

COMMITTEE ON SUBORDINATE LEGISLATION

(ELEVENTH LOK SABHA)
(1996-97)

SEVENTH REPORT

[Action Taken Report on the Recommendations / Observations of the Committee]

[Presented on 11-3-1997]



LOK SABHA SECRETARIAT
NEW DELHI

March, 1997 / Phalgun, 1918 (Suka)

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LOK SABHA SECRETARIAT

CORRIGENDA

TO

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

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

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3. Shri N. Dennis
4. Shri Ashok Gehlot
5. Shri Bhupinder Singh Hooda
6. Shri Vijay Kumar Khandelwal
7. Shri Thota Gopala Krishna
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4. Shri Ram Autar Ram	—	<i>Director</i>
5. Shri B.D. Swan	—	<i>Under Secretary</i>

INTRODUCTION

I, the Chairman, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Seventh Report.

2. This Report relates to the implementation of the recommendations of the Committee made in their Fifth, Ninth and Eleventh Reports (Tenth Lok Sabha).
3. The Committee considered and adopted this Report at their sitting held on 5 March, 1997.
4. The Minutes of the sitting of the Committee are appended to the Report.

NEW DELHI;
March, 1997

Phalguna 1918(s)

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

REPORT

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE

Under Direction 108 (1) by the Speaker, the Ministries are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports. With a view to ensuring speedy implementation of their recommendations, the Committee, in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. If in any particular case it had not been possible to adhere to this time limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations. Still the cases of delay continue to occur. The Committee cannot but stress again that the Ministries should evolve suitable measures to streamline their procedure in order that the recommendations made by the Committee are implemented within the maximum time-limit of six months laid down by them.

NEW DELHI;
March, 1997

Phalguna, 1918(S)

KRISHAN LAL SHARMA,
Chairman,
Committee on Subordinate Legislation.

A P P E N D I C E S

APPENDIX

Statement showing the Action taken by Government on the Recommendations of the Committee

S. No.	Reference to para Nos. of the Report	Summary of Recommendations of the Committee	Gist of Government's reply
1	2	3	4
<i>The Life Insurance Corporation of India Agents Amendment Rules, 1990 (GSR 4 of 1991)</i>			
1.	FIFTH REPORT (TENTH LOK SABHA) (Presented on 18.8.1992) 2.3 & 2.5	<p>The Committee note with concern that the Ministry of Finance (Department of Economic Affairs) took a period of almost two years in issuing an amendment notification to insert the Jeevan Balya Plan in the Commission tables of the Life Insurance Corporation of India (Agents) Rules, 1973 which obviously meant delay in implementing the amendments. According to the Ministry, the draft notification was received from the Life Insurance Corporation in May, 1989. Even, thereafter it took them another 19 months in the inter-ministerial correspondence before its finalisation. The Ministry have regretted the delay in issue to the notification. The Committee desire the Ministry to evolve suitable measures so as to avoid</p>	<p>Necessary instructions have been issued to all concerned in the Insurance Division to avoid such inordinate delays. [vide Ministry of Finance, Department of Economic Affairs Insurance Division OM No. 81(1)/Ins. II/90 dated 18 July, 1991]</p>

recurrence of such lapses in future, which has been caused due to lack of proper attention being given to important matters affecting a large number of employees.

The Committee are unhappy to find that the Ministry took a period of almost 8 months in issuing the corrigendum after publication of the Gazette notification in January, 1991. In this connection, they would like to refer to an earlier recommendation, which was circulated to all Ministries/Departments of the Government of India *vide* Department of Parliamentary Affairs O.M. No. F. 32(4) / 77-R&C dated 6 November, 1978, that corrigenda to statutory rules etc. would be published within 30 days of the publication of the rules. The Committee expect the Ministry to be more alert in future so that the errors which creep into the statutory rules are rectified at the earliest and in any case within the stipulated period of 30 days of publication of the rules in the Official Gazette.

2. 3.3 to 3.5

Representation regarding the Income-tax (Appellate Tribunal) Rules, 1963

The Committee note from the reply of the Ministry of

Section 296 of the Income Tax Act, 1961 has been amended *vide* Section 49 of the

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		<p>Law that there is no provision in the Income-tax Act for laying of the rules framed by the Appellate Tribunal before the two Houses of Parliament. In this context, the Committee, in paras 10-11 of their Fourteenth Report (Fifth Lok Sabha), earnestly desired all Ministries/Departments to undertake examination of all Acts with which they were administratively concerned in order to find out which of them did not contain a provision for laying of rules before Parliament and to incorporate that provision in the Acts at their earliest. With the enactment of the Delegated Legislation Provisions (Amendment) Act of 1983 and 1985, requisite provisions have already been incorporated as many as 141 Acts. The Committee are surprised to find that still the necessary provisions have not been made in the case of the Income-tax Act. The Ministry should bring forth the necessary amending legislation in this regard without further delay and till such time the Act is so amended, the Government may <i>suo motu</i> lay the rules before the two Houses of Parliament so as to keep the members apprised of the important delegated legislative matters.</p>	<p>Finance Act, 1994 to provide for laying of Rule of procedure of Income-tax Appellate Tribunal before each House of Parliament. [Vide Mo Law, Justice and Company Affairs OM No. A-6001(17)—92-Admn. III (LA) dated 10 February, 1995]</p>

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3.4	The Committee observe that the Income-tax Appellate Tribunal, being a quasi-judicial body, is required to pass speaking order after hearing the arguments of the parties concerned. To serve the ends of justice and fair play better, the Committee hope that such orders will be passed without any avoidable delay after the conclusion of the hearing. The Committee note that under the administrative instructions issued by the President of the Income-tax Appellate Tribunal, the orders of the Tribunal are required to be passed within 30 days of the conclusion of the arguments and, in case of delay, the reasons therefor must be given by the Members. Similarly, there are standing instructions to the Registry of the Tribunal that all orders passed by the Tribunal are to be communicated to the parties concerned within three weeks of their being signed by the Members constituting the Bench. The Committee hope that such period as mentioned above will not be exceeded.	The passing of order within 30 days from the conclusion of arguments and communicating thereof to the concerned parties within 3 weeks of their being signed by the members are being monitored constantly in accordance with the administrative instructions issued by the President of the Income-tax Appellate Tribunal and are being followed scrupulously.	
3.5	The Committee also note with concern that there are administrative instructions or standing instructions issued by the President to regulate various procedural matters	The Income-tax Appellate Tribunal have since agreed to make necessary amendments in the	

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		<p>related to the Income-tax Appellate Tribunal. In this connection, the Committee would once again like to emphasize that such administrative or standing instructions are no substitute to statutory rules. As these instructions are not published in the official gazette, these escape the notice of this Committee to judge their fairness or otherwise. With a view to make the rules self-contained and for information of the general public, these instructions might be placed on a statutory footing. As the instructions are already in vogue for a long time, the Committee hope there should be no difficulty in incorporating them in the statutory rules.</p>	<p>income-tax (Appellate Tribunal) Rules so as to incorporate administrative instructions issued by them from time to time in the statutory rules.</p> <p>[Vide Ministry of Law, Justice and Company Affairs, Department of Legal Affairs O.M. No. A-60011(17)/92-Admn.III(LA) dated 10 February, 1995]</p>
3		<p><i>The Andaman Lakshadweep Harbour Works (Group 'A' Posts) Recruitment (Amendment) Rules, 1991 (GSR 295-E of 1991)</i></p>	
5.2		<p>The Committee note that as per provisions of Column 11 of the Schedule appended to the Andaman Lakshadweep Harbour Works (Group 'A' posts) Recruitment (Amendment) Rules, 1991 there was no provisions for any direct recruitment to the post of Deputy Chief Engineer (Civil). As such, the provisions contained in Columns 9, 10 and 14 of the</p>	<p>Amendment to the Andaman Lakshadweep Harbour Works Group A posts Recruitment (Amendment) Rules, 1991 have been carried out by deleting the redundant provisions contained in</p>

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		<p>Schedule pertaining to direct recruitment were redundant. The Committee further note that on being pointed out, the Ministry of Surface Transport have agreed to deleting the redundant provisions from the Schedule. The Committee desire the Ministry to process the matter expeditiously and issue the necessary amendment to the rules in this respect at an early date.</p>	<p>columns 9, 10 and 14 of the Schedule.</p> <p>[<i>Vide Extraordinary Gazette notification GSR No. 645-E dated 17.8.94]</i></p>
4		<p><i>The Madras Post Trust (Recruitment of Heads of Departments) Regulations 1991 (GSR 167-E of 1991)</i></p>	
7.5, 7.6 and 7.9		<p>The Committee observe that none of the regulations, procedures, practices and customs referred to in regulation 20 of the Madras Port Trust (Recruitment of Heads of Departments) Regulations, 1991 was a statutory provision. In this context, the Committee, in para 66 of their Tenth Report (Sixth Lok Sabha) had observed that "such rules as are not on statutory footing automatically cease to be in operation after notification of statutory rules and there is no necessity to repeal them by a specific provision in the statutory rules. The Committee therefore, desire the Ministry of Surface Transport to omit regulation 20 forthwith and</p>	<p>The Madras Port Trust Board have since omitted their regulation 20 which provided for repeal of certain practices, procedures and customs which shall have no force in future as such rules cease to operate automatically which are without any statutory footing. Further the term 'Recognised Qualification' under schedule (Column 5) against the post Controller of</p>

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		notify the requisite amendment in the official gazette without delay.	Stores' has since been substituted by way of mentioning the requisite qualification and experience. [vide Extraordinary Gazette notification dated 8 July, 1993 GSR No. 500-E]
7.6	<p>The Committee are surprised to find that despite there being a full-fledged Central Act, namely, the Major Port Trust Act, 1963 in existence, appointment to a host of posts like Secretary, Traffic Manager, Chief Engineer, Chief Mechanical Engineer, Deputy Port Conservator, Controller of Stores and Chief Medical Officer in the Madras Port Trust was regulated through the use of so called regulations, procedures, practices and customs which were nothing but executive or administrative instructions, prior to the coming into force of the Madras Port Trust (Recruitment of Heads of Department) Regulations, 1991. There may still be some more posts under the Madras port Trust as also under other Port Trusts which are governed under the administrative fiats rather than properly formulated statutory recruitment rules in accord with the provisions of the Major Port Trusts Act.</p>		

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The Committee desire the Ministry of Surface Transport to undertake a reappraisal of all such posts and bring them within the ambit of the proper statutory recruitment rules.

7.9 The Committee note from the reply of the Ministry of Surface Transport that the recognised qualification for the post of Controller of Stores has been prescribed as "Post-Graduate Diploma in Material Management or MBA". The Committee feel that it would be quite appropriate if the prescribed qualification together with the word 'recognised' by the Government are duly incorporated against the post of Controller of Stores in Column 5 of the Schedule appended to the Madras Port Trust (Recruitment of Heads of Department) Regulations, 1991, for the information of all concerned. The Committee desire the Ministry to amend the regulations to the necessary effect at the earliest.

5. **NINTH
REPORT
(TENTH
LOK
SABHA)**

(Presented
on
4.8.1993)

*The Cantonment Fund
Servants (Amendment) Rules,
1991 (SRO 52 of 1992)*

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6.9	The Committee note that rule 5-C, as inserted in 1983, of the Cantonment Fund Servants Rules, 1937 provided, <i>inter-alia</i> , for transfer of employees from one Cantonment Board to another and for determining their seniority and service conditions upon such transfer. The rule was later declared <i>ultra-vires</i> by the Supreme Court of India in Civil Appeal No. 754 of 1988. In the wake of Court Judgement, the Ministry of Defence notified draft public notice for eliciting public opinion on their proposal to delete the said rule, in compliance with the provisions of Section 280(1) of the Cantonments Act, 1924 which provided for previous publication of the rules. Even though no suggestion or objection had been received, the Ministry took more than 27 months in notifying the final rules.	The Ministry of Defence have since issued instructions to the Cantonment Boards to reduce the time gap between publication of draft rules and the final rules by fixing up time limit at various stages of finalisation. [Vide Ministry of Defence U.O. No. 14(3)/92/D(A&C) dated 24.2.94]	
7	The Committee are astonished to note that the Ministry had resorted to eliciting public opinion on the proposal to delete rule 5-C despite its having been declared <i>ultra-vires</i> by the highest Court of the land. In all fairness, the said rule could have been deleted straight away from the statute book following the Court orders.		

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8. The Committee further note that the delay has been attributed mainly to the fact that the Ministry had acted on the suggestions from certain quarters for repatriating the employees to their parent Cantonment Boards prior to issuance of the final notification.

However, the Ministry have not revealed the identity of such 'quarters' which made the suggestions. In the opinion of the Committee, the Ministry seem to have laboured under some mistaken notion that the transfer of the employees could be effected under the provisions which had been quashed by the court so long as these were not removed from the statute book. In all fairness, the best course, for the Ministry would have been to turn to the Ministry of Law etc. for advice in determining their further course of action which they had unfortunately not done.

9 The Committee cannot but express their strong dissatisfaction over the manner in which the whole matter has been dealt with in the Ministry of Defence. The Committee feel that had the Ministry taken up the matter with the seriousness it deserved, the delay in final notification of the rules could have been averted. The

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Committee need hardly emphasise that the Ministry should evolve suitable procedural safeguards to keep under check any undue delays in finalisation of the statutory rules in order that the infirmities that creep into the rules, are not allowed to remain incorporated even for a day. In fact, the Ministry could have taken extra care to give effect to the judgement of the Court. Hence there was no justification for such delays in implementing the Supreme Court judgement declaring the rules ultra vires.

6. *The Visakhapatnam Port Employees (Festival Advances) Regulations, 1989 (GSR 130-E of 1991)*

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The Committee observe that the expressions like all rules corresponding to these regulations or any orders issued in this regard from time to time are quite vague and too general and their use in the statutory formulations should be avoided. The Committee do expect the Ministries/Departments to exercise the rule-making power delegated to them with utmost caution, precision and full measure of knowledge of facts leaving practically no scope for any speculation thereabout. With the objective of making the statutory formulations

The Ministry has already complied with the instructions of the Committee on Subordinate Legislation *Vide* GSR No. 465-E dated 16.5.96

[*Vide* Ministry of Surface Transport O.M. No. 11012/2/93-PE-I, dated 1 September, 1994]

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		<p>precise, specific and free from ambiguities and uncertainties, they should not be too general, vaguely worded or otherwise illusory. While repealing or superseding any existing Orders those should be enumerated in the repeal and saving clause or in the preamble, as the case may be. In the absence of the full facts, this Committee would not be able to evaluate the propriety or otherwise of such formulations. The Committee therefore, desire the Ministry of Surface Transport to recast the provisions in regulations 12 regarding repeal and savings to indicate the regulations/orders which are sought to be repealed in the instant case, for the information of all concerned.</p>	
7.		<p><i>The Port of Visakhapatnam Pilotage and Other Services (Fees) Order, 1992 (GSR 578-E of 1992)</i></p>	
15		<p>The Committee note that on being pointed out by them, the Ministry of Surface Transport have agreed to amend the Preamble to the Port of Visakhapatnam Pilotage and Other Services (Fees) Order, 1992 so as to specify the exact nomenclatures of the Orders sought to be superseded. The Committee desire the Ministry to do the needful at</p>	<p>The Ministry of Surface Transport have since amended the Port of Visakhapatnam Pilotage and Other Services (Fees) Order, 1992 to the desired effect vide S.O. 775-E dated 11.9.93.</p>

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		the earliest in consultation with the Ministry of Law and Justice.	[Vide Ministry of Surface Transport O.M. No. PR-16014/8/93 - PG dated 2 December, 1993]
8.		<i>The Port of New Mangalore Pilotage and Other Services (Fees) Order, 1992 (GSR 631-E of 1992)</i>	
17		The Committee note that on being pointed out by them, the Ministry of Surface Transport have agreed to amend the Preamble to the Port of New Mangalore Pilotage and Other Services (Fees) Order, 1992 so as to omit the reference to the supersession of the Amendment Order of 1991 which was redundant. The Committee desire the Ministry to expedite the process of finalisation of the proposed amendment and notify it at the earliest.	The Ministry of Surface Transport have since amended the Port of New Mangalore Pilotage and Other Services (Fees) Order, 1992 to the desired effect <i>vide</i> GSR 408 dated 19.7.93
9.		<i>The Port of Mormugao Pilotage and Other Services (Fees) Amendment Order, 1992 (GSR 579-E of 1992)</i>	[Vide Ministry of Surface Transport O.M. No. PR-16014/8/93 - PG dated 2 December, 1993]
19		The Committee note that on being pointed out by them, the Ministry of Surface Transport have agreed to amend the Preamble to the Port of Mormugao Pilotage and Other Services (Fees) Amendment Order, 1992 so as to indicate the short title	The Ministry of Surface Transport have since amended the Port of Marmugao pilotage and Other Services (Fees) Order 1992 to the desired

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		<p>of the principal Order to which the amendments had been made for information of all concerned. The Committee desire the Ministry to expedite the action to rectify the error at the earliest and also to evolve suitable procedural safeguards against recurrence of such lapses in future.</p>	effect <i>vide</i> GSR 460 dated 17.6.93
10.		<p><i>The Port of Tuticorin Pilotage and Other Services (Fees) Order, 1992 (GSR 571-E of 1992)</i></p>	[<i>Vide</i> Ministry of Surface Transport O.M. No. PR-16014/8/93 - PG dated 2 December, 1993]
22		<p>The Committee note from the reply of the Ministry of Surface Transport that the Port of Tuticorin Pilotage and other Services (Fees) Order, 1992 (GSR 571-E of 1992) was made to replace the previous Order of 1991 and not in continuation of that order. The Ministry have therefore, proposed to rectify the error by issuance of an amendment notification substituting the words in continuation by the words in supersession, in the Preamble. The Committee desire the Ministry to expedite the Process of finalisation of the proposed amendment in consultation with the Ministry of Law and Justice and notify it so as not to allow further prolongation of the infirmities that have crept into it. The Committee need hardly point out that such mistakes are simply indicative of the gross negligence with which the important statutory instruments are being dealt with in the Ministry.</p>	<p>The Ministry of Surface Transport have since amended the Port of Tuticorin pilotage and Other Services (Fees) Order, 1992 to the desired effect <i>vide</i> GSR 242, dated 30.4.93</p> <p>[<i>Vide</i> Ministry of Surface Transport O.M. No. PR-16014/8/93 - PG dated 2 December, 1993]</p>

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11.		<i>The Veterinary Council of India (Registration) Regulation, 1992 (GSR 119-E of 1992)</i>	
25		<p>The Committee note that on being pointed out by them the Ministry of Agriculture (Department of Animal Husbandry and Dairying) have advised the Veterinary Council of India to delete regulation 4(2) (c) from the Veterinary Council of India (Registration) Regulations, 1992 for which no explicit powers are conferred by the parent statute, namely, the Indian Veterinary Council Act, 1984. The Committee desire the Ministry to notify the proposed amendment expeditiously.</p>	<p>The Veterinary Council of India has published the Amendment Regulation in official gazette <i>vide</i> GSR 778-E dated 6.12.95.</p> <p>[<i>Vide</i> Ministry of Agriculture (Department of Animal Husbandry and Dairying O.M. No. 52-12191- LDT(VC) dated 24 January, 1996]</p>
26		<p>The Committee further observe that regulation 12 of the regulations similarly provides for recovery of service charges to be specified by Executive Committee from time to time. In this connection, the Committee need hardly point out that the Ministry should undertake a re-appraisal of the entire regulations with a view to identify all such provisions as provide for levy of fees, service charges etc. of either description without due legal authority in the parent statute and to take urgent steps for their omission from the statute book in consultation with the Ministry of Law and Justice.</p>	

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12.		<i>The Atomic Energy (Control of Irradiation of Food) Rules, 1990 (GSR 129 of 1991)</i>	

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The Committee find that the draft of the Atomic Energy (Control of Irradiation of Food) Rules was prepared in the year 1990 and the draft reflected that year in its short title. However, when the final rules were sent for publication in the official gazette in the year 1991, the corresponding change in the year was not so reflected in the short title thereto. However on being pointed out by the Committee the Department of Atomic

Energy has agreed to carry out the change in the year to the short title to 1991. the Committee are constrained to observe that if the Department would have been a little more vigilant, the error could have been averted. It is well accepted practice that the short title of rules should bear the year in which they are published and not some other year. Still the error in indication of correct year in short title of the rules continues to occur time and again. The Committee trust the Department would do the needful in the instant case and take adequate precautionary measures for future.

The Department of Atomic Energy have since issued fresh notification superceding the earlier notification to reflect the correct year in the short title to the Rules vide GSR 254 of 1996 dated 22.6.96 (vide Department of Atomic Energy letter No. 21/91-Parl/816 dated 18.7.96.

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13.		<i>The Coir Board General Provident Fund (Amendment) Bye-Laws, 1992 (S.O. 306-E of 1992)</i>	
30		<p>The Committee note that on being pointed out by them the Ministry of Industry (Department of Small Scale Industries and Agro Rural Industries) have agreed to issue a corrigendum in consultation with the Ministry of Law and Justice so as to incorporate the usual foot-note indicating the particulars of the principal bye-laws and subsequent amendments made thereto for facility of reference. The Committee desire the Ministry to do the needful at an early date and also to evolve necessary procedural safeguards against recurrence of such lapses in future.</p>	<p>The Ministry of Industry have since amended the bye-laws vide their notifications No. S.O. 504-E dated 9 July, 1993 by incorporating the foot note to indicate the particulars of the Principal Bye-laws and Amendment thereto.</p>
14.		<i>The Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 (GSR 806-E of 1992)</i>	
ELEVENTH REPORT (TENTH LOK SABHA) (Presented on 25.8.1994)	7 & 10	<p>The Committee note that on being pointed out, the Ministry of Surface Transport have advised the Kandla Port Trust to amend Regulation 16 of the Kandla Port Pilot Service (Training Grading and Seniority) Regulations, 1992 on the pattern of regulation 24 of the Kandla Port Employees, (Allotment of Residence) Regulations, 1964 with a view to do away with any notion that the jurisdiction of the law courts</p>	<p>The interpretation clause of the Kandla Port Pilot service (Training, Grading and Seniority) regulations, 1992 has been modified vide Ministry of Surface Transport vide GSR 423-E dated 29 April, 1994.</p>

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		is being ousted and for the sake of uniformity. The Committee desire the Ministry to ensure that the necessary amendment is carried out at the earliest.	
10		The Committee note that on being pointed out, the Ministry of Surface Transport have advised the Kandla Port Trust to delete regulation 17 of the Kandla Port Pilot Service (Training, Grading and seniority) Regulations, 1992, which seek to confer wide discretion on the Chairman, in the matter of relaxation of the regulations. The committee desire the Ministry to ensure that the necessary amendment for omitting the regulation is notified without delay.	
15.		<i>The Spices Board (Quality Marking) Regulations, 1992 (GSR 73-E of 1992)</i>	
13 & 16		The Committee note with satisfaction that on being pointed out, the Ministry of Commerce have since amended sub-regulation (3) of regulation 10 of the Spices Board (Quality Marking) Regulations, 1992 vide S.O. 210 published in the Gazette of India dated 6 February, 1993 so as to provide for reassessment of the unit on an application made by the packer, without subjecting it to the Chairman of the Spices Board.	The observations of the Committee have been noted in the Ministry and Spices Board is also being directed to be more careful in future with a view to avoid recurrence of such errors.

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		The Committee note with satisfaction that on being pointed out, the Ministry of Commerce have since deleted the words "the decisions on such an appeal shall be final" from regulation 9 of the Spices Board (Quality Marking) Regulation, 1992 vide S.O. 210 dated 6 February, 1993. The Committee trust that the Ministry would evolve suitable procedural safeguards with a view to avoid recurrence of such errors in future.	
16.		<i>The Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (S.R.O. 142 of 1992)</i>	
18 & 21		The Committee note that on being pointed out, the Ministry of Defence have come out with another amendment notification vide S.R.O. 131 published in the official Gazette dated 25 September, 1993 with a view to identify the Defence Aeronautical Quality Assurance Service (Amendment), Rules, 1992 (S.R.O. 142 of 1992) as Second Amendment made to the principal recruitment rules during the year 1992. However, the fact remains that the Ministry moved in the matter only when the error was pointed out to them by the Committee. The Committee view with	The existing rules already provide for reasons to be recorded in writing when a probationer is considered for discharge or reversion and is an adequate safeguard against arbitrary use of discretion. If the reasons are also communicated to the officer concerned, then, this may frustrate the objective of prescribing probation, as this is meant to

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		<p>concern the scant attention being paid by the Ministry to the formulation of amendments to the statutory rules. They desire that the Ministry should evolve suitable safeguards with a view to avoid recurrence of such lapses in future.</p>	<p>evaluate the overall suitability or otherwise of a probationer for retention in Government service and communication of reasons would give rise to avoidable litigation.</p>

The Committee note with satisfaction that on being pointed out by them, the Ministry of defence have since amended sub-rule (3) of rule 9 of the Defence Aeronautical Quality Assurance service Rules vide S.R.O. 131 dated 24 September, 1993 so as to provide for recording of reasons in writing before discharge or reversion of an officer to his substantive post, as the case may be, if he is not found fit for permanent appointment. The Committee desire that the regulation should as well provide for communicating the reasons to the person concerned.

The Committee considered the above reply at its sitting held on 22 August, 1995 and decided not to pursue the matter further.

17.

The New Mangalore Port Trust employees (Family Security) (First Amendment) Regulations, 1992 (GSR 843-E of 1992)

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23		<p>The Committee note that on being pointed out, the Ministry of Surface Transport have since issued the requisite corrigendum to the New Mangalore Port Trust Employees (Family Security) (First Amendment) Regulations, 1992 to incorporate the usual foot-note indicating the particulars of publication of the principal regulations <i>vide</i> G.S.R. 618-E Dated 20 September 1993. However, they find that the Ministry had moved in the matter only after the error was pointed out to them by the Committee. The Committee therefore, recommend that the Ministry should evolve suitable procedural safeguards against recurrence of such lapses.</p>	<p>Chairmen of all Major Port Trusts have been advised to implement the recommendation of the Committee. [Vide O.M. No. H-11011/10/94. PE. I M/O Surface Transport.]</p>
18.		<p><i>The Indian Foreign Service, Branch 'B' (Departmental Promotion Committee and Establishment Boards) Amendment Regulations, 1992 (GSR 451 of 1992)</i></p>	
25		<p>The Committee note that on being pointed out, the Ministry of External Affairs have proposed to take necessary steps to issue a corrigendum with a view to insert the requisite foot-note indicating the particulars of publications of the principal regulations and the subsequent amendments made thereto in the</p>	<p>The Ministry have issued a corrigendum by incorporating a foot-note (<i>vide</i> Ministry of External Affairs O.M. No. Q/CAD/560/4/92 dated 3.1.95)</p>

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notification containing the Indian Foreign Service, Branch 'B' (Departmental Promotion Committee and Establishment Boards) Amendment Regulations, 1992. The Committee trust the Ministry would do the needful without further loss of time. The Committee would further like to focus the attention of the Ministry of their earlier observations made in para 87 of sixth Report (Seventh Lok Sabha), namely—

'The Committee are unhappy to note that their recommendation regarding giving of foot-notes to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the Rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit."

19.

The Ministry of Law, Justice and Company Affairs, Vidhi Sahitya Prakashn (Group 'C') Recruitment (Amendment) Rules, (GSR 171 of 1993)

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27 & 29	The Committee are not satisfied with the reply of the Ministry of Law and Justice. They observe that as per an of-repeated recommendation of theirs, the responsibility of a Ministry does not ceases with the sending of a notification to the Press. After the rules, regulations etc. have been published in the gazette the Ministry concerned should take immediate steps to examine whether the same have been correctly printed and, if necessary, should issue a corrigendum thereto. These observations were also circulated to all Ministries/ Departments <i>vide</i> the then Department of Parliamentary Affairs O.M. No. F.32-40/ 72-R&C dated 28 February, 1973. The Committee regret to note that despite their categorical findings, the Ministry have not taken any action to rectify the error that has crept into the short title of the statutory rules nor did they show any intention to rectify it even when pointed out to them. The Committee desire the Ministry to take immediate steps to rectify the error and to evolve suitable remedial measures in order that such lapses do not recur in future.	The observations of the Committee have been noted by the Ministry for compliance. [Vide Ministry of Law, Justice and Company Affairs O.M. No.A/2023/ 291-VSP (Adm.) dated 19.1.95]	

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The Committee note that the Hindi version of the notification dated 2 November, 1992 could not be sent while issuing the English version thereof to the Government of India Press due to some inadvertence in the Ministry of Law & Justice. The notification was, therefore, returned by the Press. It again took the Ministry some more time to do the needful, for which they have regretted. However, the Committee are inclined to observe that this goes to speak of the scant attention with which the important matters like the statutory rules are being dealt with in the Ministry. The Committee need hardly emphasize that the procedural safeguards in the Ministry should be strengthened with a view to check recurrence of such lapses in future.

20. *The Tea Board (Amendment Bye-Laws, 1992
(GSR 452 of 1992))*

31 The Committee note that on being pointed out, the Ministry of Commerce have agreed to issue the necessary corrigenda to rectify the error that has crept into the notification providing for the amendment of the Tea Board Bye-laws with a view to indicate the particulars of publication of the principal bye-laws and the subsequent

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		<p>amendments made thereto for facility of reference. The Committee desire the Ministry to do the needful without further delay. However, the Committee are constrained to note that the instances of omission of the foot-note continue to occur despite their categorical findings to that effect. In this connection, the Committee would like to focus the attention of the Ministry to their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha) referred to elsewhere in this Report. The Committee trust the Ministry would evolve suitable procedural safeguards to check recurrence of lapses of the like nature.</p>	<p>The necessary corrigendum (incorporating the necessary foot-note) has since been published in the Gazette of India. (vide GSR No. 29 dated 12.1.95)</p>
21.		<p><i>The Prevention of Food Adulteration (III Amendment) Rules, 1992 (GSR 591-E of 1992)</i></p>	
34 & 35		<p>The Committee are constrained to observe that instances of inordinate delays in publication of the final rules continue to occur in spite of the recommendation of the Committee in para 68 of their Twenty-Fourth Report (Seventh Lok Sabha) that the gap between publication of the draft and final rules should not be more than 6 months. In the present case, the delay in publication of final</p>	

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		<p>amendment rules about Prevention of Food Adulteration has been attributed by the Ministry of Health and Family Welfare mainly to the following factors:—</p> <ul style="list-style-type: none"> (i) time taken in finalisation of the objections/ suggestions received from the public on the draft rules; (ii) time taken in inter-departmental consultations in compiling and scrutinising the comments; and (iii) time taken in getting Hindi translation of the final rules from the Official Language Wing. <p>The Committee cannot help observing that these difficulties are not of such a serious nature as to justify the gap of 16 months between the publication of the draft and final amendment rules. One of the reasons advanced by the Ministry is that even after the final notification is drafted, its vetting and preparation of Hindi version by the Ministry of Law (Legislative Wing) and Official Language Wing takes about a couple of months. Such delays can hardly be</p>	<p>The Ministry will make all out efforts in ensuring that the publication of final amendment of rules is done within the stipulated time prescribed by the Committee. This will be monitored every month also to prevent delays. [Vide Ministry of Health and Family Welfare O.M. No. 15014/8/90-PH (Food) DMS & PFA dated 13.1.95]</p>

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justified. Apparently, no sincere efforts have been made to implement the recommendation of the Committee. They would like the Ministry to ensure that in future such instances of inordinate delays do not recur and the time limit of 6 months fixed by the Committee is adhered to.

M I N U T E S

APPENDIX II

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (ELEVENTH LOK SABHA)

The Committee met on Wednesday, 5 March, 1997 from 15.00 to 15.30 hours.

PRESENT

Shri Krishan Lal Sharma—*Chairman*

MEMBERS

2. Shri V. Alagirisamy
3. Shri N. Dennis
4. Shri Bhupinder Singh Hooda
5. Shri Vijay Kuar Khandelwal
6. Shri V. Dhananjaya Kumar
7. Shri M. Baga Reddy
8. Shri Ram Kirpal Yadav

SECRETARIAT

1. Shri P.D.T. Achary—*Director*
2. Shri Ram Autar Ram—*Director*
3. Shri B.D. Swan—*Under Secretary*

2. The Committee considered and adopted their draft Third to Seventh Reports and decided to present them to the House on the 11th March, 1997.

3. The Committee thereafter decided to hold deliberations on the rules/regulations framed under the Citizenship Act, 1955, at their next sitting scheduled to be held on 13 March, 1997.

The Committee then adjourned.