Differentiation in the scales of Passes admissible to various categories of Railway employees; and (b) The Indian Railway Conference Association—Conference Rules.
(v)	168	The Delhi Milk Scheme Dairy Engineering Branch (Class III and Class IV Posts) Recruitment Rules, 1975 (G.S.R. 2739 of 1975).
(vi)	169	The Port of New Mangalore (Regulations of the use of landing places) Rules, 1977—G.S.R. 467 of 1977).
(vii)	170	The Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme, 1976 (S.O. 421-E of 1976).
(viii)	171	Attachment of relevant extracts from original rules to amending rules when laid on the Table.
(ix)	172	Publication of Central Civil Services (Revised Pay) (Second Amendment) Rules, 1975 (G.S.R. 2514 of 1975).
(x)	173	(a) The Newsprint Control Amendment Order, 1975 (S.O. 622-E of 1975); (b) The Merchant Shipping (Shipping Office Forms) Amendment Rules, 1976 (G.S.R. 1005 of 1976); (c) The Patents (Amendment) Rules, 1976 (S.O. 2908 of 1976);

(1)	(2)	(3)
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(d) The Meat Food Products (Amendment) Order, 1976 (S.O. 1776 of 1976)—Non-compliance with statutory requirement of laying on the Table.

(xi)	174	Implementation of recommendations contained in paras 34 and 40 of the Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) reg: International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 (S.O. 717-E of 1973).
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(iii) The Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257 of 1975)

(Memorandum No. 166)

8. The Committee considered above memorandum and noted that on being pointed out the Ministry of Industry and Civil Supplies (Department of Industrial Development) had agreed to amend regulation 4(2) of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 so as to provide for payment of gratuity to an employee even on his/her resignation provided he/she had rendered service of not less than 5 years. The Committee desired that the Ministry may issue the amendment at an early date.

9. The Committee also desired that information might be obtained from the Ministry whether an employee whose services are terminated on account of inefficiency or misconduct under Regulation 4(2) *ibid* would be entitled to any gratuity and if so, of what amount? On receipt of this information, the matter as regards this aspect may be placed before the Committee for their consideration.

(iv) (a) Differentiation in the scales of Passes admissible to various categories of Railway employees; and

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

(d) The Indian Railway Conference Association—Conference Rules, (Memorandum No. 167).

10. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Railways regarding differentiation in the number of passes issued to the Gozatted and Non-Gazatted staff of Indian Railways. The Committee were of the view that both the Gazatted and Non-Gazatted staff made use of the passes for their family members. Likewise, the Non-Gazatted staff also need to travel widely in India to gain first hand knowledge of the country and the developments that are taking place and the general conditions prevailing on the Railways. There was thus no ground for discriminating between the gazetted and non-gazatted staff in the matter of issue of passes to them. The Ministry are already issuing equal number of P.T.Os. to all categories of their staff. The Committee desired them to grant equal number of pass facilities also to all members of the staff whether Gazatted or Non-Gazatted.

11. The Committee were surprised to note that the Indian Railway Conference Rules under which the passes were issued to the staff did not have any legal authority but were based on instructions issued by the Ministry from time to time. In the absence of any legal authority, the rules could not be enforced in a Court of Law. They must be having some authority either from the Constitution or from some enactment. The Committee stressed once again that executive instructions are no substitute for statutory rules framed under legal authority and desired the Ministry of Railways, to govern the matters now covered by I.R.C.A. Rules, which were nothing but executive instructions by statutory rules framed under legal authority flowing either from an Act or the Constitution. The legal authority should be cited in the preamble to such rules which should be published in the Official Gozette of the information of the public.

12. The Committee deprecated the inordinate delay on the part of the Ministry of Railways in sending their reply to the points referred to them by the Committee for comments and expected them to be prompt in future in attending to the communications received from them for the Committee.

(v) The Delhi Milk Scheme Dairy Engineering Branch (Class III and Class IV Posts) Recruitment Rules, 1975 (G.S.R. 2739 of 1975)

(Memorandum No. 168)

13. The Committee considered above memorandum and noted that on being pointed out Ministry of Agriculture and Irrigation

(Department of Agriculture) had decided to delete rule 8 which was vague, as it did not specify the Rules which were sought to be repealed thereunder. The Committee desired the Ministry to issue the necessary amendment at an early date.

- (vi) The Port of New Mangalore (Regulation of the use of landing places) Rules, 1977 (G.S.R. 467 of 1977).

(Memorandum No. 169)

(A)

14. The Committee considered above memorandum and noted that the Ministry of Shipping and Transport (Transport Wing) had agreed to incorporate a provision in the Indian Ports Act for laying of rules framed thereunder before Parliament. The Committee desired the Ministry to bring forward necessary legislation for this purpose at an early date. The Committee stressed that in case other amendments to the Act, presently under consideration, were not finalised early, an amendment for the purpose of incorporating only the laying provision might be taken up without further delay.

(B)

15. The Committee noted with satisfaction that on being pointed out the Ministry of Shipping and Transport (Transport Wing) had agreed to amend sub-rule (4) of Rule 2 *ibid* so as to clarify that the penal interest is to be paid in the first instance failing which provision for cancellation of the lease deed permit is to be invoked. The Committee perused the proposed amendment and felt that it was not properly drafted. The Committee desired that the Ministry should get it vetted by the Ministry of Law before issue.

- (vii) The Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme, 1976 (S.O. 421-E of 1976)

(Memorandum No. 170)

16. The Committee considered the above memorandum and were not convinced by the reply of the Ministry of Finance (Department of Revenue and Banking) for not giving an opportunity of being heard to the whole-time Director, including the Managing Director before terminating the term of their office. The Committee noted that in case of State Bank of India, Industrial Development Bank of India, Industrial Finance Corporation and Regional Rural Banks, provision for termination of the terms of executives of these institutions before expiry had been made by amendments of the rele-

parent Acts, but in the case of Nationalised Banks such a provision had been made by the Central Government in exercise of its delegated power under sub-rule (4) of Section 9 of the Banking Cos. (Acquisition & Transfer of Undertakings) Act, 1970. There was no provision in the Parent Act empowering Government to provide in the Scheme for premature termination of the office of a whole-time Director or Managing Director. As it is a substantive matter, the Committee felt that such a provision in respect of nationalised banks also should more appropriately be made in the Act as had been done in regard to other institutions.

17. The Committee noted that in respect of a similar provision in the Bhakra Management Board Rules, 1974 the Committee in para 30 of their Second Report (Sixth Lok Sabha) had desired the Ministry of Energy to amend the rules so as to provide for recording of reasons in writing before a notice for termination of the term of office of the Chairman was issued.

18. The Committee, therefore, decided to recommend that sub-clause (1A) of Clause 3 should be deleted from the scheme and in case the Ministry felt that such a provision was necessary they should incorporate it in the Act. Alternatively, the Ministry should provide in the Scheme the safeguard of recording of reason in writing before issue of notice to the person concerned terminating the term of office prematurely.

(viii) Attachment of relevant extracts from Original rules to amending rules when laid on the Table.

(Memorandum No. 171)

19. The Committee considered the above memorandum and noted that Ministries/Departments concerned had not complied with the recommendations made by the Committee in para 81 of their Sixth Report (First Lok Sabha) for attaching extracts from original rules while laying amending rules on the Table of the House. They were surprised to note that in as many as 91 cases the main reason for this lapse was in advertance or oversight on the part of the concerned Ministry/Department. The Committee took serious note of this lapse on the part of the Ministry/Department who did not appear to have paid any heed to recommendation of the Committee on this subject even after Department of Parliamentary Affairs had drawn their attention to it in their circular letter issued in 1976. The Committee stressed that attaching of relevant extracts of the original rules to amending rules was necessary to facilitate refer-

ence by the Members of Parliament in general and the Committee in particular while examining such orders under Direction 103 by the Speaker. The Committee desired the Ministries/Departments to devise a procedure so that the recommendation of the Committee was complied with and not lost sight of while sending the amending orders to the Lok Sabha Secretariat for being laid on the Table.

- (ix) Publication of Central Civil Services (Revised Pay) (Second Amendment) Rules, 1975 (G.S.R. 2514 of 1975)

(Memorandum No. 172)

20. The Committee considered the above Memorandum and were satisfied with the reply of the Ministry of Finance for not publishing simultaneously the English and Hindi versions of the Central Civil Services (Revised Pay) (Second Amendment) Rules, 1975. The Committee, however, desired that in cases where due to urgency, English version of the notification containing Rules was first published, a foot-note should be given to the notification that its Hindi version would be published subsequently, suitable indication should be given therein regarding the previous publication of its English version mentioning therein the notification number and the date of the Gazette. The Committee desired the Department of Parliamentary Affairs to bring these observations of the Committee to the notice of all Ministries/Departments of Government for compliance in future.

- (x) (a) The Newsprint Control Amendment Order, 1975 (S.O. 622-E of 1975);
- (b) The Merchant Shipping (Shipping Office Forms) Amendment Rules, 1976 (G.S.R. 1005 of 1976);
- (c) The Patents (Amendment) Rules, 1976 (S.O. 2908 of 1976);
- (d) The Meat Food Products (Amendment) Order, 1976 (S.O. 1776 of 1976)—Non-compliance with statutory requirement of laying on the Table.

(Memorandum No. 173)

21. The Committee considered above memorandum and were surprised to note that the 'Orders' indicated in the Annexure* had not been laid on the Table until the lapse was brought to the notice of the Ministries concerned by the Committee. Had the Committee not pointed out this error, the Ministries could have failed to comply with a statutory requirement and consequently Members

of Parliament could have been deprived of their statutory right of suggesting modification to these Orders. The Committee took a serious view of the lapse on the part of the Ministries concerned.

22. The Committee noted that the Ministries of Shipping and Transport (Transport Wing) and Agriculture and Irrigation (Department of Rural Development) had taken the plea of 'inadvertance and 'administrative oversight' for their lapse. In this connection the Committee draw attention to their recommendation made in para 32 of their Ninth Report (Fifth Lok Sabha) presented to the House on 19th November, 1973 that the Ministries/Departments should maintain a register for entering notifications issued under various Acts and the statutory requirements to be fulfilled in regard thereto. Subsequently the Cabinet Secretary had also addressed a D.O. to all Secretaries of Government laying down procedure to be followed to facilitate timely compliance with the statutory requirements relating to subordinate legislation. The Committee expressed their deep anguish that in spite of exhortations from time to time, lapses on the part of Ministries/Departments continued to occur. The Committee asked the Ministries/Departments to review their existing procedure for checking the loopholes, if any, so that such lapses did not recur. The Committee were astonished to learn from the reply of the Ministry of Commerce (Office of the Chief Controller of Imports and Exports) in regard to Newsprint Control (Amendment) Order 1975 that they did not have a copy of the Essential Commodities Act and were not aware of the relevant provisions of the Act. The Ministry were expected to be equipped with at least the India Code containing the relevant Acts together with the amendments. The Committee also stressed that the Ministry which issues an 'Order' should primarily be responsible for complying with the statutory requirement of laying it before Parliament.

- (xi) Implementation of recommendations contained in paras 34 and 40 of the Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) reg: International Airports Authority of India (Conditions of Service of Chairman and other whole-time Members) Rules, 1973 (S.O. 717-E of 1973).

(Memorandum No. 174)

23. The Committee considered above Memorandum and noted with concern that even after three and a half years of the presentation of their Fourteenth Report (Fifth Lok Sabha) to the House on 20th December, 1974, the Ministry of Tourism and Civil Aviation had stated that the amendment of the International Airports

Authority Act was still under their consideration. The Committee deprecated this delay and desired the Ministry to incorporate the necessary amendment in the Act without any further delay but in no case later than 3 months after presentation of Report to the House. In case the finalisation of other amendments to the Act was likely to take more time, the Committee desired the Ministry to bring the amending legislation for the above specific purpose of empowering Government to give retrospective effect to the Rules.

The Committee then adjourned

MINUTES OF THE TWENTY-NINTH SITTING OF THE COM-
MITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)

(1978-79)

The Committee met on Friday, the 8th December, 1978 from 15.00 to 15.30 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Shri Ram Sewak Hazari
4. Kumari Maniben Vallabhbhai Patel
5. Shri G. S. Reddi
6. Shri Saeed Murtaza
7. Shri Madan Lal Shukla
8. Shri Sachindralal Singha
9. Shri Ramji Lal Suman

SECRETARIAT

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

2. The Committee considered the draft Fourteenth Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri Saeed Murtaza to present the Fourteenth Report to the House on their behalf on Thursday, the 14th December, 1978.

4. *The Committee then adjourned.*

*Due to the sudden demise of Shri Surya Narayan singh, a sitting member of Lok Sabha the House adjourned on 14.12.78 without transacting any Business. The Report was presented to the House on 15-12-78 by Kumari Maniben Vallabhbhai Patel.