

HARYANA VIDHAN SABHA

R E P O R T

OF

The Committee on Subordinate Legislation

1968-69

(First Report)



**Haryana Vidhan Sabha Secretariat, Chandigarh.
February, 1969.**

CONTENTS

	<i>Pages</i>
Composition of the Committee ..	i-ii
I. Introduction ..	iii
II. Report ..	1
Functions of the Committee ..	2—4
Scrutiny of Rules —	4
General Observations/Recommendations of the Committee—	
(i) Delay in framing the Rules —	4-5
(ii) References to sections under which Rules are framed ..	5
(iii) Supply of printed copies of the Rules —	5
(iv) Supply of copies of Rules/Regulations etc. to the Committee ..	5-6
Scrutiny of Rules and Observations thereon—	
(i) The Punjab Ayurvedic and Unani Practitioners (General) Rules, 1964, framed under the Punjab Ayurvedic and Unani Practitioners Act, 1963 —	6—11
(ii) The Punjab Ayurvedic and Unani Practitioners (Election) Rules, 1965, framed under the Punjab Ayurvedic and Unani Practitioners Act, 1963 ..	12—15
(iii) The Punjab Labour Welfare Fund Rules, 1966, framed under the Punjab Labour Welfare Fund Act, 1965 ..	15—21
(iv) The Punjab Non-Trading Companies Rules, 1963, framed under the Punjab Non-Trading Companies Act, 1960 ..	21—28
(v) The Punjab Gram Panchayat Rules, 1965, framed under the Punjab Gram Panchayat Act, 1952 ..	29—35
(vi) The Punjab Village Common Lands (Regulation) Rules, 1964, framed under the Punjab Village Common Lands (Regulation) Act, 1961 ..	35—45

(vii) The Punjab Security of Land Tenures Rules, 1953, framed under the Punjab Security of Land Tenures Act, 1953	..	45
(viii) The Punjab Security of Land Tenures Rules, 1956, framed under the Punjab Security of Land Tenures Act, 1953	..	45—50
Annexure I—Internal working Rules of the Committee on Subordinate Legislation	...	51—52
Annexure II—Letter issued by the Chief Secretary to Government, Haryana, regarding supply of copies of Rules and Notifications	..	53

COMPOSITION OF THE COMMITTEES

1966-67

Chairman

Shri Ram Saran Chand Mital.

Members—

Shri Amar Singh.

Shri Fateh Chand Vij.

Chaudhri Khurshed Ahmad.

Chaudhri Manphul Singh.

Advocate-General.

1967-68

Chairman—

Shri Faqir Chand Aggarwal.

Members—

Shri Din Mohammad.

Shri Ganpat Rai.

Shri Kanhiya Lal.

Shri Partap Singh Thakran.

Shri Randhir.

Advocate-General.

1968-69

Chairman—

Chaudhri Maru Singh Malik.

Members—

Shrimati Chandravati.

Chaudhri Jai Singh Rathee.

***Chaudhri Joginder Singh.**

Chaudhri Rajinder Singh.

Shri Randhir Singh.

Shri Satya Narain Syngol.

Advocate-General.

SECRETARIAT

Shri Raj Kumar Malhotra—*Secretary.*

***Chaudhri Joginder Singh resigned from the Membership of the Committee with effect from the 27th November, 1968,—*vide* notification No. CB-PAC-EC-Genl/68/25, dated the 28th November, 1968.**

INTRODUCTION

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

2. The Committee was nominated by the Speaker, Haryana Vidhan Sabha, under sub-rule (1) of Rule 265-B of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly on the 2nd August, 1968,—*vide* notification No. CB-PAC-EC-Genl/68/13, dated the 3rd August, 1968.

3. The work done by the Committees after the reorganisation of the composite Punjab State, i.e., after the 1st November, 1966 is set forth in this Report.

4. A brief record of the proceedings of each meeting of the Committee has been kept on record of the Haryana Vidhan Sabha Secretariat.

5. The Committee place on record their appreciation of the valuable and willing assistance given by the Administrative Secretaries/Departmental Officers and the representatives of the Law Department in their deliberations.

6. The Committee also place on record their high appreciation of whole-hearted co-operation and assistance given to them by the Secretary, Haryana Vidhan Sabha and his staff.

CHANDIGARH :
The 12th February, 1969.

MARU SINGH MALIK,
Chairman.

REPORT

1. The Haryana State came into being on the 1st November, 1966. The Committee on Subordinate Legislation for the year 1966-67 consisting of six members including the Chairman, was nominated for the first time by the Speaker, Haryana Vidhan Sabha under sub-rule (1) of Rule 265-B of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly on the 9th December, 1966,—*vide* notification No. CB/Genl-3/66/9, dated the 12th January, 1967. Shri Ram Saran Chand Mital was appointed Chairman of the Committee. The Committee did not hold any meeting during its tenure and no report was presented to the House.

2. The Committee on Subordinate Legislation for the year 1967-68 consisting of seven Members including the Chairman, was nominated by the Speaker, Haryana Vidhan Sabha, under sub-rule (1) of Rule 265-B of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly on the 21st June, 1967,—*vide* notification No. CB-PAC-EC-Genl.-2/67/46, dated the 27th June, 1967. Shri Faqir Chand Aggarwal was appointed Chairman of the Committee. The Committee held only six meetings (five at Chandigarh and one at Simla) up to 20th November, 1967. The Committee ceased to function on the 21st November, 1967, when the proclamation under Article 356 of the Constitution of India was issued by the President. The Committee had selected the Rules framed under the following Acts for their scrutiny :—

- (i) The Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 (Act No. 31 of 1959) ;
- (ii) The Punjab Non-Trading Companies Act, 1960 (Act No. 25 of 1960) ;
- (iii) The Punjab Gram Panchayat Act, 1952 (Act No. 4 of 1953) ;
- (iv) The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Act No. 41 of 1963) ;
- (v) The Punjab Ayurvedic and Unani Practitioners Act, 1963 (Act No. 42 of 1963) ;
- (vi) The Punjab Urban Estates (Development and Regulation) Act, 1964 (Act No. 22 of 1964) ;
- (vii) The Punjab Homoeopathic Practitioners Act, 1965 (Act No. 16 of 1965).
- (viii) The Punjab Labour Welfare Fund, 1965 (Act No. 17 of 1965).

F2

The Committee scrutinized the following Rules :—

- (i) The Punjab Ayurvedic and Unani Practitioners (General) Rules, 1964 ; and
- (ii) The Punjab Ayurvedic and Unani Practitioners (Election) Rules , 1965.

Both the above sets of Rules have been framed under the Punjab Ayurvedic and Unani Practitioners Act, 1963. The Committee orally examined the representatives of the Medical and Health Departments in respect of both these sets of rules. The Committee, however, could not present any report to the House as the Assembly stood dissolved by the proclamation issued by the President of India under Article 356 of the Constitution of India on the 21st November, 1967.

3. The Committee on Subordinate Legislation for the year 1968-69 consisting of eight Members including the Chairman, was nominated by the Speaker, Haryana Vidhan Sabha under sub-rule (1) of Rule 265-B of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly on the 2nd August, 1968,—*vide* notification No. CB-PAC-EC-Genl./68/13, dated the 3rd August, 1968. Chaudhri Maru Singh Malik was appointed Chairman of the Committee. On the 27th November, 1968, Chaudhri Joginder Singh tendered his resignation from the membership of the Committee. The Committee held 10 meetings at Chandigarh during its tenure.

Before scrutinising the rules, regulations etc., framed under certain Acts, the Committee discussed its scope, functions and procedure for scrutinising rules, regulations etc.

Functions of the Committee

4. The functions of the Committee are set down in Rules 265-A, 265-I and 265-J of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly. Rule 265-A enjoins upon the Committee to scrutinise and report to the House whether powers to make regulations, rules, sub-rules, bye-laws etc., conferred by the Constitution or delegated by the Legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker and rule 265-I lays down that while examining any such set of rules, etc., the Committee shall, in particular, consider —

- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made ;
- (ii) whether it contains matter which in the opinion of the Committee should more properly be dealt within an Act of Legislature ;
- (iii) whether it contains imposition of any tax ;
- (iv) whether it directly or indirectly bars the jurisdiction of the courts ;
- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power ;
- (vi) whether it involves expenditure from the Consolidated Fund of the State or the Public Revenues ;
- (vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made ;

(viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature ;

(ix) whether for any reason its form or purport calls for any elucidation.

Rule 265-J lays down as follows :—

- (1) If the Committee is of opinion that any order should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House ;
- (2) If the Committee is of opinion that any other matter relating to any orders should be brought to the notice of the House, it may report that opinion and matter to the House.

In short, the function of the Committee is to see if the rules framed by the Executive are in conformity with the provisions of the Act and are not beyond the scope of the Act itself. If the Committee find that any of the rules is beyond the scope of the Act, that is, power for making those rules has not been delegated by the Legislature, the Committee can recommend that the rules be suitably amended or omitted. But, so far as the Act itself is concerned, the Committee cannot do anything.

There are certain rules which are required by the Statute to be laid before the Legislature. The Committee is competent to examine all the Rules/Regulations framed by the Government under various Acts, irrespective of the fact whether these have been placed on the Table of the House or not.

The Committee, from time to time, select certain sets of Rules framed under the various Acts for their scrutiny and examine them at the first instance at their own level with the assistance of the Law Department and the Sabha Secretariat. The Committee then invite the Administrative Secretaries concerned for oral examination to explain the discrepancies found in the various Rules. After the Rules and the Departmental representatives are examined, the Committee prepares the report with the help of the staff of the Vidhan Sabha Secretariat and then the Chairman submits the report to the House.

5. The Rules of Procedure for the internal working of the Committee on Subordinate Legislation of Haryana Legislative Assembly were framed by the Committee and were approved by the Speaker. These working rules of the Committee were published in the Haryana Government Gazette, dated the 17th September, 1968,—*vide* Haryana Vidhan Sabha Secretariat notification No. HVS-LA-185/67/9685, dated the 31st August, 1968. These working rules of the Committee are at Annexure I to this Report.

6. The Committee in its meeting held on the 26th August, 1968, selected for their scrutiny, the Rules framed under the Acts metioned below :—

- (1) The Punjab Village Common Lands (Regulation) Act, 1961 (Act No. 18 of 1961) ;
- (2) The Punjab Gram Panchayat Act, 1952 (Act No. 4 of 1953) ;
- (3) The Punjab Security of Land Tenures Act, 1953 (Act No. 10 of 1953) ;

- (4) The Pepsu Tenancy and Agricultural Lands Act, 1955 ;
- (5) The Punjab Co-operative Societies Act, 1961 (Act No. 25 of 1961) ;
- (6) The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Act No. 41 of 1963) ;
- (7) The Punjab Labour Welfare Fund Act, 1965 ; and
- (8) The Punjab Non-Trading Companies Act, 1960.

The Committee at its meeting held on the 27th December, 1968, selected the Punjab Public Premises and Land (Eviction and Rent Recovery) Rules, 1959, framed under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 for their scrutiny.

Scrutiny of Rules

7. The Committee for the year 1967-68 scrutinized the Punjab Ayurvedic and Unani Practitioners (General) Rules, 1964 and the Punjab Ayurvedic and Unani Practitioners (Election) Rules, 1965, framed under the Punjab Ayurvedic and Unani Practitioners Act, 1963. The representatives of the Medical and Health Department were examined on the 20th November, 1967 in connection with the said Rules. The Committee for the year 1968-69 decided that the decisions recorded in the proceedings of the previous Committee dated the 20th November, 1967, would be incorporated in the Report of this Committee.

The Committee for the year 1968-69 scrutinized the following Rules :—

- (1) The Punjab Labour Welfare Fund Rules, 1966, framed under the Punjab Labour Welfare Fund Act, 1965.
- (2) The Punjab Non-Trading Companies Rules, 1963, framed under the Punjab Non-Trading Companies Act, 1960.
- (3) The Punjab Gram Panchayat Rules, 1965, framed under the Punjab Gram Panchayat Act, 1952.
- (4) The Punjab Village Common Lands (Regulation) Rules, 1964, framed under the Punjab Village Common Lands (Regulation) Act, 1961.
- (5)(i) The Punjab Security of Land Tenures Rules, 1953 ; and
(ii) The Punjab Security of Land Tenures Rules, 1956,
framed under the Punjab Security of Land Tenures Act, 1953.

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

Delay in framing the Rules

8. The Committee observe that the Government framed certain Rules, regulations, etc. long after the relevant Acts had been enacted. Here,

it would not be out of place to quote a few examples. The Punjab Non-Trading Companies Act, was enacted in the year 1960 and the Punjab Non-Trading Companies Rules, were framed in the year 1963. Similarly, the Punjab Village Common Lands (Regulation) Act was enacted in the year 1961 and whereas the Punjab Village Common Lands (Regulation) Rules were framed in the year 1964.

It would be seen that there was a great time lag between the enactment of these Acts and the framing of rules thereunder. The Committee, therefore, recommend that ordinarily Rules should be framed as early as possible after the commencement of the Act and in no case this period should exceed six months. If no rules are framed within the said period after the commencement of the Act, the Department should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the Rules within that period.

(ii) References to sections under which Rules are framed

9. The Committee observed that the references to the section under which each rule was framed, was not indicated in the margin of the Punjab Security of Land Tenures Rules, 1956, and some other rules. The Committee are of the view that giving of reference in the margin of each rule of the section, under which the rule has been framed, is essential to enable the Committee and all concerned to know under what precise authority a rule has been framed.

The Committee recommend that the reference of the relevant section of the Act, under which rules are framed, should invariably be indicated in the margin of each rule.

(iii) Supply of Printed copies of the Rules

10. The Committee came across a large number of typographical spelling mistakes in the cyclostyled copies of some of the rules supplied by the Government departments with the result that it was difficult for them to find out whether the errors were typographical or these actually existed in the Rules.

The Committee, therefore, recommend that copies of the Rules to be supplied to them by the Departments concerned should be in the form in which the rules are published/republished in the Government Gazette. If, however, it is not possible for the departments to do so it should be ensured that the copies of the Rules are upto-date, meticulously prepared and duly corrected before supplying them to the Committee.

(iv) The Committee observe that most of the Departments are slow in furnishing the information asked for from them. This obviously hampers the work entrusted to the Committee. The Committee, therefore, recommend that Government Departments should furnish them such information within the prescribed period so that the Committee can discharge its duties more effectively.

(iv) Supply of copies of Rules/Regulations etc. to the Committee

11. The Committee desired in its meeting held on the 31st July, 1967 that the Government should supply 25 copies each of the Rules as and when

framed and notified by them under various Central/State Acts along with 25 copies of the relevant Acts, for use by the Members of the Committee.

The Chief Secretary to Government, Haryana, was requested to supply 25 copies each of the Rules/Notifications as and when framed/issued by them under any Central/State Act for the use of the Members of the Committee on Subordinate Legislation *vide* this Secretariat letter No. HVS-LA-165/67/11427, dated the 7th August, 1967, and he accordingly issued instructions for the supply of above said number of copies for the use of the Members of the Committee on Subordinate Legislation *vide* his U.O. No. 4475-Pol(4)-67, dated the 2nd/5th September, 1967 (See Appendix-II).

The Committee recommend that 25 copies each of the rules, regulations, etc. should be invariably supplied for the use of the Members of the Committee as soon as the same are published.

(1) THE PUNJAB AYURVEDIC AND UNANI PRACTITIONERS (GENERAL) RULES, 1964 FRAMED UNDER THE PUNJAB AYURVEDIC AND UNANI PRACTITIONERS ACT, 1963.

GENERAL

The Punjab Ayurvedic and Unani Practitioners Act, 1963 came into force on the 4th February, 1964 but the Rules were published on the 2nd November, 1964. The Committee wanted to know the reasons for the delay in framing the Rules.

The representatives of the Medical and Health Department explained that the draft Rules were, in the first instance, sent by the Director, Health Services, in a consolidated form covering *inter-alia*, election, service and general rules, towards the end of the year 1963, to the Legal Remembrancer and the Administrative Department for examination. The Legal Remembrancer and the Administrative Department advised the framing of separate rules with regard to each item. Hence this resulted in delay.

The Committee drew the attention of representatives of the Department to the following recommendation of the Committee on Subordinate Legislation of the Punjab Vidhan Sabha contained in its Seventh Report:—

“The Committee recommend that ordinarily Rules should be framed under an Act as early as possible after the commencement of the Act, and in no case this period should exceed six months. If no rules are framed within the said period after the commencement of the Act, the Department should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the Rules within that period.”

The Departmental representative explained that in fact, the rules were framed and sent to the Government within six months of the commencement of the Act, but as these were composite sort of rules, it took some time, to split them up in different parts.

Regulation under Section 55.

On enquiry, the Secretary to Government, Haryana, Medical and Health Department, informed *vide* his letter No. 4989/HBII-AS02-67/21488, dated the 31st August, 1967, that "no regulations under section 55 of the Punjab Ayurvedic and Unani Practitioners Act, 1963, were framed by the composite Punjab Government nor any such regulations have been framed by the Haryana Government so far and there is at present no Board of Ayurvedic and Unani System of Medicines in this State and in fact, the necessity of framing the regulation under section 55 would arise only after a separate Board for State of Haryana has been established for which action is already being taken."

The Committee liked to know the reasons for not constituting the Board so far and the time by which it would be constituted.

The representative of the Department explained that sub-section (6) of section 3 of the Act empowered the State Government to set up an *Ad hoc* Board for a period not exceeding one year from the commencement of the Act, and the *Ad hoc* Board was accordingly constituted on the 4th of February, 1964. On the 4th February, 1965, this period was, by an amendment of the Act, extended by another year. The extended period also expired on the 4th of February, 1966. At that time the Joint Punjab Government drafted an Ordinance and sent it to the Government of India for getting the approval for its promulgation well in time. The Governor had also signed the Ordinance. But before this Ordinance could be promulgated President's Rule came in and so it was decided that this legislation should be redrafted in the form of President's Act and be sent to Parliament for passing the same. It was then sent to the Union Home Ministry, but it could not come up before Parliament during that session and the Department had to wait till the next session of the Parliament, but before the commencement of the next session of the Parliament, the Punjab State was reorganised ; so, legally there was no Board functioning from the 4th of February, 1966 to-date.

The formation of the *Ad hoc* Board was necessary because without that the Ayurvedic Medical Practitioners could not be registered and unless the registration was completed the Board could not be constituted.

This was the whole vicious circle which had to be completed and this could not be done till the reorganisation. After that draft was prepared and sent to the Legal Remembrancer and Secretary to Government, Haryana, for approval. It remained with him for about two months and they were looking into the complications of the case. He sounded the Deputy Legal Remembrancer even on that day (i.e. day of meeting the 20th November, 1967) and he informed that another fortnight would be taken to advise in the matter, as they were consulting the sister Punjab State for introducing a uniform Legislation and that was the background that the Board was not constituted.

The Committee desired that the Department should request the Legal Remembrancer for expediting their advice so that the matter be finalized at the earliest.

The Committee view with great concern that despite the fact that the relevant extracts from the proceedings of the meeting of the Committee held on the 20th November, 1967 were sent to the Medical and Health Departments on the 26th December, 1967, the Department has not so far, despite repeated reminders, intimated whether separate Board of Ayurvedic and Unani System

of Medicine has been constituted for the State of Haryana and as to what action has been taken on the proceedings by the Department.

Rule 3—

Sub-rule (3)—

(1)	X	X	X	X	X
(2)	X	X	X	X	X

“(3) If the Registrar, on receipt of the application under sub-rule (1) or on receipt of further information or documents required from the applicant under sub-rule (2), and after making such further enquiry as he may deem proper is satisfied that the applicant is entitled to get his name entered in Part I or Part II of the Register, as the case may be, he shall do so. If he is not so satisfied, he shall reject the application :

Provided that no Order rejecting any application shall be passed without giving the applicant an opportunity of being heard.”

(4)	X	X	X	X	X
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The Committee are of the view that in rule 3(3), between the words “shall” and “reject”, the words “after recording the reasons in writing”, be inserted.

The Departmental representative stated that the suggestion of the Committee is sound and will be incorporated in the rule.

Rule 4—

Sub-rule (2)—

(1)	X	X	X	X	X
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“(2) A Registered Practitioner who changes his name shall immediately inform the Registrar about his changed name and shall satisfy the Registrar that he has already notified the fact of the change of his name in a newspaper having a wide circulation in the area in which he carries on his business and published in the regional language of that area. The Registrar shall, on being so satisfied, correct the Register accordingly. He shall also, on being required to do so by the registered practitioner, make necessary correction in the Registration Certificate.”

(i) The Committee are of the view that in rule 4(2) for the words ‘the regional language of that area’, the words ‘the language of Hindi in Devnagri script’, be substituted. The Departmental representative accepted the proposal to the extent that ‘the language of Hindi’ be substituted because in legal parlance the word script is not used.

(ii) The Committee are of the view that in rule 4(2), between the words ‘satisfied’ and ‘comma’, the words ‘after making further enquiries, if necessary,’ be inserted.

The Departmental representative agreed that this would be done.

Rule 5—

Sub-rule (2)—

(1) X X X X X

“(2) If the Registrar, on receipt of the application under sub-rule (1) and after making such further enquiry as he may deem proper, is satisfied that the applicant is entitled to have entered in the Register the degrees, diplomas or certificates, as the case may be, obtained by him, he shall do so. If he is not so satisfied he will reject the application :

Provided that no order rejecting any application shall be passed without giving the applicant an opportunity of being heard.”

(3) X X X X X

The Committee are of the view that in rule 5(2), for the words ‘he will reject’, the words ‘he shall, after recording the reasons in writing, reject’ be substituted.

The Departmental representative agreed that this amendment would be made in the Rules.

Rule 6—

“6. If a registration certificate is lost, destroyed or mutilated, the Registrar shall, on being satisfied about the same, issue a duplicate Registration Certificate on the application of the practitioner in whose favour the certificate which has been lost, destroyed or mutilated was issued. A fee of two rupees shall be paid by the registered practitioner for the issue of a duplicate certificate.”

The Committee are of the view that in rule 6, for the words ‘two rupees’, the words ‘five rupees’, be substituted.

The Departmental representative stated that the suggestion of the Committee would be considered at the Administrative Department’s level.

Rule 7—

“7. Whenever information reaches the office of the Board that a practitioner has been sentenced by a criminal court to imprisonment for such offence involving moral turpitude as has been declared by the State Government under clause (a) of sub-section (1) of section 16 or has been guilty of professional misconduct or other infamous conduct, the Registrar shall make an abstract of such information and place the same before the Board for such action as the Board may like to take under the provisions of sub-section (1) of section 16 :

Provided that the Board shall, before passing any order under sub-section (1) of section 16, give the practitioner concerned an opportunity of being heard.”

The Committee wanted to know the offences involving moral turpitude declared by Government under sections 9(d) and 16(1) of the Punjab Ayurvedic and Unani Practitioners Act, 1963 and for purpose of rule 7 made thereunder.

The Departmental representative stated that the term 'moral turpitude' had not been defined anywhere in the Act. However, the words "as may be declared by the State Government", occurring in sections 9(d) and 16(1) of the Act after the term "moral turpitude" are superfluous, and an amendment would be suggested for deleting the same in the Act.

The Committee are of the view that the term "moral turpitude" can be defined in the Act. Therefore, the Committee desired that the Department should make a reference to the Legal Remembrancer to find out if this could be done.

The Departmental representative agreed that a reference would be made to the Legal Remembrancer, as desired.

Accordingly, the Committee recommend that the matter be examined by the Medical and Health Department in consultation with the Legal Remembrancer and the offences involving moral turpitude be laid down either in the Act or in the Rule.

Rule 11—

Sub-rule (1)—

"(1) The fees for the supply of certified copy of any order passed by the Board or the Registrar or of any entry in the Register shall be charged at the rate of 75 paise per 100 words or fraction thereof, subject to a minimum of one rupee:

Provided that if the applicant desires to have a copy urgently, he will have to pay double the amount of fees calculated as above subject to a minimum of two rupees."

(2) X X X X X X

(i) The Committee are of the view that in rule 11 (1), for the words 'one rupee' the words 'two rupees' be substituted.

The Departmental representative stated that the matter would be considered.

(ii) The Committee feel that in proviso to rule 11(1) for the words 'two rupees', the words 'four rupees' be substituted.

The Departmental representative stated that the matter would be considered by the Administrative Department.

Rule 12—

Sub-rule 4—

(1) X X X X X X
(2) X X X X X X
(3) X X X X X X

"(4) Every appeal shall be signed by the appellant and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of grounds of appeal"

The Committee wanted to know as to whether the grounds of appeal were required to be verified under the Code of Civil Procedure, 1908, and, if not, as to how the grounds of appeal were required to be verified under rule 12(4)?

The Departmental representative stated that there was no provision laid down in the Civil Procedure Code for the verification of the grounds of appeal. Therefore, the words "and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of grounds of appeal" occurring in rule 12(4) would be deleted.

Rule 17—

"17 For carrying out the purposes of the Act the Board may appoint such Committees consisting of such number of persons as it may deem fit. Each Committee appointed by the Board shall perform such functions as may be assigned to it by the Board :

Provided that nothing in this rule shall be deemed to empower a Committee so appointed to exercise such functions as are specifically mentioned in the Act to be performed by the Board or any other authority ."

The Committee observed that under section 17 of the Punjab Ayurvedic and Unani Practitioners Act, 1963, the Board can appoint a Committee for the purpose of making an enquiry regarding removal, from the register, the name of any practitioner. The Act does not mention any other Committee to be appointed by the Board. Under section 54(1) of the Act, the State Government is not empowered to appoint or to delegate the powers of appointment of more than one Committee by the Board by framing rules. The Committee are of the opinion that rule 17 is beyond the scope of the Act. The Committee would like to know the reasons as to how this rule was framed beyond the scope of the Act?

The Departmental representative referred to section 17 of the Act where it was laid down that for the purposes of any inquiry under clause (b) of sub-section (1) of section 16, the Board could constitute a Committee. This was the only Committee which could be constituted under the Act, therefore, rule 17 may be amended as under:—

"17. For carrying out the purposes of the Act the Board may appoint a Committee consisting of such number of persons as it may deem fit as required by the provisions of sections 16 and 17 of the Act."

The Committee are of the view that this is the only Committee which can be legally constituted and the rule should be amended accordingly.

**(ii) THE PUNJAB AYURVEDIC AND UNANI PRACTITIONERS
(ELECTION) RULES, 1965 FRAMED UNDER THE PUNJAB AYUR-
VEDIC AND UNANI PRACTITIONERS ACT, 1963.**

Rule 2—

"2. Definitions.—In these rules, unless the context otherwise requires,

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)

The Committee recommend that after the word 'requires' and sign ',' the sign '—' be added.

Rule 9—

"9. Election Programme.—As soon as may be after the issue of the notice under rule 3, the Returning Officer shall frame the election programme. The scrutiny of nomination papers shall be held not later than the third day of the last date fixed for filing nomination papers and three days' time shall be allowed for the withdrawal of nomination papers after their scrutiny. He shall specify for each constituency the date, time and place for the filing of nomination papers the date by which ballot papers after voting shall be received by him and the date of publication of names of persons declared to have been elected."

The Committee are of the view that the word 'constituency' mentioned in rule 9 as also in some of the subsequent rules has not been defined in the rules. It should, therefore, be clarified as to how many constituencies there are and what are their names?

The Committee, after having orally examined the Departmental representative, recommend that the word 'constituency' in rule 9 is redundant and should be deleted.

Rule 14—

"14. Forfeiture of deposit.—If a candidate by whom or on whose behalf the deposit referred to in rule 13 has been made is not elected and the number of votes polled by him is less than one-half of the votes polled by the candidate who is declared to have been elected with least number of votes, the deposit shall be forfeited to the Board."

The Committee recommend that the word 'deposit' be correctly printed as 'deposit'.

Rule 21—

"21. Returning Officer to send ballot-papers by post.—(1) The Returning Officer shall, as soon as may be, after the publication of list of valid nominations under rule 18, send under certificate of posting to each elector a ballot paper in Form III and shall enter on the counterfoil of each such ballot-paper the name of the elector to whom the ballot paper is sent and his serial number in the electoral roll.

(2) Along with the ballot paper the Returning Officer shall also send.—

(a) a cover addressed to himself in Form IV-A, and

(b) an envelope with the number of ballot-paper entered on its face. The Returning Officer shall have the number of the ballot-paper entered at the left hand bottom corner of the cover in Form IV-B.

The ballot-paper together with the cover and envelope shall be sent to the address of the elector as shown in the electoral roll.

(4) After all the ballot-papers have been issued under this rule, the Returning Officer shall seal up the packet of counterfoils of all such ballot-papers and record on such packet the description of its contents and the election to which it refers.

(5) No election shall be invalidated by reason that an elector has not received his ballot-paper provided that the ballot paper has been issued to him in accordance with these rules.

Sub-rule (1)—

(i) The Committee recommend that the word 'office' be correctly printed as 'officer'.

Sub-rule (2)(b)—

(ii) The Committee recommend that after the word 'face', full stop be inserted.

Sub-rule (3)—

(iii) The Committee recommend that the para occurring at the end of sub-rule 2(b) be numbered as sub-rule (3) and be read as :—

"(3) The ballot-paper together with the cover and envelope shall be sent to the address of the elector as shown in the electoral roll."

Sub-rule (5)—

(iv) The Committee recommend that the word 'shallo' be correctly printed as 'shall'.

(v) The Committee recommend that the words 'wite' be correctly printed as 'with'.

Rule 22—

“22. Ballot-papers to be returned after recording votes thereon.—

- (1) Every elector on receiving his ballot paper sent under rule 21, if he desires to vote at the election, shall record his vote thereon and sign the declaration in accordance with the instructions set out on the ballot-paper.
- (2) The elector shall place the ballot-paper in the envelope, close the envelope and enclose it in the cover and send the cover by post or messenger to the Returning Officer in accordance with the instructions aforesaid so as to reach him before 3 p.m. on the date fixed in this behalf under rule 9. Any cover which is not received by the Returning Officer before 3.00 p.m. the date so fixed shall be rejected. All such rejected covers shall be kept in a separate sealed packet by the Returning Officer and a list thereof shall be prepared.”

Sub-rule (1)—

(i) The Committee recommend that the ‘ ballot paper ’ be correctly printed as ‘ ballot-paper ’.

Sub-rule (2)—

(ii) The Committee recommend that the word ‘ said ’ may be correctly printed as ‘ send.’

Rule 23—

“23. *Attestation of the electors’ signatures on the ballot-paper.*—An elector should obtain the attestation of his signatures but not of his vote by a Sarpanch of a Gram Panchayat or by a gazetted officer of the Government of India or of a State Government.”

The Committee are of the view that in rule 23, between the words ‘Panchayat’, and ‘or’ the words ‘ or by a Member of the Local Body, or State Legislature or Parliament’ be inserted.

The Departmental representative accepted the proposal and agreed to carry out these corrections in the rules.

Rule 29—

“29. *Declaration of result.*—When the counting, or if there is re-counting the recounting of votes has been completed, the Returning Officer shall forthwith declare the contesting candidate or candidates, as the case may be to whom the largest number of votes has been given to be duly elected and shall forthwith inform such successful contesting candidates by letter of their having been elected to the Board and shall also send a copy of the same to the Chairman and the Government.”

The Committee observe that under section 3(1) (b) of the Act, eleven persons are required to be elected, out of whom not less than seven persons should be holders of a diploma or degree in the Ayurvedic or Unani System,

but rule 29 states that the Returning Officer shall declare as elected to whom the largest number of votes have been given. It is nowhere mentioned in the Act or rules that the Returning Officer should first declare the result of qualified Registered Medical Practitioners and if seven such qualified practitioners have been declared elected according to the proportion prescribed under section 3(4), only then he should declare the result of unqualified ones. Hence, the Committee are of the view that the rules are required to be amended.

The Departmental representative stated that the suggestion of the Committee that the Returning Officer should first declare the result of the qualified Registered Medical Practitioners will be incorporated in the Rules.

Rule 31—

“31. *Sealing and preservation of election material*.—After the result has been declared by him, the Returning Officer shall seal the voting papers and all other documents relating to the election and shall retain the same with him for a period of six months, and thereafter cause them to be destroyed.”

The Committee are of the view that in rule 31 after the word ‘months’, the words ‘after the final disposal of the election petition, if any’ be added.

The Departmental representative stated that this was a sound suggestion and would be incorporated in the rules.

(iii) THE PUNJAB LABOUR WELFARE FUND RULES, 1966 FRAMED UNDER THE PUNJAB LABOUR WELFARE FUND ACT, 1965

The Committee, after going through the provisions of the Punjab Labour Welfare Fund Act, 1965, scrutinized the Punjab Labour Welfare Fund Rules, 1966, supplied by the Department,—*vide* Memo No. LWF/Act/Gen/68/23494, dated the 12th September, 1968:—

Rule 2—

“2. *Definitions* :—In these rules, unless the context, otherwise, requires—

- (i)
- (ii)
- (iii)

(i) The Committee are of the view that sign ‘,’ occurring after the words ‘context’ and ‘otherwise’, be deleted.

(ii) The Committee are of the view that the sign ‘—’ occurring after the word ‘requires’ be substituted by ‘,—’.

The Departmental representative agreed to these views of the Committee.

Rule 4—

“4. *Notice for payment of fines and unpaid accumulations by Welfare Commissioner*.—The Welfare Commissioner, may after making such enquiries as he may deem fit and after calling for a report from the Inspector, if necessary, serve a notice on any employer to pay any portion of fines realised from the employees or unpaid accumulations held by him which the employer has not paid in accordance with rule 3. The employer shall comply with the notice within 14 days of the receipt thereof.”

The Committee felt that no penalty or fine was prescribed in the rule for the employers who did not deposit the amount within the prescribed period and further desired that some penalty or fine should be prescribed.

The Departmental representative was also of the same view but he expressed that unless and until the penal clause did not find place in the Act, the rules could not be amended and it was for the Committee to recommend for making such a provision in the Act. After such recommendation of the Committee, the Department would ask the Government to bring such an amendment in the Act.

The Committee, therefore, recommend to the Government to make necessary provision in the Act for imposing penalty etc on the employer on the following lines:—

“Penalty upto 25 per cent but not less than 10 percent of the unpaid accumulations and fines shall be imposed in case the employer does not deposit the arrears within 14 days of the service of the notice. In case of default of payment of the penalty, fines and unpaid accumulations in whole or in part, the same shall be recoverable as arrears of land revenue.”

Rule 5—

“5. Maintenance and Audit of Accounts.— The Accounts of the Fund shall be prepared and maintained by the Accounts Officer of the Board in such manner as may be prescribed by the Board with the approval of the State Government and shall be audited by the Accountant-General, Punjab, once a year. The Welfare Commissioner shall be responsible for the disposal of the Audit Note. A separate Administration Account shall be maintained.”

The Committee are of the view that for the words “Accountant-General, Punjab,” the words “Accountant-General, Haryana” be substituted.

The Departmental representative agreed to the proposal of the Committee.

Rule 7—

“7. Additional Expenditure.—If during the course of the financial year it becomes necessary to incur expenditure over and above the provision made in the budget, the Board shall immediately submit to the State Government the details of the proposed expenditure and specify the manner in which it is proposed to meet the additional expenditure. The State Government may either approve the proposed expenditure after making such modifications, as it considers necessary or reject it. A copy of the order passed by the State Government on every such proposal to incur additional expenditure shall be communicated to the Board and the Accountant-General, Punjab.”

The Committee are of the view that for the word “Punjab” appearing at the end of the Rule, “Haryana” be substituted.

The Departmental representative agreed to the proposal of the Committee.

Rule 11 --

"11. Quorum —The number of members necessary to constitute a quorum at a meeting of the Board shall be six including the chairman provided that no matter concerning finances shall be decided unless there is a quorum of not less than seven members including the chairman present and voting.

The Committee wanted to know whether any employee, nominated as member of the Board, would be considered on duty or he had to apply for leave. Further, if such an employee was refused leave for attending the meeting of the Board, what consequences would follow ?

The Departmental representative explained that he knew a number of other such Committees and Boards of the Labour Department where the representatives of the employees were members, but no provision was made for compelling their attendance in the meetings. That would be compelling the employer to give the employee leave of absence to attend the meeting. After some discussion, the Departmental representative expressed the view that if the Committee so liked, a provision to that effect would be made in the Act as such a provision could not be made in the Rules. The Legal Remembrancer would be consulted as to whether such a provision could be made in the rules.

The Committee desired that the Administrative Department should examine this point in consultation with the Legal Remembrancer and to intimate the decision of the Government to the Committee within 15 days, but the Committee are sorry to note that the reply in the matter was not furnished to the Committee till the submission of their report to the House. Therefore, the Committee recommend that the Government should expedite the reply in the matter and state reasons for the delay in furnishing the reply to the Committee.

Rule 17—

"17	Mode of payment ..	..	..	..	..	..
(a)	. . . . .	..	..	..	..	..
(b)	.. . . .	..	..	..	..	..

(2) The salaries of the staff of the Board shall be paid either in cash or by cheques".

The Committee invited the attention of the Departmental representative to section 27(2) (h) reproduced below, according to which the Government was empowered to frame rules :—

"(h) The duties and powers of Inspectors and the conditions of service of the Welfare Commissioner and Inspectors and other staff appointed under this Act ;"

After some discussion, the Departmental representative explained that the Labour Commissioner was also functioning as the Labour Welfare Fund

Commissioner and the Labour Inspectors were vested with the powers of the Inspectors under the Labour Welfare Fund Act and the Rules made thereunder, because the Government thought that to appoint a separate Labour Welfare Fund Commissioner and separate inspectors under this Act would be a wasteful expenditure. Therefore, there was no necessity to provide for the condition of service of these officers. He further explained that the existing rules were framed on the 20th April, 1966 and therefore, after reorganisation, the Labour Welfare Board was not constituted in Haryana and so long the Board was not constituted, the question of appointment of staff did not arise. Even in Punjab there were no assets and liabilities of this Board and it was only a paper work.

So far as the Constitution of Board in Haryana was concerned, he explained that many cases were pending with the Central Government and so long those were not decided and the joint Board was not bifurcated, the Haryana Government could not constitute its own Board.

The Committee view that more than two years have elapsed, since the re-organisation of Punjab State, the Haryana should constitute its own Labour Welfare Board, after getting the share of assets and liabilities, if any, determined in the Punjab Labour Welfare Board.

Rule 18—

"18 . *Investment of Fund*.—Such portion of the Fund as can not be applied or sometime for the purposes of the Act shall be invested by the Board in the National Savings Certificates or other securities referred in section 20 of the Indian Trusts Act, 1882."

(i) The Committee are of the view that the word "or" occurring in between the words 'applied' and 'sometime' be substituted by the word "for".

The Departmental representative agreed to it as it appeared to him a typing mistake.

(ii) The Committee are of the view that the word "to" be inserted in between the words 'referred' and 'in'.

The Departmental representative agreed to it.

Rule 20—

"20. *Expenditure on the staff and other administrative measures*.—The expenses of the staff of the Board and other administrative expenses of the Board shall not exceed 75 percent of the annual income of the Fund or such percentage of the annual income of the Fund not exceeding 75 per cent as may be fixed by the Government from time to time."

Previously the Committee was of the view that the figure '75' occurring twice in the rule, be substituted by figure '40' but before making recommendation, the Committee brought to the notice of the Departmental representative that it was provided in the rule that the expenditure on the staff and other administrative matters of the Board shall not exceed 75 per cent of the annual income of the Fund or such percentage of the annual income of the Fund not exceeding 75 per cent as may be fixed by the Government from time to time. The Committee was of the view that this percentage of expenditure appeared to be on the high side. The Committee are not aware

whether there was any printing mistake or it was intentionally provided in the Rules. The Committee further desired that while examining it, the Government should keep in view the recommendations of the Administrative Reforms Commission about the expenditure to be incurred on the administrative side.

The Departmental representative stated that there may be something wrong or there was a printing mistake. He will get it examined and let the Committee know later

Register of Wages

No.	Name of the employee	Ticket and Beds No.	Occupation	Amount Payable during the month			Amount deducted during the month			Amounts actually paid during the month				Balance due to the employees			
				Basic wages	Over time	Dearness allowance and other allowances	Bonus	Fines	Other deduction	Basic wages	Over time	Dearness allowance and other allowances	Bonus	Basic wages	Over time	Dearness allowance and other allowances	Bonus
2		3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18

The Committee enquired the meaning of the words "Ticket and Beds No." occurring in column 3 of Form 'A'.

The Departmental representative stated that there seems to be some mistake therein and according to him the words should be "Ticket and Batch No" in place of 'Ticket and Beds No'. Accordingly, the Committee recommend that in column 3 of Form 'A' for the words "Ticket and Beds No." the words "Ticket and Batch No." be substituted. The Committee further recommend that all the corrections suggested by the Committee in the rules be incorporated and the Committee informed accordingly.

**(iv) THE PUNJAB NON-TRADING COMPANIES RULES, 1963
FRAMED UNDER THE PUNJAB NON-TRADING COM-
PANIES ACT, 1960**

The Committee went through the provisions of the Punjab Non-Trading Companies Act, 1960 and then scrutinized the Punjab Non-Trading Companies Rules, 1963.

General—

The Committee observed that the Punjab Non-Trading Companies Act, was passed in the year 1960, whereas the Punjab Non-Trading Companies Rules were framed in the year 1963. The Committee wanted to know as to how the provisions of the Act were carried out in the absence of the Rules? The Committee further enquired as to whether there were any Non-Trading Companies in Haryana and, if so, the Committee asked for a copy of the Articles of Association of the Agricultural Non-Trading Company.

The Departmental representative stated that the Non-Trading Companies did not have much work and as such the Department did not feel the necessity of framing any Rules. He further stated that there are two Non-Trading Companies in Haryana, one is Industrialists Association in Gurgaon and the other is Agricultural Produce Association in Hissar. The Departmental representative promised to supply the Articles of Association of the Agricultural Produce Association in Hissar, for the perusal of the Members of the Committee. Subsequently, the Departmental representative supplied a copy of the Memorandum and Articles of the 'Agricultural Produce Dealers Association, Hissar' for the use of the Committee and typed copies thereof were supplied to all Members of the Committee.

Rule 1—

Sub-rule 1—

"Short Title, Commencement and interpretation,—(1) These rules may be called the Punjab Non-Trading Companies, 1963."

(2) X X X X X X

The Committee are of the view that after the word 'Companies,' the word 'Rules' be inserted, as it seems to be a printing mistake.

The Departmental representative agreed to it.

Rule 2—**Clause (a)—**

“2. *Definitions*—In these rules, unless the context requires otherwise,—

(a) “Act” means the Punjab Non-Trading Companies Act, 1960 (Act No. 25 of 1960) (Act No. 25 of 1960) ;

(b) X X X X X X

(c) X X X X X X

(d) X X X X X X

(e) X X X X X X

(i) The Committee are of the view that the words “(Act No. 25 of 1960)” occurring at the end of clause (a) for the second time be deleted.

The Departmental representative agreed to the proposal as it was a typographical mistake.

(ii) The Committee observed that the terms ‘Association’ and ‘Non-Trading’ which occur at several places in the Rules have neither been defined in the Act nor in the Rules. It, therefore, liked to know as to why these terms have not been defined.

After some discussion, the Departmental representative stated that the observation of the Committee will be complied with, in consultation with the Law Department. He further stated that the definitions will have to be provided in the principal Act. A Bill for that purpose will have to be brought before the Vidhan Sabha.

Rule 4—**Clause (vii)—**

(i) to (vi) X X X X X X

“(vii) A statement giving a brief description of the work if any, already done by the Association and of the work proposed to be done by it after registration in pursuance of section 25 of the principal Act ,”

(viii) X X X X X X

The Committee are of the view that after the word ‘work’, the sign ‘ , ’ be inserted.

The Departmental representative agreed to the proposal.

Rule 7—**Clause (b)—**

7. X X X X X X

(a) X X X X X X

“(n) shall be published at least once in a newspaper in the regional language of the district in which the registered office of the proposed company is to be situated or is situated, and circulating in that district, and at least once in an English Newspaper circulating in that District ”

(i) The Committee are of the view that in the beginning for “(n)”, substitute “(b)”, as it appears to be a typing mistake.

The Departmental representative agreed to it.

(ii) The Committee are of the view that the words “the regional language of the district in which the registered office of the proposed company is to be situated or is situated”, be substituted by the words “Hindi in Devnagri Script”.

The Departmental representative agreed to it.

Rule 8—

“8. *Issue of licence.*—The Registrar shall, after considering the objections, if any, received by him within the time fixed therefor in the notice aforesaid and after consulting any authority as he may, in his discretion deem fit, determine whether the licence should or should not be granted.”

The Committee are of the view that at the end, add “if the licence is not granted, the Registrar shall record the reasons therefor.”

The Departmental representative agreed to it

Rule 13—

“13. *Document not to be registered, recorded, etc., unless requisite fee is paid.*—(1) No document required or authorised by or under the principal Act to be registered, recorded or filed by or with the Registrar shall be registered, recorded or taken on file until the fee, if any, payable in respect thereof under Schedule X to the principal Act and any additional fee imposed by the Registrar under section 611(2) of the Principal Act.”

The Committee are of the view that at the end, after the word “Act”, the words “is paid” be added otherwise the sentence remains incomplete.

The Departmental representative agreed to it.

Rule 14—

Sub-rule (1) and Clause (v) of sub-rule (1)—

“14. Particulars to be endorsed on every document registered, recorded or filed by the Registrar.

(1) The following particulars shall be endorsed on every document registered recorded or filed by the Registrar :—

(i)	X	X	X	X	X
-----	---	---	---	---	---

(ii)	X	X	X	X	X
(iii)	X	X	X	X	X
(iv)	X	X	X	X	X

(v) The date on which it is registered, recorded or filed.

(i) The Committee are of the view that in sub-rule (1) in between the words "registered" and "recorded", the sign ",", be inserted.

(ii) The Committee are further of the view that in clause (v), the word 'of' be substituted by the word 'or'

The Departmental representative agreed to both these proposals

Rule 18—

Sub-rules (2) and (3)—

(1)	X	X	X	X	X
-----	---	---	---	---	---

“(2) The applicant shall be allowed to inspect the documents only in the presence of the Registrar or of a person authorised by him in this behalf, and only during office hours.

(3) The applicant shall not be permitted to make a verbatim copy of the document inspected. He may, however, taken any note in respect of the contents of the document inspected.”

(i) The Committee are of the view that the word 'or his authorised agent' be inserted in between the words "applicant" and "shall".

(ii) The Committee are of the view that in sub-rule (3) the word 'taken' be substituted by the word 'take'.

The Departmental representative agreed to both the proposals

Rule 21—

Sub-rule (b)—

21—The Registrar shall—

(a)	X	X	X	X	X
-----	---	---	---	---	---

“(b) Cause to be published from time to time a list of the records destroyed as aforesaid, giving such particulars, in respect of each record or set of records, as may be necessary to enable the same to be identified by the persons concerned therewith.”

The Committee are of the view that for the word 'identified' substitute the word 'identifed'

The Departmental representative agreed to it.

Annexure I—

Clause 2—

"2. The registered Office of the Company will be situated in the State of _____"

(i) The Committee are of the view that for the word "will" substitute "shall".

The Departmental representative agreed to it.

(ii) The Committee was further of the view that after the words 'State of', the word 'Haryana' be added, as it was necessary to provide in the Rules that the Registered office of the company should be in the State of Haryana, otherwise the Government would have no control over it. Further, in order to ensure that the Funds of the company are not utilized outside the State of Haryana, it was essential to make such a provision in the Rules.

The Departmental representative explained that the adding of the word 'Haryana' was not necessary in view of the provisions of the Act. It would not make any difference, whether the Head Office of the Company is in the State of Haryana or elsewhere, because in view of the provisions in the Act, the scope of the objects of the Company was confined to the State of Haryana. So, the position would not change even though the company had its Head Office elsewhere. He, further, added that a number of such companies were functioning in India but they had their Registered office abroad. However, the matter can be referred to the Legal Remembrancer, if so desired by the Committee. He, further, stated that a number of Companies were functioning at Faridabad but they had their Registered offices at Delhi or elsewhere. If it was insisted that such companies should have their Registered offices also in this State, they may even shift their factories from this State. In that case, the workers of this State will not be employed in these factories.

After some discussion the Committee expressed its view that after the words 'State of' the word 'Haryana' be added in clause 2 of the Annexure. The position may, however, be examined by the Legal Remembrancer and the Administrative Department and the Committee be informed about it.

The Departmental representative agreed to it.

Clause 4—

"The objects of the Company are confined to the State of Punjab."

The Committee are of the view that for the word 'Punjab', the word 'Haryana' be substituted.

The Departmental representative agreed to it in view of the reorganisation of the Punjab State.

Clause 5—

Sub-Clauses (4) and (5)—

(1)	X	X	X	X	X
(2)	X	X	X	X	X
(3)	X	X	X	X	X

"(4) No member shall be appointed to any office under the company which is remunerated by salary, fees, or in any other manner not excepted by sub-clause (3)."

(5) Nothing in this clause shall prevent the payment by the in good faith of reasonable remuneration to any of its officers or servants (not being members) or to any other person (not being a member) in return for any services actually rendered to the company.

(i) The Committee is of the view that in sub-clause (4) the 'sign' appearing after the word "fees" be omitted.

The Departmental representative agreed to it.

(ii) The Committee is of the view that in sub-clause (5), the word "company" be added after the words "by the" as its addition is necessary.

The Departmental representative agreed to it
Clause 10—

"10. If upon a winding up or dissolution of the company, there remains, after the satisfaction of all the debts and liabilities, any property whatsoever, the same shall not be distributed amongst the members of the Company, but shall be given or transferred to such other Company having objects similar to the objects of this company, to be determined by the members of the company at or before the time of dissolution or in default thereof, by the Punjab High Court."

The Committee is of the view that at the end of the clause, for the words "Punjab High Court" substitute the words "Punjab and Haryana High Court."

The Departmental representative agreed to it.

ANNEXURE II

[See rule 7(a)]

NOTICE

Notice is hereby given that in pursuance of section 25 of the Companies Act, 1956, an application has been made to the Registrar of Non-Trading Companies, Punjab, for a licence directing that a body about to be formed under the name of the (here enter the name of the body) may be registered as a company as defined in section 2 of the Punjab Non-Trading Companies Act, 1960.

2. The principal objects of the company are as follows :—

(1)	X	X	X	X	X
(2)	X	X	X	X	X

3. A copy of the draft Memorandum and Article of association of the proposed company may be seen at _____ (give the address here).

4. Notice is hereby given that any person, firm, company or corporation objecting to this application may communicate such objections to the Registrar of Non-Trading Companies, Punjab, within thirty days from the date of

THE PUNJAB GRAM PANCHAYAT RULES 1965, FRAMED UNDER THE PUNJAB GRAM PANCHAYAT ACT, 1952

GENERAL

The Committee observed that the Gram Panchayat Rules were framed in the year 1965 while the Act came into force in the year, 1953. The Committee liked to know the circumstances under which a delay of 12 years took place in framing the rules and how in the absence of the rules, the purposes of the Act were carried.

The Departmental representative explained that he tried to find out the file which was with the Punjab Government but it could not be traced. Therefore, it was not possible to explain the reasons for the delay in the framing of the rules.

Rule 5—

"5. Time and place of meeting and conduct of business of Sabha.—

(1) The general meetings and the extraordinary general meetings of a Sabha shall be held in the Sabha area at a public place. The time and place of the Sawani and Hari meetings, and the time, date and place of the extraordinary general meetings shall be fixed by the Panchayat Samiti and the Chairman, respectively"

(2)	..	..	..	..	..	..	..	..	..
(3)	..	..	..	..	..	..	..	..	..
(4)	..	..	..	..	..	..	..	..	..
(5)	..	..	..	..	..	..	..	..	..
(6)	..	..	..	..	..	..	..	..	..
(7)	..	..	..	..	..	..	..	..	..
(8)	..	..	..	..	..	..	..	..	..
(9)	..	..	..	..	..	..	..	..	..
(10)	..	..	..	..	..	..	..	..	..
(11)	..	..	..	..	..	..	..	..	..
(12)	..	..	..	..	..	..	..	..	..

The Committee observed that under section 5, Gram Sabha was made a corporate body and due to this many cases fail. According to rule 5, there should be two meetings of Gram Sabha, i. e., one in Sawani and the other in Hari whereas no meeting is held by the Gram Sabha. Therefore, the Committee was of the view that the Gram Panchayat like that of Municipal Committee, be declared corporate body instead of Gram Sabha. The Committee further desired that sections 5 and 6 of the Act should be substituted by a single provision after making necessary changes in the light of section 3(g). The Gram Panchayat should be the corporate body and not the Gram Sabha and all

for the time being in force, unless the alteration has been previously submitted to and approved by the Registrar.

- (7) that this licence and the registration of the said company pursuant hereto shall cease to have any force or effect on violation of any of the aforesaid conditions or any of the conditions and provisions contained in its Memorandum of Association and thereupon this licence shall be revoked in accordance with the provisions of the aforesaid section 25 of the Companies Act, 1956.

Dated this _____ day of _____ 19 .

Registrar of Non-Trading Companies,
Punjab.

ANNEXURE IV

[See rule 11 (1)]

Certificate of Incorporation

No. of.

I hereby certify that* _____ is this day incorporated under the Punjab Non-Trading Companies Act, 1960 (Punjab Act 25 of 1960) and that the company is limited by shares/guarantees.

Given under my hand at _____ this _____ day of _____, One thousand Nine Hundred and _____
SEAL

Registrar of Non-Trading Companies,
Punjab.

ANNEXURE V

(See rule 15)

MEMORANDUM ACKNOWLEDGING RECEIPT OF DOCUMENT

Office of Registrar of Non-Trading Companies, Punjab

The Registrar of Non-Trading Companies, Punjab, acknowledges the receipt of the undermentioned documents.

(here enter brief description of documents)

Station _____

Dated _____

Registrar of Non-Trading Companies,
Punjab.

The Committee are of the view that in Annexures II, III, IV and V for the words "Registrar of Non-Trading Companies, Punjab" substitute the words "Registrar of Non-Trading Companies, Haryana".

The Departmental representative agreed to it.

*Here enter the name of the company.

**THE PUNJAB GRAM PANCHAYAT RULES 1965, FRAMED
UNDER THE PUNJAB GRAM PANCHAYAT ACT, 1952**

GENERAL

The Committee observed that the Gram Panchayat Rules were framed in the year 1965 while the Act came into force in the year, 1953. The Committee liked to know the circumstances under which a delay of 12 years took place in framing the rules and how in the absence of the rules, the purposes of the Act were carried.

The Departmental representative explained that he tried to find out the file which was with the Punjab Government but it could not be traced. Therefore, it was not possible to explain the reasons for the delay in the framing of the rules.

Rule 5—

“5. Time and place of meeting and conduct of business of Sabha.—

(1) The general meetings and the extraordinary general meetings of a Sabha shall be held in the Sabha area at a public place. The time and place of the Sawani and Hari meetings, and the time, date and place of the extraordinary general meetings shall be fixed by the Panchayat Samiti and the Chairman, respectively.”

(2)	..	..	..	..	..	..	..	..	..
(3)	..	.	..	..	.	..	..	..	..
(4)	..	..	..	..	..	..	..	..	..
(5)	..	..	..	..	..	..	..	..	..
(6)	..	..	..	..	..	..	..	..	..
(7)	..	..	..	..	..	..	..	..	..
(8)	..	..	..	..	..	..	..	..	..
(9)	..	..	..	..	..	..	..	..	..
(10)	..	..	..	..	..	..	..	..	..
(11)	..	..	..	..	..	..	..	..	..
(12)	..	..	..	..	..	..	..	..	..

The Committee observed that under section 5, Gram Sabha was made a corporate body and due to this many cases fail. According to rule 5, there should be two meetings of Gram Sabha, i. e., one in Sawani and the other in Hari whereas no meeting is held by the Gram Sabha. Therefore, the Committee was of the view that the Gram Panchayat like that of Municipal Committee, be declared corporate body instead of Gram Sabha. The Committee further desired that sections 5 and 6 of the Act should be substituted by a single provision after making necessary changes in the light of section 3(g). The Gram Panchayat should be the corporate body and not the Gram Sabha and all

for the time being in force, unless the alteration has been previously submitted to and approved by the Registrar.

- (7) that this licence and the registration of the said company pursuant hereto shall cease to have any force or effect on violation of any of the aforesaid conditions or any of the conditions and provisions contained in its Memorandum of Association and thereupon this licence shall be revoked in accordance with the provisions of the aforesaid section 25 of the Companies Act, 1956.

Dated this _____ day of _____ 19 .

Registrar of Non-Trading Companies,
Punjab.

ANNEXURE IV

[See rule 11 (1)]

Certificate of Incorporation

No of

I hereby certify that*_____ is this day incorporated under the Punjab Non-Trading Companies Act, 1960 (Punjab Act 25 of 1960) and that the company is limited by shares/guarantees.

Given under my hand at _____ this _____ day of _____, One thousand Nine Hundred and _____
SEAL

Registrar of Non-Trading Companies,
Punjab.

ANNEXURE V

(See rule 15)

MEMORANDUM ACKNOWLEDGING RECEIPT OF DOCUMENT

Office of Registrar of Non-Trading Companies, Punjab

The Registrar of Non-Trading Companies, Punjab, acknowledges the receipt of the undermentioned documents.

(here enter brief description of documents)

Station _____

Dated _____

Registrar of Non-Trading Companies,
Punjab.

The Committee are of the view that in Annexures II, III, IV and V for the words "Registrar of Non-Trading Companies, Punjab" substitute the words "Registrar of Non-Trading Companies, Haryana".

The Departmental representative agreed to it.

*Here enter the name of the company.

The Departmental representative agreed to it also.

Rule 23—

First proviso to clause (iii) of sub-rule (1)—

- (1)
 (i)
 (ii)
 (iii)

"Provided that the Union or Society operates within the Sabha area and is approved by the Registrar of Co-operative Societies, Punjab, and that the Society is classed A or B:"

The Committee are of the view that in first proviso, for the word "Punjab", substitute "Haryana".

The Departmental representative agreed to it.

Rule 25—

"Power to exempt from taxes and write off irrecoverable amounts.—A Panchayat may write off any irrecoverable amount within the meaning of section 83, if it does not exceed the sum of ten rupees in each individual case. If it exceeds ten rupees it may be written off—

- (a) with the approval of the Panchayat Samiti concerned provided it does not exceed fifty rupees ;
 (b) with the approval of the Zila Parishad concerned if it exceeds fifty rupees but does not exceed two hundred rupees.
 (c) with the approval of Government in other cases."

The Committee are of the view that in the heading, delete the words "exempt from taxes and".

The Departmental representative agreed to it.

Rule 33—

"33. *Audit of Accounts.*—(1) The accounts of a Gram Panchayat having an annual income of five hundred rupees or more shall be audited as far as possible once in two years by a junior auditor at the rate of fifteen rupees for every day or part of the day.

Note.—For the purpose of this rule day shall mean a working day of eight hours.

- (2) The Sarpanch shall deal promptly with the audit note and the objection statement. He shall, within a month of the receipt of the note, convene a special meeting of the Panchayat to consider the objections and suggestions made by the auditor and to decide the action to be taken in regard thereto. The decision so taken shall be

The Committee are of the view that between the words "school" and "Dispensary", the "sign," be inserted.

The Departmental representative agreed to it.

Rule 17—

*"17. Power to take over management of institutions, etc.—*The Gram Panchayat undertaking to receive from any person any property vested in him or the management of any institution or the execution or maintenance of any work or the performance of any duty within its area shall satisfy itself that it is free from all encumbrances so that it will not in any way be a burden on the Sabha fund or involve the Gram Panchayat to incur any liability".
Section.

The Committee are of the view that in the marginal note for "section" substitute "Section 37".

The Departmental representative agreed to it as it was printing mistake and would be corrected.

Rule 18—

*"18. Cognizance of criminal cases.—*When a complaint is lodged orally under section 43, the Sarpanch or the Panch receiving it shall forthwith reduce the same to writing in the form of a narrative giving the name, parentage, age and residence of the complainant as well as of the accused along with the details of the complaint."

The Committee are of the view that between the words "reduce" and "the", insert the words "or cause to be reduced".

The Departmental representative agreed to it.

Rule 21—

Clause (a)—

"21. Processes.—(a) Every summons issued by a Panchayat shall be in duplicate in Form IX, X or XI, as the case may be and shall specify the time, date and place at which the person is required to attend and also whether his attendance is required as an accused, a defendant, a judgement debtor or other party or a witness, or for the purpose of giving evidence, or to produce a document or for any other purpose. If any particular document is to be produced it shall be described in the summons with reasonable accuracy."

(b)

(i) The Committee are of the view that between the words "be" and "and" add the sign ",".

The Departmental representative agreed to it.

(ii) The Committee are of the view that after the word "witness", the sign "," and the word "or" be deleted.

The Departmental representative agreed to it also.

Rule 23—

First proviso to clause (iii) of sub-rule (1)—

- | | | | | | | | |
|-------|----|----|----|----|----|----|----|
| (1) | .. | .. | .. | .. | .. | .. | .. |
| (i) | .. | .. | .. | .. | .. | .. | .. |
| (ii) | .. | .. | .. | .. | .. | .. | .. |
| (iii) | .. | .. | .. | .. | .. | .. | .. |

“Provided that the Union or Society operates within the Sabha area and is approved by the Registrar of Co-operative Societies, Punjab, and that the Society is classed A or B:”

The Committee are of the view that in first proviso, for the word “Punjab”, substitute “Haryana”.

The Departmental representative agreed to it.

Rule 25—

“Power to exempt from taxes and write off irrecoverable amounts.—A Panchayat may write off any irrecoverable amount within the meaning of section 83, if it does not exceed the sum of ten rupees in each individual case. If it exceeds ten rupees it may be written off—

- (a) with the approval of the Panchayat Samiti concerned provided it does not exceed fifty rupees ;
- (b) with the approval of the Zila Parishad concerned if it exceeds fifty rupees but does not exceed two hundred rupees.
- (c) with the approval of Government in other cases.”

The Committee are of the view that in the heading, delete the words “exempt from taxes and”.

The Departmental representative agreed to it.

Rule 33—

“33. Audit of Accounts.—(1) The accounts of a Gram Panchayat having an annual income of five hundred rupees or more shall be audited as far as possible once in two years by a junior auditor at the rate of fifteen rupees for every day or part of the day.

Note.—For the purpose of this rule day shall mean a working day of eight hours.

- (2) The Sarpanch shall deal promptly with the audit note and the objection statement. He shall, within a month of the receipt of the note, convene a special meeting of the Panchayat to consider the objections and suggestions made by the auditor and to decide the action to be taken in regard thereto. The decision so taken shall be

The Committee are of the view that between the words "school" and "Dispensary", the "sign," be inserted.

The Departmental representative agreed to it.

Rule 17—

"17. Power to take over management of institutions, etc.—The Gram Panchayat undertaking to receive from any person any property vested in him or the management of any institution or the execution or maintenance of any work or the performance of any duty within its area shall satisfy itself that it is free from all encumbrances so that it will not in any way be a burden on the Sabha fund or involve the Gram Panchayat to incur any liability".
Section.

The Committee are of the view that in the marginal note for "section" substitute "Section 37".

The Departmental representative agreed to it as it was printing mistake and would be corrected.

Rule 18—

"18. Cognizance of criminal cases.—When a complaint is lodged orally under section 43, the Sarpanch or the Panch receiving it shall forthwith reduce the same to writing in the form of a narrative giving the name, parentage, age and residence of the complainant as well as of the accused along with the details of the complaint."

The Committee are of the view that between the words "reduce" and "the", insert the words "or cause to be reduced".

The Departmental representative agreed to it.

Rule 21—

Clause (a)—

"21. Processes.—(a) Every summons issued by a Panchayat shall be in duplicate in Form IX, X or XI, as the case may be and shall specify the time, date and place at which the person is required to attend and also whether his attendance is required as an accused, a defendant, a judgement debtor or other party or a witness, or for the purpose of giving evidence, or to produce a document or for any other purpose. If any particular document is to be produced it shall be described in the summons with reasonable accuracy."

(b)

(i) The Committee are of the view that between the words "be" and "and" add the sign ",".

The Departmental representative agreed to it.

(ii) The Committee are of the view that after the word "witness", the sign "," and the word "or" be deleted.

The Departmental representative agreed to it as it was again a printing mistake.

vi) THE PUNJAB VILLAGE COMMON LANDS (REGULATION) RULES, 1964 FRAMED UNDER THE PUNJAB VILLAGE COMMON LANDS (REGULATION) ACT, 1961

The Committee went through the provisions of the Punjab Village Common Lands (Regulation) Act, 1961, and then scrutinized the Punjab Village Common Lands (Regulation) Rules, 1964.

GENERAL

The Committee felt that the Panchayat could neither acquire any property, nor it could sue or be sued; the corporate body being the gram sabha and not the gram Panchayat. The Committee felt that the remedy lies in amending the Punjab Gram Panchayat Act, 1952.

The Departmental representative stated that in consequence of the advice given by the Committee during their deliberations at their meeting held on the 29th November, 1968, the Department has initiated steps, at the departmental level, to amend the said Act suitably, though the matter will go to the Minister concerned.

The Committee desired that the matter be expedited and the final decision taken in the matter be conveyed to the Committee.

The Departmental representative assured the Committee accordingly.

Rule 4—

“4. Terms for saving existing possession—

(1) Where a person has built a house or erected any other structure on any land in the Shamlat deh, before the coming into force of the Act, the Panchayat may allow such person to retain possession of the site by—

(a) selling it to him at the market value prevailing at the time of the sale to be determined by the Collector or the officer appointed by him for the purpose; provided that if the person concerned is unable to pay the entire amount immediately it shall be recovered in such instalments to be spread over a period not exceeding five years as may be determined by the Panchayat; or

(b) leasing out the site to him at an annual rent to be determined by the Collector or the officer appointed by him for the purpose at the rates prevailing at that time.

(2) Subject to sub-rule (1), the terms and conditions for sale or lease of land in shamlat deh shall be determined by the Panchayat.”

The Committee thought that in view of proviso (VI) to clause (g) of section 2 of the Punjab Village Common Lands (Regulation) Act, 1961, the house, which lies outside the abadi deh, has been exempted from the definition of Shamlat deh. It does not, therefore, vest in the Panchayat and the Panchayat has got no right to sell or lease out the site of the house. The Committee was, therefore, of the view that rule 4 was ultra vires of the provisions of the Act and may be deleted.

The Departmental representative stated that the Legal Remembrancer would be consulted on this point and further action would be taken on the basis of his advice and the Committee informed accordingly.

Rule 6—

- “6. *Leases to be by auction.*—(1) Subject to the provision of sub-rule (1) of rule 4, all leases of land in shamlat deh shall be by auction, after making publicity in the manner laid down in sub-rule (10). All documents executed in this connection shall be signed by a Sarpanch or in his absence by a panch performing the duties of the sarpanch and two other panches of the Gram Panchayat :

Provided that :—

- (a) one third of the cultivable land proposed to be leased shall be reserved for giving on lease by auction to members of the scheduled castes only and if on two different dates fixed for auction no such person is forthcoming, or the Panchayat Samiti refused to confirm the auction under clause 2(a) (i) the reservation shall cease to have effect ; and
 - (b) any sarpanch or panch or member of his family such as father, grand-father, mother, grand-mother, wife, son, grand-son, great grandson or any other relative dependent on him shall not be allowed to bid for the auction and to take land in shamlat deh on lease.
- (2) Lease of land in shamlat deh already under plough shall not be given for a period exceeding two years while that of land not under plough and infested with trees, bushes, etc., may be given for a period not exceeding five years to the highest bidder. The auction shall be subject to the approval of—
- (a) the panchayat Samiti—(i) where the area does not exceed 100 acres and the highest bid of the lease at the auction is less than the average lease rate of similar lands in the neighbourhood for the last five years ; or
 - (ii) where the area exceeds 100 acres, but does not exceed 500 acres ;
 - (b) the Zila Parishad—where the area exceeds 500 acres, but does not exceed 1,000 acres ;
 - (c) the Government—where the area exceeds 1,000 acres ;

Provided that on the application of the lessee made before the expiry of the lease, the panchayat may renew the lease for a period not exceeding two years at a time, if it considers that renewal of lease is in the interest of better cultivation and is satisfied that the lessee has made improvements by rendering such land fit for cultivation or has made improvements by digging a well or installing a pumping set or a tube-well or constructing a pucca structure on such land :

Provided further that the annual rent of such land for which lease has been renewed shall be determined by the Collector or the officer appointed by him for the purpose on the basis of market rental value of similar lands in the neighbourhood.

- (3) All lands near the abadi deh vested in the Panchayat and used for industrial purposes may be leased out for a period not exceeding ten years by auction in February every year.
- (4) All ponds used for the plantation of Shingharas and for stocking fish may be auctioned in the month of September every year.
- (5) The leases of land in Shamlat Deh for extraction of shora, sand, stone, kankar, bajri, and other minor minerals (as defined in the Punjab Minor Mineral Rules) and grass, kahl and similar other products shall be auctioned at a time to be determined by the Panchayat where it may be considered to be of maximum advantage for the inhabitants of all village.
- (6) The Panchayat may auction every year the surplus and useless trees. All trees standing on the land in shamlat shall be marked with numbers and those numbers shall be specifically mentioned in the auction notice and the lease deed.
- (7) The leases of cultivable land in shamlat deh shall be auctioned for rent-in-cash ordinarily in the month of October or November to the maximum advantage of the inhabitants of the village and the annual lease money shall be paid as under :—
 - (a) For the first year of the lease, one-fourth of the annual rent shall be paid by the bidder on the spot and the remaining three-fourth before the possession of the land is delivered to him :

Provided that the possession of the land shall not be delivered by the Panchayat to the lessees concerned earlier than February next. Where in any land uncut or ungathered crops of the previous lessees are standing in any part thereof, the possession of that part shall be delivered when the crop has ripened and the person concerned has been allowed a reasonable time to harvest them.

- (b) For the remaining years of lease, if any, the annual rent shall be paid in advance in February, every year.
- (8) In every case of lease, a lease deed shall be duly executed by the lessee, and the lessee shall surrender to the panchayat possession of the land leased to him if he defaults in the payment of rent subject to the provisions of the Punjab Tenancy Act, 1887.
- (9) The Panchayat may, by resolution passed in this behalf, entrust the auction of lease of any land in shamlat deh vested in it to the Panchayat Samiti which may depute its executive officer to conduct the auction, after giving due publicity in the manner specified in sub-rule (10), at the cost of the Panchayat.

(10) (1) The publicity to lease auction programme shall be given 15 days before the date of auction by specifying the description of land, the date, time and place fixed for the auction of lease.

(a) through any local vernacular newspapers and where the auction of stone quarries, bajri or other minor minerals, etc., is to be held, also through an English newspaper.

(b) by pasting a copy of the auction notice on outer door of Panchayat ghar, village Patwar Khana, Offices of Panchayat Samiti and Zila Parishad, and at some other conspicuous places of the shamlat deh or of the estate in which the shamlat deh is situated ; and

(c) by beat of drum within the Sabha area.

(2) The terms and conditions of auction shall be announced at the time of auction."

(i) The Committee are of the view that in sub-rule (1) of rule 6, for the words " a Sarpanch " occurring in between the words ' by' and 'or' substitute " the Sarpanch ".

The Departmental representative agreed to it .

(ii) The Committee noted that the term " abadi deh" used in sub-rule (3) of rule 6, has neither been defined in the Punjab Village Common Lands (Regulation) Act, 1961, nor in the Rules. Therefore, the Committee are of the view that this term ought to be defined either in the Act or in the Rules framed thereunder.

The Departmental representative assured the Committee that the matter would be examined.

(iii) The Committee are of the view that the ponds for shingheras should be auctioned in the month of July because the crop is ripe in the month of September and there is no use in auctioning the land in the month of September, as mentioned in sub-rule (4) of rule 6. Therefore, the Committee feel that in this sub-rule , for " September", substitute " July".

The Departmental representative assured the Committee that the matter would be examined.

(iv) The Committee are of the view that sub-rule (5) of rule 6 should be deleted in view of the recent notification issued by the State Government taking away all these minerals from the purview of the Panchayats transferring their control to the Industries Department.

The Departmental representative assured the Committee that the matter would be examined.

(v) The Committee are of the view that the words "and the lease deed" occurring in sub-rule (6) of rule 6, be deleted because the trees would be sold and not leased out.

The Departmental representative stated that it appears that instead of "lease deed" the words should be "sale deed."

- (vi) The Committee is of the view that for the words "October or November" occurring in sub-rule (7) of rule 6, substitute "April" because generally the land becomes vacant after the harvesting of rabi crop in the month of April and should, therefore, be auctioned in the month of April and not in the month of October or November.

The Departmental representative stated that the matter would be examined.

- (vii) The Committee are of the view that for the word "February," occurring in clause (a) of sub-rule (7) of rule 6, substitute "May", because the possession of the land can only be delivered in the month of May and not in the month of February, when it is not vacant.

The Departmental representative stated that the matter would be examined.

- (viii) The Committee are of the view that for the word "February" occurring in clause (b) of sub-rule (7) of rule 6, substitute "May", because the possession of the land can only be delivered in the month of May and not in the month of February, when it is not vacant.

The Departmental representative stated that the matter would be examined.

- (ix) The Committee are of the view that the first letters "e" and "o" of the words "executive" and "officer" occurring in sub-rule (9) of rule 6, be substituted by capital letters.

The Departmental representative agreed to it.

- (x) The Committee are of the view that clause (a) of sub-rule (10) of rule 6, be deleted and clauses (b) and (c) be renumbered as clauses (a) and (b).

The Departmental representative stated that the matter would be examined.

Rules 10 and 11—

"10. *Land to be used free of charge.*—The Panchayat may allow the use of land in shamlat deh vested in it free of charge to the inhabitants of the village for any one or more of the following purposes —

- (a) Steeping of hemp or any other plant in ponds.
- (b) Residential purposes of members of the Scheduled Castes, or Backward classes, or landless labourers or tenants in genuine cases on grounds of poverty.
- (c) Any other suitable common purpose."

"11. *Purposes for which land may be hypothecated.*—A Panchayat may with the prior sanction of the Zila Parishad, hypothecate the land in

shamlat deh vested in it for the purpose of borrowing money from the Government or a Co-operative Bank for the improvement of such land or for any other development scheme."

The Committee are of the view that the reference of the sections under which these rules have been made should be given in the margin.

The Departmental representative agreed to it.

Rule 16—

Sub-rule (3)—

- (1)
 (2)

"(3) The Sarpanch or panch so appointed shall not be competent to compound or admit claim of the party suing the Panchayat without prior authorisation by the Panchayat by a resolution in writing, passed in a meeting specifically called for the purpose. If any decree or order is passed by the Court as a result of fraud, misrepresentation, concealment of facts or collusion with the opposite party, the Sarpanch or panch shall be personally liable for the loss caused to the Panchayat."

The Committee are of the view that the word "concerned" be added in between the words "panch" and "shall".

The Departmental representative agreed to it.

Rule 17—

"17. *The manner and the order of priority in which the excess area is to be utilised by the Collector under sub-section (1) of section 5.*—(1)(i) The landless tenants and other tenants ejected or to be ejected in the village shall apply to the panchayat for the allotment of surplus area of shamlat deh earmarked for the purpose not later than October every year. Such applications shall be acknowledged in writing and entered in the register of tenants by the panchayats.

(ii) The panchayat shall formulate a proposal in the month of January every year for the allotment of the surplus area to the tenants and send the proposal to the Collector through the panchayat samiti for approval. The Collector shall ordinarily approve the proposal of the panchayat. Where, however, there are complaints, the Collector may modify or return the proposal to the panchayat for submitting a revised proposal.

(iii) Where there are more tenants than the surplus area with the panchayat, preference shall be determined by the order in which applications for resettlement were made and where the applications had been made simultaneously the priority shall be decided by drawing lots.

(2) (i) Applications for distribution of the remaining excess area of shamlat deh, if any, shall be made to the panchayat within one month of the date of determination of such area by the panchayat.

- (ii) Such applications will be acknowledged and entered by the panchayat in the Register to be maintained for the purpose.
- (iii) The Panchayat shall submit a proposal to the Collector in this behalf within two months of the notification of the surplus area through panchayat samiti.
- (iv) In cases where the demand for the remaining excess area exceeds the total available area, priority shall be given to the smallest landowners having equal land holdings, the priority shall be decided by drawing lots.
- (3) In case a tenant or small land-holder does not take possession of the area allotted to him within six months from the date of allotment, the allotment shall be inoperative and that area shall be utilised for resettlement of another tenant or small land-holder as the case may be."

(i) The Committee are of the view that in clause (ii) of sub-rule (1) of rule 17, for the word "or" occurring in between the words "allotment" and "the" substitute "of".

The Departmental representative agreed to it.

(ii) The Committee are of the view that in clause (iii) of sub-rule (1) of rule 17, for the word "than" occurring in between the words "tenants" and "the" substitute "in comparison with."

(iii) The Committee are of the view that in clause (iv) of sub-rule (2) of rule 17, insert the words "and those" in between the words "landowners" and "having".

The Departmental representative stated that the Punjab Government have amended this rule as well as some other rules. Therefore, Haryana Government will also amend this rule on the lines of the amendment made to this rule by the Punjab Government vide their notification No. G.S.R. 58, P.A.118/61/S.15/ Amd (2)/67, dated the 18th July, 1967 (published in Punjab Government Gazette, dated the 21st July, 1967). On the desire of the Committee, the Departmental representative read out rule 17 as amended by Punjab Government, which is as follows:—

"In the said rules, for sub-rules (1) and (2) of rule 17, the following sub-rules shall be substituted, namely:—

- (1) (i) The landless tenants and other tenants ejected or to be ejected in the village shall apply to the Panchayat for the allotment of the excess area of Shamlat Deh, available for the purpose under third proviso to sub-section (1) of section 5, not later than the end of October each year. Each such application shall be acknowledged in writing, and entered in register of tenants, by the Panchayat.
- (ii) The Panchayat shall, in the month of January, every year, formulate its proposals for the allotment of the area referred to in clause (i) to the tenants and send the same to the Collector through the Panchayat Samiti for approval. The Collector may accept the proposal of the Panchayat, with or without

any modification, or return the same to the Panchayat for sending a revised proposal.

- (iii) Where the area available for allotment to the tenants is not sufficient to satisfy all the applicants, preference for the purpose of allotment shall be determined by the order in which applications for allotment were made and where the applications were made on the same day, the priority shall be decided by drawing lots.

- (2)(i) Applications for allotment of excess area of Shamlat Deh available for distribution amongst small landowners under the third proviso to sub-section (1) of section 5 shall be made to the Panchayat within one month of the date of determination of such areas by the Panchayat.

- (ii) Each such application shall be acknowledged in writing and entered in the register maintained for this purpose, by the Panchayat.

- (iii) The Panchayat shall submit its proposals to the Collector through the Panchayat Samiti within two months of the date of determination of the excess area by the Panchayat.

- (iv) Where the area available for distribution among small landowners is not sufficient to satisfy all the applicants, priority shall be given to the smallest landowner and where there are more than one small landowner having equal land holdings priority shall be decided by drawing lots."

The Committee expressed that this may be done.

Rule 21—

"21. *Eviction of unauthorised person.*—(1) If, after considering the cause, if any, shown by any person in pursuance of notice under rule 20, and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Assistant Collector is satisfied that the land in shamlat deh is in an unauthorised occupation, the Assistant Collector may on a date to be fixed for the purpose make an order of eviction for reasons to be recorded therein, directing that the land in shamlat deh, shall be vacated by all persons who may be in unauthorised occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door of the Panchayat ghar and at some other conspicuous places of the shamlat deh or of the estate in which the land in shamlat deh is situated.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication, the Collector or any other officer duly authorised by him in this behalf may evict that person from and take possession of, the land in shamlat deh and may, for that purpose, use such force as may be necessary."

(i) The Committee are of the view that in sub-rule (1) of rule 21, there is no provision for evidence being led by the applicant against the person to whom the notice has been issued for being in unauthorised possession of the shamlat land. The evidence of the applicant with regard to the unauthorised

The Departmental representative stated that this point would be examined in consultation with the Legal Remembrancer and Committee informed accordingly .

(ii) The Committee are of the view that in sub-rule (2) of rule 21, add the word "Assistant" before the word "Collector" and delete the words "or any other officer duly authorised by him in this behalf" occurring after the word "Collector".

The Departmental representative agreed to it.

FORM I

Register containing the description of Shamlat Deh

Name of Gram Panchayat_____

Tehsil and District.....

Serial No	Description of land	No. of trees growing on the land	Details of the land given on lease sold	Period for which lease has been decided or conditions of sale	Total amount of lease or sale-proceeds	Amount collected as lease sale proceeds
1	2	3	4	5	6	7

Balance	To whom leased or sold	Signatures of of the Sarpanch	Signatures of lessees/ purchasers	REMARKS
8	9	10	11	12

4

—

11

The Committee are of the view that the word "or" be added in between the words "lease" and "sold" occurring in the heading of column 4. Further the Committee are of the view that the word "or" be added in between the words "lease" and "sale" occurring in the heading of column 7.

The Departmental representative agreed to it.

Form III—

FORM III

Register of Rents and Receipts

Name of Gram Panchayat_____.

Tehsil and District_____.

Serial No.	Nos of the files	Area of the fields	Name of the tenants	Rate fixed	Rent in arrears	Total sum recoverable	Sum recovered	Receipt No. and date
1	2	3	4	5	6	7	8	9

The Committee are of the view that for the word "files" substitute the word "fields" occurring in the heading of column 2.

The Departmental representative agreed to it.

Rule 3 (i) of the Punjab Village Common Lands (Regulation) Rules, 1955

The Committee referred to rule 3(i) of the Punjab Village Common Lands (Regulation) Rules, 1955 and enquired from the Departmental representative as to why such a provision does not exist in the new Rules of 1964 and why this provision has been omitted from the new Rules.

That rule lays down—

"If a tenant or a member of his family, or previous co-sharer, is proved to be in cultivating possession of land for 20 years or more, he should be allowed to cultivate the land on the same terms and conditions as applied to him on the appointed date ;

Provided that, if such a person also owns land, he will not be entitled to the benefit of this provision, if, on the appointed date the area of the land owned by him is 10 or more acres ; and where the

area of the land owned by him is less than 10 acres, he will benefit by this provision only to the extent of the difference between 10 acres and the area owned by him on the appointed date ; provided further, if such a person wants to purchase such land he shall, but only to the extent defined in the first proviso, be allowed to do so, on application made to the Panchayat and on payment of money according to the scale laid down in the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952."

The Departmental representative stated that it will be examined as to why this rule was excluded from the new rules and the Committee will be informed.

**(viii) THE PUNJAB SECURITY OF LAND TENURES RULES
1953 FRAMED UNDER THE PUNJAB SECURITY
OF LAND TENURES ACT, 1953**

The Committee went through the provisions of the Punjab Security of Land Tenures Act, 1953 and scrutinized the Punjab Security of Land Tenures Rules, 1953, but made no observation.

**(viii) THE PUNJAB SECURITY OF LAND TENURES RULES,
1956 FRAMED UNDER THE PUNJAB SECURITY OF
LAND TENURES ACT 1953**

The Committee also scrutinised the Punjab Security of Land Tenures Rules, 1956 framed under the Punjab Security of Land Tenures Act, 1953 and after examining the Departmental representatives made the following observations :—

Rule 2(v) and Rule 10—

Rule 2(v)—

"(v) 'tea estate' will include—

- (a) area under tea plantation ;
- (b) areas on which there is programme for expansion of tea plantation during the next ten years ;
- (c) five per cent of the area under tea, for replanting ;
- (d) areas covered by forests and forest growth and grazing grounds of which the fuel wood, timber and grass is required for the manufacture of tea and maintenance of tea estate ;
- (e) low-lying lands which generally serve as water reservoirs for the use of tea plantation ; and
- (f) land on which tea factories, labour quarters, play grounds, hospitals, schools and other ancillary buildings are situated."

Rule 10—

"10(1). In deciding the landowner's application, the Committee shall exclude from the surplus area to be utilized for the resettlement of ejected tenants :—

(a)

*

*

*

*

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- (b) Any area that is under (x x x) tea estate, provided such (x x x x) tea estate was in existence at the commencement of the Act.
- (c) Any area that is part of a well run farm.
- (2) To decide if a farm is well run, the Committee shall assign its marks, in the manner explained in Rule 11, and classify it as follows :
- Class A*—If it is awarded 80 per cent or more marks.
- Class B*—If it is awarded 60 to 80 per cent marks
- Class C*—If it is awarded less than 60 per cent marks:
- (3) (a) A class 'A' farm shall be deemed to be a well-run farm.
- (b) 50 per cent of the area under a farm of class 'B' shall be left with the owner, according to his choice, and the rest declared as available for resettlement of tenants, ejected or liable to ejectment.
- (c) The entire area under a farm of class 'C' shall be declared as available for the resettlement of such tenants.
- (4) (Deleted)."

The Committee wanted to know the necessity of retaining the provisions relating to 'tea estate' in the Rules when there was no 'tea estate' in the State of Haryana.

The Departmental representative stated that there was no tea plantation in Haryana.

The Committee, accordingly, recommend that the desirability may be considered by the Government to delete the provisions for 'tea estate' from the said rules.

Rule 6—

Sub-rules (8) and (9)—

(1)	x	x	x	x	x	x
(2)	x	x	x	x	x	x
(3)	x	x	x	x	x	x
(4)	x	x	x	x	x	x
(5)	x	x	x	x	x	x
(6)	x	x	x	x	x	x
(7)	x	x	x	x	x	x

- "(8) Any person aggrieved by a decision of the Collector or the Special Collector may, within 60 days from the date of communication

of the decision to such person, to be computed after excluding the time spent in obtaining a copy of such decision, appeal to—

- (a) The Commissioner of the Division where the person resides, in case the person resides in Ambala or Jullundur Division ;
- (b) The Commissioner of the Division where the largest portion of the holding of the person is situate, in case the person resides outside Ambala and Jullundur Divisions ;

and the decision of the Commissioner which shall be duly communicated by the Commissioner to the Collector or Collectors concerned shall be final ”

Sub-rule (9)—

“(9) The Collector or the Special Collector or the Commissioner shall not while deciding any case under this rule, entertain any claim from a landowner for the exemption of any area on any of the grounds set forth in sub-rule (1) of rule 10 ”

(i) The Committee are of the view that in clause (a) of sub-rule (8) of rule 6, the words “or Jullundur” be omitted

(ii) The Committee are further of the view that in clause (b) for the words “and Jullundur Divisions” substituted the word “Division”.

The Departmental representative stated that the Government will re-cast this rule in the light of the provisions contained in the Punjab Reorganisation Act, 1966

(iii) The Committee are of the view that in sub-rule (9) of rule 6 after the word “not” add the sign “,”.

The Departmental representative agreed with the view of the Committee.

Rule 8 :—

Sub-rule (1)—

“(1) If any landowner wishes to claim exemption on the ground that his surplus area is under a tea estate, or forms part of a well-run farm he may, within a period of thirty days from the date of publication of Revenue Department notification No (632-A R.I (II)-61/492, dated the 13th February, 1961) or from the date of the order, passed by the Collector or the Special Collector, declaring the surplus area, or where an appeal against such order has been preferred to the Commissioner, within a similar period from the date of the order passed by the Commissioner, whichever is earlier, apply in Form ‘H’ together with relevant information in Form ‘J’, to the Collector of the district in which the land for which exemption is claimed is situate.”

(2) X X X X X

The Committee are of the view that in sub-rule (1) of rule 8, the sign “,” occurring, between the words “order” and “passed” for the first time be omitted.

The Departmental representative agreed to it.

Rule 9:—

Sub-rule (1)—

“(1) On receipt of the application in Form H, the Collector shall place it before a Committee consisting of himself, as Chairman, one non-official member and an official of the Agriculture Department, both to be maintained by Government. Government may, if considered necessary also nominate an officer of the Revenue Department to represent it on the Committee.”

(2)		X		X		X		X		X
	X		X		X		X		X	

The Committee are of the view that in sub-rule (1) of rule 9, for the word “maintained” substitute “nominated”.

The Departmental representative agreed to it as it was a typing mistake.

Rule 13 :—

Sub-rule (2) (c)—

(1)		X		X		X		X		X
(2)		X		X		X		X		X
(a)		X		X		X		X		X
(b)		X		X		X		X		X

“(c) the amount of compensation, if any, due to the tenant for standing crops ;”

(3)		X		X		X		X		X
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The Committee are of the view that after clause (c), add the following proviso —

“Provided that the tenant shall not be dispossessed before 1st May and after 15th June”.

The Departmental representative stated that the Department had no objection to it unless it is found that he had been holding the land contrary to law. However, the Departmental representative stated that the suggestion of the Committee would be examined in consultation with the Law Department and Committee would be informed of the result of the examination.

Rule 14 :—

“14. The landowner of a tenant who is liable to ejectment under clause (i) of sub-section (1) of section 9 of the Act, may make an

application to the Circle Revenue Officer for resettlement of his tenant on the surplus area. Such an application shall be made a small landowner in Form K-3 and by a landowner who is not a small landowner in Form K-4 within two months of the date of publication of the No. 4766-ARI (II)-60/2580, dated the 19th August, 1960, in the Official Gazette or within such extended period as may, for reasons to be recorded in writing, be allowed by the Circle Revenue Officer."

The Committee are of the view that between the words "made" and "a" add the word "by".

The Departmental representative agreed to it as it was a typographical mistake.

Rule 16:—

"16. Notwithstanding anything contained in rules 13, 14 and 15 proceedings for resettlement on surplus area of any tenant who is liable to be ejected under sub-clause (i) of sub-section (1) of Section 9, may be Re-initiated *suo motu* by the Circle Revenue Officer."

The Committee are of the view that the word "Re-initiated" be written as "re-initiated".

The Departmental representative stated that it is a typing mistake. It should be "initiated" and not "re-initiated".

Rule 20-A :—

"20-A. Every tenant shall be given a certificate in Form K-6 describing clearly the land allotted to him. A copy each of the certificate shall be sent to the Patwari concerned as well as the landowner on whose land the tenant is to be resettled, and another copy shall be retained on the file for record."

The Committee are of the view that the word "each" be deleted.

The Departmental representative agreed to it.

Rule 20-B :—

Sub-rule (1)—

"(1) After orders of allotment of any surplus area have been passed, the Circle Revenue Officer shall move the Collector for passing necessary orders directing the landowner or the tenant, as the case may be to deliver possession of the land in his surplus area to the Circle Revenue Officer who shall be deemed to be an officer empowered by the Government under section 19-C for the purpose of delivery of possession."

(2)	X	X	X	X	X
(3)	X	X	X	X	X

The Committee are of the view that in sub-rule (1) of rule 20-B, between the words "be" and "to" insert ",".

The Departmental representative agreed to it.

Rule 21—

“21. The following classes of relatives of a landlord shall not be entitled to the benefit of section 9-A of the Act :—

- (1) Father ;
- (2) Sons ;
- (3) Brothers and their descendants ;
- (4) Cousins up to the 3rd degree ;
- (5) Maternal and paternal uncles and their descendants ;
- (6) Nephews upto the 3rd degree.”

The Committee are of the view that items (3), (4), (5) and (6) be omitted, as these classes of relatives of a landlord may be genuine tenants and there is no reason to debar them from the benefit of section 9-A of the Act. Only Father, Sons and Grandsons should be debarred from this benefit because they are generally joint with a landowner.

The Departmental representative stated that the matter would be examined.

Rule 23—

Sub-rule (3)—

(1)	X	X	X	X	X
(2)	X	X	X	X	X

“(3) The lump sum or the first instalment of purchase price shall be deposited in a Government treasury or a sub-treasury or paid to the Assistant Collector I Grade, having jurisdiction, within fifteen days of his determining the value of the land and every subsequent instalment within fifteen days of the date on which it becomes due.”

The Committee are of the view that for the payment of first instalment the period for depositing the amount should be thirty days instead of “fifteen days”.

The Departmental representative agreed to amend the rule accordingly.

ANNEXURE I

HARYANA VIDHAN SABHA SECRETARIAT

Notification

The 31st August, 1968

No. HVS-LA-185/67/9685.—In pursuance of Rule 265-L of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly, the Speaker of the Haryana Legislative Assembly, on the recommendation of the Committee on Subordinate Legislation, has approved for its internal working, the following Rules of Procedure and these are supplemental to the provisions contained in Rules 265-A to 265-M *ibid*, which relate to the functions, constitution and duties, etc. of the Committee on Subordinate Legislation:—

COMMITTEE ON SUBORDINATE LEGISLATION

WORKING RULES

1. The Committee will, from time to time, select and scrutinise the Statutory Rules, Regulations, Orders, Bye-laws, Notifications, etc. issued by the State Government or any other authority in pursuance of the powers delegated to them under the Constitution or under other enactments.

2. As and when required by the Committee, the Administrative Department shall forward to it 25 up-to-date amended copies of such Rules, Regulations, Orders, Bye-laws, Notifications, etc. alongwith 25 copies of explanatory notes explaining in brief broad features of each Rule (that is to say, the need and purpose for which and the section under which it is made). The Legislative Department shall supply 25 copies of the relevant Act duly amended up-to-date for the use of the Committee.

3. As soon as the Rules, Acts, and other papers are received in the Assembly Secretariat, they will be circulated to Members.

4. The members may send their suggestions, if any, to the Secretary, relating to the scrutiny of the Rules, etc., for the consideration of the Committee in advance of the date of the meeting. The suggestions so received will also be circulated to all the Members.

5. When a date and time of a sitting of the Committee has been fixed, notice thereof alongwith the Agenda shall be circulated to the Members of the Committee.

6. The Committee, if considered necessary, would examine the Secretaries to Government concerned with the 'Rule', 'Order', etc.

7. When a Department is required to give evidence before a Committee on any matter, the Department shall be represented by its Secretary:

Provided that the Chairman of the Committee may, on a request being made to him, permit any other senior officer to represent the Department before the Committee.

8. A record of the proceedings of each meeting of the Committee shall be kept by the Secretary.

9. (i) After the Committee adjourns, the Secretary shall, as soon as possible, circulate the draft proceedings of the Committee to each member of the Committee for comments which shall be returned to the Secretary within one week of the date of receipt. If no comments are received, the proceedings will be confirmed by the Chairman as being correct. In case any comments are received, the proceedings shall be corrected, as the Chairman may direct, and shall then be signed by him.

(ii) Relevant portion of the verbatim proceedings of the sitting, at which evidence has been tendered shall also be forwarded for confirmation to the witnesses concerned, who shall return the same, within 72 hours of its receipt, to the Assembly Secretariat after making corrections, if any, in the portion relating to them only. The corrections suggested by the witnesses will be placed before the Committee. The Committee may accept or reject the corrections suggested by the witnesses.

10. The Secretary shall note the points on which further information is required by the Committee and take such action as may be necessary in regard thereto.

11. (i) Where the Committee decides to make a report, the draft report or part thereof will be prepared and considered at a meeting of the Committee and will embody the decisions of the members present and voting.

(ii) There shall be no minutes of dissent.

12. As soon as each report has been completed, it will be printed for presentation to the Assembly. In case, due to unforeseen circumstances, printed copies are not available by the scheduled date of presentation, a type-written copy of report will be presented to the House and printed copies supplied to members later,

13. Copies of the report shall, after its presentation to the House, be forwarded to the concerned Departments for taking further action on the recommendations of the Committee.

14. The action taken by the Departments shall be watched by the Assembly Secretariat and a consolidated statement showing the action taken in respect of each recommendation shall be prepared and placed before the Committee for further consideration.

15. In case where any Department is not in a position to implement, or feels any difficulty in giving effect to a recommendation made by the Committee, the Department shall place its views before the Committee which may, if it thinks fit, present a further report to the House after considering the views of the Department in the matter.

16. Any additional points of procedure which are formulated from time to time shall be incorporated in these rules.

By order of the Speaker.
RAJ KUMAR MALHOTRA,
 Secretary,
 Haryana Vidhan Sabha.

APPENDIX-II

[See Paragraph 11 of the Report]

Letter issued by the Chief Secretary to Government, Haryana, regarding the supply of copies of Rules and Notifications.

Copy of U. O. No. 4475-Pol (4)-67, dated the 2nd/5th September, 1967 from the Chief Secretary to Government, Haryana addressed to the Financial Commissioner, Revenue/All Administrative Secretaries to Government, Haryana and copy endorsed to Haryana Vidhan Sabha Secretariat.

Subject:—Supply of twenty-five copies of the Rules and Notifications etc. framed under various Acts.

Will the Financial Commissioner, Revenue and all Administrative Secretaries to Government, Haryana kindly refer to the subject noted above?

2. It has been decided that 25 copies each of the Rules/Notifications as and when framed issued by Government under any Central/State Act should be supplied to the Secretary, Haryana Vidhan Sabha, for use of the members of the Committee on Subordinate Legislation. Action may kindly be taken accordingly in future.