

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

NINETEENTH REPORT

1987-88

(Presented to the Haryana Vidhan Sabha on the 30th March, 1988)



HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
March, 1988

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COMPOSITION OF THE COMMITTEE

(1987-88)

Chairman

**Sh. Subhash Chand

Members

Sh. Atma Ram

*Sh. Dharmbir

Sh. Mahendra

Sh. Satbir

Sh. Surinder

Sh. Devi Dass

Advocate General

(a) Sh. Lachman Singh Kamboj
Special Invitees

***Sh. Rattan Lal Kataria

****Sh. Sita Ram Singla

Sh. Jai Singh

**Sh. Balbir Pal Shah

Sh. Ved Singh

Secretariat

1. Sh. G.L. Batra, Secretary
2. Sh. S.S. Ahlawat, Joint Secretary
3. Sh. Janardhan Singh, Under Secretary

The Committee was constituted—vide Haryana Vidhan Sabha Secretariat Notification No. HVS-LA (Sub-Leg)—1/87-88/47, dated the 17th July, 1987.

*Shri Dharmbir, M.L.A., resigned from the Membership of the Committee with effect from 5th August, 1987 on his appointment as Minister of State, Haryana, vide,—Notification No. HVS-LA (Sub-Leg)-1/87-88/56, dated the 6th August, 1987.

**Shri Subhash Chand, M.L.A., resigned from the Chairmanship and Membership of the Committee with effect from 12th August, 1987 on his appointment as Minister of State, Haryana, vide—Notification No. HVS-LA (Sub-Leg)—1/87-88/64, dated the 14th August, 1987.

***Shri Balbir Pal Shah, M.L.A., resigned as Special Invitee of the Committee with effect from the 17th September, 1987 vide.—Notification No. HVS-LA (Sub-Leg)-1/87-88/67, dated the 18th September, 1987.

(iv)

***Shri Rattan Lal Kataria, M.L.A., resigned as 'Special Invitee of the Committee with effect from the 14th September, 1987 on his appointment as Parliamentary Secretary, Haryana, vide.—Notification No. HVS-LA (Sub-Leg)-1/87-88/78, dated the 8th October, 1987.

****Shri Sita Ram Singla, M.L.A., resigned as Special Invitee of the Committee with effect from the 17th September, 1987 on his appointment as Minister of State, Haryana, vide,—Notification No. HVS-LA (Sub-Leg.)—1/87-88/81, dated the 11th November, 1987

@ Shri Lachhman Singh Kamboj, M.L.A., was nominated by the Speaker as Member to serve on the Committee with effect from 1st February, 1988, for the remaining period of the year 1987-88, vide Notification No. HVS-LA (Sub-Leg)-1/87-88/7, dated the 7th February, 1988.

INTRODUCTION

1, a Member of the Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Nineteenth Report.

2 The Committee consisting of eight Members (including the Advocate General and five Special Invitees was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 17th July, 1987 and was notified in the Official Gazette.—vide Notification No. HVS-LA (Sub-Leg)-1/87-88/47, dated the 17th July, 1987

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

4. The Committee place on record their appreciation for the valuable and willing assistance given by the Administrative Secretaries, Departmental Officers and the representative of the Law Department in their deliberations.

5. The Committee also place on record their high appreciation and whole hearted co-operation and assistance given by the Secretary, Joint Secretary, Under Secretary, Superintendent and staff of the Legislation Branch.

CHANDIGARH :

LACHHMAN SINGH KAMBOJ,
ACTING CHAIRMAN
MEMBER

The 2nd March, 1988.

REPORT

1. The Committee on Subordinate Legislation for the year 1987-88, consisting of eight Members, including the Chairman and the Advocate General and five Special Invitees was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 17th July, 1987 and was notified in the Official Gazette,—vide Notification No. HVS-LA (Sub-Leg)-1/87-88/47, dated the 17th July, 1987.

2. Shri Subhash Chand, was appointed as the Chairman of the Committee by the Speaker

3. The Committee held 35 sittings till presentation of the Report. Before scrutinizing the rules and orders etc. framed under certain Acts the Committee discussed its scope and functions and the procedure for scrutinizing the rules, regulations, order etc. Committee also orally examined the representatives of various Departments of the State Government

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 242, 250 and 251 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly. Rule 242 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 Legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker". Further rule 250 of the said Rules lays down that while examining any such set of rules, bye-laws, 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 matters, which in the opinion of the Committee should more properly be dealt within an Act of the 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, and
- (ix) whether for any reason its form or purport calls for any elucidation

Rule 251 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 order should be brought to the notice of the House, it may report that opinion and matter to the House.

In short, the functions of the Committee are to see if the rules framed by the Executive are within the scope of the delegation made under the Act and do not go beyond the scope of such delegation. If the Committee finds that any rule is beyond the scope of the powers delegated under the Act by the Legislature, the Committee can recommend that the rule be suitably amended or omitted.

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

The Committee is competent to send for persons, papers or records if such a course is considered necessary for the discharge of its duties. In this connection attention is invited to rule 248 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly, which reads as under :—

“248. (1) The Committee on Subordinate Legislation shall have power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties :

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker, whose decision shall be final :

Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

(2) A witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of Committee.

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.

(4) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee."

The Committee has framed the working rules wherein the detailed procedure has been laid down. Generally, the Committee from time to time select set of rules framed under the various Acts for their scrutiny and examine these at the first instance at their own level with the assistance of the Law Department and the Vidhan Sabha Secretariat. The Committee then invites the Administrative Secretary concerned for oral examination to explain the discrepancies found in the various rules/orders. After the rules/orders and the departmental representatives have been examined, the Committee prepares the report and presents it to the House.

Some of the Parliamentary conventions established in connection with the scrutiny of Rules, Regulations, Bye-laws etc. are given below :—

1. The Committee would scrutinise only such rules as have already been framed and published in the Gazette and not the draft rules.

2. The Committee should see that rules are framed under an Act as early as possible after the enactment of the Act and in no case this period should exceed six months. If the Rules are not framed within six months, the Committee may ask the Department about the reasons for the delay in framing the Rules. This is only by convention.

3. Executive should ensure that no rule goes beyond the power delegated by legislature. If the rules go beyond the power delegated by legislature, the Committee may examine the same and report to the House.

4. The Executive should be impressed upon that whenever rules are framed or amendments are made in the existing rules, these should be serially and centrally numbered and should indicate in the margin of each rule the reference of the section under which the rules are framed.

However, some of the broad principles established by the Committee for the guidance of the Executive are given below :—

- (i) As far as possible, guidelines/criteria to be followed by the authority concerned for the exercise of discretionary power vested in it should be laid down in the rules.

- (ii) In cases where the authority concerned deviates from a norm, it should be required to record in writing the reasons for such deviation.
- (iii) Before any adverse action is taken against a party, it should be given a reasonable opportunity of being heard; and after a decision adversely affecting a party has been taken it should have the right of appeal or representation, as the case may be.
- (iv) In order that the persons similarly placed are not treated differently, the powers of exemption/relaxation should be exercisable in respect of categories or classes of persons, as contradistinguished from individuals.
- (v) In cases where an authority concerned is vested with the power to suspend a license or supplies, pending institution of regular proceedings, a maximum time-limit for suspension should be laid down in the rules.
- (vi) The provisions of rules which may make a citizen liable to a penalty should be well-defined and not worded vaguely.
- (vii) In case of seizures and searches, suitable safeguards like the presence of witness, preparation of inventories of seized goods and giving a copy thereof to the persons concerned should be provided.
- (viii) In case of rules relating to disciplinary proceedings not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority be also laid down in the rules.
- (ix) Statutory rules should be amended by statutory rules only and not by executive orders.
- (x) The rules made in exercise of powers delegated under statute are precise and free from ambiguity instead of being cryptic, sketchy or skeleton or needing further interpretation. It should be in simple language so that different people cannot put different interpretations. For example, expressions like 'unreasonably, large quantity', 'reasonable interval' or 'frequent intervals' etc. should be avoided.

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1. Delay in framing the Rules

The Committee reiterates the recommendations made in its previous eighteen Reports and observes that ordinarily Rules should be framed as early as possible after the enactment of an Act and in no case the period should exceed six months. If no rules are framed within the said period after the enactment of the Act, the Department concerned

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 Committee further recommends that whenever an Ordinance is promulgated, the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules.

2 Reference of Section under which Rules are framed

The main function of the Committee on Subordinate Legislation is to scrutinise and report to the House whether the powers to make regulations, rules etc. conferred by the Constitution or delegated by the Legislature are being properly exercised by the Executive within the delegation. The Committee observes that the Government Department generally supply the copies of rules without the preamble or note above the rules with the result that it becomes rather difficult for the Committee to know under what precise authority the rules have been framed. The Committee further observes that reference of the section under which each rule or order was framed is not indicated generally in the margin of each rule. The Committee is of the view that giving of reference of the section under which each rule has been framed in the margin of each rule is essential to enable the Committee and all concerned to know under what precise authority each rule has been framed.

The Committee reiterates the recommendations made in its earlier Reports that whenever rules are supplied to it the authority or the relevant section under which a particular rule or set of rules has/have been framed should also be mentioned in the margin of each rule.

If in the margin of each set of rules there is no reference of the section (s) under which each rule has been framed, Government Departments may invariably supply a memorandum containing the reference to the relevant section of the Act under which each rule has been framed so that the Committee may be able to understand under what precise authority each rule has been framed and whether in any case the Government has transgressed the powers delegated by the Legislature.

The Committee further recommends that whenever several amendments are made in a set of rules the same may be republished after incorporating all the amendments made from time to time. This recommendation of the committee should be observed meticulously.

3. (i) Supply of printed and up-to-date corrected copies of the Rules

The Committee observed that certain Departments supplied cyclo-styed copies of the rules for its scrutiny. During the scrutiny of the rules the Committee came across a large number of typographical/spelling mistakes in those copies, with the result that it was difficult for it to determine whether the errors were typographical or they actually existed in the rules, as originally published in the Gazette. The Committee therefore, recommends that copies of the rules to be supplied to it by the Department should be in the printed form or in the form of

Gazette in which they are published, If, however, it is not possible for the Department to do so, it should be ensured that the copies of the rules, orders etc. are up-to-date, meticulously compared and duly corrected before supplying these to the Committee to save its valuable time in pointing out such mistakes.

The Committee further recommends that it is the duty of the Department concerned to see that the rules supplied to the Committee are amended up-to-date and ensure that the suggestions/recommendations/observations made by the Committee from time to time and agreed to by the concerned Department are implemented by the Department and incorporated in the rules.

The Committee further recommends that whenever any Act is amended, it should be looked that the relevant rules and forms are also amended as to bring them in consonance with the change in the Act.

(ii) Footnote in the Act and Rules

It came to notice of the Committee that some times it is laid down in the Act and Rules that such Act and Rules shall come into force on such date as may be specified in the notification by the State Government. The Committee is of the view that in such circumstances the date of commencement of the Act and Rules should invariably be given in the footnote so that legislators in particular and the public in general may come to know as to from which date the Act and Rules had come into force.

The Committee further recommends that whenever any amendment is made in an Act or Rules framed thereunder, it should also invariably be stated in the footnote the reference of the Act or Rules by which amendment has been made.

4. Notes below the Rules

The Committee observes that the Government Departments while framing a set of Rules give notes and guidelines below the rule, this tendency should be curbed by the Government and such notes should be given in the shape of rules as these notes do not form part of the rules and these notes have no force of law.

5. Framing of Rules/Laws under Article 309 of the Constitution

The Committee observes that no Act has so far been enacted under Article 309 of the Constitution of India for regulating the conditions of service of the employees of the State. However, the conditions of service of the employees are regulated by the rules framed under proviso to Article 309 of the Constitution of India.

The Committee feels that after a long period of 39 years, it is improper to continue to enforce the service rules framed under the powers conferred by proviso to article 309 of the Constitution of India, which is a transitory provision empowering the State Government to frame

Rules till they do not have their own Legislation. The Committee is constrained to observe that the time has now come rather the State Government is late in not enacting an Act as envisaged in Article 309 and recommends that an Act under Article 309 of the Constitution of India should be enacted to regulate the conditions of service of the employees relating to recruitment, punishment etc. of Government servants in replacing the existing rules and necessary steps should be taken in that direction by the State Government at the earliest.

The Committee in its earlier report for the year 1983-84, 1984-85, 1985-86 and 1986-87 made recommendations in this behalf but no efforts seem to have been made by the State Government in this behalf. The Committee reiterates its earlier recommendations and hope that the Government will soon make an Act under proviso to Article 309 of the Constitution of India so that there may be uniformity in the regulation of conditions of service, recruitment and punishment etc. of the civil servants.

6. Publishing the Acts and Rules in Hindi

The Committee observes that at present Acts and Rules are available in English language only. The Regional language of the State as well as National Language is Hindi. Under the Haryana Official Language Act, 1969, at present, whenever any Bill is introduced in the State Legislature, its authenticated Hindi translated version is also supplied to the Members. The Committee reiterates its earlier recommendation and recommends that all the Acts and Rules be translated into Hindi and made available to the legislators in particular and the public in general so that everybody may be able to know the law of the land.

7. Laying of Rules on the Table of the House

The Committee has observed that a majority of the Acts contain provisions requiring the Government merely to publish the Rules framed thereunder in the Official Gazette. There is no provision for laying the same on the Table of the House, with the result that the House can exercise no direct check over them. The Committee is of the view that there should be uniformity in the provisions of the Acts, delegating legislative powers and recommends that in future all the Acts, enacted by the State Legislature whether falling in the State List or Concurrent List of Seventh Schedule of the Constitution of India, which contain provisions for making rules should also invariably lay down provision for laying of rules on the Table of the House as soon as possible.

8. Delay in laying Rules on the Table of the House

The Committee recommends that where the rules, orders etc. are required to be laid on the Table of the House/before the State Legislature under any statute, the same should be laid on the Table of the House as early as possible immediately following such publication in the Gazette, so that the House may statutorily modify or annul such rules. If such rules are published, while the Assembly is in Session, the rules should be laid on the Table of the House during that Session.

The Committee also recommends that in future each Government Department concerned should invariably forward with each set of "Orders", such as rules, regulations, bye-laws, etc. the following Statement of "Orders" in respect of which there has been delay in framing the orders and laying them on the Table for the information of the Committee :—

Statement of "Orders" such as rules orders, regulations, etc. in respect of which there has been delay in framing the "Orders" and laying them on the Table—

Sr. No.	Name of order	Descrip- tion of "Order"	Date of publica- tion in the Gaz- ette	Date of laying on the Table	Approximate delay and reasons of delay, if any	Depart- ment concer- ned
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9. Implementation of recommendations of the Committee

The Committee observes with great regret that the work regarding the implementation of recommendations/observations is very slow. The Committee, which works on behalf of the House, felt that the object with which it was constituted would be defeated if its recommendations are either not implemented at all or are implemented after a long time.

The Committee, therefore, recommends that the action on the outstanding recommendations and observations contained in its earlier reports should be given top priority and expedited. The Committee also recommends that when a recommendation is implemented by the Government, the Department concerned should supply a copy of the notification containing the amendment in the rules along with the statement showing the action taken by the Government in the implementation of its recommendations/observations.

**SCRUTINY OF THE PUNJAB ENTERTAINMENTS DUTY RULES,
1956 FRAMED UNDER THE PUNJAB ENTERTAINMENTS DUTY
ACT, 1955.**

The Committee scrutinized the Punjab 'Entertainments Duty Rules, 1956 framed under the Punjab Entertainment Duty Act, 1955 and made the following observations/recommendations thereon :—

Rule 1.

"Short title and commencement.—(1) These Rules may be called the Punjab Entertainments Duty Rules, 1956 (Haryana Amendment), Rules, 1978.

(2) They shall come into force at once in Supersession of the Punjab Entertainments Duty Rules, 1936."

The Committee recommends that the words, figure and sign "(Haryana Amendment), Rules, 1978" appearing in second and third lines of sub-rule (1) of rule 1 be deleted being unnecessary.

The Committee recommends that in line one of sub-rule (2) for the word "They" the words "These rules" be substituted. The Committee also observes that the first capital letter of the word "supersession" should be small.

Rule 2.

*"2. Definitions.—*In these Rules, unless, there is anything repugnant in the subject of context,—

(a) * * * * *

(b) "Agent" means a person authorised in writing by a proprietor to appear on his behalf before any officer empowered under the Act to carry out the purposes of the Act, being—

(i) a relative of the proprietor ; or

(ii) a person in the regular and whole-time employ of the proprietor ; or

(iii) x x x x x x x

(iv) x x x x x x x

(c) x x x x x x x

to

(e) x x x x x x x

(f) "Form" means the form appended to these Rules.

(ff) x x x x x x x"

(g) "Treasury" means the Government Treasury or Sub-Treasury of a district or tehsil, as the case may be, or a branch of the State Bank of India..

(h) x x x x x x x

to

(j) x x x x x x x

3 The Committee recommends that in sub-rule (b) clause (ii) for the word "employ" substitute the word "employment" and in sub-rule (f) the spelling of word "appened" be corrected as "appended."

4 The Committee also recommends that in sub-rule (g) of this rule some other nationalised banks besides the State Bank of India may be included in the definition of "Treasury" to avoid undue hardships to the public.

Rule 3.

CHAPTER—II

Superintendence and Control of the Administration under the Act.

3 “(1) ‘Prescribed authority’ shall be—

(a) Entertainment Tax Officer of the district concerned for the purposes Section 5, 10-A and Section 15 of the Act ;

(b) x x x x x x x

(c) x x x v x x x”

The Committee desires that the word “of” be inserted between the words “purposes” and “Section” in the second line of clause (1) (a) of Rule 3. 5

Rule 4.

“4. (1) The Commissioner shall superintend the administration and the collection of the tax leviable under the Act.

(2) x x x x x x x

(3) The Entertainment Tax Officers are charged with the duty of carrying out the provisions of the Act and these rules subject to the overall control and direction of the Deputy Excise and Taxation Commissioner concerned who would carry out the orders of Commissioner issued from time to time”.

The Committee observes that in the second line of sub-rule (3) of Rule 4, the spelling of the word “carrying” be written correctly. 6

Rule 5.

PAYMENT OF DUTY BY STAMPS

“5 Supply of stamps and keeping of accounts.--(1) The rules regarding the supply and keeping of accounts of non-judicial and court-fee stamps contained in part I of the Punjab Stamps Rules, 1934, published with Punjab Government Notification No. 998-E&S, dated the 14th February, 1934, as amended heretofore or to be amended in future shall apply mutatis mutandis to the supply and keeping of a account of the stamps except that for the purpose of rule 8 of the said Punjab Stamps Rules, 1934, a counter part of the double lock register shall be maintained in form stereo A & T.No.105(c)”.

The Committee recommends that in the fourth line of Rule 5, the words “in the” be substituted for the word “with” occurring after the word “published”. 7

Rule 5A

"5A. Commission for sale of entertainment duty stamps. Every stamp vender duly authorised by the collector under rule 6 to sell entertainment duty stamps shall be entitled to a commission at the rate of 3% on the purchase value of such stamps sold by him at the cities/towns, namely Ambala-cantt, Yamunanagar, Sadhaura, Samalkha, Assandh and Uklana".

8 The Committee recommends that the sub-heading of this Rule should be printed in italics as has been done in other such-headings.

Rule—7

"7. *Price of admission shown on and stamp affixed to ticket*—Except as provided in rule 13, every dutiable ticket issued on payment for admission to an entertainment shall be clearly marked with the price of admission, whether paid or not, excluding the duty payable under the Act, and shall also have securely affixed to it a stamp of the value of the proper entertainment duty. Payable under the act".

9 The Committee desires that in the last line of this Rule, the first capital letter of the word "Payable" should be written in small letter and similarly, the first letter of the word "act" should be written in capital letter. The Committee also desires that in the sixth line, the sign (.) occurring after the word "duty" be deleted, being superfluous.

Rule—8

"8-A. *Payment of duty on video shows*.—(1) The proprietor of a video set exhibiting video shows on payment at any place within the State of Haryana shall make an application in form P.E.D. 1-A to the Entertainment Tax Officer incharge of the district concerned and shall deposit a sum equivalent to duty payable by him for one quarter as provided in sub-rule (2) in the treasury, as security and attach with his application, the treasury receipt showing the deposit thereof.

(2)

to

(5)

10 The Committee desires that form P.E.D. 1—A mentioned in Rule 8—A should be attached with these rules.

Rule—9

CHAPTER —III

Tickets for Admission

9. *Ticket*—A ticket, other than a complimentary ticket for admission to an entertainment shall be in form P.E.D. 1, and shall be in different and distinguishing colours or shall have a bold streak of a distinct colour on each of its three foils for different shows to be held on the same date, the colour for various shows being such as may be approved by the Entertainment Tax Officer of the district concerned :

Provided that unless the prior approval of the Entertainment Tax Officer of the district concerned has been obtained the scheme of colours adopted for different shows in a day, reckoned from sunrise to sunrise will not be changed :

Provided further that the proprietor of an entertainment shall not be bound to introduce tickets an admission in the prescribed Form P.E.D. 1 for a period of 30 days from coming into of force these Rules.”.

The Committee recommends that the last proviso to Rule 9 be deleted being redundant.

The Committee also recommends that the words “and additional entertainment duty” as mentioned in forms P.E.D. 1,2,3, etc. etc. be deleted as such duty does not find place in the Act or the Rules.

Rule—11

“11. *Season Ticket*.—Every season ticket shall be in Form P.E.D. 3.

x x x x x

Provided further that the proprietor of an entertainment shall not be bound to introduce tickets for admission in the prescribed Form P.E.D. 4 for a period of 30 days from coming into force of these Rules.

(b) x x x x x x

(c) The Stamps or stamps to be affixed to a ticket entitling the purchaser to the exclusive use of a box or similar accommodation where more than one, person is ordinarily admitted shall be of the value of the duty that would be payable upon a ticket of the consolidated amount to be charged representing the right of a admission to entertainment for which the accommodation is ordinarily available.”.

The Committee recommends that second proviso to rule 11 be deleted being redundant.

The Committee desires that in line 1 of rule 11 (c) the first word “Stamps” be substituted by the word “stamp”.

The Committee also desires that in the third line of rule 11 (c), the sign “,” after the word one be deleted and in line five of the same rule, the word “a” used before the word admission be also deleted.

Rule 15

"15. *Defacement and destruction of stamps.*—(1) No. GSR/P.A. XVI/55/6.20-Amd. 15/64/ dated 20th February, 1964. The tickets prescribed under Rules 9, 10, 11, and 12 shall be printed in triplicate and bound in booklets of one hundred tickets each. Each ticket should bear a serial number and the serial numbers of the tickets in various booklets shall be consecutive and in an ascending order. The last serial number shall go upto 100,000, whereafter a fresh series of tickets shall be got printed under advice to the entertainment Tax Officer concerned. The serial numbers shall be printed and the tickets shall have perforations between the fixed foil (first foil) and the counterfoil (second foil) and between the counterfoil (second foil) and the foil (third foil) the stamps which shall not be used in the inverted position shall be affixed across the line of perforation between the fixed foil (first foil) and the counter foil (second foil) and it shall be defaced, before admission to an entertainment, by tearing the ticket into two portion across the perforations between the fixed foil, (first foil) and the counterfoil (second foil) in such a manner that each portion shall show the value of the stamps. The portion of the stamps affixed on the fixed foil (first foil) and the counter foil (second foil) shall also bear the date for which the ticket has been issued. The counterfoil shall retain (second foil) of the ticket shall be given to the purchaser, who it till the termination of the entertainment. The foil shall be retained by the proprietor or his authorised employees till the conclusion of the entertainment and this shall be produced on demand, before any officer authorised under Rule 28 to inspect the entertainment.

(2) Immediately after the conclusion of each show, the proprietor shall consign or cause to be consigned the (foils) portions of all the tickets collected from the purchasers in a box, having a slit not more than the half of an inch in width at the top, to be maintained separately for each class of ticket. It shall be the responsibility of the proprietor to ensure that these boxes are not tampered with. The box shall be locked and the key of this lock would remain with an officer not below the rank of a Sub-Inspector of the Excise and Taxation Department working in the district concerned. The locks shall be provided by the Entertainment Tax Officer concerned."

16 The Committee recommends that in lines 1 and 2 of Rule 15, the words, and figures "No. GSR/P.A.-XVI/55/6.20-Amd. 15/64/dated 20th February, 1964" be deleted as these should find place in the foot note.

17 The Committee also recommends that in line 5 of sub-rule (1) of rule 15 the word "beer" the word "bear" be substituted.

18 The Committee observes that lines 5 to 6 from the bottom of this sub-rule starting from the word "The" to the word "entertainment" are required to be redrafted as these lines lead the Committee nowhere.

19 The Committee recommends that in line 8 of Rule 15 (2) the words "not below the rank of a Sub-Inspector" be deleted.

Rule 16

"16. *Torn, etc. stamps.*—No tickets bearing a stamp that has been previously used, torn defaced or otherwise marked or mutilated shall be issued by the proprietor of an entertainment."

The Committee recommends that in line 2 of Rule 16, after the word "torn" the sign " , " be inserted.

Rule 17

"17. *Assessment.*—(1) When it appears to the Entertainment Tax Officer concerned that an assessment of payment for admission in cases of free, concessional, surreptitious or un-authorised entries should be made, he shall serve upon the proprietor a notice in form P.E.D. 4 —

- | | | | | | | |
|-----|---|---|---|---|---|---|
| (a) | * | * | * | * | * | * |
| (b) | " | * | " | * | * | * |
| (c) | * | * | * | * | * | * |
| | " | * | " | * | * | * |
| (2) | * | " | * | " | * | * |

(3) Where, after considering any objections made by the proprietor and any evidence produced in support thereof, the Entertainment Tax Officer determines the liability of the proprietor for a sum higher than the amount of entertainments duty admitted by the proprietor he shall record an order stating briefly reasons upon which his decision is based but a failure to state reasons shall not affect the validity of the assessment order.

- | | | | | | |
|-----|---|---|---|---|---|
| (4) | * | * | " | * | * |
|-----|---|---|---|---|---|

The Committee observes that sub-rule (1) of Rule 17 is not happily, grammatically and correctly worded and recommends that it should be amended suitably so that it may convey a clear and correct sense. 21

The Committee recommends that last 2 lines of sub-rule (3) of Rule 17 starting from the word "but" and ending to the words "assessment order" be deleted being most unreasonable. 22

Rule 19

CHAPTER—V

Refunds, Remissions And Exemptions

"19 *Refund of value of unused stamps of damaged or renewal or spoiled stamps.*—(1) The proprietor of an entertainment may at any time return to the Collector any unused stamps in his possession and shall be entitled to claim refund of their value, subject to a deduction of 1 (two Paise) for each rupee or a fraction of a rupee of the total value of the stamps returned

(2) When any stamps purchased for use under the Act have been damaged or spoiled, the purchaser may apply in writing to the Collector who on being satisfied that they have not been willfully damaged or spoiled may give in lieu thereof—

- (a) other stamps of the same description and value, or
- (b) If required and if he thinks fit, stamps of any other description to the same amount in value, or
- (c) the same value in money deducting six paise for each rupee or fraction of a rupee of the total value of the stamps returned.

(3)

(4)

(5) The application shall be entered in the register in form P.E.D. 9. The clerk concerned shall examine the application in order to see that—

- (a) the application is in the proper forms ;
- (b) the stamps are genuine ;
- (c) if the value of the stamps tendered for refund or renewal is Rs. 100/- or above, the actual purchase of the stamps is verified from the register of the person authorised to sell stamps.

If the clerk concerned finds that the application is incomplete or the stamps, for which a refund is claimed or which are required to be renewed, are not enclosed with it, it shall be returned promptly to the applicant after obtaining the orders of the Collector through the Office Superintendent with the objection recorded on it.

If the clerk concerned finds that the applications is in order and the papers are complete he shall, after carefully examining the grounds of the applications record a note whether he considers the claim to be admissible and if so, he shall submit the case alongwith the register in form P.E.D. 9 after completing columns 1 to 11. He shall also prepare and submit with the case a refund/renewal statement in form P.E.D.

10 or 11/P.E.D. 12 and enter (both in words and figures) the amount of refund, after deducting six paise in the rupee where this is necessary, or of the fresh stamps admissible

(6)

(7) The Collector shall satisfy himself that the claim is admissible. He may require the applicant to make an oral deposition on oath or solemn affirmation or to file an affidavit setting forth the circumstances in which the claim has arisen and may also if he deems fit, call for evidence in support of such deposition or affidavit.

If he is satisfied that the claim is in order in all respects, he shall check the register and the refund/renewal statement with the relevant stamps and see that the amount of refund/fresh stamps to be granted/issued is correctly entered both in the register and the refund/renewal statement in such a way that no gap is left to enable the amount to be altered.

He shall then have the stamps burnt in his presence and record the following certificate on the file

"Stamp of the value Rs.----- (both in words and figures) burnt in my presence-----Dated-----District-----, Collector."

If the stamps received are in good condition and fit for re-issue they shall not be burnt, but sent to the Treasury Officer with a memo. in duplicate in form P.E.D. 13.

The Collector shall then sign the refund/renewal statement and fill up columns 16 and 17 of the register, and return the case to the Superintendent.

(8) The Superintendent shall then arrange to hand over in his presence the refund or renewal statement to the applicant or his agent taking his acknowledgement in column 18 of the register. He shall then set his initials in column 19 in token of his having done so.

When the amount of the refund does not exceed Rs.100/- the money may be remitted to the applicant by postal money order at his or her expense in accordance with the rules contained in the note to Article 198(c) of the Civil Account Code, Volume I.

(9) If the Collector decides that the refund/renewal is not admissible he shall record his reasons for refusal and return the papers to the office Superintendent. The latter shall return the application with stamps to the applicant in the manner laid down in sub-rule (8) above.

If the Collector calls for further evidence in support of the application a memo, shall be issued to the applicant given full particulars of the documents required to be furnished.

(10) After an order has been passed by the Collector sanctioning the claims or calling for further evidence in support of the application, if the refund renewal statement is not taken or further evidence

required is not furnished by the applicant within one year (or 3 years in case the claims exceeds Rs. 5/- in value) of the date of such order the application with stamps and refund/renewal statement shall be destroyed under the orders and in the presence of the Collector, and the fact noted in column 21 of the register in Form P.E.D. 9."

27 The Committee recommends that in sub-rule (1) of rule 19 in the last line but one, the figure 1 be substituted by asterik marks to avoid confusion.

The Committee also recommends that sign "()" given before and after the words "two paise" in sub-rule (1) of rule 19 be deleted being superfluous.

The Committee further recommends that in sub-rule (2) of rule 19, in the last line, but one for the word "they" substitute the word "these"

The Committee is also of the view that in sub-rule (5) of rule 19 for the word "Clerk" wherever occurring in this sub-rule the word "Official" be substituted.

The Committee is further of the view that in sub-rule (7), of rule 19 in the last line but one, for the word "cuch" the word "such" be substituted.

The Committee also observes that in sub-rule (7) of rule 19, in line eleven, for the word "alteed", the word "altered" be substituted.

The Committee further observes that in sub-rule (7) of rule 19, in line eighteenth for the word "they" substitute the word "these"

The Committee also recommends that in sub-rule (8) of rule 19 in line six the word "postal" be deleted being superfluous.

The Committee further recommends that in sub-rule (9) of rule 19, in line three for the word "latter" substitute the word "later"

32 The Committee recommends that in line three of sub-rule (10) after the word "refund" the sign "/" be added.

Rule 20

"20. Refund or remission of duty when entertainment is not completed --When an entertainment is not completed and the Deputy Excise and Taxation Commissioner of the area concerned is satisfied that the proprietor has returned to all the persons admitted to the entertainment on payment, both the price of admission and the duty charged under the Act, he may on application made by the proprietor, within three days of the date of entertainment.—

- (a) remit the duty, if payment was to be made under Section 10(2) of the Act, or

- (b) if duty was paid under Section 10(1) of the Act, send the case to Collector to proceed under rule 19 on production of the portion of their stamps to be retained by the proprietor under rule 15".

The Committee feels that the words starting from "Refund or remission of duty when entertainment is not completed" in the heading of this rule either should be printed in Italics or with dark Ink. The Committee further observes that there is no symmetry in this regard in these rules. The Committee, therefore, recommends that the Government should see that at the time of reprinting of these rules the heading should be printed either in Italics or with dark ink. 33

The Committee further observes that in the sixth line of this rule the sign " , " appearing after the word "on", be deleted being superfluous. 34

Rule 21.

"21 Exemptions by Commissioner.—

- (a) any proprietor of an entertainment, claiming exemption under sub-section (1) of Section 11 of the Act, from payment of the entertainments duty, shall present an application for such an exemption to the Entertainment Tax Officer of the district concerned fifteen clear days before the date of entertainment provided that the Commissioner may entertain an application for exemption not preferred within the stipulated period. The applicant shall clearly state in his application the date, time and place of the entertainment, the name of organizer responsible for maintaining accounts the approved purpose in the interest of which the entertainment is to be held and the name of the beneficiary, who is to receive the net proceeds of the entertainment. The proprietor will also state in his application for exemption, the gross proceeds anticipated from the entertainment or entertainments sought to be exempted. The application should be accompanied by a statement of anticipated approximate expenditure.

On receipt of such an application, the Entertainment Tax Officer of the district shall forward the same without delay, with his recommendations to the Commissioner with a copy of his recommendations to the Deputy Excise and Taxation Commissioner concerned.

(b) * * * * *

The Committee feels that first seven lines of rule 21 (a) are not happily worded. The Committee therefore, recommends that the same may be redrafted so that these may give clear sense of this rule. 35

The Committee also feels that there are so many spelling mistakes in this sub-rule and the Committee, therefore, recommends that at the time of reprinting of these rules, spellings of all the words be corrected. 36

Rule 22.**"22. Exemptions by Government.—**

- (a) any proprietor of an entertainment, claiming exemption under sub-section (3) of Section 11 of the Act, from payment of the entertainment duty shall present an application for such exemption to the Entertainment Tax Officer of the district concerned twenty clear days before the date of entertainment, provided that Government may entertain an application for exemption not preferred within the stipulated period. The applicant shall clearly state in his application the date, time and place of the entertainment the name of the organiser responsible for maintaining accounts and the grounds on which the exemption is sought. The proprietor will also state in his application for exemption the gross proceeds anticipated from the entertainment or entertainments sought to be exempted.

On receipt of such an application, the Entertainment Tax Officer of the district shall forward the same without delay, with this recommendations to the Commissioner with a copy of his recommendations to the deputy Excise and Taxation Commissioner of the Division concerned. The Commissioner would obtain the necessary orders of Government as early as possible and the orders so obtained shall be intimated to the proprietor".

37 The Committee feels that in line 9 of this rule, after the word "entertainment" the sign "," may be inserted.

38 The Committee also feels that in line 1 of para (2) of this rule, the spelling of the word "application", has been printed wrongly, which may be corrected.

39 The Committee further feels that in line 2 of para (2) of this rule after the word "district", the word "concerned" may be inserted.

40 The Committee further feels that in line 4 of para (2) of this rule for the words "deputy Excise", the words "Deputy Excise" be substituted. In line 5 of this rule, for the word "would", the word "shall" be substituted. Again in line 6 after the word "Government", the words "in this behalf" be inserted.

Rule 23.**"23. All Soldiers, Sailors and Airmen serving in the Indian Army."**

41 The Committee feels that the heading of Rule 23 has not been printed in proper manner and it does not convey any sense and leads the Committee no where. The Committee, therefore, recommends that the heading should be re-drafted properly so that it may convey proper sense and at the time of re-printing either it should be printed in Italics or in dark ink.

Rule 24

CHAPTER—VI

Returns and Registers

"24. *Payments under section 10(2) :—*

(1) Every proprietor making a consolidated payment under Section 10(2)(a) of the Act, shall, within three days of the date of entertainment, submit to the Entertainment Tax Officer of the district concerned, a return in form P.E.D. 18 showing the number of tickets issued at each rate the gross amount received from sale of tickets and the amount of duty collected.

(2) * * * * *

to

(4) * * * * *."

In sub-rule (1) of Rule 24, the Committee observes that form P.E.D. 18 has been mentioned in this sub-rule which does not find place in these rules. The Committee therefore, recommends that the form P.E.D. 18 be appended at appropriate place in these rules 42

In line 5 of sub-rule (1) of Rule 24, the Committee desires that sign 43
"," be inserted between the words "each rate" and "the gross amount".

Rule 25.

"25. *Register of Stamps.—*

(1) * * * * *

(2) * * * * *

25-A. *Submission of return in Form P.E.D. 20-A.—*

(3) * * * * *."

The Committee observes that the insertion of words and figures "25-A submission of return in Form P.E.D. 20-A".—in between sub-rules (2) and (3) of rule 25 are irrelevant. The Committee, therefore, recommends that the aforesaid words and figures be deleted. 44

CHAPTER—VIII

“Appeal and Revision”

Rule 36.

“36. *Appeal*.— (1) Every appeal against the order of the Entertainment Tax Officer shall lie to the Deputy Excise and Taxation Commissioners within whose jurisdiction the appellant is running his entertainment house on the date of the order appealed against. The memorandum of appeal shall be written on a standard marked judicial paper of the value of two rupees and shall contain the following particulars:—

(a) * * * * *

(b) * * * * *

(c) * * * * *

(2) * * * * *

(3) * * * * *

(a) * * * * *

(b) * * * * *

(c) the facts set out in the memorandum are true to the best of my/our knowledge and belief.

—Signature of the appellant/Agent

(4) * * * * *

45 In sub-rule (3) of Rule 36, clause (c), line 1, the Committee observes that the spellings of the word “are” be written correctly as the same have been written as “ara”.

46 In sub-rule (3) of Rule 36, at the bottom, the Committee recommends that for the words “appellant Authority”, substitute the words “appellate Authority.”

"FORM P.E.D. 4

Notice of appearance

[See Rule 17 (1)]

Office of the Entertainment Tax Officer _____

District _____ No. _____ Dated _____

To

(1) * * * _____ * * *

(2) * * * _____ * * * ."

The Committee, after going through forms P.E.D. 4, recommends
 that for the words and figures "See Rule 17(1)" the words and figures
 "See Rules 11 and 17(i)" be substituted.

47

"FORM P.E.D. 14

(See rule 21 of the Haryana Entertainments Duty Rules, 1956)

(Form of Certificate prescribed under Rule 21)

This is to certify that the Excise and Taxation Commissioner, Haryana, authorises the entertainment specified below to be given free of entertainments duty, provided that the whole of the net proceeds are devoted to philanthropic, charitable, educational or scientific purposes :—

Description

Date_____

Place_____

This certificate is issued on the following conditions :—

- (1) The whole of the net proceeds of the entertainment shall be paid over to ;
- (2) If the Excise and Taxation Commissioner, Haryana, so requires, a full and true account of the whole of the (expenditure and) takings, together with a written acknowledgement from the Society, Institution, or Fund specified under (1) shall be furnished to the Entertainment Tax Officer of the district concerned by the persons responsible for the management of the entertainment within one month after the date of entertainment and those person will be liable for the payment of the proper entertainments duty if the Commissioner is on receipt from the Entertainment Tax Officer concerned to the effect, is not satisfied that the whole of the net proceeds have in fact been paid over to the society, Institution or Fund referred to ;
- (3) The certificate shall not be used for any other entertainment than that specified above and it shall be exhibited in a prominent position at the public entrance to the place of entertainment at the time the public is admitted and during the entertainment. No correction or erasure of any kind shall be made in the certificate ;
- (4) If the entertainment is not given on the date of at the place specified above, the persons responsible for the management of the entertainment shall give notice in writing to that effect within one week after the date fixed for holding it ;

- (5) The expenditure claimed shall not exceed 25 per cent of the gross proceeds of the entertainment. The Excise and Taxation Commissioner, may, on the production of the accounts of the entertainment, allow an amount less than the amount claimed as expenditure keeping in view the price of the ticket, attendance or other relevant factors.

(Signed)

Dated _____
The _____, 19____.

Excise and Taxation Commissioner,
Haryana

*Note :—*Failure to comply with any of the conditions set out in this certificate involves liability to penalty of Rs. 1000 and when the offence is a continuing one, the failure involves a daily fine not exceeding Rs. 50/- during the period of the continuance of the offence”

The Committee feels that in form P E D. 14 prescribed under sub-rule 21(b), in the first line under the heading for the words “Haryana”, the word “Punjab” may be substituted.

The Committee feels that in line 3 of para 2 of Form P E.D. 14, the bracket used before and after the words “expenditure and” may be deleted

The Committee feels that in line 4 of para 2 of Form P.E.D. 14, the word “or” used after the word “Institution”, be deleted.

The Committee also recommends that in line 4 and 5 of para 2 of Form P E.D. 14, for the words “specified under (1)”, the words “specified under para (1)” be substituted.

The Committee further feels that in line 10 of para 2 of the same form, after the word “receipt”, the words “of the recommendation”, be added.

The Committee feels that in para 3 of Form P E D 14, in line 5 for the word “arasure”, the word “erasure” may be substituted.

The Committee feels that in line 1 of para 4 of Form P.E.D. 14, between the words “date” and “place”, for the words “of at the” the word “and” be substituted.

The Committee feels that in line 6 of para 5 of Form P.E.D. 14, for the word “factures”, the word “factors” may be substituted.

The Committee further feels that at the end of the Form P E.D. 14, the word and sign “(signed)”, the word “signature” may be substituted.

The Committee also feels that the Note given at the end of Form P.E.D. 14, has got no significance until and unless this finds place in the relevant rule. The Committee therefore, recommends that this note should find place in the rules itself.

"FORM P.E.D. 25

Register of application for refund of Entertainment Duty

(See Rule 20 of the P.E.D. Rules, 1956)

Sr. _____ District _____

No.	Name of applicant	Date of applica- tion for refund	Amount of refund applied for	The date of the order of the Court or Competent Authority following which refund is claimed/ allowed	Amount of refund allowed	Method of refund	No. and date of issue of refund voucher or refund adjustment order	Amand of the officer	Date of encash- ment of adjust- ment	Period of assessment towards which the adjustment is made	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

The Committee recommends that the words "Amand of the officer" do not carry any significance, therefore, these may be rectified at the time of re-publication of these Rules.

SCRUTINY OF THE PUNJAB WELFARE OFFICERS RECRUITMENT AND CONDITIONS OF SERVICE RULES, 1952 FRAMED UNDER THE FACTORIES ACT, 1948.

The Committee scrutinised the Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952 framed under the Factories Act, 1948 and made the following observations/recommendations thereon—

General

While scrutinizing the Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952 framed under the Factories Act, 1948 the Committee came across a large number of printing mistakes in the copies of the Rules supplied to it by the Department. The Committee regrets to point out this lapse on the part of the Department which had resulted in unnecessary wastage of time. Had the Department sent the copies of the Rules after comparing the same with the original Gazette (Notifications), much of the valuable time of the Committee and that of the Department would have been saved.

Therefore, the Committee recommends that in future the copies of the Rules as desired by the Committee be sent after duly and meticulously compared with the original Gazette Notifications.

Rule 1

"1. *Short title and Commencement.*—(1) These rules may be called the Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952.

(2) They shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

(3)

*

* * *

The Committee recommends that in sub-rule (1) of rule 1 after the figure "1952" the words and figure "framed under section 49 of the Factories Act, 1948" be added.

The Committee also recommends that in sub-rule (2) of rule 1 for the word "They" the word "these" be substituted

Rule 3. A

3A *Pay scales and emoluments of Welfare Officers.*—The Welfare

Officers shall be entitled to the scales of pay given below :—

Category I for factories employing more than 2,000 workers

(i) Chief Labour Welfare Officer
Rs. 1000-50-1500-60-1800

(ii) Assistant Labour Welfare Officer, 'Rs. 700-30-850/900-40-1100-EB-50-1250.

Category II For factories employing 500 to 2000 workers

Labour Welfare Officer.
Rs. 800-30-890/940-40
1100-50-1600.

Provided that—

- (a) nothing in this rule shall be deemed to prevent the grant of scales of pay higher than those mentioned over or affect the emoluments of the Chief Labour Welfare Officer, Labour Welfare Officer and Assistant Labour Welfare Officers who are enjoying scales of pay higher than those mentioned above;
- (b) the scales of pay mentioned above shall be exclusive of the D.A. and other allowances, which shall be payable at such rates as may, from time to time, be admissible to the Punjab Government servants enjoying the same pay."

The Committee recommends that wherever the words "Punjab Government" occur in these Rules the same may be substituted by the words "Haryana Government" and the Rules be amended accordingly

Rule 5

"5. *Recruitment of Welfare Officers.*—(1) The post of a Welfare Officer shall be advertised in at least two newspapers having a wide circulation in the State one of which shall be a newspaper published in English.

(2)	x	x	x
to			
(4)	x	x	x
(i)	x	x	x

(ii) There is only one Welfare Officer, the occupier may with the previous approval, in writing of the Chief Inspector of Factories, appoint a person who is not qualified under rule 4 to work as Welfare Officer for that period.

The names of institutions, Degrees and Diplomas recognised by State Government for the purpose of recruitment as Welfare Officers

to be employed in factories Under the Factories Act, 1948 :

1. x x x
to
57 x x x. "

The Committee recommends that in sub-rule (4)(u) of Rule 5, line one, the first letter of word "There" should be small.

The Committee recommends that in paragraph (4) of this Rule for the sign “.” the words and sign “are given below —” be substituted.

Rule 6

“6. Conditions of Service of Welfare Officers.—

(1) A welfare Officer shall be given appropriate status corresponding to the status of the other executive heads of the factory.

(2) The conditions of service of a Welfare Officer shall be the same as of the other members of the staff of corresponding status in the factory.

(3) Notwithstanding anything contained in sub-rule (2) the management may impose any one or more of the following punishment on Welfare Officer :—

- (i) Censure;
- (ii) Withholding of increments including stoppage at an efficiency bar,
- (iii) reduction to a lower stage in a time scale;
- (iv) suspension; and
- (v) dismissal or terminations of service in any other manner:

Provided that on order of punishment shall be passed against the Welfare Officer unless he has been informed of the grounds on which it is proposed to take action and given a reasonable opportunity of defending himself against the action proposed to be taken in regard to him:

Provided further that the management shall not impose any punishment other than censure except with the previous concurrence of the Labour Commissioner, Punjab.

(4) The Labour Commissioner, Punjab, before passing orders on a reference made under second proviso to sub-rule (3) shall give the Welfare Officer an opportunity of showing cause against the action proposed to be taken against him and if necessary, may hear the parties in person.

(5) x x x x x x x x
to
(7) x x x x x x x x."

7 The Committee recommends that in Rule 6, minor and major punishments should be distinguished separately. The Committee further recommends that Haryana (Punishment and Appeal Rules, 1987 should be taken into consideration while prescribing penalties as are given in Rule 6

8 The Committee further recommends that the word "suspension" given in sub-rule (3) (iv) of rule 6 be deleted as suspension is not a punishment.

9 The Committee is also of the view that a separate clause stating that the management will not suspend a Labour Welfare Officer except with the prior concurrence of Labour Commissioner be added as agreed by the Department at the time of oral examination.

Rule 7

"7. *Duties of Welfare Officer*—The duties of a Welfare Officer shall be.—

(i) x x x x x x
to

(x) x x x x x x

(xi) to advise on provision of welfare facilities such as canteen shelters for rest, creches, adequate latrine facilities, drinking water sickness and benevolent scheme, payments, pension and superannuation funds, gratuity payments, granting of loans and legal advice to workers;

(xii) to help the factory management, in regulating the grant to leave with wages and explain to the workers the provision relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of application for grant of leave for regulating authorised absence;

(xiii) x x x ————— x x x
to

(xv) x x x ————— x x x."

10 The Committee recommends that in sub-rule (xi) of Rule 7, after the words "canteen" and "drinking water" the sign "," be inserted.

11 The Committee also recommends that in line 1 of sub-rule (xii) of Rule 7 the word "to" used after the word "grant" be deleted.

to be employed in factories Under the Factories Act, 1948 :

1. x x x
to
57 x x x."

The Committee recommends that in sub-rule (4)(u) of Rule 5, line one, the first letter of word "There" should be small.

The Committee recommends that in paragraph 2 of sub-rule (4) (ii) of this Rule for the sign “:” the words and sign “are given below :—” be substituted.

Rule 6

"6. Conditions of Service of Welfare Officers.—

(1) A welfare Officer shall be given appropriate status corresponding to the status of the other executive heads of the factory.

(2) The conditions of service of a Welfare Officer shall be the same as of the other members of the staff of corresponding status in the factory.

(3) Notwithstanding anything contained in sub-rule (2) the management may impose any one or more of the following punishment on Welfare Officer :—

- (i) Censure,
- (ii) Withholding of increments including stoppage at an efficiency bar;
- (iii) reduction to a lower stage in a time scale;
- (iv) suspension; and
- (v) dismissal or terminations of service in any other manner:

Provided that on order of punishment shall be passed against the Welfare Officer unless he has been informed of the grounds on which it is proposed to take action and given a reasonable opportunity of defending himself against the action proposed to be taken in regard to him:

Provided further that the management shall not impose any punishment other than censure except with the previous concurrence of the Labour Commissioner, Punjab.

- (4) The Labour Commissioner, Punjab, before passing orders on a reference made under second proviso to sub-rule (3) shall give the Welfare Officer an opportunity of showing cause against the action proposed to be taken against him and if necessary, may hear the parties in person.

(5) X X X X X X X X

to

(7) x x x x x x x x."

7 The Committee recommends that in Rule 6, minor and major punishments should be distinguished separately. The Committee further recommends that Haryana (Punishment and Appeal Rules, 1987 should be taken into consideration while prescribing penalties as are given in Rule 6.

8 The Committee further recommends that the word "suspension" given in sub-rule (3) (iv) of rule 6 be deleted as suspension is not a punishment.

9 The Committee is also of the view that a separate clause stating that the management will not suspend a Labour Welfare Officer except with the prior concurrence of Labour Commissioner be added as agreed by the Department at the time of oral examination.

Rule 7

"7. *Duties of Welfare Officer*—The duties of a Welfare Officer shall be.—

(i) x x x x x x
to

(x) x x x x x x

(xi) to advise on provision of welfare facilities such as canteen shelters for rest, creches, adequate latrine facilities, drinking water sickness and benevolent scheme, payments, pension and superannuation funds, gratuity payments, granting of loans and legal advice to workers;

(xii) to help the factory management, in regulating the grant to leave with wages and explain to the workers the provision relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of application for grant of leave for regulating authorised absence;

(xiii) x x x ————— x x x
to

(xv) x x x ————— x x x."

10 The Committee recommends that in sub-rule (xi) of Rule 7, after the words "canteen" and "drinking water" the sign "," be inserted.

11 The Committee also recommends that in line 1 of sub-rule (xii) of Rule 7 the word "to" used after the word "grant" be deleted.

Rule 7-B

“(7-B) Welfare Officer not to deal with disciplinary cases or appear on behalf of the management against workers —Without prejudice to the generality of rule 7-A, no welfare officer shall deal with any disciplinary cases against workers or appear before a conciliation officer, or in a court of Tribunal on behalf of the factory management against a worker or workers.”

The Committee recommends that in Rule 7-B, in line 5, the spelling of word “against” be corrected and similarly in line 5 of this Rule, for the word “of”, occurring between the words “court and “Tribunal”, the word “or” be substituted. 12

Rule 8

“8. Powers of exemption.—The State Government may, by notification in the Official Gazette, exempt, any factory or class or description of factories from the operation of all or any of the provision of these Rules, subject to compliance with such alternative arrangement as may be approved.”

The Committee recommends that in line 2 of Rule 8 the sign “,” 13 after the word “exempt” be deleted.

SCRUTINY OF THE HARYANA COLD STORAGE (LICENSING AND REGULATION) ORDER, 1979 FRAMED UNDER THE ESSENTIAL COMMODITIES ACT, 1955.

The Committee scrutinised the Haryana Cold Storage (Licensing and Regulation) Order, 1979 framed under the Essential Commodities Act, 1955 and made the following recommendations/observations thereon —

Clause 4.

"4. *Application for licence.*—Every person desiring to obtain a licence shall make an application in duplicate along with relevant documents to the Licensing Officer in Form A through the Marketing Officer, Agriculture Department, Haryana, together with the treasury receipted challan in respect of fees deposited by him as prescribed therefor in clause 5 and a copy of the blue print of the cold storage building plan which is prepared in accordance with the directions of the Licensing Officer and duly signed by the applicant.

Provided that the blue print of the cold storage building plan shall not be necessary where the applicant was granted a licence previously under Haryana Cold Storage Order, 1976".

1. The Committee recommends that in line 5 of order 4 for the word "receipted", the word "receipt" be substituted.

2. The Committee is of the view that instead of directions of the Licensing Officer for preparation of building plan some specific provision regarding standard of building may be prescribed in the order itself for the general information of the public.

3. The Committee also recommends that before granting the licence to the licensee for cold storage physical inspection and approval should be carried out by some building expert of State Government to the extent that the building for cold storage is complete in all respect for the purposes of cold storage.

Clause 5

"5. *Fees for licence.*—(1) The fees for a licence shall be—

(i) Fifty rupees for storing agricultural produce in a cold storage with a capacity upto 141 cubic meters.

(ii) Seventy-five rupees for storing agricultural produce in a cold storage having a capacity of above 141 cubic meters.

(2) * * * * *

4. The Committee recommends that the rates of fee charged for granting licence for cold storage appear to be in-adequate and should be made at par with the Central Government.

5. The Committee also feels that some reasonable security for giving a licence should be prescribed so that in case of violation of

terms and conditions of licence, the licensee's security may be forfeited by the licensing authority.

Clause 7

"7. *Grant or refusal of licence* —(1) On receipt of an application for the grant of a licence, the Licensing Officer, may, after taking into consideration the matters referred to in clause 6, either grant or refuse a licence.

(2) * : * *

(3) : * " .

The Committee recommends that in sub-clause (1) of clause 7 at the end of this Clause, the words "within a period of three months", be added.

Clause 13

"13. *Maintenance of records and submission of returns*.—(1) The licensing Officer may, by order in writing, direct any licensee to—

- (a) maintain such records relating to storage of Agricultural Produce in a cold storage in such forms as may be specified in the order ;
- (b) submit to him such returns or statements in such forms and containing such information relating to the agricultural produce stored in the cold storage and within such time as may be specified in the Order ,
- (c) produce any register or record maintained under sub-clause (a) and certified copies of the returns or statements under sub-clause (b) to such persons as may be authorised by the licensing Officer.

(2) Every licensee shall, before the commencement of business every day display and exhibit in the prescribed manner on or near the main entrance of cold storage, the following information —

- (a) total capacity of cold storage (both in area and tonnage) ;
- (b) capacity physically occupied (both in area and tonnage) ;
- (c) vacant capacity (both in area and tonnage)." .

The Committee recommends that in sub-clause (1)(a) of clause 13 some manner for maintaining the record relating to cold storage be specified in the Order itself.

The Committee also recommends that in part (b) of sub-clause (1) of Clause 13 some time limit and form for submitting the returns or statement containing information relating to the agricultural produce

to the Licensing authority should be prescribed/specified in the Order itself.

The Committee is further of the view that in sub-clause (2) of clause 13 the prescribed manner for displaying and exhibiting certain relevant information should also be prescribed in the Order itself.

Clause 18

"18. *Cold storage charges.*—(1) Notwithstanding any contract to the contrary entered into whether before or after the commencement of this Order the licensee shall not levy for any period after the commencement of this Order storing charges exceeding the charges notified against each of the agricultural produce by the State Government in the official Gazette under this clause.

(2) The State Government may, by a subsequent notification in the Official Gazette, revise the cold storage charges if on a consideration of the cost of storage and other relevant factors, it so thinks fit

(3) For the purpose of sub-clause (1), where any agricultural produce was stored before the commencement of this Order and storing charges in excess of those notified by the State Government under sub-clauses (1) and (2) above were agreed to for the entire period of storage, but remained wholly or partly unpaid till such commencement, the payment so remaining to be made shall be subject to the condition that licensee shall be entitled to storing charges for the period before the said date at the agreed rate after spreading the agreed rate over the entire period of actual storage *prorata* on a daily basis, and to storage charges for the period beginning from the said date at the maximum rate as notified by the State Government after spreading the said rate over the period specified in the notification *prorata* on daily basis.

(4) * * * * *

The Committee recommends that the Government should fix and notify the rates of storage charges of each agricultural produce every year instead of leaving it to the owners and hirers of the cold stores

In sub-clause (2) of Clause 18, the Committee recommends that the word "if" occurring in between the words "charges" and "on" in line 2, be deleted and the same be added in between the words "factors" and "it" in line 3.

The Committee also recommends that sub-clause (3) of clause 18 be deleted being redundant.

Clause 21.

"21. *Every Licensee to allow facilities for depositor to inspect goods.*—Every licensee shall allow during such hours, as the Licensing Officer may be order direct, necessary facilities to a hirer or such person as may be authorised by him, to inspect and satisfy himself that his goods are properly cared for."

The Committee recommends that for the word "be" appearing in line 2, the word "by" be substituted. 13

Clause 22

"22 *Intimation regarding condition of goods.*—Any person having an interest in goods deposited in a cold storage, or in the receipt covering such goods may inform the licensee in writing of the fact and nature of his interest and the licensee shall keep a record thereof; if such person requests in writing that intimation be given to him regarding the condition of goods and agrees to pay the charges for giving such intimation the licensee shall give him intimation accordingly."

The Committee recommends that in case of damage of goods stored in Cold Storage the Licensee shall intimate the person having interest in the goods immediately at his own cost. 14

Clause 23

"23. *Delivery of goods.*—(1) Every licensee shall, without unnecessary delay deliver the goods deposited in his cold storage to the hirer on demand made by him and on surrender of the receipt duly discharged and on payment of all charges due to the licensee—

(ii)

* * *

* * *

(iii)

* * *

* * *

The Committee recommends that in sub-clause (1) of clause 23 the word "unnecessary", occurring in lines 1 and 2, be deleted being inconsistent to the context. 15

Clause 25

"25. *Dispute regarding damages.*—If any dispute regarding damages arises between the licensee and the hirer or the holder in due course of the cold storage receipt, it shall be decided by the licensing Officer, whose decision shall be final."

The Committee feels that the decision given by the Licensing Officer in regard to the dispute regarding damages arisen between the licensee and the hirer should be made appealable and appeal in this behalf should lie to the Government. 16

Clause 26

"26. *Transitory Provisions.*—For so long as the Cold Storage Order, 1964, made by the Central Government under section 3 of the Essential Commodities Act, 1955, remains in force in the State of Haryana where any cold storage is licensed under the said Order—

(a)

* * *

* * *

to

(c)

* * *

* * *

The Committee recommends that in the marginal heading of this order for the word "Transtory" the word "Transitory" be substituted. 17

SCHEDULE

(See Clause 8)

PART I

Sanitary requirements

"(1) * * *

to

(4) + . *

5. The employees working inside the cold storage operating above freezing point shall be adequately provided with proper clothes to protect them from cold. The employees working in cold storage which operates below freezing point shall also be provided with boots."

It has come to the notice of the Committee that the above provision of supplying requisite clothings to the employees working in the Cold Storages is not complied with by the owners of the Cold Stores. The Committee, therefore, recommends that proper scale of uniforms be prescribed immediately in the Schedule and ensure proper compliance of the above provisions by the owners of the Cold Storages in the State.

126 The Committee also recommends that first-aid boxes should also be provided in the premises of all the Cold Storage to meet the emergency requirements.

PART III

Maintenance of log-book

1. Every licensee shall maintain a "Log Book" as may be prescribed by the Licensing Officer of the maintenance of temperature and relative humidity as well as the pressure reading of the compressor on four hourly basis all throughout night and day during the operation of the cold storage unless automatic recording instruments are installed. The Licensing Officer or any person duly authorised by him in this behalf shall sign the "Log Book" at every inspection after personal verification of the records.

2. Any stoppage of function of the cold storage exceeding 24 hours continuously shall be reported immediately by the licensee to the Licensing Officer. The reasons for such break down shall be recorded in the Log Book and reported to the Licensing Officer."

19 In paragraph 1, the Committee recommends that surprise inspections of Cold Storages be conducted atleast once in a period of six months by a Gazetted Officer.

"FORM D

(See Clause 15)

Cold Storage Receipt

Serial No
 Name and location of the cold storage ..—.. ...
 Cold Storage Licence NoValid upto
 Received from (Name and address of the hirer)
 Agricultural produce of the following description .

Name	Class or standard quality and or grade	Number of package or lots	Net quantity in Kgms. by weight or by measures, etc.	Signature and Licence No. of the weigher/ measurer/ grader/sampler
1.	x	x	x	x x x
2.	x	x	x	x x x
3.	Rate of storing and other charges.....		
(1)	x	x	x	x x x
to				
(4)	x	x	x	x x x

Note: If all the particulars of the insurance can not be given, as not being available at the time of granting the receipt, such particulars as have not been given shall be furnished to the hirer as soon as available in a separate sheet which shall be a part of the receipt already."

The Committee observes that the note given at the end of Form D is incomplete which may appropriately be completed. 24

The Committee does not feel the necessity of retaining the name of the Secretary to Government, Haryana, Agriculture Department and therefore, desires that the words " LD. Kataria, Secretary to Government Haryana, Agriculture Department appearing at the end of Form D be deleted. 21

The Committee recommends that the words "other charges" appearing at Sr. No. 3 of Form D be deleted as the rate of storing includes all charges i.e. for labour involved in weighing, carrying the agricultural produce from the precincts of the Cold Storage for unloading, carrying the goods back from the Cold storage, unfilling and drying etc. etc.

General Observation

The Committee also observes that there are several printing errors in the Order and the same be rectified at the time of republication of the Order.