

Chandigarh

HARYANA VIDHAN SABHA

**REPORT
OF
THE COMMITTEE ON SUBORDINATE LEGISLATION
1970-71
THIRD REPORT**



**HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
February, 1971**

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COMPOSITION OF THE COMMITTEE
(1970-71)

Chairman—

Chaudhri Chand Ram

Members—

Shri Daya Krishan

Shri Jai Singh Rathi

Shrimati Prasanni Devi

Shri Raj Singh Dalal

Shrimati Shakuntla

*Shrimati Sharda Rani Kanwar

Advocate-General, Haryana

Secretariat—

Shri Raj Kumar Malhotra, Secretary

Shri Vijay Kumar, Deputy Secretary

*Resigned with effect from 1st January, 1971, on her appointment as Chief Parliamentary Secretary.

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 Third 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 23rd March, 1970,—*vide* notification No. CB-EC-1/70/24, dated the 28th March, 1970.

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 whole hearted co-operation and assistance given by the Secretary, Haryana Vidhan Sabha and his staff.

Chandigarh :

The 3rd February, 1971

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J

CHAND RAM,

Chairman.

REPORT

1. The Committee on Subordinate Legislation for the year 1970-71, 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 23rd March, 1970,—*vide* notification No. CB-EC-1/70/24, dated the 28th March, 1970.

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

3. Shrimati Sharda Rani Kanwar, a member of the Committee, resigned from the membership of the Committee with effect from the 1st January, 1971.

4. The Committee held 53 sittings during their term. Before scrutinising the Rules and 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 the 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 are 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, regulations, 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, 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 the Legislature. If the Rules framed are found beyond the scope of delegated powers, 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 in the margin the section of the Act under which they are framed.

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

(i) Reference of sections under which Rules are framed

The Committees for the year 1968-69 and 1969-70, in their First Report and Second Report, respectively, have 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 re-iterating the recommendation made by the previous Committees 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 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 a few examples may be stated. The Punjab Sugarcane (Regulation of Purchase and Supply) Act was enacted in the year 1953, and came into force on the 2nd November, 1953, but the Punjab Sugarcane (Regulation of Purchase and Supply) Rules were framed as late as in the year 1958. The Punjab Livestock Improvement Act was framed in the year 1953, whereas the rules thereunder were framed in 1958. Similarly, the Punjab Bhudan Yagna Act was framed in the year 1955, the rules/regulations thereunder were framed in the year 1959 and 1961, respectively. The Punjab Molasses (Control) Act was enacted in the year 1948, the rules thereunder were framed as late as in the year 1962.

The Committee observe that it is not understood how in the absence of the rules, the purposes of the Act could exactly be carried out and is of the view that the delay in framing the Rules actually defeats 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 Act 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 for the year 1969-70, accordingly recommended that a procedure should be evolved by the Administrative Departments by which the delay in framing, publication and enforcement of rules may be minimised. This Committee also reiterate the said recommendation.

The Committee in its First Report had recommended that rules should be framed within six months of the commencement of the Act and reiterated the said recommendation in its Second Report.

This Committee also reiterate the recommendation made earlier that ordinarily the 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 the cyclostyled copies with the result that it was difficult for them to determine whether the errors were typographical or 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 Rules published in the Gazette. While scrutinising the Punjab Entertainments Tax (Cinematograph Shows) Rules, 1954, framed under the Punjab Entertainments Tax (Cinematograph Shows) Act, 1954, the Committee came across with several drafting mistakes. Therefore, the Committee desire that such drafting mistakes should be avoided.

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 along with 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 for the year 1968-69 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 was that delayed action on the part of the Government hampered the work of the Committee. Some departments did not supply the information even by the time of writing this Report. A few of such departments are the Agriculture Department, Labour and Employment Department, etc.

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, in this behalf, reiterates their recommendation made in their Second Report.

(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 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.

SCRUTINY OF RULES

The Committee scrutinized the following Rules :—

- (i) The Dramatic Performances Rules, 1965, framed under the Punjab Dramatic Performances Act, 1964
- (ii) The Punjab Utilization of Lands Rules, 1950, framed under the Punjab Utilisation of Lands Act, 1949.
- (iii) The Punjab Slum Areas (Improvement and Clearance) Rules, 1962) framed under the Punjab Slum Areas (Improvement and Clearance, Act, 1961.

- (iv) The Punjab Sugarcane (Regulation of Purchase and Supply) Rules, 1958, framed under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953.
- (v) The Punjab Shops and Commercial Establishments Rules, 1958, framed under the Punjab Shops and Commercial Establishments Act, 1958.
- (vi) The Haryana Contingency Fund Rules, 1967, framed under the Haryana Contingency Act, 1966.
- (vii) The Punjab Electricity (Duty) Rules, 1958, framed under the Punjab Electricity (Duty) Act, 1958.
- (viii) The Punjab Mechanical Vehicles (Bridge Tolls) Rules, 1960, framed under the Punjab Mechanical Vehicles (Bridge Tolls) Act, 1957.
- (ix) The Punjab Betterment Charges and Acreage Rates Rules, 1955, framed under the Punjab Betterment Charges and Acreage Rates Act, 1952.
- (x) The Punjab Livestock Improvement Rules, 1958, framed under the Punjab Livestock Improvement Act, 1953.
- (xi) The Punjab Bhudan Yagna Rules, 1959, and the Punjab Bhudan Yagna Regulations, 1961, framed under the Punjab Bhudan Yagna Act, 1955.
- (xii) The Punjab Public Premises and Land (Eviction and Rent Recovery) Rules, 1959, framed under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959.
- (xiii) The Punjab Molasses (Control) Rules, 1962, framed under the East Punjab Molasses (Control) Act, 1948.
- (xiv) The Punjab Entertainments Tax (Cinematograph Shows) Rules, 1954, framed under the Punjab Entertainments Tax (Cinematograph Shows) Act, 1954.
- (xv) The Punjab Land Revenue (Special Charges) Rules, 1958, framed under the Punjab Land Revenue (Special Charges) Act, 1958.
- (xvi) The Land Revenue Assessment Rules, 1929, framed under the Punjab Land Revenue Act, 1887.
- (xvii) The Punjab Habitual Offenders (Control and Reforms) Rules, 1957, framed under the Punjab Habitual Offenders (Control and Reforms) Act, 1952.
- (n) THE PUNJAB DRAMATIC PERFORMANCES RULES, 1965,
FRAMED UNDER THE PUNJAB DRAMATIC PERFORMANCES
ACT, 1964

Rule 3 —

3. (1) Before passing any order under sub-section (1) of section 3, prohibiting the performance of any play pantomime or other

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drama, performed or about to be performed in a public place, the District Magistrate shall, by order in writing, stating the grounds on which he considers the performance objectionable require the organiser or other principal persons responsible for the conduct of the performance or the owner or the occupier of the public place in which such performance is intended to take place, to show cause, within seven days from the date of service of the order as provided in sub-rule (2), why the performance should not be prohibited

(2) A copy of every such order shall be served in the manner provided for the service of summons in the Code of Criminal Procedure.

(3) If no cause is shown as required, within the time specified in the order aforesaid, the District Magistrate shall pass the final orders under sub-section (1) of section 3 *ex-parte* "

The Committee after thoroughly examining the Departmental representative recommend that for the words "performance objectionable" occurring in sub-rule (1) of rule 3, the words "performance to be an objectionable performance" may be substituted, as the substituted expression would be more in consonance with phraseology of the Act. The Legislative Department has also agreed with the views of the Committee. The Committee, after examining the Joint Legal Remembrancer, further recommend that in rule 3, for the word "order", the word "notice" may be substituted except where it occurs for the first time in line 1 of sub-rule (1) and last time in line 3 of sub-rule (3)

The Committee also recommend that in sub-rule (3), the word "final" may be omitted.

The Departmental representative agreed to the proposal of the Committee.

Rule 4(1)

(4). (1) If the person on whom a copy of the order referred to in rule 3(1) has been served are willing to modify the play, pantomime or other drama, in question, and give an undertaking to the effect that the play, pantomime or other drama aforesaid as so modified will alone be performed, such performance may be permitted, if it is not objectionable.

Provided that in every such cases full information regarding the play, pantomime or drama as so modified shall be required to be furnished under sub-section (1) of section 8 before granting such permission "

The Committee recommend that in sub-rule (1) of Rule 4, for the word "order" occurring for the first time, the word "notice" may be substituted.

The Departmental representative agreed to the proposal of the Committee.

Rule 6 (Column 2 of Annexure)—

The Committee are of the view that in column 2 of the Annexure for the words "Date of receipt of the First Information Report from the Police", the words "Date of receipt of information from the Police or from any other source", be substituted. On oral examination the Departmental representative agreed to the proposal of the Committee. The Committee, therefore, recommend that the above change may be carried out in the relevant rule.

(ii) THE PUNJAB UTILIZATION OF LANDS RULES, 1950, FRAMED UNDER THE PUNJAB UTILIZATION OF LANDS ACT 1949

No Comments.

(iii) THE PUNJAB SLUM AREAS (IMPROVEMENT AND CLEARANCE) RULES, 1962, FRAMED UNDER THE PUNJAB SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1961.

Legal
Govt.
Rule 6(c)—

"6. (a) * * * * *

(b) * * * * *

(c) roads, open spaces and site or sites for schools, hospitals, shopping centres, maternity and child welfare centres and similar amenities.

The Committee recommend that in rule 6(c), after the words "maternity and Child Welfare Centres" the words "Guest House, Chopals, Dharamsala, Junj Ghar, Community Centres" be substituted.

(iv) THE PUNJAB SUGARCANE (REGULATION OF PURCHASE AND SUPPLY), RULES, 1958, FRAMED UNDER THE PUNJAB SUGARCANE (REGULATION OF PURCHASE AND SUPPLY) ACT, 1953.

Rule 3(1)—

"3(1) The Board shall consist of fifteen members".

When the departmental representative was questioned by the Committee whether the Chairman of the Board is included in the total number of Members, he stated in the affirmative. The Committee recommend that to avoid any ambiguity sub-rule (1) of rule 3 be amended as under :—

"3(1) The Board shall consist of fifteen members including the Chairman".

Rule 9—

"9. *Survey and Grower's Register.*—(1) The Cane Commissioner may cause a survey of the sugarcane in areas proposed to be assigned in Form V by the factory or the society who shall deliver a copy thereof to the Cane Commissioner by the end of the September, each year. The official authorised by the Cane Commissioner to check survey of cane area, shall be afforded such assistance and facilities by the occupier of a factory as may be necessary.

(2) The occupier or agent of a factory or the society causing the survey shall prepare a register in Form VI to be called the Grower's Register, which shall be open to inspection by every cane growers for verification of survey figures.

(3) Any cane grower or a member of the society, having or claiming to have grown sugarcane in the assigned area may apply to the

occupier or the agent of the factory or the society for the correction of an entry in or the addition of an entry to the register. In the event of refusal by the occupier or the agent or the society, the decision of the Cane Commissioner shall be final.

(4) The occupier or the agent of a factory or the society shall give a copy of the entries in the register on application made before the 15th December in any year to any cane grower or member of the society on receiving payment at the rate of twenty-five Naya Paise for each cane grower.

(5) The register shall be preserved by the occupier or the agent of a factory or the society for a period of one year following the crushing season to which it relates".

The Committee observe that in Section 11 of the Act, the powers are given to the Cane Commissioner to authorise an officer to make survey for the purpose of assigning any area to a factory. But in Rule 9, a provision has been made for authorising the Cane Commissioner to get the survey done by the factory or the society. Rule 9, further provides that the officer authorised by the Cane Commissioner is only to check the survey.

The Committee were of the opinion that rule 9 is inconsistent with the provisions contained in section 11 of the Act. On oral examination, the departmental representative agreed with the observations of the Committee.

The Committee, therefore, recommend that the rule should be changed to bring it in consonance with the provisions of the Act.

Rule 10(2)—

"10(1) * * * * *

(2) An order of the Sugarcane Control Board declaring any area to be assigned for any particular factory or altering the boundaries of an area already assigned, cancelling any previous orders declaring an area to be assigned, shall be communicated to the occupier of the factory concerned as well as the cane-growers by the publication of such order at the office of the factory and at the tehsil or tahsils in which such areas are situated."

The Committee are of the view that in sub-rule (2) of Rule 10, after the word "factory" occurring for the third time the sign and the words, "Panchayat or at the offices of the Panchayat Samities" be inserted. On oral examination the departmental representative agreed with the views of the Committee. The Committee, therefore, recommend that the above suggestions may be carried out in the relevant rule.

Rule 11(7)—

"11(7) If the cane growers or the societies in the assigned area are not willing to enter into agreements to supply or fail to supply the requisite quantity of cane, the occupier of the factory can purchase cane from outside the assigned area, if permitted by the Cane Commissioner".

6 The Committee observed that while section 15 of the Act lays down that in case the cane grower or cane-growers' cooperative society or societies in the assigned area are not willing to enter into agreement to supply, or fail to supply the requisite quantity of cane, the agent may, after giving the prescribed notice to the Cane Commissioner, purchase the balance of the Cane required by him from outside the assigned area, sub-rule (7) provides that in such a contingency the occupier of the factory can purchase cane from outside the assigned area, if permitted by the Cane Commissioner. The Committee are, therefore, of the view that the words 'if permitted by the Cane Commissioner', in this sub-rule confer unnecessary discretion on the Cane Commissioner which is not envisaged by the Act, and, as such, this provision is against the spirit of the Act and, therefore, this sub-rule be deleted. The representative of the Legislative Department also agreed with the view of the Committee.

7 The departmental representative stated that the matter would be examined in consultation with the Legal Remembrancer and a report to be submitted to the Committee.

8 The Committee are constrained to observe that no report has been submitted by the Agriculture Department to the Committee as promised till the writing of this Report. The Committee, therefore, recommend that the desired report be expedited.

Rule 13—

9 The Committee observed that the form and manner of the suspension and cancellation of licence has not been indicated in rule 13 as required by section 20(2)(j). The Committee, therefore, felt that the lacuna be removed.

The departmental representative stated that they would have this matter examined and send a report to the Committee.

10 The Committee are constrained to observe that in this case also no report has been submitted by the Agriculture Department till the writing of this Report. The Committee, therefore, recommend that the manner of suspension and cancellation of licence be provided in the rules.

Rule 15—

"15. *Notices.*—The agent or purchasing agent, as the case may be, shall cause to be posted on a notice-board at each weighment centre throughout the cane purchasing season notices showing the rates at which cane is being purchased at that particular centre and also the minimum price for cane, if any, fixed by law for the time being in force. Such notices shall be legible written or printed only on one side of the paper in both Hindi and Gurmukhi".

11 The Committee recommend that for the words "in both Hindi and Gurmukhi" substitute the words "in Hindi, Devnagari Script." The departmental representative agreed to the proposal of the Committee.

Rule 16(7)—

"16(7) There shall be no detention of cane carts for more than 4 hours without adequate cause".

12 The Committee are of the view that the time of arrival of carts etc., should

also be recorded. On oral examination, the departmental representative agreed to the suggestion of the Committee.

13 "The Committee therefore recommend that a provision in this behalf be made in the rules.

Rule 16(12)—

"16(12) All weigh-bridges or scales at purchasing centres shall be tested at least once a week and a record of such tests properly maintained".

14 The Committee were of the view that the persons, before whom the weigh bridges and the scales at the purchasing centres are tested, should be clearly given in the sub-rule.

15 The Committee were further of the view that the representatives of the growers should also be allowed to be present at the time of testing the weigh bridges

The departmental representative stated that this was done by the mechanics of the Sugar factories. However, it would be better if specific provision is made in the rules for weekly testing of weigh bridges as suggested by the Committee. Any representative of Cane growers can be authorised by the Cane Commissioner to be present at the time of testing the weigh bridge under the provision of sub-rule (9) of rule 16.

16 The Committee recommend that necessary amendment be made in the sub-rule (9) of rule 16 as suggested above

Rule 17—

17 The Committee observed that in order to avoid harassment to the Cane growers that a provision in the rule be made to the effect that Sugar Cane should be accepted 10 per cent excess or 10 per cent less as the case may be than the prescribed quantity.

Rule 18—

The Committee was of the view as to why penal interest should not be imposed on the Sugar Mills in case the cane grower was not paid the price of the cane supplied by him within the specified period.

The departmental representative stated that they would get this matter examined in consultation with the Registrar of Cooperative Societies, Haryana, and send a report to the Committee.

18 The Committee observe with regret that no report has been sent to the Committee till the writing of this report. The Committee recommend that the report may be expedited.

Rule 19(4)—

"19(4). (i) the quantity of cane that has been purchased and entered the factory during the month immediately proceeding".

19 The Committee observed that sub-rule 4(i) of rule 19 appears to be vague. The words "has been purchased and entered the factory" do not seem to convey any sense.

The departmental representative stated that the Department would re-examine and correct the sentence to convey proper sense.

Rule 20—

"20. Forfeiture of securities :—

- (i) The Cane Commissioner may forfeit the whole or part of the securities referred to in section 7 of the Act after giving the licensee an opportunity of explaining the charges against him and of producing evidence in his defence".

20 The Committee recommend that in sub-rule (i) of rule 20, after the word "giving" insert the words "in writing".

FORMS I / II

The Committee desired to know the basis for the quorum as prescribed in rule 2 of the rules of procedure at the meeting of Sugarcane Control Board as contained in Form I, and in rule 3 of the rules of procedure of meetings of the Committee or body as contained in form II appended to the rules.

The departmental representative stated that generally 1/3rd of the total number of the members of any Committee or body form quorum for a meeting. The quorum in Form (I) item 2 and Form (I) item 3 was prescribed accordingly. But the Committee was of the view that the quorum should be uniform both in the case of meetings of Sugarcane Control Board and in the meetings of the Committee or body.

21 The departmental representative stated that it would be done. The Committee recommend that uniform quorum be prescribed in the relevant rules contained in Form I and II.

FORMS V / VI

22 The Committee were of the view that the words "and caste" used in Forms V and VI be deleted and be substituted by "grand father's name" as it was being done in the Revenue records.

The departmental representative agreed to the suggestion of the Committee.

Section 15—

The Committee observed that Section 15 contemplates the notice to be prescribed but no such form of notice has been prescribed.

The departmental representative stated that the notice had already been prescribed as form VIII(A).

23 The Committee pointed out that in form VIII(A) there is a reference to rule 11(7) but in the rule 11(7) there was no mention of the notice in form VIII(A). The Committee, therefore, recommend that the rule be suitably amended.

The departmental representative agreed to the suggestion of the Committee.

Section 20(2)(e)—

The Committee observed that under sub-section (3) of section 11 the expenses for making surveys were to be recovered from the occupier of a factory and under clause (e) of sub-section (2) of section 20, the Government had to frame rules in respect of the procedure to be followed in making surveys and also for calculating the cost of the survey itself. But no such rules had come to the notice of the Committee.

The Departmental representative admitted that it was an omission. However, in view of the provisions of rule 9(1) where it has been laid down that the Cane Commissioner might cause survey of area by the factory or society, the need to calculate and recover the cost of survey had never been felt. However, now when the Cane Commissioner is to authorise an officer for the purpose under rule 9(1) the procedure in question needs to be prescribed.

²⁴ The Committee recommend that suitable provision in the rules should be made in respect of the procedure to be followed in making surveys as also for calculating the cost of the survey itself.

(v) THE PUNJAB SHOPS AND COMMERCIAL ESTABLISHMENTS RULES , 1958, FRAMED UNDER THE PUNJAB SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1958

*Production of
Casom*

Rule 2(b)—

“(a)

* * * * *

(b) “Chief Inspector” means the Chief Inspector of Shops and Commercial Establishments, Punjab.

¹ The Committee observed that in part (b) of Rule 2 as also in the subsequent rules, for the word “Punjab” wherever occurring, the word “Haryana” be substituted.

Rule 6(1)—

“6(1).—*Language, etc., in which records and registers are to be kept.*—(1) Every register, form or record required to be maintained or furnished under the Act and these rules shall be in English, Urdu, Hindi or Punjabi and all entries therein shall be legibly made in ink.”

² The Committee are of the view that for the words “English, Urdu, Hindi Punjabi”, substitute “English and Hindi”.

The departmental representative stated that necessary steps to effect proposed substitution would be taken.

³ The Committee were of the view that after sub-rule (2) of rule 6, the following new sub-rule (3) be added—

“(3) Every such register shall be signed by the employer and the Inspector concerned.”

Rule 7—

- “7” *Preservation of Records. etc.*—All registers and records required to be maintained under the Act and these rules shall be preserved by the Employer for a period of two years to be calculated from the date to which such records or registers relate”.

§ The Committee observed that normally the records were preserved for three years and therefore, suggested that in this rule for “two years” substituted “three years”.

The departmental representative stated that the necessary steps for the purpose would be taken.

Rule 12(2)—

“12(1) * * * * *

- “(2) The Payment of maternity benefit accruing to a woman employer shall be made to her at any time not later than one week after the date of her delivery”.

The Committee was of the view that some penalty be imposed on an employee if he illegally withholds the payment of maternity benefit accruing to a woman employee after one week of the date of delivery.

The departmental representative suggested that instead of “after one week of the date of delivery” it should be “after one week from the date of demand” which would be more practicable as there may be cases when the fact of delivery having been taken place may not come to notice. In the written comments, the Department had suggested that a penalty of 50% be imposed in case of non-payment of maternity benefit

§ The Committee agreed to the suggestion of the Departmental representative and recommend that a provision be made in the rules imposing some penalty on the employer if he illegally withholds the payment of maternity benefit accruing to a woman employee after one week from the date of demand.

Rule 15—

- “15. *Condition for grant of exemption.*—No application for the grant of an exemption under section 28 of the Act shall be entertained unless received by the Chief Inspector within one month before the date of commencement of the period in respect of which the exemption is required”.

§ The Committee are of the view that section 34(2)(6) of the Act enjoins upon the Government to lay down the conditions under which exemptions under the Act may be granted whereas no such conditions have been laid down in this rule. The Committee are, therefore, of the opinion that the conditions for the purpose should be prescribed in the rules so that powers conferred are not used in an arbitrary way and there is no room left for discriminatory treatment between one shopkeeper and another shopkeeper.

The departmental representative stated during his oral examination that necessary steps for the purpose would be taken.

Rule 17(3)—

"17(1) * * * * *

(2) * * * * *

(3) No employee with loose fitting clothes on shall be allowed or made to work near the moving machinery or belt and the tight fitting clothes for the purpose will be provided by the employer".

The Committee observed that after the words "tight fitting clothes", insert "rubber shoes".

The departmental representative stated during the course of his oral examination that it might not be possible to wear rubber shoes in certain factories and therefore observation of the Committee may be dropped.

The Committee desired the departmental representative (Secretary, Labour and Employment Departments), to examine the matter in detail and send a report to the Committee before they (Committee) take a final decision in the matter.

7 The Committee painfully observe that the Department has not sent any report till the writing of this Report. The Committee, therefore, recommend that the desired report be sent to them at an early date.

Rule 19(1)—

"19(1) In every establishment a first aid box with the following contents shall be maintained :—

(1)	*	*	*	*	*	*	*	*
(2)	*	*	*	*	*	*	*	*
(3)	*	*	*	*	*	*	*	*
(4)	*	*	*	*	*	*	*	*
(5)	*	*	*	*	*	*	*	*
(6)	*	*	*	*	*	*	*	*
(7)	*	*	*	*	*	*	*	*
(8)	*	*	*	*	*	*	*	*
(9)	*	*	*	*	*	*	*	*

The Committee observe that the figures "(1) to (9)" be substituted by small Roman numerals i.e. "(i) to (ix)" so as to distinguish them from other sub-rules of rule 19.

The departmental representative agreed to the proposal of the Committee.

Sections 12(b) and 2(i)(xi)—

9 The Committee desired to know as to what are the festivals declared by Government by notification as holidays for every employee in an establishment under section 12(b) and section 2(i)(xi).

The departmental representative stated that no separate Festival Holidays have been declared by Government by notification, under section 12(b) and section 2(i)(xi). The law, however requires, the Government, to notify these festivals and this will be done. He further added that three festival holidays are observed in individual shops and commercial establishments with the mutual consent of the employers and employees.

The Committee, however, suggest that these festival holidays should be notified in advance for the whole year.

The departmental representative agreed the proposal of the Committee.

(vi) THE HARYANA CONTINGENCY FUND RULES, 1967, FRAMED UNDER THE HARYANA CONTINGENCY FUND ACT, 1966.

None
Electricity No comments.

(vii) THE PUNJAB ELECTRICITY (DUTY) RULES, 1958, FRAMED UNDER THE PUNJAB ELECTRICITY (DUTY) ACT, 1958

Rule 3(1)—

The Committee observed that in the Punjab the M C is not charged now. But the charges are made on the basis of the horse power of the Motor installed. They, therefore, recommend that in Haryana the Punjab pattern may be followed.

1 The Departmental representative agreed to consider the proposal of the Committee.

Rule 12—

The Committee observed that this rule provides for refund of the excess duty, if any paid by the consumer concerned by adjustment in subsequent bill or bills. But in the case of a consumer who has left the premises and the meter transferred to a subsequent consumer, the refund should be made in cash as there may not be any subsequent bill in his name.

The Departmental representative stated that they would examine the question of providing for refund in cash in the case of consumer who had left the premises and the meter has been transferred to a subsequent consumer.

2 The Committee recommend that a provision may be made in the rules incorporating the above suggestion of the Committee and some time limit may also be provided for the refund of the amount.

Rule 16—

3 The Committee recommend that the desirability of fixing some time intervals for checking the account books of the Board/Generating Licensee may be examined.

The Departmental representative agreed to the proposal

Rule 20(3)—

20. (1)	x	x	x	x	x	x	x	x
(2)	x	x	x	x	x	x	x	x

- (3) Every appeal against an order under sub-section (1) of Section 8 of the Act shall be accompanied by a fee equal to 5 per cent of the amount required to be paid under the said orders. The said fee shall be refunded if the appeal is accepted in full and in case the appeal is accepted in part the appellate authority shall decide the portion of fee, if any, to be refunded to the appellant."

The Committee observed that the amount of fee to be paid under the said order, as prescribed in sub-rule (3) appears to be excessive especially because of the provision that it has to be refunded. The Committee were, therefore, of the view that it would be better if a specific provision is made that in case the appeal is rejected the fee deposited will not be refunded to the appellant rather it will be forfeited.

The Department in their written reply stated that the following provision may be made :—

In case the appeal is rejected, the fee deposited will not be refunded to the appellant rather it will be forfeited".

The Committee agreed to the suggestion of the Committee.

(viii) THE PUNJAB MECHANICAL VEHICLES (BRIDGE TOLLS), RULES, 1960, FRAMED UNDER THE PUNJAB MECHANICAL VEHICLES (BRIDGE TOLLS), Act, 1957

Rule 8—

8(a)	x	x	x	x	x	x	x	x	x
(b)	x	x	x	x	x	x	x	x	
(c)	x	x	x	x	x	x	x	x	

- (d) deposit on every Saturday, or if it happens to be a holiday on the next working day, the amount of toll received by him in respect of the week, preceding Saturday in the nearest Government Treasury or Sub-Treasury under head 'Civil Works Toll on roads or Divisional/Sub-Divisional Office'".

Provided that if the amount of collection exceeds to Rs 2,000 the same shall be deposited into the Treasury/Sub-Treasury or Divisional/Sub-Divisional Office immediately without waiting for the end of the week".

The Committee observed that the proviso to clause (d) of rule 8 provides that if the amount of collection exceeds Rs 2,000 the same shall be deposited into the Treasury/Sub-Treasury or Divisional/Sub-Divisional Office immediately without waiting for the end of the week. The Committee feel that the Government money to the extent of Rs 2,000 should not be kept by a person for a week, and recommend that the amount be reduced from Rs 2,000 to Rs 1,000.

The departmental representative in the written reply agreed to the proposal of the Committee.

Amiga
 (ix) THE PUNJAB BETTERMENT CHARGES AND ACREAGE RATES RULES, 1955 FRAMED UNDER THE PUNJAB BETTERMENT CHARGES AND ACREAGE RATES ACT, 1952

Rule 2(g)—

"2. (a)

(b)

(c)

(d)

(e)

(f)

(g) "Board" means the Board constituted under Rule 2A ; and"

The Committee observed that when there is no provision in the Act about the Constitution of the Board, it is not understood how the Board was constituted.

The departmental representative stated that the Board was constituted under Rule 2A of the 1955 Rules. They had already admitted in their written reply that there was no provision in the Act for the Constitution of the Board. It was also stated that a sum of about rupees twenty lakhs has been spent on it.

The Committee note with regret that although there is no such provision in the Act, yet the Board was constituted and it functioned for a number of years (i.e. from 1953 upto July, 1959).

1 The Committee, therefore, recommend that as the provision for Board in the Rules is inconsistent with the provision of the Act and should be deleted.

The departmental representative agreed to the proposal of the Committee.

Rule 3—

"3. **Mode of Publication** .—Any proposal by Government to levy Betterment charges on lands included in any irrigation scheme or any other matter requiring publicity under the Act, shall be published in the official Gazette and certified copies and translations thereof in Hindi, Gurmukhi or Urdu shall be posted :—

(a) *

*

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*

(b) at conspicuous places in the locality affected by the proposal, such as Tehsils and Thanas and villages and shall also be announced by beat of drums or oral proclamation or other customary methods in the villages effected."

2 The Committee recommend that in rule 3, the words "Gurmukhi or Urdu" be deleted.

3 The Committee also recommend that in rule 3(b) after the words "other customary methods" insert "of publicity".

The departmental representative agreed to the proposals of the Committee

Rule 11-A(1)—

"11-A(1) When the rate of advance payment of betterment charges is notified by the State Government under sub-section (1) of section 5A of the Act, the Canal Officer shall prepare a demand statement

in respect thereof in the form prescribed for the charging of occupier's rate containing full particulars of the amount of advance payment of betterment charges which every person is liable to pay under the Act and cause a notice to be served upon him."

The Committee desired to know as to what is the form prescribed for the charging of occupiers' rate and for realising advance payment of betterment charges under rule 11A(1).

The department stated in their written reply that form No. IB Parcha (Vernacular form No. 8B) stands prescribed for betterment charges as well.

4 The Committee recommend that the form should form a part of the rules.

The departmental representative agreed to the proposal of the Committee.

Rule 11A(2)—

"11A(2) As soon as the demand statement referred to in sub-rule (1) is, completed in respect of a village, the provisions of rules 12, 13, 14(a) 14(c), 15, 23, 24, 27, 28, 29, 30, 33(b) and 34 shall as far as may be, apply to the realization of the advance payment of betterment charges in the same manner as they apply of the realisation of betterment charges under the Act.

5 The Committee recommend that in line 6, the word "of" be substituted by the word "to".

The Department agreed to the proposal of the Committee.

Rule 11A(3) and (4)—

6 The Committee recommend that sub-rules 3 and 4 of rule 11-A should be put within brackets as (3) and (4).

The Department agreed to the proposal of the Committee.

Rule 11B—

"(1) * * * * *

(2) The provisions of sub-rules (2), (3) and (4) of rule 11A shall, as far as may be, apply the advance payment in lumpsum of betterment charges."

7 The Committee observe that in line 2, after the word "apply" the word "to" be inserted.

The Department agreed to the proposal of the Committee.

Rule 12—

"12. **Distribution of Notices of demand.**—As soon as the Demand statement in respect of Betterment Charges or Acreage rates for any village are completed under Section 8(1) of the Act, the Divisional Canal Officer shall forward the notices of Demand meant for assesses to the Canal Patwari, who will deliver them to the Lambardar

concerned within five days of their receipt by him. The Lambardar will serve them among assesseees, or, in case of their absence, to their recognized agents or an adult male member of the family of an assessee within 7 days of receipt of these notices of Demand from Patwari. The acknowledgements of assesseees or of their agents or adult member of the family for notices of Demand shall be submitted by Lambardars to Divisional Canal Officer by registered post or through the Canal Zilladar concerned within 10 days of their receipt from the Canal Patwari."

8 The Committee observe that in the last but one line, after the words "registered post", insert the brackets and words "(acknowledgement due)"

The departmental representative agreed to the proposal of the Committee.

Rule 16—

"16. Option of assessee for mode of payment. —On publication of the final Schedules of Betterment Charges under section 4(5) and of acreage rates under section 6(4) of the Act, the Divisional Canal Officer shall publish a notice in the village affected thereby, that the landowners or occupancy tenants should intimate to him through an application, in writing, within 30 days of the notice, his option with regard to the manner of payment by him. The notice will state that the option is to be exercised between :—

(a) One lumpsum payment ;

(b) by half-yearly instalments spread over a number of years as decided by Government, maximum number of instalments not exceeding 30 ;

(c) offering a part of his land in lieu of full or part payment of betterment charges due from him.

* * * * *

9 The Committee observe that after the word "between" the sign "—:" be substituted by the sign "—" and after clause (b), the sign "—" be substituted by the sign "—,".

The departmental representative agreed to the proposal of the Committee.

Rule 19—

"19.

* * *

(a) the area to be surrendered is free all encumbrances and is not in cultivating possession of a tenant or tenants ;

(b)

(c)

* * *

10 The Committee observe that in clause (a), after the word "free", the word "from" be inserted.

The departmental representative agreed to it.

Rule 28—

- "28. **Method of dealing with alteration in demand.**—If, after delivery of the demand slips to the assessee, any addition is made to the demand, or any suspension is allowed under the Act or rules thereunder, such addition or suspension shall be communicated to the owner or occupancy tenant, as the case may, by means of supplementary demand slips. Demands shall be shown in black ink, and suspension in red ink. All such alterations as are made before the despatch of the demand Statements to the Tehsil concerned under rule 13 supra shall be included in that document and shall also be written on slips similarly printed and attached to the Demand Statement. Alterations made after the despatch of the Demand Statement shall be intimated to the Tehsil concerned in a supplementary consolidated statement after 60 days. Any addition or suspension allowed thereafter shall be similarly incorporated in the demand statement for the succeeding harvest. Due intimation will be given about additions and suspension to assessee concerned by issue of supplementary demand slips in the manner prescribed in Rule 12."

The Committee observe that the terms and expressions "demand slips" and "Supplementary Demands Slips" used in the Rules should be the same as those used in the Act, i.e., "demand statement"

{ The departmental representative agreed to the proposal of the Committee. The Committee recommend that the rule should be amended accordingly

Rule 32—

- "32. **Lambardars to issue receipts for Collection.**—Receipts shall invariably be given by the Lambardar or other person making the collection to each assessee on payment of betterment charges or acreage rates on a prescribed printed form"

The rule provides that the receipts shall invariably be given by the lambardar or other person making collection to each assessee on payment of betterment charges or acreage rates on a prescribed printed form.

{ The Committee is of the view that the form should be prescribed in the rules itself. The Committee recommend that the word "prescribed" be omitted and after the words "printed form" the number of the form should be added. The form of that number on the pattern of sample form (Annexure 3) be separately prescribed and added to form part of these rules

Rule 35—

- "35 **Condonation of period of limitation in certain cases:**—An appeal may be admitted after the period prescribed upto 6 months when the appellant satisfies the appellate authority that he had sufficient cause for not presenting the appeal within such period.

If the period prescribed expires on a day when the office of the appellate authority is closed, the appeal may be presented on the day the office reopens."

The Committee observe that this rule appears to be vague as no period of appeal has been prescribed and would like the exact import of this rule.

The Department in their written reply stated that the object behind this rule is to provide adequate opportunities to the assessee for the correct assessment.

13 The Committee recommend that the period of 30 days from the receipt of the demand percha by the assessee be provided in the rule.

Rule 50—

“50. **Rehearing in certain events** :—In any case in which an order on appeal is passed ex-parte against a person, he may apply to the appellate authority, by which the order was passed, for an order to set it aside ; and if the satisfied the authority that the summons or notice was not duly served, or that he was prevented by any sufficient cause from appearing when the appeal was called for hearing, the authority shall make an order setting aside, the order as against him, upon such terms as it think fit, and shall appoint a day for proceeding with the appeal.”

The Committee observe that in this rule there is a provision for setting aside an ex-parte order in appeal but the period within which the person so affected is to apply has not been given. The Committee, therefore, felt that a definite period in this behalf should find place in the rule

The Department in their written reply stated that the period of appeal in such cases may also be fixed 30 days within the announcement of the orders

14 The Committee recommend that a period of thirty days from the date of announcement of the order be provided in the rules

(X) THE PUNJAB LIVESTOCK IMPROVEMENT RULES, 1958, FRAMED UNDER THE PUNJAB LIVESTOCK IMPROVEMENT ACT, 1953.

Rule 7—

In the “Form of Register” provided under rule 7, the Committee observed that there is no column to show the date of result of inspection and also particulars of castration

The Committee recommend that the following two columns should be inserted at the appropriate place in the form of Register under rule 7—

(1) Date and the result of the Inspection ; and

(2) Particulars of castration.

The departmental representative agreed to the suggestion of the Committee.

(XI) THE PUNJAB BHUDAN YAGNA RULES, 1959, AND THE PUNJAB BHUDAN YAGNA REGULATIONS 1961, FRAMED UNDER THE PUNJAB BHUDAN YAGNA ACT, 1955.

Section 37—

Section 37(1) provides that the State Government may by notification and subject to the condition of previous publication make rules to carry out the purposes of this Act. The Committee enquired whether these rules were finalised after previous publication and placed before the Vidhan Sabha.

The Departmental representative stated that the relevant record was not available. Reference had been made to the Punjab Government to throw light on this point. As soon as they would hear from the Government they would let the Committee know.

The Committee regret to observe that the Department have not intimated to them whether these rules were finalised after previous publication and placed before the Vidhan Sabha till writing of this Report. The Committee, therefore, recommend that the requisite information be sent to the Committee at the most earliest. As the Department has not been able to supply the information till the time of writing this Report, the Committee deferred the examination of the Punjab Bhudan Yagna Rules 1959, and the Punjab Bhudan Yagna Regulations, 1961 for the time being.

(XII) THE PUNJAB PUBLIC PREMISES AND LAND (EVICTION AND RENT RECOVERY) RULES, 1959, FRAMED UNDER THE PUNJAB PUBLIC PREMISES AND LAND (EVICTION AND RENT RECOVERY) ACT, 1959.

Revenue

Rule 6—

“6 (1)

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(2)

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Provided that —

(1)

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(2) Where any public premises is forced open, an inventory of the articles formed in the premises shall be prepared in the presence of two witnesses.

The Committee observed that in clause (2) of the proviso to sub-rule (2), add at the end, “preferably of the locality in which the Public Premises is situate.”

The Department in their written reply agreed to the proposal of the Committee.

Rule 8(2)—

“8 (1)

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(2) On receipt of the appeal and after calling for and pursuing the record of the proceedings before the Collector, the appellate officer shall appoint a time and place for the hearing of the appeal and shall give notice thereof to the Collector against whose orders the appeal is preferred and to the appellant.”

The Committee observed that in line 1, for “pursuing” substitute “perusing”.

The Department in their written reply agreed to the proposal of the Committee.

Form ‘D’—

In line 12, for the words “payable to you” substitute “payable by you”.

The Department in their written reply agreed to the proposal of the Committee.

Agreed
(XIII) THE PUNJAB MOLASSES (CONTROL) RULES, 1962, FRAMED UNDER THE EAST PUNJAB MOLASSES (CONTROL) ACT, 1948.

General.

The Committee recommend that the word "Punjab" occurring in rule 5 and in subsequent rules be substituted by the word "Haryana".

Rule 12—

"12. The contents of any tank or receptacle used as storage of molasses at a sugar factory or distillery, if on examination by the Excise Inspector or Distillery Inspector are found unfit for use, shall be disposed of as waste in such manner as may be ordered by the Controller. In the event of a disagreement with the views of the Excise Inspector or Distillery Inspector, a sample of the contents under dispute shall be forwarded to the Chemical Examiner to Government, Punjab, for opinion and the sugar factory or the distillery as the case may be, shall bear the cost of analysis. Each sample shall be taken in the presence of the owner or the representative of the sugar factory or the distillery. The sample shall be taken in triplicate and shall be immediately sealed in the presence of the Officer taking the sample and the representative. The contents thereof shall be described in a memorandum prepared in this behalf by the Excise Inspector or Distillery Inspector. One sample shall then be made over to the owner or representative of the sugar factory or the distillery, as the case may be the second shall be sent for analysis to the Chemical Examiner to Government, Punjab, and the third retained by the Officer concerned pending desposal. The report of the Chemical Examiner shall be final".

The Committee observed that in line 17, after the word "be" the sign ",", be inserted.

↑ The Department agreed to the proposal of the Committee.

FORMS

Form M.C.—I

2 The Committee observed that in order that the distilleries may give accurate information as to the quantity of molasses used, for the words and figures "31st October", wherever occurring in this form, the figures and words "15th October" be substituted to bring it in consonance with the Heading of the form M.C. I and rule 3(1).

The Department accepted the proposal of the Committee.

The Committee also observed that against item 9 for the figures and words "1st November", the figures and words "16th October" be substituted in order to bring it in conformity with other items of this form.

7 The Department also accepted this proposal of the Committee.

Form M.C. 4.

The Committee observed that Rule 3(6) requires that the Controller may call for revised requirements of molasses of the distilleries in form M.C. 4, but form M.C. 4 deals with the form of application to be submitted by the distilleries through

the officers-in-charge of the Distilleries so as to reach the office of the Controller by the 15th May each year positively. Therefore, the Committee observed that this form does not seem to be in spirit of rule 3(6) and would, as such like to know as to how "15th May each year", has been fixed as the date for the purpose.

The Department stated in their written reply that the heading of this form is not in consonance with the provisions of sub-rule (6) of rule 3 of the Punjab Molasses (Control) Rules, 1962. This return is to be called by the Molasses Controller, in his discretion, only if the actual production of molasses (form M.C. 3) is more than the estimated quantity of molasses (form M.C. 2). The heading of the form, therefore, needs to be revised. The heading may read as under :—

"To be submitted by the distilleries through the Officers in-charge of the distilleries when called for by the Controller."

4 The Committee recommend that the heading of the form be revised accordingly.

(XIV) THE PUNJAB ENTERTAINMENTS TAX (CINEMATOGRAPH SHOWS) RULE 1954, FRAMED UNDER THE PUNJAB ENTERTAINMENTS TAX (CINEMATOGRAPH SHOWS) ACT, 1954.

The observations of the Committee be seen at page 2 of this Report. *✓*

(XV) THE PUNJAB LAND REVENUE (SPECIAL CHARGES) RULES, 1958, FRAMED UNDER THE PUNJAB LAND REVENUE (SPECIAL CHARGES) ACT, 1958. *Revenue*

◆ **General.**

1 The Committee observed that in the rules for the word "Punjab", wherever occurring substitute "Haryana".

Rule 6—

The Committee observe that in the Act, there is no provision that the "assessing authority" shall make assessment of Special Charges, although the word "assessing authority" have been defined in the Act. The Committee would like to know as to how the assessing authority can levy special charges and make assessment of special charges in the absence of a special provision in the Act empowering him to levy such special charges.

The Departmental representative stated that they are in correspondence with the Law Department in this connection.

2 The Committee recommend that they should be informed as when the matter is finalized.

(XVI) LAND REVENUE ASSESSMENT RULES, 1929, FRAMED UNDER THE PUNJAB LAND REVENUE ACT, 1887. *Revenue*

Rule 13—

13.	*	*	*
(a)	*	*	*
(b)	*	*	*
(c)	*	*	*
(d)	*	*	*

- (e) any factors affecting the general prosperity of the tract as an increase in water-logging.

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* ”

The Committee feel that in rule 13 item (e), it would be better if instead of the words “as an increase in the water logging” the words “such as increase in water logging-etc.” be substituted.

3 The Department agreed to the suggestion of the Committee.

Rules 15(2)—

“15 (1)

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- (2) The Revenue Officer shall have an abstract of his proposals prepared and translated into the language prevailing in the locality. Printed copies of this abstract shall be supplied by post to all Legislators, Sarpanches, Lambardais and non-official members of the District Boards, representing the said area. A period of thirty days from the date of posting shall be allowed within which they may file objections on all or any of the matters referred *ti ub* sub-rule (1) to the Revenue Officer.”

The Committee feel that in sub-rule (2) of rule 15 the following amendments should be made :—

- 4 (i) for “the language prevailing in the locality” substitute “Hindi language,”
 5 (ii) for “District Board” substitute “Panchayat Samitis and Zila Parishads”.
 6 (iii) for “*ti ub*” substitute “to in”.

The department agreed to the suggestion of the Committee.

Rule 19(1)—

- “19(1) Abstract of assessment report to be published.—(1) after the preparation of his report, but before it is forwarded to the Commissioner, the Revenue Officer shall have a brief abstract prepared and translated into the vernacular containing .”

The Committee suggest that in rule 19(1), for the words “the Vernacular” the words “Hindi in Dev Nagri script” should be substituted.

7 The Department agreed to the suggestions of the Committee.

Rule 19(1) (a)—

“19(1)

*

*

*

*

- (a) the principal data on which the true net assets estimate has been based, viz., rates of yield assumed, rates of rent in cash or in kind, average total areas cultivated and matured, deductions allowed for expenses of cultivation, menials dues, etc., and the value of land as disclosed by sales and mortgages ;

The Committee observed that due to social changes in India the word 'menial' is not used now. The word menial in the sub-rule should be substituted by some other suitable word.

The departmental representative stated that they will examine it further and try to have suitable substitution for the same. After doing the needful they will inform the Committee of the final decision taken.

✓ The Committee recommend that the final decision when taken in the matter be intimated to them.

Rule 19(2)—

"19(1)

(2) Copies of this abstract shall be supplied by post to all Zaildars, sufed-poshes, headmen, and organizations of landowners of the area concerned and to non-official members of the District Board and elected members of the Punjab Legislative Assembly representing the said area."

The Committee are of the view that since the institution of "Zaildars and Sufed poshes" has been abolished quite a time back, therefore, para (1) of sub-rule (2) of rule 19, be substituted as under :—

"Copies of this abstract shall be supplied by posts to all legislators representing the area concerned. Sarpanches, Lambardars, Organisation of Land-owners of the said area and to non-official members of Panchayat Samitis and Zila Parishads."

↑ The department agreed to the suggestion of the Committee.

Rule 23(2) (c)—

"23(2)

(a)

(b)

(c) Where there are superior and inferior landowners in the same estate both classes of landowners shall be shown in the record under entry (2); and there shall be added after entry (8) any malkana due to the superior land owner which is charged by percentage on the land revenue; or, if part of the land revenue is payable to the superior land-owners, details showing the amount so due to the superior landowners shall be shown under entry (7)."

The Committee are of the view that as distinction between land owners as superior and inferior has ceased to exist this part (c) of sub-rule (2) of rule 23. requires, amendment.

(o The Department accepted the suggestion of the Committee.

Sections 59 and 60(C)—

The Committee desired that copies of the executive instructions issued under the provisions of Sections 60-C to regulate the procedure of Revenue Officers making the special assessment mentioned, in sub-section (3) of section 59 be supplied.

The Department, in their written reply stated that the old record has been left in the Punjab and efforts are being made to procure the copy of the executive instructions, if any, issued in this connection from there. However, instructions issued up to the 15th March, 1965, stand incorporated in the Settlement Manual, 1965.

The Committee recommend that a copy each of the executive instructions, if any, issued after the 15th March, 1965, be supplied to them for further examination of these instructions.

(xvii) **THE PUNJAB HABITUAL OFFENDERS' (CONTROL AND REFORM) RULES, 1957, FRAMED UNDER THE PUNJAB HABITUAL OFFENDERS (CONTROL AND REFORM) ACT, 1952.**

GENERAL

The Committee recommend the word caste wherever occurs either in the Rules or in the Forms, be deleted and in their places the name of the grandfather may be mentioned while describing the parentage of the Habitual Offenders.

The Department agreed to the proposal of the Committee

Rule 3—

"3. *Form of Register.*—The register prescribed in Section 3 shall be in Form No. 1. The Habitual Offenders who are registered in a district shall be assigned serial numbers with the name of the district in abbreviation (similar to those used for the registration of motor vehicles) to denote the district of registration. In the case of a registered Habitual Offender, in respect of whom the District Magistrate has issued a direction under sub-section (I) of section 10 of the Act, changing his place of residence to a district other than that in which he has been registered or when the restriction area or the place of residence under section 11 is changed to a district other than the one in which the offender is registered he shall be allotted a new serial number but a reference shall also be made in the new register about his previous serial number. For example, if he was a previous Habitual Offender of Simla and was allotted there a serial number as SML/20 and a serial number ASR/50, on his permanent transfer to Amritsar, his number in Amritsar District shall be shown as SML-20/ASR-50."

For the reference of Simla and Amritsar, the names of Districts of Haryana be substituted and the rule amended accordingly.

The Department in their written reply stated that the amendment is necessary as districts Simla and Amritsar are not in Haryana. The last three lines of the rule should be read as "for example he was a previous Habitual Offender of the Ambala District and was allotted there a serial No. AMB/20 and a serial No. KNL/50 on his permanent transfer to Karnal, his number into Karnal District shall be shown as AMB/20/KNL/50".

The Committee agreed to the proposed amendment of the Committee and recommend that the same be incorporated in the rule.

Rule 4—

"4. *Notice under section 5.*—The notice issued by the District Magistrate under section 5 of the Act shall be in Form 2. Besides the general notice in Form 2, the District Magistrate may also serve a special notice on such persons who are known to him to be "habitual offenders". The special notice shall be in Form 3. The general notice should be published in at least one Hindi and one Gurmukhi newspaper printed and published in Haryana and in circulation in the district. The special notice should be served in the manner prescribed by rule 55"

The Committee recommend that "and one Gurmukhi" be deleted.

The Department agreed to the recommendation of the Committee.

Rule 11(3)—

"11(1) * * * *

(2) * * * *

- (3) The enquiry shall be made, as nearly as may be practicable, in the manner prescribed for conducting trials and recording evidence in summons cases as laid down in the Code of Criminal Procedure, 1898, amended up to the date and for the time being in the force. For the purpose, of the enquiry the Magistrate shall take all such evidence as may be produced by the Superintendent of Police of the district concerned or his representative duly authorised by him in this behalf, and all such evidence the registered person may produce in his defence in this behalf. For the same purpose the Magistrate may take at any stage of the enquiry, any other evidence he deems necessary :

Provided that if the Magistrate is satisfied that the registered person is wilfully avoiding service or wilfully neglects to attend at the appointed place at the appointed time for the enquiry, the Magistrate may proceed to hear and determine the enquiry *ex-parte*."

¶ The Committee observed that the words "of criminal Procedure, 1898" be omitted, as the word "Code" has been defined in the Act.

§ The Committee further observed that in line 3, the word "the" appearing between "upto" and "date", be omitted

¶ The Committee also observed that in line 4, the word "the" appearing between "in" and "force" be omitted.

7 The Committee further observed that in the proviso, line 3, for the words "at the appointed time" the words "and time" be substituted.

The Department agreed to the proposals of the Committee.

Rule 11(4)—

"11(1) * * * *

(2) * * * *

(3) * * * *

- (4) After the Magistrate has recorded all such evidence, he shall submit to the District Magistrate (as soon as may be) the record of the enquiry, along with his report as to the necessity or otherwise of the making of an order by the District Magistrate under the said section 10(1).

¶ The Committee observed that in line 4, the words "the said" appearing between "under" and "section" be omitted.

The Department agreed to the proposal of the Committee.

Rule 11(6)—

"11(1)*	*	*	*
(2) *	*	*	*
(3) *	*	*	*
(4) *	*	*	*
(5) *	*	*	*

(6)(i) All evidence in the enquiry shall subject to the provisions of sub-rule (3) be taken in the presence of the registered person, or when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons cases, as laid down in Chapter XXV of the said Code of Criminal Procedure.

(ii) The District Magistrate may, before passing orders under the said section 10(1), set aside the *ex parte* proceedings of the enquiry and the Magistrate's report thereon for good cause shown on application, made to him (the District Magistrate) within seven days of the Magistrate's said report and direct a fresh enquiry to be made in the manner prescribed in this rule"

The Committee observed that in part (i) for the words "said Code of Criminal Procedure" substitute "Code".

In part (ii) line 2, the words "the said" appearing at the end, be omitted

7 The Department agreed to the proposal of the Committee.

Rule 16(3)—

"16(1) *	*	*	*
(2) *	*	*	*

(3) The enquiry shall be made, as nearly as may be practicable, in the manner prescribed for conducting trials and recording evidence in summons cases as laid down in the Code of Criminal Procedure, 1898, amended up-to-date and for the time being in force. For the purposes of the enquiry, the Magistrate shall take all such evidence as may be produced by the Superintendent of Police concerned or his representative duly authorised by him in this behalf, and all such evidence the registered person may produce in his defence in this behalf. The Magistrate may also take, at any stage of the enquiry, any evidence he deems necessary or relevant for the purpose of satisfying himself as to the necessity for action under section 11 against the said registered person, having due regard also to the provision of section 11(2) of the Act".

The Committee observed that the words "of Criminal Procedure, 1898" be deleted.

8 The Department agreed to the proposal of the Committee.

Rule 16(8)—

"216(1) *	*	*	*
(2) *	*	*	*
(3) *	*	*	*
(4) *	*	*	*
(5) *	*	*	*
(6) *	*	*	*
(7) *	*	*	*

- (8)(i) All the evidence in the enquiry shall subject to the provisions of sub-rule (3) be taken in the presence of the registered person, or when his personal attendance is dispensed with, in the presence of his pleader and shall be recorded in the manner prescribed in the case of summons cases, as laid down in Chapter XXV of the said Code of Criminal Procedure."

The Committee observed that in the last line of sub-rule (8), the words "said" and "of Criminal Procedure" be omitted.

11 The Department agreed to the proposal of the Committee.

12 The Committee further observed that in line 3, the word pleader be substituted by the word Counsel as the institution of pleaders does not now exist.

Rule 18(4)—

"18(1) *	*	*	*
(2) *	*	*	*
(3) *	*	*	*
(4)(a) *	*	*	*

(b) Absence.....+."

The Committee observed that in rule 18(4)(b), the sign mentioned against "(b) absence" should be "x" and not "+".

13 The Department agreed to the proposal of the Committee

Rules 30 and 31—

"30. *Transfer of Habitual Offender from one district to another.*—If on receipt of application from a Habitual Offender in respect of whom a notification under section 11 or 12 has issued, the Superintendent of Police considers that his transfer to another district is desirable, he shall request the Government through the District Magistrate in Form No. 16 to order such transfer.

Government after consulting the District Authorities of the District to which it is proposed to transfer the Habitual Offender, shall issue the necessary notification in the PUNJAB GAZETTE.

- 31 *Cancellation of order under Section 11 or 12.*—The District Magistrate may, if he considers that the restrictions imposed on a Habitual Offender under section 11 or 12, are no longer necessary, request the Government to cancel such restrictions

Every cancellation shall be published in the PUNJAB GAZETTE."

The Committee observed that in these rules, for the word "Punjab" substitute the word "Haryana".

(7) The Department agreed to the proposal of the Committee

Rule 52—

The Committee observe that though it is not strictly illegal and the Committee do not find any legal inconsistency in the Concession given to the Habitual Offenders to sleep in the open in summer for their good conduct, yet the Committee feel that in the changed circumstances and in view of the present reforms facility should ordinarily be available to all the Habitual Offenders.

The Department in their written reply stated that it is agreed that there should be no restriction for the Habitual Offenders to sleep in the open in summer. Clause (iv) of the rule may be deleted.

(5) The Committee agreed to the proposal of the Department to delete clause (iv) of the rule

+ Rule 55—

(6) The Committee observe while examining rule 55, there are numerous drafting mistakes in this rule. The Committee recommend that these may be rectified in consultation with the Law Department and the Committee informed.

ANNEXURE

34

स्टीरियो एफ० सी० 172

खरीफ साल

मिति

रसीद नं०

पुस्तिका नं०

ह० ————— पैसे (शब्दों में) —————
 श्री/श्रीमती ————— सुपुत्र/सुपुत्री/पत्नी —————
 सुपुत्र ————— ग्राम ————— तहसील —————
 जिला ————— से बाबत फसल ————— खरीफ साल —————
 ————— वसूल पाए जिन का ब्योरा दूसरी ओर दिया

हुआ है ।

ह० पै०

हस्ताक्षर

(अन्कों में)

नम्बरदार

ग्राम ————— तहसील —————

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खरीफ साल

मिति

रसीद नं०

पुस्तिका नं०

ह० ————— पैसे (शब्दों में) —————
 श्री/श्रीमती ————— सुपुत्र/सुपुत्री/पत्नी —————
 सुपुत्र ————— ग्राम ————— तहसील —————
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 ————— वसूल पाए जिन का ब्योरा दूसरी ओर दिया

हुआ है ।

ह० पै०

हस्ताक्षर

(अन्कों में)

नम्बरदार

ग्राम ————— तहसील —————