

HARYANA VIDHAN SABHA

REPORT

OF

The Committee on Subordinate Legislation
1969-70

(SECOND REPORT)



Haryana Vidhan Sabha Secretariat, Chandigarh.
February, 1970

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COMPOSITION OF THE COMMITTEE

(1969-70)

Chairman—

Chaudhri Chand Ram.

Members—

Shrimati Chandravati.

Rao Dalip Singh.

Shri Daya Krishan.

Chaudhri Katar Singh Chhokar.

Dr. Mangal Sein.

Shrimati Prasanni Devi.

Shrimati Sharda Rani Kanwar.

Advocate-General, Haryana.

Secretariat—

Shri Raj Kumar Malhotra—Secretary.

Shri Vijay Kumar—Deputy Secretary.

*Shrimati Chandravati resigned from the membership of the Committee with effect from the 23rd June, 1969, and in her place Shri Daya Krishan was nominated as member of the Committee by the Speaker on 26th June, 1969,—vide notification No. CB-Genl/69/38, dated the 27th June, 1969.

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 second 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 10th April, 1969,—*vide* notification No. CB-PAC-EC-Genl/69/32, dated the 10th April, 1969.

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 of the valuable and willing assistance given by the Administrative Secretaries/Departmental Officers and the representatives of the Law Department in their deliberations.

5. The Committee also place on record their high appreciation of wholehearted co-operation and assistance given by the Secretary, Haryana Vidhan Sabha and his staff.

Chandigarh :

The 6th February, 1970

}

CHAND RAM,
Chairman.

REPORT

1. The Committee on Subordinate Legislation for the year 1969-70, consisting of eight Members including the Chairman and Advocate-General, 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 10th April, 1969.—*vide* notification No. CB-PAC-EC-Genl/69/32, dated the 10th April, 1969.

2. Chaudhri Chand Ram was appointed Chairman of the Committee.

3. Shrimati Chandravati, a member of the Committee, resigned from the membership of the Committee with effect from the 23rd June, 1969, and in her place Shri Daya Krishan was nominated as Member by the Speaker on the 26th June, 1969,—*vide* notification No. CB-Genl/69/38, dated the 27th June, 1969.

4. The Committee held 35 sittings during their term. Before scrutinising the Rules or Regulations framed under certain Acts, the Committee discussed its functions and the procedure for scrutinising rules, regulations, etc.

FUNCTIONS OF THE COMMITTEE

5. The scope and 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, as applicable to the Haryana Vidhan Sabha. Rule 265-A enjoins upon the Committee to "scrutinize 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 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 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 ;

- (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 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 travel beyond the scope of such delegation. If the Committee find 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 are 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.

6. The committee for the year 1968-69 framed the working rules wherein the detailed procedure had been laid down. These working rules find place in the first Report of the Committee for the year 1968-69.

7. Generally, the Committee, from time to time, select certain set 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 Vidhan Sabha Secretariat. The Committee then invite the Administrative Secretary concerned for oral examination to explain the discrepancies/ambiguities/competence found in the various rules. After the rules and the Departmental representatives have been examined, the Committee prepare the report and present it to the House.

8. Some of the Parliamentary conventions established in connection with the scrutiny of rules, regulation, bye-laws, etc., are given below :—

1. The Committee would scrutinize only such Rules as had already been framed and published in the Gazette and not the draft rules.
2. The Committee would see that Rules are 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 the Rules are not framed within six months, the Committee may ask the Department about the reasons for the delay in framing the Rules.
3. Executive would ensure that no rule goes beyond the power delegated by Legislature. If the Rules framed are found to go beyond the power delegated by Legislature, the Committee would examine the same and report to the House.

4. It would be impressed upon the Executive that whenever Rules are framed or amendments are made in the existing Rules, these should be serially and centrally numbered and should indicate the section of the Act under which they are framed.

I. GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE.

(i) REFERENCE OF SECTIONS UNDER WHICH RULES ARE FRAMED

The Committee for the year 1968-69, in its First Report had recommended 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.

This Committee, while reiterating the recommendation made by the previous Committee in this regard, further recommend that in the Rules to be framed hereafter, the authority or the relevant Section under which a particular Rule has been framed should invariably be mentioned in the margin of each Rule.

So far as the Rules already framed are concerned, the Committee notice that when the Rules framed under the Pepsu Tenancy and Agriculture Lands Act, 1955, were republished, no authority or Section under which a particular Rule had been framed was indicated in the margin of the relevant Rules. The Committee recommend that whenever the Rules are republished, the authority or the relevant Section, under which a particular Rule had been framed, should also be mentioned in the margin of each Rule.

The Committee also recommend that in the Rules to be supplied by the Departments of Government in future, where there is no indication regarding the authority under which a particular rule has been framed, the Department should indicate invariably the authority or the relevant Section under which a particular rule has been framed, in their memoranda.

(ii) DELAY IN FRAMING THE RULES

The Committee note with great concern that the Government framed certain rules, regulations, etc., long after the relevant Acts had been enacted. In this connection, few examples may be stated. The Pepsu Tenancy and Agricultural Lands Act was framed in the year 1955, whereas the Pepsu Tenancy and Agricultural Lands Rules were framed as late as in the year 1958. The Punjab Co-operative Societies Act was enacted in the year 1961 whereas the rules thereunder were framed in 1963. Similarly, the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, received the assent of the President on 22nd November, 1963, and was published in the Gazette on 30th November, 1963, whereas the rules thereunder were framed and notified as late as on 26th May, 1965. The Punjab Anatomy Act, 1963, received the assent of the Governor on the 14th April, 1963, but the Punjab Anatomy Rules were framed on the 11th August, 1966.

The Committee observe that it is not understood how the Government Departments concerned, in the absence of these rules, exactly carried out the provisions of these Acts. Delay in framing the Rules actually defeat the very object of the Act under which they are framed.

In this connection, the Committee, in para 10 of their Report for the year 1959-60, observed "that in a number of cases rules have been framed long after the promulgation of the relevant Acts and are, therefore, strongly of the view that it is absolutely essential that rules under the Acts should be framed

as soon as possible after the promulgation of the Acts. In other words, the time-lag between the promulgation of the Act and framing and enforcement of the Rules made thereunder should be as little as possible. It has further been observed that in some cases delay in framing the rules had actually defeated to some extent the object of the Act under which they have been framed”.

The Committee accordingly recommend that a procedure should be evolved by the Administrative Departments by which the delay in framing, publication and enforcement of rules may be minimized.

The Committee on Subordinate Legislation of the Haryana Vidhan Sabha constituted for the year 1968-69, had recommended in its first Report that rules should be framed within six months of the commencement of the Act.

This Committee also reiterate the recommendation made by the previous Committee 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.

(iii) SUPPLY OF PRINTED AND CORRECTED COPIES OF THE RULES

The Committee observed that certain Departments supplied cyclostyled copies of the Rules for the scrutiny of the Committee. During the scrutiny of the Rules the Committee came across a large number of typographical/spelling mistakes in these cyclostyled copies with the result that it was difficult for them to determine whether the errors were typographical or they actually existed in the Rules, as originally published in the Gazette. In some cases, the Departments supplied cyclostyled copies of the Rules without comparing them with the copies of the Rules published in the Gazette.

The Committee reiterates their recommendations made earlier 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 up-to-date, meticulously prepared and duly corrected before supplying them to the Committee.

(iv) CERTIFICATE REGARDING SUPPLY OF COPIES OF THE RULES CORRECTED UP-TO-DATE

Some of the Departments supplied copies of the rules which were not corrected and amended up-to-date. This resulted in avoidable wastage of valuable time and energy of the Committee and also in postponement of the scrutiny of certain rules.

The Committee, therefore, recommend that in future the Departments concerned while supplying the copies of the rules should invariably send a certificate alongwith the rules that the copies of the rules are amended and corrected up-to-date.

(v) SUPPLY OF COPIES OF RULES/REGULATIONS, ETC. TO THE COMMITTEE

The Committee at its meeting held on the 22nd May, 1969, desired that the Government should supply 25 copies each of the certain Rules.

The Committee observe that most of the Departments did not supply the copies of the Rules till the finalization of its Report. This obviously hampered the work entrusted to the Committee. The Committee, therefore, recommend that Government Departments should furnish the copies of the Rules at their earliest.

(vi) LATE SUPPLY OF INFORMATION

The Committee observed that in certain cases the representatives of various departments who appeared before them in connection with the scrutiny of rules promised to supply certain information within specified period, i.e., within a week, 15 days or one month but actually the requisite information was supplied after the lapse of long period and that too only after reminders were issued to them for the purpose by the Vidhan Sabha Secretariat. The result is that delayed action on the part of the Government hampers the work of the Committee.

The Committee, therefore, recommend that in future the information which is specifically meant to be supplied to the Committee should be sent within such period as is agreed to by the representatives of various departments at the meetings of the Committee so that their work may not be withheld on this account.

(vii) NON-FRAMING OF RULES UNDER CERTAIN ACTS

The Committee note that it is a matter of regret that the rules have not been framed upto now under the following Acts :-

1. The Punjab Prohibition of Cows Slaughter Act, 1955 ;
2. The East Punjab Moveable Property (Requisitioning) Act, 1947 ;
3. The Redemption of Mortgages (Punjab) Act, 1913 ;
4. The East Punjab Rent Restriction Act, 1949 ;
5. The Punjab Homoeopathic Practitioners Act, 1965

The Committee are amazed as to how these Acts are being implemented in the absence of the Rules. The Committee feel that in the absence of the rules the purpose of these Acts have been defeated and, in a way, the Legislature is being by-passed.

The Committee recommend that the framing of rules under these Acts and any other similar Acts be expedited and the Committee be informed accordingly.

(viii) IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE

The Committee observe with great regret that the work regarding the implementation of recommendations made by the Committee in their previous reports is very slow. Some of the Departments have not even intimated as to what action had so far been taken by them in regard to the implementation of the recommendations of the Committee. It is felt that the very object with which the Committee was constituted would be defeated if their recommendations are either not implemented at all or are implemented after a long time.

The Committee recommend that normally the recommendations/observations made by them should be implemented within a period of three or four months after the presentation of the Report to the House. If, however, any Department is unable to implement the recommendations/observations of the Committee within the prescribed period the Government should intimate to the Committee their reasons therefor.

The Committee further recommend that the Departments concerned should furnish quarterly reports as to the action taken in connection with the implementation of their recommendations made in this report and in their reports for the previous years.

(ix) MAINTENANCE OF RECORD OF THE NEW ACTS AND THE AMENDING ACTS

The Committee recommend that there should be a cell in the Haryana Vidhan Sabha Secretariat to keep record of the new Acts and the Amending Acts, passed after the State of Haryana came into being, under which Rules are required to be framed, but the same have not been framed within six months of the enforcement of the new and the Amending Acts, and that cell should continue to remind the Departments concerned to implement the recommendations of the Committee.

II. SCRUTINY OF RULES

The Committee scrutinized the following Rules :—

- (i) The Pepsu Tenancy and Agricultural Lands Rules, 1958, framed under the Pepsu Tenancy and Agricultural Lands Act, 1955 ;
- (ii) The Punjab Co-operative Societies Rules, 1963, framed under the Punjab Co-operative Societies Act, 1961 ;
- (iii) The Punjab Backward Classes (Grant of Loans) Rules, 1958, framed under the Punjab Backward Classes (Grant of Loans) Act, 1957 ;
- (iv) The Punjab Urban Estates (Sales of Sites) Rules, 1965, framed under the Punjab Urban Estates (Development and Regulation) Act, 1964 ;
- (v) The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Rules, 1965, framed under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 ;
- (vi) The Punjab Land Improvement Schemes Rules, 1963 framed under the Punjab Land Improvement Schemes Act, 1963 ;
- (vii) The Punjab Anatomy Rules, 1966, framed under the Punjab Anatomy Act, 1963 ;
- (viii) The Punjab Reclamation of Land Rules, 1960, framed under the Punjab Reclamation of Land Act, 1959 ;
- (ix) The Good Conduct Prisoners' Probational Release Rules framed under the Good Conduct Prisoners' Probational Release Act, 1926 ;
- (x) The Punjab State Aid to Industries Rules, 1936, framed under the Punjab State Aid to Industries Act, 1935.

Revenue (i) THE PEPSU TANANCY AND AGRICULTURAL LANDS RULES, 1958, FRAMED UNDER THE PEPSU TENANCY AND AGRICULTURAL LANDS ACT, 1955.

Rule 4—

- "4. *Prescribed relatives for personal cultivation.*—For the purposes of sub-clause (ii) of clause (g) of section 2 of the Act, the relatives prescribed shall be the landowner's mother, father, wife, husband, son, grandson, daughter, grand-daughter, brother, nephew, uncle, brother-in-law, maternal uncle, son of brother-in-law or of maternal uncle."

The Committee observed that the terms in regard to the relatives prescribed for personal cultivation in this Rule, such as grand-son, grand-daughter, nephew, brother-in-law, etc., were vague, and, therefore, asked the Departmental Representative to clarify it keeping in view the provisions contained on the subject in rule 5 of the Punjab Security of Land Tenure Rules, 1956. The Departmental Representative promised that he would go into the background of this case and then to clarify it

Rule 5—

- “5. *Conversion of ordinary acres into standard acres.*—An equivalent, in standard acres, of one ordinary acre of any class of land in any tehsil shall be determined by dividing by 100 the valuation shown in Schedule A for such class of land in the said tehsil.

Explanation.—For the purpose of determining the class of any land, the entry in the latest jamabandi relating to such land shall be conclusive.”

The Committee observe that in Explanation to rule 5, a reference is made to the entry in the latest Jamabandi. But it has come to the notice of the Committee that in some cases the Jamabandis are not prepared within the time schedule under the Land Revenue Act. With the result that sometimes the Jamabandi takes as much as eight or fifteen years to be prepared due to consolidation of holdings procedure or due to some other reasons. If the entry in the Jamabandi is taken to be a conclusive, then the class of land would not be determined correctly due to the change that might have occurred during all that long time. Therefore, the Committee wanted to know whether some other basis could be fixed for this purpose.

The Departmental Representative stated that the Department would amend this rule to conform with the provisions of the Land Revenue Act. In other words the “entry in the latest Jamabandi” shall be presumed to be correct unless rebutted.

The Committee observe that the entry in the latest Jamabandi shall be presumed to be correct unless rebutted.

Rule 8—

- “8. *Procedure for dealing with reservation forms.*—The Collector shall, after satisfying himself as to the correctness of the particulars mentioned in Form I, issue a notification in Form II and forward copies thereof to every Tehsildar concerned for affixing one copy at a conspicuous place in every estate in which the land is situate and for delivering another copy to the landowner either personally or by registered post ;

The Committee observe that after the words “registered post”, he brackets and words “(acknowledgement due)” be added.

The Departmental Representative agreed with the views of the Committee.

Rule 9—

- "9. *Receipt for rent.*—The receipt for rent to be given to the tenant under section 11 (1) of the Act shall be in Form III."

The Committee wanted to know whether the receipts for rents of land usually issued in languages i.e. Hindi, Urdu etc. in the form different from the one prescribed in this Rule are considered to be legally valid. The Committee also wanted to know whether any instructions had been issued by the Government to the various Revenue Courts about the strict compliance of this form III of the Rules and the forms had been supplied by the Government to the Revenue Courts.

The Departmental Representative agreed to modify the form of receipt of rent and stated that the receipts would be either in form III or in any other form or language.

Rule 14—

- "14. *Application for acquisition of proprietary rights.*—A tenant intending to acquire proprietary rights under Chapter IV of the Act shall make an application in Form VI and such application shall be presented by him to the prescribed authority personally or through his recognised agent."

The Committee observe that at the end of rule 14 the words "or by registered post "(Acknowledgement due)" be added.

The Departmental Representative agreed with the views of the Committee in this behalf.

Rule 15—

- "15. *Form of certificate.*—(1) * * * *
(2) The prescribed authority shall prepare three extra copies of such certificate one to be placed on the file, the second to be sent to the landowner, and the third to be sent to the Patwari concerned who shall make mutation entries in accordance with the certificate which shall, for purposes of attestation of the mutation and charging of fees, be treated as if it were a decree of a revenue court."

The Committee observe that after the word "entries" the words "within a period of fifteen days of the final adjudication of the rights" be inserted.

The Departmental Representative stated that instead of this, after the words "in accordance with the Certificate" the words "at once and shall report compliance thereof within fifteen days" would be more proper.

The Committee agreed with the views of the Departmental Representative and recommend that rule 15(2) be amended accordingly.

Rule 18—

“18. *Contents of award*—(1) Every award of compensation made under Chapter IV of the Act shall contain the following particulars:—

- (a) full description of the land ;
- (b) total amount of compensation payable ;
- (c) amount of each instalment fixed and the date by which it is to be paid ;
- (d) names of the persons entitled to receive compensation and the share due to each one of them ,
- (e) names of the tenants by whom compensation is payable with a description of the share payable by each ;
- (f) full description of the shares of the tenants acquiring proprietary rights in the land.

(2) Every landowner and tenant interested in the award shall be furnished by the prescribed authority with a copy of the award free of cost.”.

The Committee observe that the marginal heading of this rule is written as “Contents of award”, but there is no mention in any section of the Pepsu Tenancy and Agricultural Lands Act, 1955, about the award of compensation although there is a mention of determination of compensation in Section 23 of the said Act. and, therefore, enquired the Department to clarify this position.

The Departmental Representative stated that the Revenue Department would consult the Law Department if the word “award” could be substituted by some other appropriate word.

The Department stated that the Legal Remembrancer has been consulted whether the word “award” occurring in the marginal heading of this rule can be substituted by some other appropriate word. He has again observed that although the marginal heading is not happily worded, but it conveys the meaning of the rule all right, and no change need be effected therein.

The Committee are of the view that in the marginal heading of the rule for the word “award” the word “compensation” be substituted as the word “compensation” occurs in Section 23 of the Act and the word “award” has neither been defined in the Act nor in the Rules.

Rule 23-A—

“23-A. *Prescribed relations for the purposes of section 32 -FF of the Act.*—For the purposes of section 32-FF of the Act, the prescribed relations shall be the wife or husband, male or female descendants and the descendants of such female, father, mother, father’s or mother’s sister, brother, and his descendants, mother’s brother and his descendants, wife’s brother, and sister’s husband”.

The Committee wanted to know why the sister and her relations and father's brother and his relations have not been included in this Rule ?

The Departmental Representative agreed to include the sister and her descendants in the definition of prescribed relations under rule 23-A. But, so far as father's brother and his relations were concerned, he would refer it to the Committee on Agrarian Reform for their consideration.

Rule 24-B—

“24-B. Mode of payment of compensation.—(1) A sum up to a maximum of Rs 2,500 shall be paid in lump sum, in cash, towards the final compensation due for surplus area vesting in the State Government under section 32-E :

Provided that if after payment of the above amount a sum less than Rs 50 is due as compensation, that too shall be paid in cash simultaneously.

- (2) the remaining amount of compensation, if any, worked out after completing Part B of the compensation statement shall be paid in bonds :

Provided that any amount which cannot be covered by bonds shall be paid in cash.

(3) * * * * *

The Committee wanted to know the period or duration of the bonds paid in compensation of the price of the land.

The Departmental Representative stated that the Revenue Department had recommended that the balance of compensation may be paid in cash and this proposal is under consideration of the Finance Department.

In a subsequent communication, the Revenue Department stated that the Finance Department have accepted the proposal that the entire amount of compensation may be paid in cash, in three equated annual instalments, beginning from the current financial year. Further action to amend the relevant rules is being taken and the Committee on Subordinate Legislation will be informed when the matter is finalized.

The Committee recommend that the matter may be finalized and a copy of the amended rule be supplied to the Committee as early as possible.

Rule 24-D.—

*“24-D. Account of voucher.—*The Treasury Officer shall keep an account of the vouchers presented and encashed on each day of payment in Form IX-D. The statement in Form IX-D shall be kept in a guard file. Where no payments are made on any day, the Treasury Officer shall prepare a blank statement in Form IX-D. The Treasury Officer shall prepare a monthly statement in Form IX-E and send one copy thereof to the Collector or the Officer authorised by the State Government who shall consolidate

the same in district statement to be prepared in Form IX-F and shall forward copies thereof, one each to the Commissioner of the Division, Additional Secretary, Revenue, and Finance Secretary to Government, Punjab.”.

The Committee are of the view that there is no necessity of retaining the words “Additional Secretary, Revenue” and further for the word “Punjab” the word ‘Haryana’ be substituted, therefore, the rule should be suitably amended.

The Revenue Department in a written reply stated that the adaptation of rule containing the recommendations of the Committee on Subordinate Legislation has been finalised and the matter has been sent to the Press for publication.

The Committee desire that a copy of the amended rule, as published may be supplied to them.

Rule 25-A—

“25-A. The prescribed amount payable by the persons to whom land is allotted out of the surplus area in pursuance of a scheme framed by the State Government under section 32-J of the Act shall be equal to the aggregate amount of compensation payable by the State Government for the surplus area which is allotted to them. When the prescribed amount is not paid in lump sum the interest, if any, payable by the State Government on such part of the compensation as is paid in bonds shall also be included in it.”.

The Committee observe that the rate of interest on such part of the compensation as may be paid in bonds, has not been mentioned in the Rule.

The Departmental Representative stated that the question is also related to the question of determination of compensation which is proposed to be paid in cash under rule 24-B(2).

The Committee recommend that the rate of interest should also be fixed.

Rule 29(1)—

“29 (1). *Determination of market value of building, structure, tube-well or crop.*—In determining the market value of any building, structure or tube-well, the Commission, shall take into account the advice of the Chief Engineer, P.W.D., Punjab, concerned or any other officer nominated by him.”

The Committee recommend that in line 3, for “Punjab” substitute “Haryana”.

Rule 30—

“30. Exemption of orchards where they constitute reasonably compact arca, specialised farms engaged in cattle breeding, dairying or

wool raising and sugarcane farms operated by sugar factories.—

(1)

(2)

Explanation.—The adult animals of standard breed shall be—

(I) for breeding purpose—

(a) Cows of—

(i) Haryana breed, for plains except Kapurthala District ;

(ii) Sahiwal breed for Kapurthala District ;

(iii) Jersey crosses and Red Sindhi breed; for hilly areas.

(b) Buffaloes of—

(i) Nili for the area lying to the north of Sirhind canal, and its Abohar Branch, Faridkot Tehsil and the hill areas

(ii) Murrah for the rest of the areas

(II)

(3)

Notes.—"Hilly areas" shall comprise Kandaghat Sub-Division, Nallagarh Sub-Division and Panjaur Kanungo.

"Plains" shall comprise remaining parts of Patiala District, Kapurthala, Sangrur, Bhatinda and Mahendergarh Districts.

The Committee feel that the whole of this Rule requires amendment in view of the reorganisation of the erstwhile State of Punjab, as most of the areas mentioned in this Rule, now do not form part of the State of Haryana.

The Departmental Representative stated that the matter regarding omission of these areas from this rule is already with the Law Department.

The Committee observe that the department should get the matter expedited.

GENERAL OBSERVATIONS

The Revenue Department,—*vide* its letter No. 4036-AR-IV-69/26857, dated the 6th November, 1969, informed the Committee on Subordinate Legislation that the observations referred to above, made by the Committee and the assurances given by the then Financial Commissioner, Revenue, in the meeting of the Committee held on the 31st July, 1969, have been examined

and it has been decided that their implementation should be kept pending till receipt of the report of the Committee on Tenancy Laws, constituted by the State Government in November, 1968. Both the Acts viz. Punjab Security of Land Tenures Act, 1953 and the Pepsu Tenancy and Agricultural Lands Act, 1955 are under review of the Committee and it is likely that the amendments to be suggested by the Committee and in the present case my become ripe for legislation simultaneously.

This communication was placed before the Committee on Subordinate Legislation. The Committee did not feel satisfied with the replies given by the Department, in as much as no time-limit has been stated by which both these Acts viz., The Punjab Security of Land Tenures Act and the Pepsu Tenancy and Agricultural Lands Act, 1955 are expected to be reviewed and sponsored in the Legislature. The Committee were further of the view that until the Legislature amends or re-enacts both these Acts these Rules will remain in force.

The said information/observation of the Committee was referred to the Revenue Department for necessary action.

The Revenue Department,—*vide* its letter No. 6777-ARIV-69/3021, dated the 26th December, 1969, reiterated its earlier reply that the Government have decided that it would be possible to implement the recommendations of the Committee on Subordinate Legislation only when the report of the Agrarian Reforms Committee has been received.

The Committee are constrained to observe that the Rules under the existing Acts will continue to be in force even after both these Acts are re-enacted. They will only cease to be in force when fresh Rules are framed under the re-enacted Acts.

The Committee, therefore, recommend that their observations may be examined thoroughly for implementation and the Committee be informed accordingly.

Section 21 of the Act

The Committee would like to know whether the provisions of Chapter IV have been made applicable to evacuee lands and notification under section 21 published in the Gazette.

The Departmental Representative stated that no notification had been issued, and it would not apply to the Evacuee lands.

The Committee desired the Departmental Representative to examine the matter further keeping in view the provisions contained in the Punjab Security of Land Tenures Act, 1953.

The Departmental Representative promised to examine the matter.

Section 32-K of the Act

The Committee wanted to know whether the Board as contemplated in sub-section (6) of section 32-K, has been constituted.

The Departmental Representative stated that the Board has not been constituted. He further stated that the question of its constitution has been taken up and as soon as it is finalised, the Pepsu Land (Commission) Board will be constituted.

The Committee observe that the Board should be constituted at the earliest and when constituted, the fact should be reported to the Committee.

Co-operative
**THE PUNJAB COOPERATIVE SOCIETIES RULES, 1963,
 FRAMED UNDER THE PUNJAB COOPERATIVE
 SOCIETIES ACT, 1961.**

Rule 2—

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

.	*	*	*	*	*
,	,	,	,	,	,
"	"	"	"	"	"
"	"	"	"	"	"

The Committee are of the view that in line 1, for the sign " :—" occurring after the word "requires" the sign ",—" be substituted.

The Departmental Representative agreed to it.

Rules 5, 7 and 13—

"5. Procedure on receipt of application.—(1) Before passing final orders under section 8, the Registrar may call for such further information from the applicants or make such independent enquiries as he may deem necessary.

(2) After the Registrar is satisfied with regard to the matters stated in sub-section (1) of section 8, he may register the co-operative society and its bye-laws. A copy of the registered bye-laws shall be returned by him to the co-operative society".

"7. Appeal against refusal of registration.—Where an application for registration of a co-operative society is rejected by the Registrar, the appeal, if made, shall be signed by all the persons joining in the application for registration :

Provided that where the application for registration has been signed by more than ten persons, the appeal shall be signed by at least one-third persons joining the application for registration".

"13. Appeal against refusal to register amendments to bye-laws.—Where an application for registration of an amendment in bye-laws of a co-operative society is rejected by the Registrar under sub-section (4) of section 10, the appeal, if any, shall be made only after a

meeting of the general body has reconsidered the matter and has decided to prefer an appeal and shall be signed by an officer of the co-operative society duly authorised in this behalf to a general meeting.”.

The Committee observe that where an application for registration of a co-operative society under Rule 5 is rejected, the applicant may be provided a reasonable opportunity of being heard in person or through his duly authorised representative.

Similarly, in the case of an appeal filed against the order of rejection under rule 7, the appellant may also be afforded an opportunity to be heard in person.

The Departmental representative agreed to these proposals of the Committee.

The Committee further desired to know when an appeal against refusal to register amendments to bye-laws is made, whether any opportunity is given to an appellant to be heard personally.

The Departmental representative stated that it appears that it is not being given.

The Committee recommend that suitable provisions in the Rule may be made so that an opportunity be afforded to an applicant/appellant to be heard personally.

Rule 6—

“6. *Person to whom order under Section 8(2) to be communicated*—The order passed by the Registrar under Sub-section (2) of Section 8 shall be communicated by registered post to the applicant referred to in rule 3.”

The Committee are of the view that after the word “Post”, the words and signs “(acknowledgement due)” be inserted.

The Departmental Representative agreed to it.

Rule 11—

“11. *Application to Registrar for registration to amendment*.—There copies of the amendment adopted by the co-operative society under rule 10, signed by two officers of the co-operative society duly authorised by the general meeting in this behalf, shall be submitted to the Registrar along with an application for registration duly signed as aforeside. Such copies of the amendments shall be accompanied by a certificate signed by any one of the above two officers of the co-operative society to the effect that the provisions of rule 10 have been complied with.”

The Committee are of the view that in line 1, for the word “There” the word “Three” be substituted and in line 6, for the word “aforeside” the word “afore-said” be substituted.

The Departmental Representative agreed to it.

Rule 14(1) (b)—

"14. *Disqualification for membership.*—(1) * * * :—

(a) * * * :

(b) he has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude, and a period of five years has not elapsed from the date of expiry of the sentence.

(2) * * * :

The Committee desired from the Departmental representative to make it clear as to what kind of offences were of 'Political Character', and what were the offences 'involving moral turpitude'. In the opinion of the Committee it would be better if such offences were specifically laid down in the Rules for the guidance of the concerned authorities.

The Departmental Representative stated that the matter was discussed with the Legal Remembrancer. According to him it was possible to define it.

The Committee recommend that it will be better if some specific offences involving offence of 'Political Character' and 'moral turpitude' are laid down.

The Departmental Representative agreed to the proposal of the Committee.

Rule 15(1)—

"15. *Prohibition of membership in two Co-operative Credit or Service Societies.*—(1) No individual, being a member of a primary co-operative society having one of the object the creation of the funds to be lent to its members, shall be a member of any other such co-operative society without the general or special permission of the Registrar, and where an individual has become a member of two such co-operative societies, either or both of the co-operative societies shall be bound to remove him from membership upon a written requisition from the Registrar to effect.

(2) * * * :

The Committee are of the view that rule 15 (1) envisages that an individual could not remain a member of two primary societies with similar objects unless he had obtained general or special permission of the Registrar. It is generally observed that an individual remained member of two or more co-operative societies with similar objects without even seeking general or special permission of the Registrar. If the Registrar fails to take action in such cases or his subordinates did not bring to his notice such cases what would be the legal position of that member in respect of those societies so far his membership was concerned. Under those circumstances, how could he be removed from the membership of the society ; and from which society ?

The Departmental representative stated that they would amend this rule.

The Committee recommend that rule 15(1) should be suitably amended keeping in view their above observations

The Committee are of the view that for the words "to effect", the words "to that effect" be substituted.

The Departmental representative also agreed to this proposal of the Committee.

Rule 18—

"18. *Withdrawal from membership*—(1) : : .

(2) " : . *

(3) No member of a co-operative society with limited liability shall ordinarily be permitted to seek withdrawal or refund of his shares ;

Provided : .

Provided : : ."

(4) : ."

The Committee noted that under sub-rule (3) it was stated that no member of a co-operative society with limited liability should ordinarily be permitted to seek withdrawal or refund of his shares. But it was nowhere envisaged in the Act. In the view of the Committee, it appears to be substantive provision and recommend that it should be included in the Act whenever amendment to the Act is brought before the Legislature

The Departmental Representative undertook to examine this proposal of the Committee and to inform the Committee accordingly.

Rule 19—

Section 85(2) (xx)

"19 *Nomination of heir*—(1) * . * *

(2) " * * * *

(3) * * * *

(4) * * * *

(5) * * * *

(6) The value of the share or interest transferred or paid to a nominee or nominees shall be determined on the basis of the sum actually paid by the member to acquire such a share or interest, unless the bye-laws provide for calculation on a different basis."

The Committee are of the view that although rule 19 has been shown to have been framed under section 85(2)(xx), yet it would be better if reference of Section 21 is also indicated in the margin.

In sub-rule (6), for the word "acquir" the word "acquire" be substitute d.

The Departmental Representative agreed to this proposal of the Committee.

Rule 20—

"20. *Maintenance of register of members.*—Every Co-operative Society shall maintain a register of members showing :—

- (a) the name, address and occupation of each member, and a statement of shares held by him ;
- (b) the date on which the member's name was entered in the register;
- (c) the date on which any person ceased to be a member ; and
- (d) the nominees appointed by a member.

The Committee are of the view that sub-section (2) (xvi) of Section 85 of the Act provides for the formation and maintenance of a register of Members, and where the liability of the Members is limited by shares, of a register of shares, but actually rule 20 of these Rules stipulates the maintenance of a register of members only.

The Committee, therefore, desire the Department to clarify the position in this regard.

The Departmental Representative stated that they will amend this rule accordingly.

Rule 20—

Sections 4 and 5 of the Act envisages that 10 or more Members can form a Co-operative Society, but in practice it is experienced that this is not the case and two or more Societies are not allowed to be formed and registered in a village by the Department. In fact, the Credit Co-operative Societies are discouraged to be formed, and registered. It has been learnt that this is being done under the Executive Instructions of the Department which are expressly against the express provisions of the Act and, in fact, if the provisions contemplated by the Act are not being implemented faithfully. The Committee feel that it is in contravention of the Act and the Committee view this very seriously. Although during the course of oral examination the Secretary to Government, Haryana, Co-operative Department showed that this has not been done but the Members of the Committee pointed out that the practice is otherwise.

The Committee would like to have the copies of the Executive Instructions issued by the Department on this subject for the facility of reference and examination and would further like to know from the Department whether these instructions are binding.

Rule 22—

"22. *Powers of general meeting.*—Without prejudice to the provisions of section 24, the general meeting alone shall have the power to transact the following business :—

(Old Rule)—

- (a) fixing the maximum credit limit of the Co-operative Society subject to the approval of the Registrar ;

(New Rule)—

- (a) Fixing the maximum credit limit of the Co-operative Society having 1,000 or less members, subject to the approval of the Registrar.”

The Committee observed that according to old sub-rule 22(a), the General Meeting alone had the power to fix the maximum credit limit of the co-operative society subject to the approval of the Registrar, but in accordance with the newly substituted sub-rule 22(a), the General Meeting has the power to fix the maximum credit limit of the Co-operative Society having 1000 or less members, subject to the approval of the Registrar. The Committee, therefore desire to know the reasons from the Department for amending this sub-rule. ,

The departmental representative stated that it was superfluous and would be omitted.

The Committee recommend that the needful be done at an early date.

Rules 25 and 26—

“25. *Disqualification for membership of Committee.*—No person shall be eligible of election as a member of the Committee if —

- (a) he is in default to any Co-operative Society in respect of any sum due from him to the society or owes to any Co-operative Society an amount exceeding his maximum credit limit ;
- (b) he has, directly or indirectly, any interest in any contract to which the Co-operative Society is a party except in transactions made with the Co-operative Society as a member in accordance with the objects of the society as stated in the bye-laws ;
- (c) he has at any time during a period of one year prior to the date of scrutiny of nomination papers, engaged in any private business, trade or profession of any description which is carried on by the society.
- (d) he has committed any offence involving dishonesty or moral turpitude during a period of five years prior to the date of scrutiny of nomination papers ;
- (e) he is subject to any of the prohibitions contained in rule 26 ;
- (f) he has, during a period of 12 months preceding the date of filing of nomination papers, remained inactive as member or has been carrying on, through agencies other than the Co-operative Society of which he is a member, the same business as is being carried on by the Co-operative Society ;
- *(f) he is member of an elected committee of any cooperative society which has ceased to function or which has not fulfilled its

*Note (f). This (f) occurs in the amendment slip supplied to Committee subsequently

objects as stated in its bye-laws and has been included in the list of "D" class societies maintained by the Registrar or is a member of an elected committee of a society which is under winding up process ;

(g) he has ceased to be a member of an elected committee of any cooperative society within a period of one year preceding the date of inclusion of such society in the list of "D" class societies maintained by the Registrar or the operation of order of winding up of such society under section 57 of the Act

(h) he incure any other disqualification laid down in the bye-laws of the society ;

26. *Cessation of membership of committee.*—A member of the committee shall cease to hold his office as such if he :—

(a) continues to be in default in respect of any sum due from him to the Co-operative Society for such period as may be laid down in bye-laws ,

(b) ceases to be a member ,

(c) is declared insolvent ;

(d) becomes of unsound mind ;

(e) is convicted of an offence involving dishonesty or moral turpitude , or

(f) becomes subject to any disqualification which would have prevented him from seeking election, had he incurred that disqualification before election "

The Committee are of the view that in part (b) of rule 25, the expression "directly or indirectly" was vague, and gives unreasonable discretion and leaves scope for misuse of power. Similarly, in part (f) of rule 25, the word "inactive" also leaves scope for misuse of power.

The Departmental Representative admitted that the use of the word "indirectly" gave considerable discretion with regard to disqualification of Members of the Committee. The suggestion of the Committee that its implications should be clearly spelt out and type of relationship through which the person concerned derived interest for the particular transaction, should be defined, would be considered by the Government

After discussion and having been agreed to by the departmental representative, the Committee observe that in clause (f), for the words 'remained inactive as member', the words "made no transaction with the society as a member in accordance with its objects and as stated in the Bye-laws of the society." be substituted

In the latest copy of the rules, as supplied to the Committee, there is a mention about the substitution of clause (g), for clause (f) According to the departmental representative, clause (f) of the rule stands as it is. It, therefore, recommend that in the amendment slip pasted in the latest copies of the Rules, for "(f)" substitute "(g)" and for "(g)" substitute "(gg)".

In clause (h) of the rule, for the word "incure" the word "incurs" be substituted.

The departmental representative stated that they would examine part (f) of rule 25, especially the use of the word "inactive" and its import in the context of the cooperative movement as a whole and send their comments to the Committee.

After going through the provisions of rules 25 and 26, the Committee are doubtful if there is any provision in the rules or the Act itself to remove a person, who escapes from being disqualified on the date of his election to the Committee due to one reason or the other, from the membership of the Committee. The Committee, therefore, recommend that necessary amendment in the rules be made as early as possible.

The departmental representative agreed to this proposal of the Committee.

Rule 28.

"28 *Employees of Cooperative societies.*—(1) No Co-operative Society shall appoint any person as its employee unless he possesses such qualifications and furnish such security as may be specified by the Registrar from time to time.

(2) The Registrar may, in any case, for special reasons, relax the provisions of this rule to such extent as may consider proper."

The Committee note that under section 85(2) (xxxviii) the Government is required to prescribe qualifications of the members of the Committee in addition to that of the employees of the society. Under rule 28(1) the Registrar has been empowered only to prescribe qualifications and the amount of security required from the employees of the society. The Committee desired to know the reasons for not prescribing the qualifications of the members of the Committee of the Society.

The Departmental Representative stated that instead of prescribing these qualifications in the bye-laws, these should be prescribed in the rules to enable a person to become a member of the Committee of the Society.

The Departmental Representative further stated that a Government servant may be debarred from seeking election to the Managing Committee of the Cooperative Society, by suitably amending the rules.

The Committee observe that sub-rule (1) of rule 28 may be amended accordingly.

The Committee further noted that in sub-rule (2) of rule 28, the Registrar had been given the powers to relax the provisions contained in sub-rule (1) of rule 28 for special reasons. In the view of the Committee, these powers appear to be arbitrary and in number of cases, the High Court had struck down such rules. The High Court was reported to have observed that relaxation can be only for a class or category of persons and not for any individual. The Committee, therefore, desired that the Department should clarify this position.

The Departmental Representative agreed that sub-rule (2) of Rule 28 may be deleted.

Rule 29.—

“29. *Prohibition against being interest in contracts etc.—*

Section 85 (2), (2)
(x) and (xxxvii)

The Committee observed that in the margin of the rule, there is reference of Section 85(2) (xxxvii) which in fact should be “85(2)(xxxviii)”.

The Departmental representative agreed to it.
Rule 30—

“30. Manner of certifying copies of entries in books :—

Provided that the said certificate shall be dated and signed by an officer of the Cooperative Society”.

The Committee recommend that for the reference of section “36(1)” the reference of section “36” be substituted.

The Committee recommend that the proviso to this rule be substituted as under —

“Provided that the said certificate shall be dated and signed by an officer of the Co-operative Society as prescribed in the bye-laws.”.

The Departmental Representative agreed to these proposals of the Committee.
Rule 36—

“36. (1) Creation of Co-operative Education Fund :—

The Committee observe that in line 1, after the figure “36” delete the signs and figure “(1)” since there is no sub-rule.

The Departmental Representative agreed to the proposal of the Committee

Rule 37—

“37. Investment of funds :— (1)

(2)
(3)

(a)
(i)
(ii)

- (b) to the purchase or lease for lands or purchase construction or renewal of buildings by a Co-operative Society whose object according to its bye-laws conclude such purchase, lease, construction or renewal.”

The Committee observe that in line 1 of sub-rule (3)(b) for the word "for" occurring between the words "lease" and "lands", the word "of" be substituted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 43

- “43. *Restrictions on borrowings by Co-operative Societies.*—(1) Subject to the provisions of sub-rule (2), a Co-operative Society shall not receipt deposits and loans whether from members or non-members which exceed the limit fixed from time to time in a general meeting subject to the approval of the Registrar who may at any time reduce it.

(2) : :

(3) $\frac{1}{2}$ $\frac{1}{4}$ $\frac{3}{4}$ 1 $1\frac{1}{2}$

The Committee observe that in line 3 of sub-rule (1) for the word 'receipt', the word 'receive' be substituted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 44—

- “44. *Maintenance fluid of resources.*—Every Co-operative Society accepting deposits and granting cash credits shall maintain fluid resources in such form and according to such standards as may be fixed by the Registrar from time to time, by general or special order.”.

The Committee observed that the term "fluid resources" had nowhere been defined.

The Departmental Representative stated that the term "fluid resources" had been defined in a circular of the Registrar, Co-operative Societies, Haryana, of the 17th December, 1968. This would also be defined in the Rules.

The Committee further observe that in the heading of the rule for the words "Maintenance Fluid of resources" the words "Maintenance of Fluid resources" be substituted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 52.—**QUALIFICATIONS FOR ARBITRATOR AND LIQUIDATOR**

The Committee enquired from the Departmental Representative about the qualifications which must be possessed by an Arbitrator to be appointed by the Registrar because this power to appoint Arbitrator was likely to be misused and in some cases arbitrators of doubtful integrity and lower qualifications were reported to be appointed. So is the case with the appointment of Liquidators in which case also no qualifications for appointment as such had been prescribed although their (Arbitrator and Liquidator) position was highly responsible.

The Departmental Representative agreed to examine this matter.

Rule 53—

“53. *Communication of date, time and place of hearing.*—In an arbitration proceeding, the Registrar or the arbitrator, as the case may be shall communicate the date, time and place of hearing the dispute to all the parties concerned.”

The Committee recommend that in line 3 after the words ‘may be’ the sign ‘,’ be inserted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 54—

“54. *Power to appoint guardian for minors etc.*—The Registrar or the arbitrator, as the case may be, shall have power to appoint or remove a guardian for the party to the dispute who is a minor or who, by reasons of unsoundness of mind or mental infirmity, is incapable of protecting his interest”.

After some discussion, the Committee observed that, under this rule, power had been given to the Registrar or the Arbitrator to appoint or remove a guardian for the party to the dispute who was a minor etc. The difficulty would arise where such a person would go before the Arbitrator. But in the Civil Procedure Code no such provision exists. Therefore, the Committee are of the opinion that the Registrar or the Arbitrator should not have the power to remove the guardian.

The Departmental Representative stated that they will get this point examined by the Legal Remembrancer.

Rule 55—

“55. *Hearing of Disputes.*—The Registrar or the arbitrator, as the case may be, shall hear the parties and witnesses who attend. On the basis of such evidence and after consideration of any documentary evidence that may be produced by either party, he shall give a decision or award, as the case may be, in accordance with justice equity and good conscience. The decision or award shall be reduced to writing, announced to the parties and filed in the office of the Registrars. In the absence of any party duly summoned to attend, the dispute may be decided *ex parte*.”

The Committee recommend that in line 8, after the word 'filed', the word 'in' be inserted and for the word 'Registrars' the word 'Registrar' be substituted.

The Departmental Representative agreed to these proposals of the Committee.

The Committee also observed that under Civil Procedure Code, if the proceedings were carried on *ex parte* or the case was decided *ex parte* there was provision for setting aside the *ex parte* order or decree on sufficient grounds. Similar provision, in view of this Committee, needed to be made in rule 55.

The Departmental Representative stated that he would also get this point examined by the Legal Remembrancer.

Rule 57—

"57. *Maintenance of record arbitration.*—(1) The record of arbitration proceedings shall be kept in such place and in such manner as the Registrar may direct.

(2) * * * * *

The Committee recommend that in line 1, in the short title, between "record" and "arbitration", the word "of" be inserted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 58—

"58. *Procedure to be followed by liquidators.*—(1) The liquidator shall as soon as the order or winding up of the co-operative society takes effect publish by such means as he may think proper, a notice requiring all claims against the co-operative society, the winding up of which has been ordered to be submitted to him within one month of the publication of the notice. All liabilities recorded in the account books of a co-operative society shall be deemed *ipso facto* to have been duly submitted to him under this sub-rule.

(2) The liquidator shall, after setting the assets and liabilities of the co-operative society as they stood on the date on which the order for winding up is made. * * *

(3) * * * * *

The Committee recommend that in line 2, after the word "shall" the sign "," be inserted.

The Departmental Representative agreed to the proposal of the Committee.

The Committee observed that the mode of the publication of a notice, under this sub-rule, should not be left at the discretion of the liquidator. It would be better if the same was prescribed in the rule itself.

The Departmental Representative stated that in line 4, after the word "publish", they would insert "in the manner as prescribed in the Civil Procedure Code".

The Committee recommend that in sub-rule (2), for the word "setting" the word "settling" be substituted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 65—

50 (k)	"65	<i>Disposal of surplus assets:—</i>	*	*	*
			*	*	*
			*	*	**
			*	*	*

The Committee observe that in the margin, between the figure "59" and "k", the figure "(2)" be substituted.

The Departmental Representative agreed to the proposal of the Committee.

Rule 72—

"72. Procedure in execution of award etc.—

	*	*	*	*	*
(2)	*	*	*	*	*
(3)	*	*	*	*	*
(4)	Unless the decree-holder has expressed a desire that proceedings would be taken in particular order as laid down in sub-rule (2) execution ordinarily be taken in the following manner :—				
(i)	*	*	*	*	*
(ii)	*	*	*	*	*
(5)	*	*	*	*	*
(a)	*	*	*	*	*
(b)	*	*	*	*	*
(c)	*	*	*	*	*

- (d) * * * * *
- (e) * * * * *
- (f) * * * * *
- (g) * * * * *

(h) Where the Sale Officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer-door of which may be shut or within any apartments appropriated to women, which by custom or usage are considered private, the Sale Officer shall represent the fact to the Officer Incharge of the nearest police station. On such representation, the officer incharge of the said station shall send a police officer to the spot in the presence of whom the Sale Officer may force open the other door of such dwelling house.” * * *

- (i) * * * * *
- (j) * * * * *
- (k) * * * * *
- (l) * * * * *
- (m) * * * * *
- (n) * * * * *
- * * * * *
- * * * * *

The Committee recommend that the word “shall” be inserted before the word “ordinarily” in sub-rule (4).

The Departmental Representative agreed to this proposal of the Committee.

The Committee further recommend that for the word “suppose” occurring in sub-rule (4) (h), be substituted by the word “believe”

The Departmental Representative agreed to the proposal of the Committee.

The Committee desired to know why the words “other door” had been put in line 9 of part (h) when there was generally one door in the dwelling houses of rural areas.

The Departmental Representative stated that the word “other” will be replaced by the word “outer”.

Rule 75—

- "75. *Appeals.*—For the purposes of section 68, no appeal shall be entertained unless it is accompanied by a copy of the order appealed against."

The Committee desired to know the procedure for obtaining copies of order to be appealed against, inasmuch as there was no provision either in the Act or in the rules for obtaining or supplying the copies of such orders

The Departmental Representative stated that they will examine this aspect of the matter and then inform the Committee.

Rule 80—

- "80. *Special rule.*—(1) Notwithstanding any thing contained in these rules, the procedure laid down in this rule shall apply to a society in which either shares have been subscribed by Government or liability by way of guarantee for borrowing exceeding fifty per cent of the working capital of the society has been undertaken by the Government :

Provided

- (i) At least fifteen days' clear notice, specifying the date, place, time and agenda for a meeting of a general body/committee and at least seven days' clear notice for a meeting of any smaller body set up by either of them whether convened by the Registrar, the President or otherwise shall be given to all the members of the general body/committees or smaller body, as the case may be ;

Provided that a shorter notice may be given to all the members of the generally body/committee or smaller body, as the case may, be, with the permission of the Registrar or under his direction.

(2)

The Committee recommend that in line 2, of proviso to clause (i) for the word "generally" the word "general" be substituted.

The Departmental Representative agreed to the proposal of the Committee.

The Committee observe that the reference to the Indian Limitation Act, 1908 in section 66 is inappropriate as this Act has been replaced by the Indian Limitation Act, 1963. The Committee, therefore, recommend that an appropriate amendment in the Act be brought before the Legislature.

The Departmental Representative stated that the necessary amendment will be brought before the Legislature.

The Committee observe that the recurring fine imposed under the Gram Panchayat Act was reported to have been held *ultra vires* by the High Court. There is provision of recurring and continuing fine in the Sub-Sections (1) and (5) of the Punjab Co-operative Societies Act, 1961. The Committee, therefore, recommend that the Department should get the legal opinion in the matter and see the desirability of bringing forward an amendment to the Act

The Departmental Representative stated that this point would be got examined by the Legal Remembrancer.

APPENDIX B

- 1.
- 2.
3. If, on the receipt of the requisition referred to in the preceding rule the committee fails, within a reasonable time, to call the general meeting, the signatories to the requisition may refer the matter to the Registrar who may, if he thinks fit, summon the general meeting
- 4.
- 5.
- 6.
- 7.
- 8.
9. Any three members of the committee may, in writing request the President or Chairman as the case may be of a co-operative Society, to summon a special meeting of the committee and may propose items which shall be considered in such meeting. On receipt of such a requisition the President or Chairman shall convene a meeting of the committee. If within seven days of the receipt of this requisition, the President or Chairman refuses to issue the minimum necessary notice for the meeting or otherwise fails to summon the meeting the Registrar, on the application of the signatories of the requisition, may summon a meeting of the committee after giving due notice to all the members may be required under the rules or bye-laws.
- 10.
- 11.

The Committee are of the view that in clause 3 of Appendix B, line 2, for the word "foils" the word "fails" be substituted

The Committee are also of the view that in clause 3 of Appendix B, line 4, for "may, if he thinks fit", the word "shall" be substituted

The Departmental Representative stated that it was not necessary to replace the word "may" by the word "shall", since the idea was to leave it to the affected parties to request the Registrar for calling the General meeting. However, a provision to the effect would be made that if the Registrar does not call the general meeting he will record the reasons therefor. That would serve the purpose.

The Committee are further of the view that in clause 9 of the Appendix B, line 10, for the word "may" the word "shall" be substituted

The Departmental Representative agreed to it

GENERAL

Rule 18.—

The Departmental representative promised that the question "whether under rule 18 a member is actually entitled to withdraw from membership unless there is somebody to purchase his shares", would be examined and the Committee informed in due course.

The Committee recommend that the matter may be examined and it may be informed at an early date.

III—THE PUNJAB BACKWARD CLASSES (GRANT OF LOANS) RULES, 1958, FRAMED UNDER THE PUNJAB BACKWARD CLASSES (GRANT OF LOANS) ACT, 1957

GENERAL

The Committee enquired whether any action had been taken on the recommendations made by the Committee on Subordinate Legislation of the Punjab Vidhan Sabha for the year 1960-61, contained at pages 25-26 of their Report regarding the Punjab Backward Classes (Grant of Loans) Rules, 1958.

The Departmental Representative stated that fresh Rules would be framed keeping in view the recommendations of the Committee on Subordinate Legislation of the Punjab Vidhan Sabha for the year 1960-61, as well as the observations made by the Committee on Subordinate Legislation of Haryana Vidhan Sabha. He, however, felt sorry that action on the Report of the Committee in question, could not be taken up earlier as the Report and the relevant file, were not readily available to the Department since the formation of the State of Haryana. He assured the Committee that necessary action would be taken in the matter and Committee would be informed.

Rule 2—

"2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context, -

- (a) * * * * *
- (b) * * * * *

(c) 'Controlling Authority' means the Director, Welfare of Scheduled Castes and Backward Classes, Punjab, Jullundur."

The Committee observe that the word "Jullundur" appearing in clause (c) of this Rule, as part of the definition of the "Controlling Authority" should, in view of the changed circumstances be omitted

The Secretary of the Department submitted that the necessary amendment had already been carried out *vide* Notification No 5682-WD5(ASO-3)/21782, dated the 22nd December, 1963.

The Committee noted with regret that copies of the Rules, as amended up-to-date, had not been supplied to them in the first instance.

Rule 6—

"6. *Loan to be in cash.*—(1) The loan shall be paid to the borrower in cash in one or more instalments as the Controlling Authority may decide.

(2) * * * *

The Committee feel that the use of words 'or more' gives unnecessary discretion and latitude to the Controlling Authority and would like to know from the Department whether it would not be more appropriate if the number of instalments in which the loan is to be paid to the borrower, is mentioned in the rule ?

The Departmental Representative agreed with the views of the Committee and stated that in the second line of the Sub-rule, after the word "more", the words "but not exceeding three" and after the word "instalments", the words "in any case" may be inserted, for this purpose.

The Departmental Representative agreed with the views of the Committee.

Rule 8—

"8. *Repayment of loan.*—The borrower may repay the whole or any portion of the loan before the due date".

The Committee enquired why no action had been taken by the Department to suitably amend this Rule despite the observation made by the Subordinate Legislation Committee (1960-61), at page 25 of the Third Report, that section 14(2) (ii) deals with the mode in which payment of loan is to be made to the borrower and not the repayment of loan.

The Departmental Representative did not assign any reason. He, however, agreed that necessary amendment would be made in the rules as recommended by the Committee.

Rule 14—

"14. *Purpose for granting loans.*—The loan may be granted for establishing or expanding an industry, business or profession."

The Committee wanted to know whether it would not be more appropriate to define the expressions "industry, business or profession" for which the loan is to be granted under the provisions of the Punjab Backward Classes (Grant of Loan) Act, 1957.

The Departmental Representative stated that the Government had already specified the trades, professions and industries for which loans could be claimed or granted under this Act, (A copy of the list of such trades, professions and industries was shown to the Committee) (*vide* Annexure I).

The Committee suggested the enlargement of this list by the addition of the undermentioned trades, professions, industries, etc. :—

- (1) Homoeopathic, Unani, Ayurvedic and Allopathic system of medicine practitioners.
- (2) All those trades for which training is being imparted by the Industrial Training Institutes or the Polytechnics.
- (3) Radio Industry (shop/workshop for repairs).
- (4) Watch making.
- (5) Turners.
- (6) Fitters.
- (7) Oil.
- (8) Smithy.
- (9) Tractor, Motor or Scooter Repair workshops. The Secretary, Backward Classes Department agreed to the Suggestion of the enlargement of this list, and to inform the Committee.

FORM A

Form of application for loan under the Punjab Backward Classes (Grant of Loans) Act, 1957.

Note.—The application is to be submitted in duplicate. All names to be given in full).

To

The Controlling Authority,

Dear Sir,

1. I beg to apply for a loan of Rs _____ only).

2. The required particulars are given below :—

(a) Name of applicant

..

(b) Father's/Husband's name

..

- (c) Caste
 - (d) Age of the applicant
 - (e) Present Address and occupation
 - (f) Permanent address
 - (g) Nature of business/profession for which loan is required
 - (h) Year in which business/profession was started and the place of business
- Or
- The place where the applicant now intend to carry on his business/profession
- (i) The amount of capital invested in the business/profession

The amount of capital proposed to be invested.

- (j) Why it has now become necessary to apply for a loan (in case of business or profession already started)
- (k) The amount of loan desired
- (l) Purpose for which loan is desired
- (m) Whether applicant has special qualifications or experience for the business/profession for which loan is required. (Details of qualifications to be given)
- (n) Has the applicant already applied for a loan under the Punjab Backward Classes (grant of Loans) Act, 1957 ? If so, when and with what results ?
- (o) Has the applicant already recieved any loan from the Government, a Co-operative Society/Bank or the Rehabilitation Department ? Give full particulars
- (p) Manner in which repayment of loan is proposed to be made including the period over which the payment of loan should be spread
- (q) Financial position of the applicant

(Signature)

AFFIDAVIT

I, _____, son/daughter/wife/widow of _____, caste _____, resident of _____ District, solemnly, declare that I am a bonafide member of Scheduled Caste/Scheduled Tribes/Backward Classes and that the particulars given above are true and correct to the best of my knowledge and behalf. I further solemnly declare that I shall notify all changes in my address to the Controlling Authority and shall not shift my place of business or occupation without the prior permission of such Authority.

Deponent

Attested

(Magistrate or Oath Commissioner with seal)

CERTIFICATE

I know Shri _____, son of _____, of (place and district) personally. He belongs to _____ Caste which has been notified as a Scheduled Caste and Scheduled Tribe in the Scheduled Caste and Scheduled Tribes (Modification) Order, 1956, or declared by Punjab Government to be a Backward Class.

Signatures

(To be signed by a member of Parliament or an M.L.A. or a Gazetted Officer (with the seal of his Court or the stamp of his Office))

FORM A

The Committee are of the view that in clause 2, parts (g), (h), (i), (j) and (m), after the words "business/profession" the sign and word "industry" be inserted.

The Committee are also of the view that in the second line of clause 2(o) between the words "loan" and "from", the words "including the re-payments made, if any" be inserted.

The Committee are further of the view that clause 2(p) of the Form appears to be unnecessary in view of the provisions for repayment already being there in the Act and the Rules framed thereunder.

The Departmental Representative agreed with all these views of the Committee and promised to make necessary amendments in Form A

AFFIDAVIT

The Committee observe that the attestation of an affidavit puts the applicant to unnecessary expense and botheration, because he has to waste a lot of time for getting the affidavit attested by the magistrate, or he has to pay to the Oath Commissioner, which is an extra burden on him. The Committee feel that the Form of Affidavit may be omitted altogether and recommend that a clause may be added in the Form of Loan to the effect "that in

case the particulars furnished by the loanee in his application are found to be incorrect at any time, the amount of loan will be recoverable from him in lump sum". The Committee desired that the Administrative Department may, however, take action in the matter in consultation with the Law Department.

The Departmental Representative agreed with the views of the Committee and stated that necessary action would be taken in the matter and Committee would be informed

CERTIFICATE

The Committee reiterate the earlier observation made by the Committee on Subordinate Legislation of the Punjab Vidhan Sabha for the year 1960-61, contained at page 25 of the Third Report, that the Sarpanches and Panches of Panchayats or any member of any Local Authority, should also be enabled to attest the certificate about caste

The Departmental Representative agreed with the recommendations of the Committee and promised to take necessary action in the matter and inform the Committee

FORM E

(See Rule 11)

Notice to the Borrower under Section 9 of the Punjab Backward Classes (Grant of Loans) Act, 1957.

Whereas I am satisfied that the money (Rs. _____) lent to you by the Punjab Government which was duly received by you on _____ and for which you executed a bond with surety on _____ is not being wholly applied to the purpose or purposes of _____ for which it was lent or/and that the following condition(s) on which it was lent are not fulfilled.

OR

Whereas I am satisfied that you have failed without reasonable cause to comply with my order, dated _____ duly served on you on _____ or to furnish information required in my order dated _____ duly served on you on _____, it is, therefore, hereby declared under section 9 of the Punjab Backward Classes (Grant of Loans) Act, 1957, that the said loan is immediately recoverable from you in lump sum.

Dated this _____ day of _____ 19

Signatures

Designation

FORM E

The Committee observe that the sign and words "/was not" occurring after the word "being" of this Form be inserted

The Departmental Representative agreed to the suggestion of the Committee.

*7550 +
Committee
Report*

(IV) THE PUNJAB URBAN ESTATES (SALE OF SITES) RULES, 1965, FRAMED UNDER THE PUNJAB URBAN ESTATES (DEVELOPMENT AND REGULATION) ACT, 1964

The Committee, after going through the Punjab Urban Estates (Development and Regulation) Act, 1964, scrutinised the Punjab Urban Estates (Sales of Sites) Rules, 1965, and made the following observations/recommendations :—

Sections 23
(2)(a) and
3(2).

Rule 3.—

- "3. *Sale by auction or allotment.*—The sites in an urban estate shall be sold by the State Government or by such authority as the State Government may appoint in this behalf, by auction or allotment. For the purpose of proper planning and development of an urban estate sites may be reserved for groups or individuals or for persons practising any profession or carrying on any occupation, trade or business".

The Committee observe that Rule 3, so far as it relates to the delegation of power of selling of plots to some authority, travels beyond the scope of sub-section (2) of Section 3 of the Act. The power of the State Government can be delegated under Section 22 (1) of the Act, subject to the conditions prescribed therein. The Director of Urban Estates promised to get the matter examined in consultation with the Law Department

Sections 23
(2)(a) and
(b) and 3
(2) and (3)

Rule 5.—

- "5. *Application for sale by allotment.*—(1) In case of sale by allotment the intending purchaser shall make an application to the Estate Officer concerned in the form (annexed to these rules as) given in Schedule 'A'.

- (2) No application under sub-rule (1) shall be valid unless it is accompanied by ten per cent of the tentative price or final price in the form of a demand draft payable to the Estate Officer and drawn on any Scheduled Bank situated at the nearest place to the Estate concerned or at any other place which the Estate Officer may specify.
- (3) When ten per cent of the price has been tendered, the State Government or such authority as it may appoint in this behalf may allot a site of the size applied for. Intimation of such allotment shall be given to the applicant(s) by registered post giving the number, dimensions area and tentative price or final price of the site allotted.
- (4) The applicant shall, unless he refuses to accept the allotment within thirty days of the date of issue of the allotment orders, deposit within that period and in the manner mentioned in sub-rule (2) (the remaining fifteen per cent of the sale price or) such amount which together

with the amount already deposited under sub-rule (2) equals at least twenty-five per cent of the tentative price or final price of the site. In case of failure to deposit the said amount the allotment shall be cancelled and the deposit made under sub-rule (2) shall be forfeited to Government in whole or in part and the applicant shall have no claim for damages.

- (5) If the applicant refuses to accept the allotment within the said period of thirty days, he will be entitled to the refund of the amount paid by him. The refusal shall be communicated to the Estate Officer concerned through an acknowledgement due registered letter. The refund shall be made by means of a cheque payable at the State Bank of India at any place and the applicant shall have no claim in respect of the collection charges for the cheque."

The Committee observe that in rule 5, whereas provision for sale of plot by allotment, has been made, no rule has been framed under section 23 (2) (g) of the Act, regarding the resumption of a site or building, and enquired the Departmental representative to clarify this position. The Departmental representative stated that action will be taken in the matter and Committee would be informed.

On an enquiry by the Committee, regarding rule 3 and rule 5 (3), the Director, Urban Estates stated that the sale of plots was being made by a Committee consisting of the Minister-in-charge, the Secretary of the Department, the Director Urban Estates and Senior Town Planner up to August, 1968. Thereafter this work was being done by the Administrator, Urban Estate, Faridabad

The Director, Urban Estates, further stated that neither this Committee nor the appointment of the Administrator, Urban Estate, Faridabad, has been notified, under rule 3 of the Punjab Urban Estates (Sale of Sites) Rules, 1965, read with Section 22 of the Punjab Urban Estates (Development and Regulation) Act, 1964. He was of the opinion that no authority had so far been appointed by the State Government under rule 3 of the said Rules and that the work of allotment etc., was being carried on by the Government themselves.

The Committee observed that, as stated by the Director, the position comes to that the State Government is not performing the functions under rule 3 of the said Rules. However, as explained by the Director, this work was being done by some other officer.

The Director promised to get this whole matter examined by the Law Department, and inform the Committee accordingly.

Rule 9.—

- "9. *Use of site*—The Transferee shall not use the site or the building erected thereon for a purpose other than that for which it has been sold to him."

The Committee observe that the Government acquire for their own use, or for private industrialists, companies or firms or employers, land belonging to individuals, but later on this land is not used for the purpose for which it was acquired. The Committee wanted to know whether there is any legislation or provision in any legislation for the de-requisitioning of such land and handing over the same to the individuals from whom it was acquired. The Law Department should also be requested to inform whether there is any decision of the Supreme Court or of the Punjab and Haryana High Court or any other High Court.

The Departmental Representative stated that the land is acquired by the State Government for a public purpose in accordance with the provisions of the Land Acquisition Act, 1894, but in case of non-use of the land for the purpose for which it was acquired, no provisions are available in the legislation for de-requisition of the land to the original land owners. It can, however, be restored to original owners under para 87 of Financial Commissioner's Standing Order No. 28.

On being asked, the Departmental Representative promised the Committee to supply a copy of para 87 of F.C's Standing Order No. 28

The Committee observe that the land, if it is not used for the purpose for which it was acquired must necessarily be restored to the Government and not be allowed to be transferred or sold by any private deal

Rule 12—

“12 *Instalments*—(1)(a).—In case it is decided to make recovery in one annual instalment, the remaining tentative price or final price, viz., seventy-five per cent shall be payable within one year from the date of issue of allotment order under sub-rule (3) of rule 5 or the date of auction under rule 6, as the case may be

(b) In case it is decided to make recovery in two equated annual instalments, the remaining tentative price or final price, viz., seventy-five per cent shall be payable in two equated annual instalments, the first instalment being payable on the expiry of one year from the date of issue of the allotment order under sub-rule (3) of rule 5 or the date of auction under rule 6, as the case may be

(c) In case it is decided to make recovery in three equated annual instalments, the remaining tentative price or final price, viz., seventy-five per cent shall be payable in three annual equated instalments, the first instalment being payable on the expiry of one year from the date of issue of allotment order sub-rule (3) of rule 5 or from the date of auction under rule 6, as the case may be

- (d) In case it is decided to make recovery in six equated annual instalments, the remaining sale price, viz., seventy-five per cent, shall be payable in six equated instalments, the first instalment being payable on the expiry of one year from the date of issue of allotment order under sub-rule (3) of the rule 5 or from the date of auction under rule 6, as the case may be.
- (2) In case of payment by instalments as provided in sub-rule (1), each instalment would be recovered together with interest thereon, at the rate of seven per cent per annum. The interest shall accrue from the date of issue of allotment order or the date of auction as the case may be, but no interest shall be payable if the whole of the balance of seventy-five per cent of the tentative price of final price is paid in full by the transferee within sixty days of the issue of allotment order or the date of auction, as the case may be.
- (3) Each instalment shall be remitted to the Estate Officer concerned by demand draft payable to the Estate Officer and drawn on any Scheduled Bank situated at the nearest place to the Estate concerned or at any other place which the Estate Officer may specify.
- (4) Every such remittance shall be accompanied by a letter showing full particulars of the site to which the payment pertains and a statement giving reference to the number and date of the allotment order issued under sub-rule (3) of rule 5 or the date of auction as the case may be. In the absence of these particulars the amount remitted shall not be deemed to have been received".

The Committee observe that in rule 10, it is provided that the balance of seventy-five per cent of sale price may be paid in lump sum or in equated annual instalments not exceeding three years, whereas rule 12(1)(d) contemplates that the amount can be paid in six equated annual instalments. Clause (d) of rule 12(1) is not in conformity with rule 10. The Committee further observe that a provision may also be made in this rule, on the lines of clauses (b), (c) and (d) for payment in 4 or 5 equated annual instalments.

The Departmental representative agreed with the views of the Committee that in rule 10, for the phrase 'not exceeding three' the words "as decided by Government" be substituted and also accepted the suggestion made by the Committee that to make this rule more flexible it required substantial changes

The Committee also observe that in sub-rule (2) of rule 12, line 8, substitute the word "or" for the word "of" occurring between the words "tentative price" and "final price"

The Departmental Representative agreed with the view of the Committee and submitted that it was a typographical mistake and the necessary correction would be made.

Rule 14.—

- "14. Time within which building is to be erected.—**The transferee shall complete the building within three years from the date of issue of allotment order or the date of auction, as the case may be, in accordance with rules regulating the erection of buildings. The time-limit may be extended by the Estate Officer if he is satisfied that the failure to complete the building within the said period was due to causes beyond the control of the transferee".

The Committee notice that under rule 14 although three years period has been prescribed for erection of the building but the Estates Officer has been given power to extend this time limit to any extent, if the building has not been completed within the period of three years due to causes beyond the control of the transferee. It will be better if the maximum period is also prescribed upto which the Estate Officer can grant extension.

The Departmental Representative promised to examine this matter and inform the Committee accordingly.

Rule 17 —

- "17. Prohibition of Obnoxious trade.—**No obnoxious trade shall be permitted in or on any site or any building except with the previous permission in writing of the Chief Administrator".

The Committee recommend that in line 3 of the rule, for the word "accept" substitute the word "except".

Rule 18—

- 18. Appeal.—**(1) An appeal against an order passed under section 9 or section 10 shall be presented to the Chief Administrator or to such officer as he may appoint in this behalf, either by the appellant or his agent or shall be sent by registered post addressed to the Chief Administrator. It shall give the date of the order appealed against, and set forth concisely the grounds of appeal and be accompanied by a certified copy of the order appealed against.

(2) * * * *

(3) * * * **.

The Committee observe that in sub-rule (1) of rule 18, line 5 after the words "registered post" insert "(acknowledgement due)".

The Departmental Representative promised to insert "(acknowledgement due)", after the words "registered post".

SCHEDULE "A"

(See rule 5)

Application for the purchase of site or sites in the urban estate at _____

To

THE ESTATE OFFICER,
URBAN ESTATE,

Sir,

I

_____ request that I/we may be sold
We constituting a group
residential/industrial/commercial site/sites as stated below :—

Size of site/sites in Marlas (One marla=	Number of
25 sq. yards) or Kanals (One Kanal=	site/sites of
500 sq. yards)	each size

2. My/Our preference is for site/sites mentioned below :—

Sector/Block	Size of sites	Serial Number sites
--------------	---------------	------------------------

3. (To be filled in only by those who fall in any of these three preferential categories)

(a) My/Our land has been acquired after 1st August, 1962 for setting up this Urban Estate or for the public purpose of setting up* _____ in the vicinity of the urban estate, as detailed below :—

*Here mention
the public
purpose

Name of the village	Khasra number and area acquired	Date of acquisition
---------------------	------------------------------------	------------------------

OR

(b) I/We are employers/employees working in Industrial/Commercial establishment or Government Office located in the vicinity of urban estate, namely, as under :—

(Certificate of the employer to be attached in case of employees)

OR

(c) I/We require the above sites for housing the employees of Industrial/Commercial establishment/Government office located in the vicinity of urban estate detailed as under :—

4. Enclosed herewith is the Demand Draft for an amount of Rs_____, equivalent to ten per cent of the tentative price or final price of the site(s) detailed in para 1 above as earnest money, payable to the Estate Officer and drawn on_____ Bank at_____.

5. My/Our profession/professions is/are

6. I/We will pay the tentative price/final price of the site(s) in lump sum/in prescribed installments and will further pay the additional price on demand within the prescribed period."

7. (To be filled in only for allotment of industrial sites)

(a) Type of industry to be started.

(b) Whether license necessary under Industries Development and Regulation Act, and, if so, steps taken to secure the license. Copy of the license to be attached if already secured.

(c)(i) Estimated cost of the project and how is it proposed to meet it ?

(ii) Whether foreign exchange is involved, if so, arrangements made to secure it.

(d) If capital has to be raised in the market, steps taken to secure it. Permission of Controller of Capital Issues for raising capital to be attached, if available.

(e) Time to be taken for completion of the project.

(f) Details of staff to be employed.—

(i) Managerial staff .

(ii) Technical personal .

(iii) Ministerial and labour .

In schedule A Paragraph 6 amended,—*vide* Notification No. G.S.R.45/P.A.22/64/S.23/Amd. (i)/66, dated 14th March, 1966.

(g) Copy of the proposed layout of the site indicating broadly the covered area under various units of the Factory.

(h) Is any foreign collaboration visualised and, if so, steps taken to secure it.

(i) Phased requirements of electric power.

8. I/We agree to conform to and abide by the terms and conditions contained in the rules made under the Punjab Urban Estates (Development and Regulation) Act, 1964.

Yours faithfully,

Signature(s)_____

Name(s)_____

Address(es)_____

Dated the_____.

SCHEDULE 'B'

(See Rule 8)

Deed of Conveyance of Building Site sold by allotment

This deed of conveyance made the _____ day of _____ 19____ between the Governor of Punjab (hereinafter called "the Vendor") of the part and Shri _____, son of _____, resident of _____ in the district of _____ (hereinafter called "the Transferee") of the other part.

Whereas the site hereinafter described and intended to be hereby conveyed is owned by the vendor in full proprietary rights ;

And whereas the vendor has sanctioned the sale of the said site to the Transferee in pursuance of his application, dated _____ made under sub-rule (1) of rule 5 of the Punjab Urban Estates (Sale of Sites) Rules, 1965 (hereinafter referred to as the said rules) ; to be used as a site for commercial/industrial/residential purpose in the urban estate of ;

And whereas the vendor has fixed the tentative price/final price of the said site at Rs _____ (Rupees _____) ;

And whereas the vendor reserves the right to enhance the tentative price by the amount of the additional price determined in accordance with the said rules ;

And whereas the Transferee has agreed to pay the tentative price and the additional price/final price in the manner hereinafter appearing ;

Now, therefore, this deed witnesseth that for the purpose of carrying into effect, the said sale and in consideration of the covenants of the transferee hereinafter contained and the said sum of Rs _____ (Rupees _____) paid by the

*Omit (A) to (B) if full price paid

Transferee *(A) as earnest money (the receipt of which the Vendor hereby acknowledges) and undertaking of the Transferee to pay the balance of the tentative price/final price with _____ per cent per annum interest calculated from the date of allotment order in **one/two/three equated yearly instalments, the first instalment being payable on the tenth day of _____

**Strike off which ever not applicable.

***Portion is be omitted where no remaining price to be determined

(B)*** and the additional price, if any, determined to be paid by the Transferee within a period of thirty days of the date of demand made by the Estate Officer ***, the hereby grants and conveys up to the Transferee all that piece and parcel of site No. _____,

area in square yards _____ and more particularly described in the plan filed in the office of the Estate Officer and signed by the Estate Officer aforesaid and dated the _____ day of _____ 196 _____ (hereinafter called the said site).

To have and to hold the same unto and to the use of the transferee subject to the exceptions, reservations, conditions and covenants hereinafter contained and each of them that is to say—

(1) (a) The transferee shall enjoy the right of possession and enjoyment so long as he ^{*(1) Omit (A) to (B) if full tentative price paid (2) Omit (A) to (D) if full final price paid.} (A) continues paying the instalments on the due dates or within such extended time as the Estate officer may allow in writing and (B) (C) pays the additional price, if any, determined by the vendor, within the period fixed as aforesaid and otherwise (D) conforms to the terms and conditions of sale. ^{(3) Omit (C) to (D) if final price payable in instalments}

(b) The vendor shall have a first and paramount charge over the said site for the unpaid portion of the sale price, and have with the sanction of the Chief Administrator the transferee shall have no right to transfer by way of sale, gift, mortgage or otherwise the site or any right title or interest therein (except by way of lease on a monthly basis) till such time as the full sale price is paid to the Vendor and a building has been constructed on the site up to a minimum of 10 per cent of the area of the site.

(2) The Vendor, reserves to himself all mines and minerals whatsoever in or under the said site with all such rights and powers as may be necessary or expedient for the purpose of searching for, working, obtaining, removing and enjoying the same at all such times and in such manner as the Vendor shall think fit, with power to carry out any surface or any underground workings, and to let down the surface of all or any part of the said site and to sink pits, erect buildings, construct lines and generally appropriate and use the surface of the said site for the purpose of doing all such things as may be convenient or necessary for the full enjoyment of the exceptions and reservations hereinafter contained.

Provided that the Transferee shall be entitled to receive from the Vendor such payment for the occupation by him of the surface and for the damage done to the surface or buildings on the said site by such works or workings or letting down as may be agreed upon between the Vendor and the Transferee or failing such agreement as shall be ascertained by reference to arbitration.

(3) The Transferee shall pay all general and local taxes, rates or cesses for the time being imposed or assessed on the said site by competent authority.

(4) The Transferee shall within three years from the date of issue of allotment order namely _____ complete the construction of _____ on the said site, the plans of which shall be in accordance with the rules made and directions given from time to time by the Vendor or the Chief Administrator in this respect and approved by the Chief Administrator or any officer duly authorised by him in this behalf.

Provided that the time under this clause may be extended by the Estate Officer in case the failure to complete the building by the stipulated date was due to reasons beyond the control of the Transferee

(5) The Transferee may, before the erection of the permanent building is commenced or completed, pitch a tent or erect temporary sheds or kachha building for the purpose for which the said site has been sold.

Omit this clause
if full tentative or
final price paid

*(6) Except for the purpose of constructing a building or laying a garden in accordance with the rules made under the Urban Estates (Development and Regulation) Act, 1964, the Transferee shall not dig or cause to be dug any pit upon the said site, till the tentative price final price has been paid.

(7) The Vendor may by his officers and servants at all reasonable times and in a reasonable manner after twenty-four hour's notice in writing enter in and upon any part of the said site or building erected thereon for the purpose of ascertaining that the Transferee has duly performed and observed the covenants and conditions to be performed by him and observed under these presents.

(8) The Vendor shall have full right, power and authority at all times to do, through officers or servants all acts and things which may be necessary or expedient for the purpose of enforcing compliance with all or any of the terms, conditions and reservations herem contained and to recover from the Transferee as first charge upon the said site, the cost of doing all or any such acts and things and all costs incurred in connection therewith or in any way relating thereto.

(9) The Transferee shall not use the said site for a purpose other than that of _____ nor shall he use the building constructed on it for a purpose other than that for which it has been constructed except in accordance with the rules made under the Punjab Urban Estates (Development and Regulation) Act, 1964.

(10) The Transferee shall accept and obey all the rules and orders made or issued under the Punjab Urban Estates (Development and Regulation) Act, 1964.

Omit if full
final price paid

*(11) In the event of non-payment of any instalment on due date or of the additional price within the fixed period by the transferee it shall be lawful for the Estate Officer, notwithstanding the waiver of any previous cause or right for re-entry, thereon or any part thereof, to possess retain and enjoy the same as to his former estate and the Transferee shall not be entitled to a refund of the sale price or any part thereof or to any compensation whatsoever on account of such resumption.

(12) In the event of any dispute or difference at any time arising between the Vendor and the Transferee as to the true intent and meaning of these presents, and of each and every provision thereof, the property and rights hereby reserved or any of them, or in any manner identical or relating thereto, the said dispute or difference shall be referred for arbitration to the Chief Administrator, whose decision thereon shall be final and binding on the parties hereto.

If and so long as the Transferee shall fully perform and comply with and shall continue to so perform and comply with each and all the terms and conditions herein made and provided but not otherwise, the Vendor will secure the Transferee full and peaceful enjoyment of the rights and privileges herein and hereby conveyed and assured.

And it is hereby agreed and declared that unless a different meaning shall appear from the context :—

- (a) the expression "Chief Administrator" shall mean the officer appointed as such by the Government under clause (d) of section 2 of the Punjab Urban Estates (Development and Regulation) Act, 1964.
- (b) the expression "Estate Officer" shall mean the person appointed by the Government under clause (f) of section 2 of the Punjab Urban Estate (Development and Regulation) Act, 1964, to perform the functions of an Estate Officer in the Urban Estate of_____.
- (c) the expression "Vendor" used in these presents shall include, in addition to the Governor of Punjab, the Government of Punjab, and in relation to any matter or anything contained in or arising out of these presents, every person duly authorised to act or to represent the Government of Punjab in respect of such matter or thing ;
- (d) the expression "Transferee" used in these presents shall include, in addition to the said_____, his lawful heirs (permitted) successors, representatives, assigns, transferees, lessees and any person or persons in occupation of the said site or building erected thereon with the permission of the "Estate Officer".

In witness whereof the parties hereto have hereunder respectively subscribed their names at the places and on the date hereinafter in each case specified.

Signed by the said _____
 at _____ on the _____
 _____ day of _____ 196 } (Transferee)

In the presence of :

Witness _____
 Name _____
 Residence _____
 Occupation _____ } One of these witnesses must be a magistrate (with his Court Seal) if the Deed is not executed before the Estate Officer (Signature)

Name _____
 Residence _____
 Occupation _____ } _____
 (Signature)

Signed by for and on behalf of the
 Governor of Punjab and setting under
 his authority at _____ the _____
 day of _____ 196 } _____
 (Estate Officer)

In the presence of:—

Witnesses

Name _____
 Residence _____
 Occupation _____ } _____
 (Signature)

Name _____
 Residence _____
 Occupation _____ } _____
 (Signature)

SCHEDULE "C"

(See Rule 8)

Deed of Conveyance of Building site sold by auction

This deed of conveyance made the _____ day of _____ 196 _____ between the Governor of Punjab (Hereinafter called "the Vendor") of the one part of Shri _____, son of _____, resident of _____, in the district of _____ (hereinafter called "the Transferee") of the other part.

Whereas the site hereinafter described and intended to be hereby conveyed is owned by the Vendor in full proprietary rights ;

And Whereas the vendor has sanctioned the sale of the site to the transferee for the sum of Rs _____ (Rupees _____) to be used as a site for commercial/industrial/residential purpose in the urban estate of _____

And Whereas the transferee has _____ Paid the sum of _____ agreed to pay the sum of _____

Rs. _____ (Rupees _____) being the sale price of the said site ;

Now, therefore, this deed witnesseth that for the purpose of carrying into effect the said sale and in consideration of the covenants of the Transferee hereinafter contained and the said sum of Rs _____ (Rupees _____) paid by the Transferee (A) as earnest money (the receipt of which the Vendor hereby acknowledges) and the undertaking of the Transferee to pay the balance with _____ per cent per annum interest calculated from the date of the auction in _____ one/two/three equated yearly instalment, the first instalment, being payable on the tenth day of _____ (B) the Vendor hereby grants and conveys up to the Transferee all that piece or parcel of site No. _____ area in square yards _____, and more particularly described in the plans filed in the office of the Estate Officer and signed by the Estate officer aforesaid and dated the _____ day of _____ 196 _____. (hereinafter called the said site).

*Omit (A) to (B) if full price paid.

*Strike off whichever is not applicable

To have and to hold the same upto and to the use of the Transferee subject to the exceptions, reservations, conditions and covenants hereinafter contained and each of them, that is to say:—

(1) (a) The transferee shall enjoy the right of possession and enjoyment so long as he (A) continues paying the

*Omit (A) to (B) if full price paid

instalments on the due dates or within such extended time as the Estate Officer may allow in writing and otherwise ; (B) conforms to the terms and conditions of sale.

(b) The Vendor shall have a first and paramount charge over the said site for the unpaid portion of the sale price, and save with the sanction of the Chief Administrator the Transferee shall have no right to transfer by way of sale, gift, mortgage or otherwise the site of any right, title or interest therein (except by way of lease on a monthly basis) till such time as the full sale price is paid to the vendor and a building has been constructed on the site up to a minimum of ten per cent of the area of the site.

(2) The Vendor reserves to himself all mines and minerals whatsoever in or under the said site with all such rights and powers as may be necessary or expedient for the purpose of searching for, working, obtaining, removing and enjoying the same at all such times and in such manner as the Vendor shall think fit, with power to carry out any surface or any underground workings, and to let down the surface of all or any part of the said site and to sink pits, erect buildings, construct lines and generally appropriate and use the surface of the said site for purpose of doing all such things as may be convenient or necessary for the full enjoyment of the exceptions and reservations hereinafter contained :

Provided that the Transferee shall be entitled to receive from the Vendor such payment for the occupation by him of the surface and for the damage done to the surface or buildings on the said site by such works or workings or letting down as may be agreed upon between the Vendor and the Transferee or failing such agreement as shall be ascertained by reference to arbitration.

(3) The Transferee shall pay all general and local taxes, rates or cesses for the time being imposed or assessed on the said site by competent authority.

(4) The Transferee shall within three years from the date of auction, namely _____ complete the construction of _____ on the said site the plans of which shall be in accordance with the rules made and directions given from time to time by the Vendor or the Chief Administrator in this respect and approved by the Chief Administrator or any officer duly authorised by him in this behalf :

Provided that the time under this clause may be extended by the Estate Officer in case the failure to complete the building by the stipulated date was due to reasons beyond the control of the transfer.

(5) The Transferee may, before the erection of the permanent building is commenced or completed, pitch a tent or erect temporary sheds or kaccha building for the purpose for which the said site has been sold.

* (6) Except for the purpose of constructing a building or laying a garden in accordance with the rules made under the Urban Estates (Development and Regulation) Act, 1964, the Transferee shall not dig or cause to be dug any pit upon the said site, till the full price has been paid. *Omit if full price paid

(7) The vendor may by his officers and servants at all reasonable times and in a reasonable manner after twentyfour hours' notice in writing enter in and upon any part of the said site or building erected thereon for the purpose of ascertaining that the Transferee has duly performed and observed the covenant and conditions to be performed by him and observed under these presents.

(8) The Vendor shall have full right, power and authority at all times to do, through officers or servants, all acts and things which may be necessary or expedient for the purpose of enforcing compliance with all or any of the terms, conditions and reservations herein contained and to recover from the transferee as first charge upon the said site, the cost of doing all or any such acts and things and all costs incurred in connection therewith or in any way relating thereto.

(9) The Transferee shall not use the said site for a purpose other than that of _____ nor shall he use the building constructed on it for a purpose other than that for which it has been constructed except in accordance with the rules made under the Punjab Urban Estate (Development and Regulation) Act, 1964.

(10) The Transferee shall accept and obey all the rules and orders made or issued under the Punjab Urban Estates (Development and Regulation) Act, 1964.

(11) In the event of non-payment of any instalment on due date by the transferee it shall be lawful for the Estate Officer, notwithstanding the waiver of any previous cause or right for re-entry thereon or any part thereof, to repossess, retain and enjoy the same as to his former estate and the Transfer shall not be entitled to refund for the sale price or any part thereof or to any compensation whatsoever on account of such resumption. -Omit if full price paid.

(12) In the event of any dispute or difference at any time arising between the Vendor and the Transferee as to the true intent and meaning of these presents, and of each and every provision thereof, the property and rights hereby reserved or any of them, or in any manner identical or relating thereto the said dispute, or difference shall be referred for arbitration to the Chief Administrator whose decision thereon shall be final and binding on the parties hereto.

If and so long as the Transferee shall fully perform and comply with and shall continue to so perform and comply with each and all the terms and conditions herein made and provided but not otherwise, the Vendor will secure the Transferee full and peaceful enjoyment of the rights and privileges herein and hereby conveyed assured.

And it is hereby agreed and declared that unless a different meaning shall appear from the context : —

- (a) The expression Chief Administrator shall mean the Officer appointed as such by the Government under clause (d) of section 2 of the Punjab Urban Estates (Development and Regulation) Act, 1964 ,
- (b) The expression Estate Officer shall mean the person appointed by the Government under clause (f) of section 2 of the Punjab Urban Estates (Development and Regulation) Act, 1964, to perform the functions of an Estate Officer in the Urban Estate of _____ ;
- (c) the expression "Vendor" used in these presents shall include, in addition to the Governor of Punjab, the Government of Punjab , and in relation to any matter or anything contained in or arising out of these presents, every person duly authorised to act or to represent the Government of Punjab in respect of such matter or thing ;
- (d) the expression 'Transferee' used in these presents shall include in addition to the said his lawful, heirs (permitted) successors, representative, assigns, transferees, lessees and any person or persons in occupation of the site or building erected thereon with the permission of the Estate Officer.

In witness where of the parties hereto have hereunder respectively subscribed their names at the places and on the date hereinafter in each case specified.

Signed by the said _____
 at _____ on the _____ } (Transferee)
 _____ day of _____ 19 _____

In the presence of :

Witness _____	} One of these witnesses must be a magistrate (with his court seal) if the Deed is not executed before the Estate Officer
Name _____	
Residence _____	
Occupation _____	
	(Signature)

Name _____	} (Signature)
Residence _____	
Occupation _____	
Signed by for and on behalf of the Governor of Punjab and setting under his authority at the _____ day of _____ 196 _____	} (Estate Officer)
In the presence of :—	

Witnesses—

Name _____	} (Signature)
Residence _____	
Occupation _____	
Name _____	} (Signature)
Residence _____	
Occupation _____	

SCHEDULE 'C'

(See Rule 20)

Form of notice Calling upon the purchaser for the Payment of the Instalment overdue or calling upon him to Rectify the Breach of any term

To

_____ son of _____

Address : _____

allottee/ purchaser of site No. _____ in the Urban Estate at _____

Whereas, site No. _____ in the Urban Estate situated
at _____ was secured by you through
allotment/ purchase

AND WHEREAS ;

(1) The instalment of Rs _____ payable on 10th _____
19 _____ has not been paid so far.

Take notice, therefore, that you may pay Rs. _____ as the
instalment overdue plus Rs. _____ as penalty on or before _____
day of _____ 19 _____ .

Failing which I shall take action to recover the same as arrears of
land revenue or take action under section 10 of the Punjab Urban Estates
(Development and Regulation) Act, 1964 .

Issued under my hand and the seal, this _____
day of _____ 196 _____ .

Estate Officer,

SCHEDULE 'A'

The Committee recommend that in column No 1 of the application after the word "sold", the words "by allotment" be added.

SCHEDULES 'B' & 'C'

The Committee recommend that in the Schedules B and C wherever the word "Punjab" occurs except in the titles of the Act and rules substitute the word "Haryana".

The Committee also recommend that in clause 6 of Schedule 'B' between the words "the" and "Urban" insert the word "Punjab".

The Committee further recommend that in clause 10 of Schedule 'B' line 2, for the word "Mode" substitute the word "made".

GENERAL

The Committee wanted to know from the Departmental Representative as to whether any rule had been framed under sub-section 2(f) of section 23 regarding the levy of fees or taxes for amenities under section 7.

The Departmental Representative stated that no rules under section 23(2) (f) had been framed for levy of taxes etc., as no Urban Estate had come upto a stage where taxes could be imposed. However, steps would be taken to make rules as early as possible when the number of houses at Faridabad or Gurgaon Urban Estates is sufficient. He, however, promised the Committee to examine this matter in consultation with the law Department and to inform the Committee.

The Committee desired to know whether any rules have been framed under section 5(2) of the Act and directions have been issued in respect of erection of buildings under section 4(1) of the Act.

The Departmental Representative stated that the State Government have drafted Building bye-laws under section 5(2) and these have been got vetted from Legal Remembrancer also.

The Committee recommend that this matter may be expedited and bye-laws etc. be finalised.

The Committee asked for the copies of the orders, if any, issued under sections 12 and 13 of the Act.

The Departmental Representative stated that no order under section 12 or 13 had been issued and this would also be done as early as possible.

(v) THE PUNJAB SCHEDULED ROADS AND CONTROLLED AREAS RESTRICTION OF UNREGULATED DEVELOPMENT RULES 1965 FRAMED UNDER THE PUNJAB SCHEDULED ROADS, AND CONTROLLED AREAS RESTRICTION OF UNREGULATED DEVELOPMENT ACT, 1963.

Rule 3.--

- "3. *Registration of existing buildings along scheduled roads and bye-passes.*—(1) The Director shall, as soon as may be, cause a survey of all scheduled roads including bye-passes thereof to be carried out and prepare a liner map on a scale of 200 feet to 1 inch indicating all such buildings, excavations and means of access to the aforesaid roads and bye-passes which were in existence immediately before the commencement of the Act and which lie within 100 meters on either side of the road reservation in the case of a bye-pass and within 30 meters on either side of the road reservation in the case of a scheduled road.
- (2) The Director shall maintain a register in Form S.R.I. showing all the buildings, excavations and means of access to roads indicated in the map prepared under sub-rule (1).
- (3) The Director as well as the official conducting the survey referred to in sub-rule (1) shall sign each page of the register maintained under sub-rule (2) in token of correctness of the entries made therein.
- (4) The Director shall, on application by any member of public make available, the map referred to in sub-rule (1) and the register referred to in sub-rule (2), for inspection free of cost.
- (5) The Director may, after making such enquiries as he considers necessary, amend such map or register, as the case may be, if it is found to be wrong in any particulars."

The Committee wanted to know from the Departmental Representative whether it would be appropriate to give due publicity to the maps and registers of buildings along scheduled roads and bye-passes to facilitate the public to raise any objection with regard to the finalization and to mitigate, the chance of unnecessary litigation.

The Departmental Representative agreed with the general principles but stated that this being a new point the Department could not examine it earlier, and further stated that he would examine it and insert some such provision after detailed examination.

The Committee observe that some suitable provision be made in the Rules for giving due publicity to the finalization of maps and registers so that public may be able to raise objections within a reasonable time to be prescribed in the Rules. This will avoid unnecessary litigation and the public will be able to know what is the position of their lands on the scheduled Roads.

Rule 4.—**“4. Application for permission under section 3.—**

(1) * * * * *

(2) The site plan mentioned in the application shall be drawn to a scale of not less than 40 feet to 1 inch and indicate:—

(a) + * * * *

(b) * * * *

(c) * * *

(3) The building plans mentioned in the application shall be drawn to a scale of not less 1/8 inches to a foot and indicate:—

* * * * *

The Committee observe that in this Rule as also in some other rules reference has been made to the old system of measurement, i.e., feet, inches and square yards etc. and, at places, both, the new and the old systems of measurement have been used. The old system of measurement can no longer be used legally and, wherever this has been used, it should be replaced by new system of measurement. The Committee, therefore desired to know from the Department as to why the old system of measurement had been used in these Rules when the new system, i.e., metric system had come into vogue in 1965 when these Rules were framed.

The Departmental Representative agreed with the views of the Committee and stated that necessary steps would be taken to convert the expressions in metric measurements.

Rule 6.—**“6. Information necessary to validate application under rule 4. —**

(i) * * * *

(ii) * * *

In case of failure to submit the application in the aforesaid manner, the application together with the plans and documents shall be returned to the applicant for resubmission in accordance with the rules.”.

The Committee are of the view that between the words “applicant” and “for” the words “stating the reasons for returning the application” be inserted.

The Departmental Representative stated that the proposed amendment is likely to throw the burden of pointing out all the defects at one time on the Director, while it is the responsibility of the applicant to know the law and act accordingly. The Committee did not feel satisfied with this reply, therefore, the Committee observe that in Rule 6, a provision may

be made to the effect that reasons should be stated to the applicant. The Director, Town and Country Planning undertook that it would be examined in consultation with the law Department and let the Committee know the views of the Government within 30 days.

The Committee observed that certain information was asked for by the Committee in respect of Rule 6 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Rules framed under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, within 30 days on the 16th October, 1969 but the Committee is amazed to note that the same has not been received till the finalisation of the Report.

Rule 10.—

“10. *Publication of final development plans.*—The development plan as notified by the Government under sub-section (7) of section 5 shall in addition to its publication in the official gazette be published by displaying a copy thereof at a conspicuous place at the office of the :—

- (i) Director ;
- (ii) Estate Officer, if any, having jurisdiction in the controlled area ;
- (iii) Deputy Commissioner of the district in which the controlled area is situated ; and
- (iv) Panchayat Samiti or Samitis in which controlled area is situated.”

The Committee are of the view that the publication should also be done in some Hindi weekly or daily paper.

The Departmental Representative stated that this was not published in any newspaper. The suggestion would, however, be kept in view in case it was published in papers. He also, agreed on the suggestion of the Committee that a provision may also be made in the rule to publish the plan by displaying a copy thereof at a conspicuous place at the office of the Zila Parishad in Hindi Language.

Rule 15.—

“15. *Preparation of layout on payment of fees.*—A colonizer intending to make an application under rule 11 may request that any or all the plans and documents referred to in clauses (iv) to (xi) of sub-rule (1) of rule 11 may be got prepared for him by the Director on payment of such fees as may be assessed by the Director.”

The Committee wanted to know whether any criteria has been fixed by the Director for the assessment of fees for preparing plans and documents for the colonizers.

The Departmental Representative stated that fees are charged on the basis of the scale of professional charges stipulated by the Institute of Town Planners.

After some discussion, a point was raised that the provision for levying fee under this rule seems to be excessive delegation of powers. The Director, Town and Country Planning explained that it is not fee but in the nature of departmental charges for service rendered on request.

The Committee observe that the word "fees" may be substituted by the words "charges" or any other appropriate word.

Rule 16 —

- "16. *Information necessary to validate application under rule 11.*— No application under rule 11 shall be considered to be valid until plans and documents required by sub-rule (1) of that rule have been furnished to the satisfaction of the Director. In case of failure of such compliance, the application together with the plans and documents shall be returned to the colonizer for resubmission in accordance with the rules."

After a good deal of discussion with the Departmental Representative, the Committee observe that the word "to the satisfaction of the Director" gives wide discretionary powers to the Director. A provision should be made that in case the application is to be returned to the Colonization Officer for non-compliance the reasons should be stated. The Committee further observe that the matter may be got examined in consultation with the Legal Remembrancer and the Committee be informed accordingly.

Rule 19.—

- "19. *Conditions required to be fulfilled by Colonizer.*—The Colonizer shall :—

- | | | | | | |
|-----|---|---|---|---|---|
| (a) | * | * | * | * | * |
| (b) | * | * | * | * | * |
| (c) | * | * | * | * | * |
| (d) | * | * | * | * | * |
| (e) | * | * | * | * | * |

- (f) undertake to permit the Director or any other officer authorised by him in this behalf to inspect the execution of the layout and the development works in the colony and to carry out all directions issued by him for ensuring due compliance of the execution of the layout and development works in accordance with the permission granted."

The Committee are of the view that Clauses (c), (d), (e), (f) be renumbered as clauses (b), (c), (d) and (e) respectively, inasmuch as clause (b) already stands deleted.

The Departmental Representative agreed with the suggestion of the Committee.

The Committee is further of the view that in the existing clause (f), clause (e) so renumbered, after the word "him" the words "in writing" be inserted.

The Departmental Representative also agreed with this suggestion of the Committee.

Rule 20.

"20. *Grant of permission and form of order of grant or refusal to grant permission.*—(1) After the colonizer has fulfilled all the conditions laid down in rule 19 to the satisfaction of the Director, the Director shall grant the permission.

(2) * * * * *

The Committee feel that the words "to the satisfaction of the Director" are unnecessary, specially because the Colonizer is already required to fulfil all the conditions laid down in rule 19.

The Departmental Representative stated that the observation of the Committee had been noted, and the matter would be got examined in consultation with the Law Department.

Rule 24.—

"24. *Revocation of permission.*—(1) Should the Director determine at any time that the execution of the layout plans and the construction or other work is not proceeding according to the permission granted under sub-rule (1) of rule 20 or is below specifications or is in violation of any provision of these rules or of any law or rules for the time being in force, he shall by a notice in Form CL-VI notify the colonizer, to whom permission was granted, requiring to remove the various defects within the time specified in the notice.

(2) * * * * *

The Committee wanted to know whether it would not be proper to prescribe the period within which the Colonizer is required to remove the deficiencies and deviations in the rules itself instead of giving unlimited power to the Director to specify the time in the notice.

The Departmental Representative agreed with the observation of the Committee.

Rule 26 B—

Rule 26 B. *Information necessary to validate application under rule 26-A.*—

No application under rule 26A shall be considered to be valid until a plan and a copy of the deed required by rule 26A have been furnished to the satisfaction of the Director. In case of failure of such compliance, the application together with the plan and copy of the deed shall be returned to the applicant for resubmission in accordance with the rules."

The Committee observe that the word "to the satisfaction of the Director" in this rule gives wide discretionary powers to the Director. That in case the application is to be returned to the Colonization Officer for non-compliance the reasons should be stated. The Committee further observe that the matter may be got examined in consultation with the Law Department and the Committee be informed.

Rule 26-C—

"26-C. Applicant to be called upon to fulfil certain conditions.—(1) If, after scrutiny of the plan and other necessary enquiry which the Director may deem fit, he is satisfied that the application is fit for the grant of permission, he shall, before granting permission, call upon the applicant to fulfil the conditions laid down in rule 26-D within a period of thirty days from the date of notice given to him under a registered cover."

(2) * * * * *

The Committee are of the view that at the end of the sub-rule (1) add "(acknowledgement due)".

The Departmental Representative agreed with the view of the Committee.

Rule 26-E—

"26E Grant of permission and form of order of grant or refusal to grant permission.—(1) If the applicant has fulfilled all the conditions laid down in rule 26-D to the satisfaction of the Director, the Director shall grant the permission.

(2) * * * * *

The Committee desired to know the necessity of the words "to the satisfaction of the Director", appearing in sub-rule (1), when the applicant has already fulfilled the conditions required by rule 26-D.

The Departmental Representative noted the observations of the Committee and stated that further action would be taken in consultation with the Law Department

Rule 40—

Sub-rule (2) (c)—

"40 Site Plan (1) * * * *

(2) * * * *

(a) * * * *

(b) * * * *

(c) the street of roads adjoining the site with their width clearly dimensioned and with names, if any, of all existing road side trees, lamp posts, or other features or structures likely to affect the approach to the building ;"

The Committee is of the view that for the word 'of' occurring for the first time the word "or" be substituted

The departmental representative agreed with the view of the Committee.

Rule 42—

"42. *Type plans.*—In case the applicant wishes to follow a type design of buildings approved by the Government he may obtain them from the Director at a fee fixed by the Government. These building plans alongwith relative site plan shall nevertheless be submitted as required by rule 39."

The Committee observe that Rule 42 is ultra vires of the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, as no specific provision has been made in the Act empowering the Government to levy any fee in regard to the type plans (Designs of Buildings).

The departmental representative undertook to examine this matter in consultation with the Law Department.

The Committee further observe that if Rule 42 is intra-vires of the Act in that case the fee should be specified in the Rule itself. The Departmental representative also undertook to examine this aspect of the matter in consultation with the Legal Remembrancer and inform the Committee.

Rule 48—

"48. *Use of site, type and character of buildings.*—

(1)	*	*	*	*	*	*
(2)	*	*	*	*	*	*
(3)	*	*	*	*	*	*

Note.—"Building unit" means a self-contained building with such out-buildings as are ordinarily ancillary to the main building and used in connection therewith and physically incapable of subdivision into two or more independent building units. A building unit may, however, be owned by an individual or may be jointly and severally owned, provided it remains in a single indivisible ownership."

The Committee observe that the 'Note' specified in this rule explains the meaning of expression "Building unit". This "Note" should be in the form of 'Explanation'. The Committee, therefore, suggest that for the word 'Note' the word 'Explanation' should be substituted.

Rule 54—

"54. *Maximum height of buildings.*—(1) Subject to restrictions shown in the zoning plan or the Architectural Control Sheets, the maximum height of any building measured from the top of the plinth to the top of the highest roof for parapet excluding chimney stacks and water tanks shall not exceed 38 feet.

- (2) Subject to restrictions shown in the zoning plan or the Architectural Control Sheets, no building shall contain more than 2 storeys but any building may have a "barsati" a namti, latrines and water tanks upon the roof. Such structures shall, however, not cover more than half of the total roof area.

- (3) Where the Director is of the opinion that it is necessary so to do, he may, by order, for reasons to be recorded in writing, relax any of the provisions of this rule."

The Committee wanted to know the reasons why the maximum height limit had been fixed at 38 feet and why it was later considered necessary to empower the Director to relax any of the provisions of this rule.

The Departmental Representative stated that sub-rule (3) has been inserted to enable relaxation of height regulations in such cases where either the intention is to have a zone of multi-storey buildings or where due to physical necessity it may be imperative to raise the height of a building.

The Committee did not feel satisfied with the explanation given by the Departmental Representative and observe that Rule 54 is ultra-vires of the Act on two grounds, viz.—

- (1) It is coloured with excessive delegation ; and
- (2) Sub-rule (3) does not provide the guide-line which has to be observed by the Director at the time of giving relaxation of any of the provision of Rule 54.

The Departmental Representative, after some discussion, undertook to examine the matter in consultation with the Law Department and inform the Committee.

Rule 76—

"76. *Location of staircase.*—No part of the second or of any higher storey of any building shall be more than 100' from some staircase or ramp leading to the ground floor."

The Committee are of the view that for the word "loading" substitute "leading".

The Departmental Representative stated that it would be got amended being typographical error.

Rule 123—

"123. *Inspection.*—Every person by or for whom any water-borne sanitary installation or drainage installation or any work in connection therewith is carried out for any existing or new building or in any other premises shall at all reasonable times afford the Director or any officer duly authorised by him free access to such water-borne sanitary installation or drainage installation or work in connection therewith for the purpose of inspection."

The Departmental Representative accepted the suggestion of the Committee made in regard to this Rule, that between the words "him" and "free", the words "in writing" be inserted.

FORM BK—1

(See rule 32)

Application for a licence for setting up charcoal-kiln/pottery kiln/lime-kiln/brick-kiln or brick-field or for quarrying stone, bajri, surkhi, kankar in a controlled area under section 8 of the Act.

To _____

Sir,

I/We beg to apply for grant/renewal of a licence for the setting up of a charcoal-kiln/pottery-kiln/lime-kiln/brick-kiln/brick-field or for quarrying stone, bajri, surkhi, kankar in the Controlled area—_____.

2. As required, I/We submit the following in triplicate :—

- (i) a guide map on a scale of not less than 6" to a mile showing the location of the site within the controlled area.
- (ii) a site plan on a scale of not less than 1" to 40', showing the boundaries of the land, the portion of the land which is to be excavated and portion in which kiln or machinery is to be installed
- (iii) a cross-section through the portion of the land proposed for excavation showing—
 - (a) existing levels, and
 - (b) the average levels to which it is to be excavated.

3. I/We enclose a demand draft for Rs 100 in lieu of the prescribed fees.

Yours faithfully,

Dated :

Address :

The Committee are of the view that at the end of the form BK-I, mentioned in this Rule, for the word 'Address', substitute "Applicant's signatures and address."

The Departmental Representative agreed with the view of the Committee.

(vi) THE PUNJAB LAND IMPROVEMENT SCHEMES RULES, 1963, FRAMED UNDER THE PUNJAB LAND IMPROVEMENT SCHEMES ACT, 1963.

2. In these rules unless there is anything repugnant in the subject or context,—

- (a) 'Committee' means the District Land Improvement Committee constituted under Section 4 of the Act ;

(b) 'Form' means a form appended to these rules ,

(c) 'Act' means the Punjab Land Improvement Scheme Act 1963 ;

(d) 'Section' means a section of the Act."

The Committee felt that the definition given in rule 2 should be in an alphabetical order.

The Departmental Representative agreed with the views of the Committee.

The Committee recommend that in view of the expression "The District Land Improvement Committee" defined in Section 2(c) of the Act, the term "Committee" should not have been defined in Rule 2(a) .

The Departmental representative agreed with the view of the Committee and promised to delete the definition of "Committee" in rule 2(a) .

"4. (1) The statement under sub-section (1) of section 16 shall be in Form B and prepared in the regional language of the area concerned. It shall be sent in triplicate by the Soil Conservation Officer to the Tehsildar concerned as soon as possible, after the 1st day of April in each year.

(2)	*	*	!	*	*	*	*	*	*
(3)	*	!	*	*	'	'	!	*	*
(4)	'	*	*	"	*	'	'	*	*
(5)	*	*	*	*	*	*	*	*	*
(6)	*	*	*	*	*	*	!	*	*

The Committee observe that in sub-rule (1) of Rule 4, for the words 'Regional language of the area concerned' substitute the words "in Hindi, in Devnagri Script."

The Committee further observe that the time limit should be specified to achieve the object underlying Rule 4.

The Departmental Representative agreed to the above observations of the Committee.

Rule 6.—

"6. If any landowner shown in the statement prepared under section 16 as liable to maintain and repair any work does not maintain or repair it to the satisfaction of the Soil Conservation Officer, the Soil Conservation Officer shall serve upon the landowner a notice in Form 'C' specifying the time within the repairs described in the notice are to be carried out."

The Committee observe that for the word "as" occurring in line 2, substitute the word "is" and in line 5, after the word "within", insert the word "which".

The Departmental Representative agreed to these proposals of the Committee.

Section 14 of the Act—

The Committee enquired from the Departmental Representative whether any rules have been framed to carry out the purposes of sub-section (4) of Section 14 of the Act.

The Departmental Representative stated that the schemes were being carried out departmentally and not through the land-owners. The cost incurred by the Department was recovered from the landowners as arrears of land revenue as provided in Section 19 of the Act. Therefore, no necessity for framing Rules for carrying out the purposes of sub-section (4) of section 14 has been felt.

The Committee are not satisfied with the reply of the Departmental Representative and observe that for the purpose of carrying out the purpose of sub-section (4) of section 14, the Rules may be framed.

Section 16.—

The Committee feel that some procedure should be adopted to meet the situation as provided in section 16 (3) *ibid*, i.e., regarding the preparation of statement of rights and liabilities in the villages where no record of rights is kept

Agriculture RULES FOR SOIL CONSERVATION SCHEMES

The Committee desired to know from the Departmental Representative whether the Rules for Soil Conservation Schemes supplied by the Department for scrutiny of the Committee, are statutory Rules, i.e., whether they have been notified in the Official Gazette under the provisions of the Act

The Departmental Representative stated that the Rules have not been notified in the Official Gazette, however, these have been approved both by the Department and the Accountant-General, Punjab. He also undertook to verify whether these Rules are statutory ones and have been notified under any provision of the Act.

The Agricultural Department,—*vide* its letter No 11135-Agr(V) -69/29522, dated the 24th December, 1969, clarified that the rules are not statutory ones but are in the nature of 'works manual' requiring uniformity of procedure to be adopted for giving technical sanction, control of financial expenditure and observance of requirements of check and supervision on the work executed under these schemes so that all schemes are executed on a uniform pattern, thus reducing time and labour.

The Committee, in view of the said reply of the Department, decided to drop the scrutiny of the so-called Rules for Soil Conservation Schemes, as they are not statutory rules.

In view of the Committee, the Rules for Soil Conservation Schemes, are invalid and have no force of law and they go against the intention of Legislature.

The Committee feel that these Rules and executive instructions, they go beyond the scope of the Act and the Rules, and so long as they exist and are in force for implementation by the Field Officers, they seem to be binding on the officers. Since these executive instructions are against the explicit provisions of the Act and they have no authority in the eye of the law and if the Department at all feel that the work cannot be carried on without these executive instructions, they should be given the shape of rules.

The Committee also feel that the Department should frame the rules to carry out the purposes of the Act

(vii) THE PUNJAB ANATOMY RULES, 1966, FRAMED UNDER
THE PUNJAB ANATOMY ACT, 1963. *Heal in*

GENERAL

The Punjab Anatomy Act, 1963, received the assent of the Governor on the 14th April, 1963, and was published in the Gazette on the 16th April, 1963, whereas the Punjab Anatomy Rules were framed on the 11th August, 1966. The Committee noted with displeasure that the Rules were framed after a lapse of three years of the enactment of the Act. The Committee wanted to know the reasons for this inordinate delay and also wanted to know how the Act was implemented in the absence of the Rules

The representative of the Medical and Health Department explained that this delay occurred in the erstwhile Punjab State and they were unable to ascertain the reasons from Punjab also. However, it was assured that no such delay would occur in future regarding implementation of any other Act.

The Committee asked the Departmental Representative to find out whether the Medical College and Hospital, Rohtak and Shri Mastnath Ayurvedic Degree College, Asthal Bohar (Rohtak) are getting dead bodies according to their requirements? If there is any deficiency in procuring the dead bodies, remedial measures may be suggested. The Departmental Representative undertook to do so and to inform the Committee accordingly.

The Committee observe that the Medical Department should ensure that the Medical Institution may not feel any practical difficulty for want of dead bodies. Adequate arrangements should, therefore, be made in this behalf.

The Committee further observe that the Inspector-General of Police may be requested that he should issue strict instructions to the Police Officers at all levels that they must not allow any unclaimed body to go waste

Rule 4—

- "4. Information of death to authorised officer:—(1) Any Officer of the Department of Police or Public Health or any officer in employ of a local authority or any village officer who comes to know of the death of any person in any public place in an area in which he had no permanent place of residence, shall report the fact to the authorised officer of that area with the least practicable delay.

(2) * * * *

(3) * * * *

The Committee is of the view that Panches and Sarpanches be treated as

The Departmental Representative agreed to it.

The Committee desired to have a copy of the Notification issued in February, 1969 by the Haryana Government, to the effect that the Police Department will bear the expenditure to dispose of the unclaimed dead bodies as there is a provision in the Budget under head 23 of the Police Department to this effect.

The Departmental Representative undertook to supply the same.

Rule 7—

*"7. Period within which dead bodies may be claimed.—*A dead body handed over to an approved institution may be claimed by a near relative of the deceased within a period of 96 hours of the death. No charges shall be payable by the near relative if the body is claimed within a period of 24 hours. If the claim is made after the expiry of 24 hours the near relative will have to pay an amount of Rs 20 towards preservation charges of the dead body."

The Committee observed that this provision, as it appears from the marginal heading, has been made under sub-section (2) of Section 10 of the Act. This section does not envisage the imposition of any fee, tax or charges for this purpose. The Committee, therefore, desired to know under what provisions of the Act the charging of Rs 20 is justified from the near relative towards the preservation charges of the dead body?

The Departmental Representative stated that sub-section(1) of Section 10 authorises the State Government to make rules for carrying out the purposes of the Act. Therefore, in the marginal heading for "Section 10(2)," "Section 10(1)" be a substituted.

The Committee however observe that Section 10 (1) is a general provision and the charging of Rs 20 for preserving the dead body from the near relative cannot be covered. Section 10(2) only provides for the period within which a near relative shall claim the body of a deceased person. Thus, there seems to be no provision in the Act which authorises the State Government to provide for the charging of this amount from the near relative for preserving the dead body.

The Committee are, therefore, of the view that this provision in the Rules is beyond the scope of the Act. However, the Departmental Representative was asked to get this matter examined in consultation with the Law Department and send a report to the Committee.

The Departmental Representative undertook to do so.

Rule 9—

*"9. Disposal of belonging of the deceased.—*The belongings of an unclaimed body shall be disposed of by the authorised officer in accordance with the normal provision of law."

The Committee desired to know as to what were the normal provisions of law as contemplated in this Rule and whether it would not be proper to specify those provisions in the Rule itself?

The Departmental Representative stated that normal provisions of law mean the Police Rules and the Criminal Procedure Code. The Committee observe that the expression 'in accordance with the normal provision of law' in this Rule is vague and the exact provision of law should be specified.

The Departmental Representative stated that this will be done after consulting the Law Department.

(viii) THE PUNJAB RECLAMATION OF LAND RULES, 1960,
FRAMED UNDER THE PUNJAB RECLAMATION OF LAND
ACT, 1959. *Agreed*

Rule 5—

"5. *Mode of Service notice.*—(1) Service of notice referred to in rules 3 and 4 shall be effected by delivering or tendering a copy thereof signed by the Director or such person as he may authorize in this behalf.

(2) * * * * *

(3) * * * * *

(4) Where the Director is satisfied that there is reason to believe that the person to be served is keeping out of the way for the purpose of avoiding service, or that for any other reasons the notice cannot be served in the ordinary way, the Director shall order the notice to be served by affixing a copy thereof upon some conspicuous part of the house (if any) in which such person is known to have last resided or carried on business or personally worked for gain, or in any such other manner as the Director thinks fit.

(5) * * * * *

Note.—(1) In the case of common lands, the notice required by this rule shall be served, on the Sarpanch, or in his absence, on the Naib-Sarpanch, or the Secretary of Panchayat in which the common lands vest.

Note. 2:— * * * * *

The Committee are of the view that in sub-rule (1) of rule 5, between the words "authorise" and "in", the words "in writing" be inserted.

The Departmental Representative agreed with the view of the Committee.

The Committee observe that in sub-rule (4) of Rule 5, the words "or in any such other manner as the Director thinks fit" are vague, and recommend that the manner of substituted service should be specifically provided for in the Rules and should not be left to the discretion of the Director.

The Committee observe that in "Note.—1" under rule 5, the word "Naib-Sarpanch" has been used. Therefore, the Committee wanted to know whether this nomenclature exists in the Gram Panchayat Act or any other Act; if not, then this word should be substituted by an appropriate word.

The Departmental Representative stated that this nomenclature did not exist now and, therefore, the words and sign "the Naib-Sarpanch, or" will be deleted.

Rule 7—

- "7. *Disposal of lease money.*—The lease money shall be paid by the Director to the owner of the land after deducting therefrom the cost of reclamation, if any, remaining unpaid and such other incidental charges arising out of or in connection with the lease as the State Government may incur."

The Committee wanted to know what are the incidental charges recovered by the State Government from the land owners under this Rule.

The Departmental Representative stated that other incidental charges include the expenses incurred in connection with serving notice along with travelling expenses of the officials of the department in connection with the leasing out of land.

The Committee feel that Rules 6 and 7 are beyond the scope of the Act as no power has been conferred by the Act on the Director to lease out the land after reclamation in case the land owner does not take its possession and also for the disposal of the lease money. Such powers should be specifically provided in the Act. Since, this matter is not free from doubt, the Committee wanted the Departmental Representative to examine it in consultation with the Law Department and inform the Committee.

The Departmental Representative agreed to examine the matter in consultation with the Law Department and to inform the Committee accordingly.

Rule 8—

- "8. *Notice of demand for cost of reclamation.*—

(1) * * * * *

- (2) The notice of demand shall be served personally on the person to whom it relates or may be sent to him by registered post.

(3) * * * * *

The Committee observe that in sub-rule (2) of rule 8 after the words "registered post", insert "(acknowledgement due)."

The Departmental Representative agreed with the views of the Committee.

(ix) THE GOOD CONDUCT PRISONERS' PROBATIONAL RELEASE RULES FRAMED UNDER THE GOOD CONDUCT PRISONERS' PROBATIONAL RELEASE ACT, 1926

Rule 1—

- "1. These rules may be called the Good Conduct Prisoners' Probation Release Rules."

The Committee observe that the year, in which the Good Conduct Prisoners' Probation Release Rules were framed has not been mentioned,

whereas the notification was issued in the year 1927. The Committee wanted to know if this was a typing mistake or a drafting mistake, and if it was a drafting mistake, necessary amendment to these Rules should be made.

The Departmental representative stated that this was an omission and necessary amendment would be made

Rule 2—

"2. *Definition.*—In these Rules unless there is anything repugnant in the subject or the context :—

- (1) "The Act" means the Good Conduct Prisoners' Probational Release Act 1926.
- (2) "Reclamation Officer" means an officer appointed by the Haryana Government for the superintendence, direction and control of persons released from prison under the provisions of the Act.
- (3) "Probation Officer" means an officer appointed by the Haryana Government to assist the Reclamation Officer in the discharge of his duties.
- (4) "Superintendent" means the Superintendent of a prison in which any prisoner or prisoners to be released under the Act, are confined or any other officer, specially authorised in this behalf by the Haryana Government."

The Committee are of the view that for "Rules" substitute "rules".

The Departmental Representative agreed to it.

The Committee are further of the view that in clause (1), after "Release Act", the sign ",", should be inserted.

The Departmental representative agreed to it.

The Committee are also of the view that at the end of clauses (1), (2), and (3) for the sign ".", the sign ";" be substituted.

The Departmental representative agreed to it.

Rule 3—

- "3. The "Reclamation Officer" and "Probation Officer" shall be taken to be the "Government Officers" within the meaning of Sections 2, 7 and 8 of the Act."

The Committee are of the view that the sign ' ' ' where-ever occurring in this rule be omitted.

The Departmental representative undertook to do so.

The Committee further observe that before the expression "Probation Officers", the word "the" be inserted.

The Departmental representative also agreed to it.

Rule 4—

- "4. (a) The Reclamation Officer may, at any time, after consultation with the Superintendent or otherwise prepare a list of the prisoner, who from their antecedent or conduct in prison appear to be likely, if released from prison to abstain from crime and to lead a useful and industrious life, and may forward a list of such prisoners to the Haryana Government with a recommendation for their release under the Act.

The Punjab Government may thereupon permit all or any of such prisoners to be released by license under Section 2 of the Act.

- (b) A license under Section 2 of the Act shall be in form "A" (Form 2.1) herewith annexed, and shall contain the conditions stated therein.
- (c) No prisoner shall be released from a prison unless the conditions of the license are personally explained to him by the Superintendent and are accepted by him. The fact that the conditions were so explained to the prisoner and were accepted by him shall be certified on the license by the Superintendent."

The Committee observe that a reference to form "A" is made in clause (b) but no reference of this rule is made in the Form A.

The Departmental representative stated that this was a printing error and would be rectified.

Rule 9—

- "9. The following classes of offenders shall not be eligible for conditional release under the Act :—

- (a) Persons who have been convicted for offences under the following Acts, or provisions thereof :—

(i) Chapters V-A, VI and VII and Sections 216-A, 302, 303, 311, 328, 364, 382, 386 to 389, 392—402, 413, 455, 458 to 460 of the Indian Penal Code.

(ii) The Criminal Tribes Act, 1924.

(iii) The Indian Criminal Law Amendment Act, 1908.

(iv) The Explosives Substances Act, 1908.

- (b) Except in the case of prisoners committed to prison in default of furnishing security prisoners, the unexpired term of whose term of imprisonment is less than six months.

- (c) Prisoners who have been sentenced to imprisonment for a term exceeding three years and have not completed 18 months of their sentence of imprisonment in prison, and in the case of

prisoners convicted under Section 307, I.P.C. those who have not completed three years of sentence of imprisonment excluding remission in prison.

NOTE.—The prohibition in clause (c) shall not apply to a prisoner whose age on the date of his latest sentence was not above 21 years (See Executive Order 6 in this connection).

(d) Prisoners who have been convicted of an offence under Section 7 of the Act or whose license has been previously revoked on account of a breach of the conditions of the license.

(i) Police Rule 23.35(3) provides that no surveillance should be exercised by the Police over probationally released convicts."

The Committee observed that there was scope for inclusion of certain other offences under other Acts in part (a) such as the Prevention of Corruption Act, 1947, the Prevention of Food and Adulteration Act, 1954, the Drugs and Cosmetics Act, 1940. The Committee also desired to know the views of the Department on this as also the other Acts, that could be brought under the provision of this rule.

The Departmental Representative stated that as regards inclusion of offences under other Acts in this rule, the matter would be considered by Government in consultation with other concerned Departments such as Police, Judicial and Law.

The Committee recommend that the matter should be finalised at the earliest.

The Committee further desired to know the significance of the para, viz "(1) Police Rules 23.35(3)...Convicts" appearing at the end of Rule 9.

The Departmental representative stated that in fact, it was a note. There were three notes, two of which had already been omitted. However, this note stands.

He further stated that under the Police Rules, the Police Department exercises surveillance over certain types of convicts (e.g. habituals) or those released on conditions under Section 401, Cr. P. C., etc. This is done as a measure of prevention of offences.

Police Rule 23.35(3) lays down that except the maintenance of a list of such probationers the Station House Officers shall not exercise any surveillance. The selection of convicts for probational release and their trial in accordance with the terms of the Act and of licence vests in the Reclamation Officer and the Probation Officers. This provision is to eliminate dual responsibility and to help the probationers, in returning to normal life without any fear or harassment.

The Committee recommend that this note should not appear as a 'Note' but should be made a part of the Rules and Rule 23.35(3) of the Police Rules should also be printed as Annexure to these Rules.

The Departmental representative agreed to do so.

Stereo Reel. Office No. 1

FORM A

Licence of conditional release under section 2 of the Good Conduct Prisoners Probational Release Act, 1926

In exercise of the powers conferred by section 2 of the Good Conduct Prisoners' Probational Release Act, 1926, the Governor of the Haryana is pleased, subject to the observance of the conditions hereinafter set forth to grant and direct to the release of.....

.....
 on of....., caste.....
 aged.. .., resident of village.....
 District....., Prisoner No....., of.....
 Jail....., at present confined in the.....
 in pursuance of warrant which a *certified copy is/copies are attached hereto.

The period during which this licence shall remain in force shall be calculated in accordance with the provision of sections 3 and 4 of the aforesaid Act. On the expiry of the period of this licence (except when it is revoked) the prisoner shall be released from the observance of all the conditions set forth hereinafter.

Conditions to be observed by the licence

(1) the licence(ee) shall proceed forthwith to... ..and report himself to the Probation Officer.....

(2) He shall remain under the supervision of the said Probation Officer, or of any other Probation Officer to whose supervision he may be transferred by the Reclamation Officer, during the period of the licence. He shall obey all the instructions of the Probation Officer issued to him either verbally or in writing regarding his residence, employment and conduct.

(3) He shall not proceed beyond the limits of the places within which he may be restricted from time to time by the Probation Officer, without the permission in writing of the said Officer. He shall proceed to any place indicated by the Probation Officer and by the route prescribed for him.

(4) He shall report himself at such times and places and to such persons as the Probation Officer may from time to time direct.

(5) He shall apply himself with due industry, to the satisfaction of the Probation Officer, to the work upon which the said Officer may permit him to be employed.

(6) He shall not commit any criminal offence punishable by the law of Indian Dominion.

(7) He shall receive such remuneration for his work as the said Probation Officer may direct.

(8) If in the opinion of the Local Government he is found to have committed a breach of the conditions numbered (1) to (6) of this licence, the Local Government may revoke the licence and direct his re-admission to prison to serve the rest of his sentence subject to the provisions of section 4 of the Good Conduct Prisoners' Probational Release Act, 1926.

(9) On the revocation of this licence, the licensee shall return to the prison named in the order of revocation on or before the date specified for him to report himself in the order of revocation

Home Secretary to Government, Haryana,

I, _____, hereby acknowledge that I understand the conditions specified in the above order of conditional release as the conditions subject to which I am to be conditionally released and I accept them.

(Sd) _____

(Signature or mark of the convict)

Certified that the conditions specified in the above order of conditional release have been read over and explained to the prisoner named in the said order, and that he has acknowledged, that he understands and accepts the same as the conditions under which he is to be released before the expiry of the term of his sentence. I believe that he understands and accepts them.

(Sd.) _____

Superintendent of _____ Jail

Date of release on probation of the convict _____

*The Superintendent of the Jail shall personally verify the correctness of the certified copies to be attached to the licence and note thereon the remission earned by the prisoner (if any) up to the date of his release.

The Committee are of the view that it would be better if the relevant Rule, viz., 4 (b) under which 'Form A' has been prescribed is mentioned in the Form A.

The Departmental representative agreed to it.

The Committee also decided that for the words "by the Law of Indian Dominion" the words "under any law for the time being in force" be substituted.

General

The Committee after having orally examined the Departmental representatives, recommend that Notes given under Rules 5 (b), 6 (c), 7 (c) and 9 (c) are redundant and should be deleted.

The Departmental representative agreed to do so.

Industry

**(X) THE PUNJAB STATE AID TO INDUSTRIES RULES, 1936,
FRAMED UNDER THE PUNJAB STATE AID TO
INDUSTRIES ACT, 1935**

Rule 1—

- "1. (1) These rules may be called the Punjab State Aid to Industries Rules, 1936.
- (2) In these rules words and expressions have the same meaning as in the State Aid to Industries Act, 1935.
- (2) In the Punjab State Aid to Industries Rules, 1936 (hereinafter referred to as the said Rules), for the figures "1954" and "1913" wherever occurring the figures "1961" and "1956" shall be substituted respectively.
- (3) The 'Act' means the Punjab State Aid to Industries Act, 1935.
- (4) 'Board' means the Board of Industries referred to in Section 3 of the Act.
- (5) 'Section' means a section of the Act.
- (6) 'Small Scale Industrial Unit' means an industrial unit with a capital investment in fixed assets like land, building, machinery and equipments of not more than five lacs rupees in case industrial unit is independent one and of not more than ten lac rupees in case the same is ancillary to or subsidiary of another industrial unit, irrespective of the number of persons employed therein.
- (6) 'Short term loan' means a loan, not exceeding five thousand rupees which may be advanced for a period not exceeding six months to a person or firm running a small scale industry in a shed in any industrial estate in the State of Haryana rented out or given on hire purchase for the purchase of raw-materials etc., required in connection with Small Scale Industry."

The Committee observe that in the cyclostyled copy of the Rules supplied by the Department, the sub-rule (2) has been reproduced as under :—

- "(2) In the Punjab State Aid to Industries Rules, 1936 (hereinafter referred to as the said rules), for the figures, "1954" and "1913", wherever occurring, the figures "1961" and "1956" shall be substituted respectively".

The Committee suggest that this sub-rule (2) should not find place in rule 1, and the necessary amendments with regard to the change of years should be made in the rules.

The Committee were informed that the State Government has powers to make rules, not inconsistent with the Act, under section 46 of the Punjab State Aid to Industries Act, and it is felt that the definitions of Small Scale Industrial Unit and Short Term loan provided in the Rules are in order.

The Committee, however, desired the departmental representative to obtain the advice of the Law Department in the matter and inform the position to the Committee.

The Director of Industries intimated—*vide* his memo. No. LNS/LA/1/Act/3738-A, dated the 23rd January, 1970, that the advice of the Law Department has been obtained which is as follows :—

“The ‘Small Scale Industrial Unit’ as defined under rule 1 of the Punjab State Aid to Industries (First Amendment) Rules, 1964 does not affect or restrict the scope of the ‘industry’ as defined in section 2 (5) of the Punjab State Aid to Industries Act, 1935. The classification of a ‘Small Scale Industrial Unit’ is relevant only in the matter of taking personal security for loans not exceeding Rs 5,000 as provided under rule 7 of the Punjab State Aid to Industries Rule, 1936. The insertion of the definition of ‘Small Scale Industrial Unit’ in the rules is, therefore, not beyond the scope of Punjab State Aid to Industries Act.”.

The Committee recommend that the suitable definition may be brought before the Legislature with a view to make the provisions for the “Small Scale Industrial Unit” in the Act.

The Committee are of the view that since the term ‘Board’ has been defined in the Act, its definition, as given in sub-rule (4), appears to be redundant and may be deleted.

The Departmental representative agreed with the views of the Committee.

Rule 2—

- “2. *Appointment of member elected by the Chamber of Commerce:—* In the case of appointments to be made under clauses (e), (f) and (g) of sub-section (1) of Section 3 of the Act, the Secretary of the Board of Industries shall call on the Secretaries of the Chambers concerned to submit the name of the member who has been elected to represent the chamber at the Board.”.

The Committee enquired from the departmental representative whether the members of Indian Chamber of Commerce and Haryana Chamber of Commerce are nominated or elected members. If they are elected ones, whether the provisions of rule 2 have been complied with ?

The Departmental representative stated that these members have been taken on the Board in accordance with the provisions of Sections 3 and 4 of the Punjab State Aid to Industries Act, 1935 and intimation regarding the fact whether they were elected or nominated will be sent to the Committee after due verification.

Subsequently, the Director of Industries, Haryana, *vide* his Memo No. LNS/LA/Act/3132-A, dated the 22nd January, 1970 informed that the members of Indian Chamber of Commerce and Haryana Chamber of Commerce were elected under section 3 of the Punjab State Aid to Industries Act, 1935.

The Committee recommend that the words “of Industries” occurring between the words “Board” and “shall”, be deleted.

Rule 3—

"3. Travelling Allowance :—

* * * * *

Provided that the members of the Legislative Assembly and Legislative Council will draw travelling allowance and halting allowance, as admissible under the Punjab Legislative Assembly (Allowances of Members) Act, 1942, and the Punjab Legislative Council (Allowances of Members) Act, 1952 and the rules made thereunder, as the case may be."

The Committee recommend that for the existing proviso to rule 3, the following proviso be substituted as there is no Upper Chamber in Haryana :—

"Provided that the members of the Legislative Assembly will draw travelling allowance and halting allowance, as admissible under the Punjab Legislative Assembly (Allowances of Members) Act, 1942, and rules made thereunder."

Rule 4—

"4. Application for State Aid.—(a) Loans and supply of machinery on hire purchase system. An application for a loan by an individual or firm, co-operative society or company, shall be submitted to the Director of Industries, Punjab on the prescribed form 'A' appended to these rules

* * * * *

(b) *Application for other forms of State Aid.*—The Director of Industries, Punjab, shall be authorised to prescribe from time to time and other application form for other forms of State Aid generally or in individual cases."

The Committee recommend that in rule 4 and in other subsequent rules for the word "Punjab", wherever, occurring, the word "Haryana", be substituted.

The Committee are also of the view that rule (4) be deleted, as this is not in accordance with the intention of the Act.

Rule 5—

5. *Delegation of powers.*—A loan may be granted to any person, firm, co-operative society or company by the Director of Industries, (or Joint Director), (or Joint Director, Villages Industries), Punjab, and District Industries Officer concerned or the Assistant District Industries officer concerned holding independent charge in the districts of the erstwhile state of Pepsu) (or the concerned sub-Divisional Officer (Civil) in Lahaul and Spiti District) or the Assistant District Industries Officer Kulu or the Community Project Officer (Industries) Jullundur and Malerkotla (or the Assistant District Industries Officer, Simla) if the amount of loan together with the loan or loans granted to the said person, firm, co-operative society or company does not exceed Rs 5,000 and Rs 2,000 respectively. A list of individuals

been granted by Director of Industries, or Joint Director or Joint Director, Village Industries and District Industries Officer concerned or Assistant District Industries Officer, Kulu or the Assistant District Industries Officer, Simla shall be placed, by the Director of Industries, Punjab, before the Board of Industries at its next meeting.

- (2) An emergency loan may be granted to any person, firm, co-operative society or company by the Director of Industries or Joint Director (Small Industries) or Joint Director (Village Industries and Senior District Industries Officer, or District Industries Officer, or Assistant District Industries Officer holding independent charge of the district, if the amount of such loan to the said person, firm, co-operative society or company does not exceed five thousand rupees and two thousand rupees respectively. A list of individuals, firm, co-operative societies or companies to whom such loans have been granted by the Director of Industries or Joint Director (Small Industries), or Joint Director (village Industries) and Senior District Industries Officer, or District Industries Officer or Assistant District Industries Officer concerned shall be placed by the Director of Industries, Punjab before the Board of Industries at its next meeting.

Explanation.—In sub-rule (2) of rule 5 and rule 7, the expression “emergency loan” shall mean the loans granted out of the funds provided for this purpose, to the Industrial Units in the districts of Gurdaspur, Amritsar, Jullundur, Ferozepore, Kapurthala and Ludhiana.

“Provided that a short term loan may be granted by the District Industries Officer concerned.”

The Committee recommend that rule 5(1) should be amended in view of the re-organisation of the Punjab State, as the places like Simla, Kulu etc. etc., do not form part of the Haryana State.

The Committee further recommend that similar amendments be made in rules 7 (e) and (g), 16 (4) and 17.

Rule 5(2)—

The Committee wanted to know how this term “Emergency loan” has been inserted in rule 5(2). It is nowhere envisaged in the Act and is against the letter and spirit of the Act.

The Departmental Representative stated that the term “Emergency Loan” was provided for the Boarder Districts of the then Punjab State.

The Committee accordingly recommend that rule 5 (1) may be suitably amended and rule 5(2) should be deleted.

Forms :

The Committee observed that there were several mistakes of print both in English as well as in Hindi Forms.

The Committee recommend that it would be better if suitable headings are given at the top of various Forms appended to these Rules for the sake of convenience of the Public in general and for the Industrialists, in particular.

Rule 7—

“7. (1) Nature and Amount of security :—

(a) * * * *

(b) * * * *

(bb) A mortgage on machinery installed in a leased or rented building or that installed in a building constructed on a leased land, by the applicant, provided it is an emergency loan and does not exceed 60 per cent of the value of the machinery offered as security subject to a maximum of Rs 35,000 and that the said machinery is under the use of the loanee for the development of the industry for which the loan is required ;

(c) * * * *

(d) * * * *

(e) * * * *

(ee) In the case of an emergency loan not exceeding Rs 10,000 to a small scale industrial unit personal security of the applicant and that of his surety rendered to the satisfaction of the Director of Industries, Punjab, or the Senior District industries Officer or the District Industries Officer or Assistant District Industries Officer holding independent charge of the district, as the case may be.

(f) * * * *

(g) * * * *

(h) * * *

(i) * * * *

(j) * * * *

(2) * * * *

Parts (bb) and (ee)

The Committee feel that the insertion of this new loan “Emergency loan” seems to be discriminatory, not only regarding the areas in which they were given, but also regarding the terms and conditions of the loan.

The Departmental Representative agreed with the views of the Committee to delete the provisions regarding Emergency loan.

Rule 11—

- "11. *Repayment*: The interest payable on the loans advanced under the Act shall be at such rate, as may be fixed by the State Government in this behalf from time to time"

The Committee are of the view that the rate of interest cannot be determined under section 46 (2) (g) as it relates to recovery only and it may be determined under section 46(2) (f)

The Departmental Representative agreed with the views of the Committee that this rule should be suitably amended.

Rule 13—

- "13. Subject to the provision of sub-rule (b) of this rule the period of complete repayment of the loan with interest due thereon, shall ordinarily be seven years which in case of loan up to Rs 5,000 may on sufficient grounds, be extended by the Director of Industries or Joint Director or Joint Director (Village Industries) on the written request of the borrowers up to a maximum period of 10 years. In the case of loan over Rs 5,000/-, however, extension beyond seven years shall not be allowed except with the previous permission of Government. The recovery shall ordinarily start on the expiry of two years from the date of the payment of the loan in the following instalments.—

to be paid at the end of II year	1/12th
to be paid at the end of III year	1/12th
to be paid at the end of IV year	1/6th
to be paid at the end of V year	1/6th
to be paid at the end of VI year	1/4th
to be paid at the end of VII year	1/4th."

The Committee are of the opinion that this rule is ambiguous inasmuch as in the case of loan over Rs 5,000 there is no period prescribed up to which the Government can extend the period beyond seven years, nor there are any specific grounds mentioned for extending the period and also the fraction of instalments fixed if the period is extended beyond seven years.

The Departmental Representative agreed to amend this rule suitably so as to make it unambiguous.

Rule 13-A—

- "13-A. *Grant of interest-free loan*:—(1) Interest-free loans may be advanced, during the period commencing from the date of publication of the Punjab State Aid to Industries (Amendment) Rules, 1965 in the official Gazette and ending on 31st December, 1965, to the Industrial units functioning in the districts of Amritsar, Ferozepur, Gurdaspur, Kapurthala, Jullundur and Ludhiana for the payment of wages in advance to the labour working in such units.

- (2) Notwithstanding anything contained in sub-rules (a) and (b) of rule 13, the recovery of interest-free loans granted under sub-rule (1), shall start on expiry of six months from the date of

Provided that in the case of misutilisation of such loan or of default in re-payment of any instalment of such loan on due dates the entire amount of such loan then due shall become immediately repayable along with interest at the rate of 7½ per cent per Annum.”.

The Committee are of the view that since the provision of this rule is no longer applicable, this rule should be deleted.

The Departmental Representative agreed with the views of the Committee.

Rule 16—

“16. *Notice and Declaration*:—(1) Every notice issued under subsection (1) of Section 23 and every order passed under Section 27 of the Act may be served on the person to whom it is addressed by sending it to him at the address entered in the deed, by registered post.

(2) 1 2 3 4 5 6

(3) † † * † * † *

(4) " " " "

The Committee are of the view that at the end of sub-rule (1), after the word "post", add the words "(acknowledgement due)".

Rule 19—

"19. *Supply of machinery on hire-purchase system.*—No machinery shall be supplied on the hire-purchase system unless the applicant therefor, deposits with the Director of Industries, Punjab at least 10 per cent of the cost of the said machinery "

The Committee recommend that in rule 19, the word "Punjab" be deleted. The Committee also recommend that the word "Punjab" wherever occurring in the subsequent rules may also be deleted.

Rule 20—

“20. Until the hiring is terminated, the following provisions shall apply, namely:—

(1) The hirer shall pay punctually without demand the instalments of rent and amount of interest as specified.

(2) The amount of each instalment of rent to be paid for the hire of the machinery and the number of such instalments to be paid before

the machinery shall become the property of the hirer shall be fixed by the Director of Industries.

- (3) * * * *
- (4) * * * *
- (5) * * * *
- (6) * * * *
- (7) * * * *

The Committee, after examining the departmental representative, recommend that in sub-rule (2), for the word "shall become" substitute "becomes".

Rule 25—

- "25. If the hirer wishes at any time to terminate the hiring of any machinery supplied to him on the hire purchase system, he shall give notice of his intention to the Director of Industries, Punjab, by registered post. The Director within one month of the receipt of this notice shall inspect the machinery or cause it to be inspected in such manner as he may think proper and shall issue orders for the removal of the said machinery."

The Committee are of the view that after the word "by registered post" insert the words "(acknowledgement due)".

Rule 29—

"29. *Inspections* :— — — — —

- (2) * * * *
- (3) * * * *

- (4) The Director of Industries, Punjab, shall call for a return once in a year certified by an auditor or by such other officer as may be designed in this behalf, and the return shall show :—

- (a) * * * *
- (b) * * * *
- (c) * * * *

The Committee are of the view that for the word "designed" the word "designated" be substituted.

The Departmental Representative agreed with the view of the Committee.

Rule 34—

- "34. The grant of subsidy or forms of State Aid, other than the grant of loans and the machinery on hire purchase, shall be governed

by such rules or directions as may be issued generally or in individual cases, by the (State) Government after the previous consultation with the Board.”.

The Committee desired to know whether any rules have been issued by the Department for the grant of subsidy as contemplated under this Rule.

The Departmental Representative stated that at present, the Department does not give any subsidy, but as and when the question of giving subsidy arises, necessary rules in this connection would be issued.

ANNEXURE I

LIST OF TRADES, PROFESSIONS, INDUSTRIES SPECIFIED BY
GOVERNMENT FOR WHICH LOAN IS GIVEN UNDER THE
PUNJAB BACKWARD CLASSES (GRANT OF LOANS) ACT, 1957
AND RULES MADE THEREUNDER

- 1 Shoe making.
2. Pottery
- 3 Weaving
- 4 Cycle Repair.
- 5 Poultry.
6. Wood Work.
7. Sewing, Tailoring, Embroidery.
8. Basket making.
- 9 Ban making
10. Piggery.
- 11 Nawar making
12. Dairry making
- 13 Blacksmithy.
14. Bamboo industry.
- 15 Khadi industry (handloom).
16. Legal Practice.
17. Soap making
18. Pipe fitting.
19. Rubber industry.
20. Bakery, confectionery.
21. Leather tanning.
22. Lock making.
23. Spare parts industry.
24. Furniture industries.
25. Oil Kohlu.

26. Iron industry.
27. Dairy farm.
28. Cattle breeding.
29. Ayurvedic practice.
30. Barber shop.
31. Flour mill (chaki).
32. Dyeing.
33. Sheep Rearing.
34. Dry cleaning.