

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION
(TWENTY SECOND REPORT)
1990-91

(Presented to the Haryana Vidhan Sabha on the 1 March, 1991)



HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
March, 1991

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(iii)

COMPOSITION OF THE COMMITTEE
(1990-91)

Chairman

***Shri Surender**

***Shri Vasudev Sharma**

Members

Shri Kailash Chand Sharma

Shri Dharam Pal

Shri Yogesh Chand Sharma

Shri Mahender Partap Singh

Shri Lachhman Dass Bajaj *

Shri Ashok Kumar

Advocate General

Special Invitee

****Shri Lachhman Singh Kamboj**

Secretariat

1. **Shri Sumit Kumar, Secretary**
2. **Shri Janaidhan Singh, Joint Secretary**
3. **Shri Data Ram, Research Officer**

The Committee was constituted vide Haryana Vidhan Sabha Secretariat Notification No. HVS—LA (Sub-Leg)—1/90-91/39, dated the 30th April, 1990.

***Shri Surender, M.L.A., resigned from the Chairmanship and the membership of the Committee with effect from the 28th May, 1990 (A.N.) on his appointment as Minister of State Haryana and in his place Shri Vasudev Sharma, M.L.A., was nominated as Member and Chairman of the Committee by the Speaker with effect from 13th July, 1990 vide notification No. HVS—LA (Sub-Leg)—1/90-91/61, dated 13th July 1990.**

****Shri Lachhman Singh Kamboj, M.L.A., was nominated by the Speaker as a Special Invitee of the Committee with effect from 12th November, 1990 vide notification No. HVS—LA (Sub-Leg)—1/1990-91/88, dated 13th November, 1990.**

INTRODUCTION

1. The Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to present the report on their behalf present this twenty second Report to the House.

2. The Committee consisting of eight Members (including the Advocate General) was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 30th April, 1990 and was notified in the Official Gazette vide Notification No. HVS—LA (Sub-Leg)—1/1990-91/39, dated the 30th April, 1990.

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

4. The Committee place on record their appreciation for the valuable and willing assistance given by the Commissioner and Secretary to Government Haryana, Public Health Department and Departmental Officers.

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

CHANDIGARH :

The 22nd February, 1991.

VASUDEV SHARMA

CHAIRMAN

REPORT

1. The Committee on Subordinate Legislation for the year 1990-91 consisting of eight Members, including the Chairman and the Advocate General was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 30th April, 1990 and was notified in the Official Gazette vide Notification No. HVS—LA(Sub-Leg)—1/1990—91/39, dated the 30th April, 1990.

2. Shri Surender who was initially appointed as the Chairman of the Committee by the Speaker, resigned from the Chairmanship and Membership of the Committee with effect from 28th May, 1990 (A.N.) on his appointment as Minister of State Haryana and in his place Shri Vasudev Sharma, M.L.A. was nominated by the Speaker as Member and Chairman of the Committee with effect from 13th July, 1990. vide Notification No. HVS—LA (Sub-Leg) 1/1990-91/61, dated 13th July, 1990. Shri Lachhman Singh Kamboj, M.L.A. was nominated as a Special Invitee of the Committee on Subordinate Legislation with effect from 12th November, 1990 for the remaining period of the year 1990-91 vide Notification No. HVS—LA (Sub-Leg) 1/1990-91/88 dated the 13th November, 1990.

3. The Committee held 45 sittings till the presentation of this Report. Before scrutinizing the rules framed under the Air (Prevention and Control of Pollution) Act, 1981, the Committee discussed its scope and functions and the procedure for scrutinizing the Rules, Regulations, Order etc. Committee also orally examined the representatives of the Public Health Department of the State Government.

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 242, 250 and 251 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly. Rule 242 enjoins upon the Committee "to scrutinise and report to the House whether powers to make regulations, rules, sub-rules, bye-laws, etc., conferred by the Constitution or delegated by legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker". Further rule 250 of the said Rules lays down that while examining any such set of rules, bye-laws, etc., the Committee shall, in particular consider :—

- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made ;
- (ii) whether it contains matters, which in the opinion of the Committee should more properly be dealt within an Act of the Legislature ;
- (iii) whether it contains imposition of any tax ;
- (iv) whether it directly or indirectly bars the jurisdiction of the courts ;

- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power ;
- (vi) whether it involves expenditure from the Consolidated Fund of the State or the Public Revenues ;
- (vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made ;
- (viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature; and
- (ix) whether for any reason its form or purport calls for any elucidation.

Rules 251 lays down as follows—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1. Delay in framing the Rules

The Committee reiterates the recommendations made in its previous twenty first Reports and observes that ordinarily Rules should be framed as early as possible after the enactment of an Act and in no case the period should exceed six months. If no rules are framed within the said period after the enactment of the Act, the Department concerned should bring in each case this fact to the notice of the Committee stating the reasons to the satisfactions of the Committee for not framing the rules within that period.

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

2. Reference of Section under which Rules are framed

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

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

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

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

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

The Committee observed that certain Departments supplied cyclo-styled copies of the rules for its scrutiny. During the scrutiny of the rules the Committee came across a large number of typographical/spelling mistakes in those copies, with the result that it was difficult for it to determine whether the errors were typographical or they actually existed in the rules, as originally published in the Gazette. The Committee, therefore, recommends that copies of the rules to be supplied to it by the Department should be in the printed form or in the form of Gazette in which they are published if, however, it is not

possible for the Department to do so, it should be ensured that the copies of the rules, orders etc. are up-to-date, meticulously compared and duly corrected before supplying these to the Committee to save its valuable time in pointing out such mistakes.

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

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

(ii) Footnote in the Act and Rules

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

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

4. Publishing the Acts and Rules in Hindi

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

5 Laying of Rules on the Table of the House

The Committee has observed that a majority of the Acts contain provisions requiring the Government merely to publish the Rules framed thereunder in the Official Gazette. There is no provision for laying the same on the Table of the House, with the result that the House can exercise no direct check over them. The Committee is of

the view that there should be uniformity in the provisions of the Acts, delegating legislative powers and recommends that in future all the Acts, enacted by the State Legislature whether falling in the State List or Concurrent List of Seventh Schedule of the Constitution of India, which contain provisions for making rules, should also invariably lay down provisions for laying of rules on the Table of the House as soon as possible.

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

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

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

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

Sr No.	Name of order	Description of "Order"	Date of publication in the Gazette	Date of laying on the Table	Approximate delay and reasons of delay, if any	Department concerned
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7. Implementation of recommendations of the Committee.

The Committee observes with great regret that the work regarding the implementation of recommendations/observations is very slow. The Committee, which works on behalf of the House,

felt that the object with which it was constituted would be defeated if its recommendations are either not implemented at all or are implemented after a long time.

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

Retention

SCRUTINY OF THE HARYANA AIR (PREVENTION AND CONTROL OF POLLUTION) RULES, 1983 FRAMED UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981.

The Committee scrutinised the Haryana Air (Prevention and Control of Pollution) Rules, 1983 framed under the Air (Prevention and Control of Pollution) Act, 1981 and made the following observations/recommendations thereon .—

Rule—2.

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

(a) to (k)	*	*	*	*	*	*
	*	*	*	*	*	*
	*	*	*	*	*	*

(1) "State Air Laboratory" means a laboratory established or specified as such under sub-section (1) of section 28;".

The Committee recommends that a State Air Laboratory be set up in Haryana State, preferably at Panchkula.

Rule—4.

"4(1) to (3)	*	*	*	*	*	*
	*	*	*	*	*	*

(4) The Chairman shall have full powers in the matters of appointment, promotion, confirmation, transfer and termination of services of the officers and employees of the Board, maximum stage of whose pay scale does not exceed Rs. 2000. For officers and employees whose maximum stage of pay scale exceeds Rs. 2000 all such powers shall have vest in the Board."

The Committee regrets to note that the Air Act came into force in the year 1981 but the service rules of the employees of the Board have not yet been finalised.

The Committee, therefore, strongly recommends that the service rules of the employees of the Board be finalised at the earliest and the Committee informed accordingly.

Rule—5.

"5(1) to (5)	*	*	*	*	*	*
	*	*	*	*	*	*

(6) If within fifteen minutes of the time fixed for any meeting or during the course of meeting, the quorum is not present, the

Presiding Officer shall adjourn the meeting to such hour on the same or on some other date as he may fix

(7) & (8) * * * * *

(9) No fresh notice shall be required for the adjourned meeting."

¶ The Committee recommends that for the word "fifteen" the word "thirty" and for the words "the quorum is not present" the words and sign "if there is no quorum" may be substituted in sub-rule (6) of this rule.

5 The Committee after some discussion recommends that provision for issuance of fresh notice to the members for adjourned meeting be made in sub-rule (9) of this rule.

✓ Rule—7.

"7. *Fees and allowances of members of a committee, section 11(3).*—(1) A member of the committee who is not a member of the Board shall be entitled to get a fee such as may be specified by the Board or the Chairman for each day of the meeting of the committee which he attends. This will be excluding his travelling allowance as permissible to Grade-I Officer of the Board

(2) Notwithstanding anything in sub-rule (2) if such person is a Government servant or employee in a Government Undertaking, he shall be entitled to travelling allowance and daily allowance only at the rates provided under the relevant rules applicable to him."

6 The Committee recommends that the word "a fee" be deleted appearing in line 3 of sub-rule (1) of rule 7 and in the same line the word "allowance" be inserted between the words "such" and "as may be."

7. ¶ The Committee also recommends that either the Board or the Chairman may be authorised to specify the entitlement of fee to be given to a member of the Committee who is not a member of the Board for each day of the meeting

✓ The Committee further recommends that the word "contained" be inserted between the words "anything" and "in sub-rule (2)" appearing in line 1, of sub-rule (2) of this rule.

Rule—8.

"8. *Fees and allowances of temporarily associated persons, Section 12(3).*—(1) The Board may invite any person whose assistance or advice is considered useful to obtain in performing any of its functions.

(2) If the person associated with the Board, under sub-rule (1) happens to be a non-official, he shall be entitled to get a fee of rupees two hundred for each day of actual meeting of the Board in which he is so associated and for each day of the actual work for any of the work of the Board. This will be excluding travelling allowance as permissible to Grade-I officer of the Board

(3) Notwithstanding anything in sub-rule (2) if such person is a Government servant or employee in a Government Undertaking, he shall be entitled to travelling allowance and daily allowance only at the rates provided under the relevant rules, applicable to him."

✓ The Committee recommends that for the word "performing" appearing in line 3 of sub-rule (1) of rule 8 the word "discharging" be substituted. 9

✗ The Committee also recommends that for the word "fee" the word "allowance" be substituted appearing in line 2 of sub-rule 2 of rule 8. 10

✓ The Committee further recommends that the word "contained" be inserted between the words "anything" and "in sub-rule (2)" appearing in line 1 of sub rule (3) of rule 8. 11

Rule—10.

"10. *Powers and duties of the Member Secretary, Section 14(2).*—The Member Secretary shall be subordinate to the Chairman and shall subject to the control of the Chairman, have the following function powers and obligations namely. —

	*	*	*	*	*	*
(i) to (iv)	*	*	*	*	*	*
	*	*	*	*	*	*

(v) The member Secretary shall write the confidential reports of all officers or employees of the Board (except the personal staff of the Chairman) the maximum of whose pay-scale exceeds Rs. 2,000 and shall submit the same to the Chairman for further recording of remarks by him. The reports of all other officers or employees (except the personal staff of the Chairman) shall be initiated by such officers as are authorised for the purpose by the Chairman and submitted to the Member Secretary for recording his remarks. The confidential reports of the personal staff of the Chairman shall be written by him.

(vi) The Member Secretary shall authorise sanction or pass all payments against allotments made or estimates sanctioned."

✓ The Committee recommends that for the word "function" appearing in line 4 the word and sign "functions," be substituted.

✗ The Committee also recommends that for the word "Pap" appearing in line 4 of sub rule (v) the word "Pay" be substituted.

✗ The Committee further recommends that the word "authorise" appearing in line 1 of sub-rule (vi) be deleted being superfluous. 12

Rule—11.

"11(1)

* * * * *

(2) If any officer or employee is on deputation from the Government and before his appointment to the Board was in occupation of a Government residence allotted to him either on payment of a rent equal to 10 per cent of his salary or an standard rent and on his appointment to the Board a higher rent by way of market rent or any other rent becomes payable on the house already in his occupation then he would be required to pay the rent at the rate which "would have been applicable to him had he continued to serve the Government and the difference between these two rents shall be paid by the Board."

✓ The Committee recommends that for the word "an" appearing in line 4 of sub-rule (2) of rule 11 the word "on" be substituted.

Rule—12.

"12. *Appointment and conditions of service of consulting Engineer.* Section 14(5).—(1) The consulting Engineer may be appointed by the Board for a specified period not exceeding four months :

Provided that the Board may with the prior approval of the Government extend the period of appointment from time to time :

Provided further that if at the time of initial appointment the Board has reasons to believe that services of the consulting Engineers would be required for a period longer than four months, the Board shall not make the appointment without the prior approval of the Government.

(2) Notwithstanding the appointment of a Consulting Engineer for a specified period under sub-rule (1) of rule 12 the Board shall have the right to terminate the services of the Consulting Engineer before the expiry of the specified period if, in the opinion of the Board the Consulting Engineer is not discharging his duties properly or to the satisfaction of the Board if such a course of action is necessary in the public interest.

(3) & (4)	*	*	*	*	*	*
	*	*	*	*	*	*

(5) Consulting Engineer shall not without the written permission of the Chairman disclose any information either obtained from Board's office or obtained otherwise during the performance of his duties except when it is necessary for the due discharge of such duties

(6)	*	*	*	*	*	*
	*	*	*	*	*	*

(7) The industries, municipal committees, corporations and all other such bodies shall get the schemes for Air Quality Monitoring, Stack and Ambient Air Sampling and Air Pollution Control Measure etc. prepared from a Consulting Engineer in the open market or the State Public Health Engineering Department/other

State Institution. If however, the Chairman, Member Secretary, any other technical officer or any other member of the staff of the Board performs the functions jointly or separately of a Consulting Engineer for any industry, municipal committee, corporation or any other body for drawing up some scheme for them jointly or separately, suitable fee or honorarium as may be decided by the Board or Chairman will be charged from those for whom the scheme is drawn up. 75 % of such fee or honorarium will go to the Funds of the Board and the disbursement of balance 25% of the fee or honorarium will be made as an incentive to such officers or personnel of the Board as have drawn up the scheme in a proportion to be decided by the Chairman, provided that such a remuneration payable to each officer or employee of the Board shall be limited, to his one month's emoluments in a year. For obtaining this remuneration, the officers and employees on deputation to the Board from other department will not be required by the Board of government to obtain any sanction from their parent department or Government nor will they be required to deposit any part of his remuneration into the Government Treasury."

✓ The Committee recommends that in first proviso to rule 12(1) the words "of the consulting engineer" be inserted between the words "appointment" and "from time" appearing in line 2.

X The Committee also recommends that the words "of rule 12" appearing in line 2 of sub rule (2) be deleted being superfluous.

✓ The Committee further recommends that sub rule (5) of rule 12 should be started with the word "The".

✓ The Committee also recommends that the spelling of the word "Chairman" appearing in line 6 of sub rule (7) be corrected.

✓ The Committee desires that for the word "his" appearing in line 24 of sub rule (7) the word "their" be substituted. 22

Rule—13.

"13 (1) * * * * *

(2) In addition to the air pollution control area under sub-rule (1) above the Government may declare any specified area as pollution control area or areas on the recommendation of the Board after it is satisfied for the need of action to control air pollution on the basis of the status of the air quality of that area by notification in the office Gazette."

X The Committee recommends that the word "above" appearing in line 2 be deleted being superfluous. The Committee also recommends that the word "issuing" be inserted between the words "area by" and "notification" appearing in line 6. The Committee further recommends that for the word "office" the word "Official" be substituted appearing in the same line. 21

Rule—16.

"16. Procedure for making inquiry into application for consent,

Section 21(3)—(1) On receipt of an application for consent under section 21 the Board may depute any of its officers accompanied by as many assistants as may be necessary to visit and inspect any place or premises under the control of the applicant or the occupier to which such application relates, for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or for obtaining such further particulars or information as such officer may consider necessary. Such officer may for that purpose inspect any place or premises, where emission from the chimney or fugitive emissions from any location within the premises of the industry as also any control devices installed in the said premises. Such officer may, for that purpose, inspect any place of premises under the control of the applicant or occupier, and may require the applicant to furnish to him any plans specifications or other data relating to control equipment or systems or any part thereof that he considers necessary.

(2) Such officer shall before visiting any premises of the applicant for the purpose of inspection under sub-rule (1) above give notice to the applicant to his intention to do so in form II. The applicant shall furnish to such officer all information and provide all facilities to conduct the inspection.

(3) An officer of the Board may, before or after carrying out an inspection under sub-rule (1) above, require the applicant to furnish to him orally or in writing such additional information or clarification or to produce before him such documents, as he may consider necessary, for that purpose of investigation of the application and may for that purpose summon the applicant or his authorised agent to the office of the Board."

The Committee recommends that between the words "plans" and "specifications" appearing in line 14 of sub rule (1) the sign "," be inserted.

The Committee also recommends that for the word "to" appearing after the word "applicant" in line 3 of sub rule (2) the word "of" be substituted.

The Committee further recommends that, for the word "from" the word "form" be substituted in line 3 of sub. rule (2).

The Committee observes that for the word "application" appearing between the words "the" and "or" in line 6 of sub-rule (3) the word "applicant" be substituted.

Rule—18.

"18. Power to take samples, Section 26(1).—(1) The Board or any officer empowered by it in this behalf shall have the power to take for the purpose of analysis, samples or air or emission from any chimney, flue or duct, plant or vessel or any other sources and outlets, stationary or mobile under sub-section (1) of section 26. The occupier of their premises shall provide all necessary facilities for sampling of air or emission from any chimney, flue

chimney, flue or duct, plant or vessel of any other sources and outlets, stationary or mobile, as may be specified by the Board or any officer empowered by it in this behalf. The occupier of the premises shall provide all necessary facilities for access to the sampling places as may be specified by the Board or any officer empowered by it in this behalf."

The Committee recommends that for the word "or" appearing after the word "samples" in line 3 of this rule the word "of" and for the word "sources" the word "source" in line 4 be substituted. 26

Rule—24.

"24. *Memorandum of appeal, Section 31(3)*—(1) Every appeal against an order passed by the Board shall be filed by the aggrieved party in the form VII.

(2) to (4) * * * * *

(5) A fee as prescribed under sub-rule (7) of rule 21 shall be deposited by every appellant in the office of the Board and an authenticated copy of the receipt obtained therefor shall be annexed to every appeal. No appeal which is not accompanied by the aforesaid copy of the receipt shall be entertained by the Appellate Authority."

The Committee recommends that the word "the" appearing between the words "party in" and "form VII" in sub-rule (1) of rule 24 be deleted being superfluous. 27

The Committee further observes that for the figure "(7)" appearing in the first line of sub rule (5) the figure "(2)" be substituted. 28

Rule—26.

"26(1) to (5) * * * * *

(6) If experience indicate that the total estimate for fixed charges referred to in sub-rule (1) and (2) is not likely to be fully utilized, a suitable lump sum deduction shall be made from the total estimated amount.

(7) to (11) * * * * *

(12) Subject to the control of the Chairman, the fund of the Board shall be operated by the Member-Secretary of the Board or in his absence by any officer of the Board who may be so empowered by the Chairman. The Chairman may also delegate powers to any officer or officers of the Board either singly or jointly to issue

cheques on account of the expenditure which has been sanctioned -✓
for payment."

29 ✓ The Committee recommends that for the words "sub rule"
appearing in line 2, of sub-rule 16, of rule 26 the words "sub rules"
be substituted.

30 The Committee also recommends that the first line of sub
rule 12 may be re-drafted as under :—

"Save as provided in sub rule 11 and subject to the control
of the Chairman, the fund of the Board shall be operated by the
Member-Secretary of the Board or in his absence by any officer
of the Board who may be so empowered by the Chairman."

"FORM I

[See Rule 15(1)]

To be submitted in triplicate

**APPLICATION FOR CONSENT FOR EMISSIONS/CONTINUATIONS
OF EMISSIONS UNDER
SECTION 21 OF THE AIR
(PREVENTION AND CONTROL OF POLLUTION)
ACT, 1981**

From :

Date :

* * * * *

3. I/We further declared that the information furnished in the Annexure/Appendices and plans is correct to the best of my/our knowledge.

4. * * * * *

5. I/We hereby agree to submit to the Board, application for renewal of CONSENT one month in advance of the date of expiry of the consented period for emission, of to be continued thereafter."

The Committee recommends that for the word "CONTINUATIONS" appearing in the heading of Form I, the word "CONTINUATION" and in para 3 of this form for the word "Declared" the word "Declare" be substituted and in para 5, line 3, the word "of" be deleted being superfluous.

"ANNEXURE TO FORM I

	Existing
Chimney	New
	Altered

Note : Any applicant knowingly giving incorrect information or suppressing any information pertaining thereto shall be liable to any actions under the provisions of the Act.

While filling this annexure the applicant shall for such of the items not pertaining to his activity shall state "not applicable" against the relevant one and not leave blank.

Para 1 to Annexure to Form 1.

(a) to (d) * * * * * *

(e) Names, designation and full (1) _____
addresses of persons like
Partners/Managing Director _____
Director/Manager, etc. _____."

32 The Committee recommends that for the word "actions" in line 3 of the Note to Annexure to Form 1, the word "action" be substituted, and in 2nd para after the word "blank" the word "spaces" be added.

The Committee further recommends that for the word "designation" the word "designations" be substituted.

**"EXPLANATORY NOTE FOR FILLING IN THE FORM
AND THE ANNEXURE**

Para (1)	*	*	*	*	*	*
Para (2)	*	*	*	*	*	*
Item 1 to 12	*	*	*	*	*	*

Item No. 13 Analysis of the flue gas emissions, process emissions and particulates analysis should be done for each stack, emissions. Wherever stack are not provided the shop floor specific pollutants conc. should be reported.

Chemical analysis of the particulates matter in the emission should be furnished giving details such as organic matter, metals, non-metals, radioactive substances asbestos, silicates etc."

33 The Committee recommends that in item No. 13 of the explanatory note for the word "radioactive" the word "radioactive" may be substituted.