

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

**SUBORDINATE LEGISLATION
THIRTY FOURTH REPORT
2003-2004**

(Presented to the Haryana Vidhan Sabha on the 16th February 2004)



HARYANA VIDHAN SABHA SECRETARIAT CHANDIGARH

CONTENTS

	Pages
Composition of the Committee	(iii iv)
I Introduction	(v)
II Report	1
III Scope and Functions of the Committee	2-5
IV General Observations/Recommendations of the Committee	6-8
V Further observations/recommendations made by the Committee on Subordinate Legislation in respect of non implementation of its earlier recommendations in respect of -	9
1 Twenty Eighth Report 1996-97 (Housing Department)	9
The Housing Board Haryana (Disposal of Property Betterment Charges Eviction Assessment of Damages and Manner of Appeal) Rules 1975 framed under the Haryana Housing Board Act 1971	
2 Thirty First Report 2000 2001 (Excise & Taxation Department)	10-11
The Haryana Liquor License Rules 1970 framed under the Punjab Excise Act 1914	
3 Thirty Second Report 2001-2002 (Irrigation Department)	12
The Haryana Canal and Drainage Rules 1976 framed under the Haryana Canal and Drainage Act 1974	
4 Thirty Third Report 2002-2003 (Home Department)	13
(i) The Punjab Habitual Offenders (Control and Reform) Rules 1957 framed under the Punjab Habitual Offenders (Control and Reform) Act 1952	
(Housing Department)	13-14
(ii) The Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act 1956	

(ii)

(Education Department)

14-15

- (iii) The Haryana Affiliated Colleges (Security of Service) Rules 1980 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979
- (iv) The Haryana Affiliated Colleges (Security of Service) Rules 1993 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979

(Urban Development Department)

15-16

- (v) The Haryana Municipal (Boundary Walls Hedges and Fences) Bye laws 1976 framed under the Haryana Municipal Act 1973

VI Scrutiny of Rules and Observations/Recommendations thereon —

- 1 The Haryana Municipal (Immovable Encroachments) Bye-laws 1978 framed under the Haryana Municipal Act 1973 17 19
- 2 The Haryana Municipal Drainage and Sanitation Bye-laws 1977 framed under the Haryana Municipal Act 1973 20-27
- 3 The Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 framed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act 1972 28-31
- 4 The Haryana Cooperative Societies Rules 1989 framed under the Haryana Cooperative Societies Act 1984 32-46
- 5 The Haryana School Education Rules 2003 framed under the Haryana School Education Act 1995 47 57

COMPOSITION OF THE COMMITTEE
(2003 2004)
COMMITTEE ON SUBORDINATE LEGISLATION

Chairperson

Vaid Kapoor Chand MLA

Members

Shri Mange Ram Gupta MLA

Shri Dharambir Singh MLA

Shri Karan Singh Dalal MLA

Shri Lila Ram MLA

**** Dr Sita Ram MLA

Advocate General

* Shri Rambir Singh MLA

*** Shri Jatinder Singh Malik MLA

***** Shri Banta Ram MLA

Special Invitee

** Smt Veena Chhibbar MLA

Secretariat

Shri Sumit Kumar Secretary

Shri Data Ram Deputy Secretary

The Committee was constituted vide Haryana Vidhan Sabha Secretariat
Notification No HVS SLC-1/2003/29 dated 9th April 2003

* Shri Rambir Singh MLA who was nominated as Member w e f 16th April 2003 vide Notification No HVS SLC-1/2003 2004/35 dated 16th April 2003 resigned from the membership of the Committee w e r 23rd April 2003 vide Notification No HVS SLC-1/2003 04/38 dated the 23rd April 2003

** Smt Veena Chhibbar MLA who was nominated as Special Invitee w e f 16th April 2003 vide Notification No HVS-SLC 1/2003 04/35 dated 16th April 2003 resigned from the membership of the

(iv)

Committee w e f 10th June 2003(A N) vide Notification No HVS SLC 1/2003/46 dated 10th June 2003

*** Shri Jitender Singh Malik MLA was nominated as Member w e f 23rd April 2003 vide Notification No HVS SLC 1/2003 04/38 dated the 23rd April 2003

**** Dr Sita Ram MLA who was nominated as Member w.e f 9th April 2003 vide Notification No HVS SLC-1/2003 04/29 dated the 9th April 2003 resigned from the membership of the Committee w e f 6th May 2003 vide Notification No HVS SLC-1/2003 04/41 dated the 6th May 2003

***** Shri Banta Ram MLA was nominated as Member w e f 10th July 2003 for the remaining period of the year 2003 04 vide Notification No HVS SLC 1/2003/50 dated the 10th July 2003

INTRODUCTION

I the Chairperson of the Committee on Subordinate Legislation having been authorized by the Committee to present the report on their behalf present this Thirty Fourth Report to the House

2 The matters covered by this Report were finally considered by the Committee at their sitting held on 3rd February 2004 and adopted this Report

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 also places on record their high appreciation for whole hearted co operation and valuable assistance given by the Secretary Deputy Secretary and Staff of the Legislation Branch

Chandigarh
The 3rd February 2004

VAID KAPOOR CHAND
CHAIRPERSON
Committee on Subordinate
Legislation

REPORT

1 The Committee on Subordinate Legislation for the year 2003 2004 was nominated by the Speaker Haryana Vidhan Sabha under rules 252 of Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 9th April 2003 and was notified in the official Gazette vide notification No HVS-SLC 1/2003/29 dated the 9th April 2003

2 Vaid Kapoor Chand was appointed as the Chairperson of the Committee by the Speaker

3 The Committee held 49 sittings till the presentation of the report

4 Besides watching the implementation work relating to earlier reports the Committee scrutinized the following Rules/bye laws —

- 1 The Haryana Municipal (Immovable Encroachments) Bye laws 1978 framed under the Haryana Municipal Act 1973
- 2 The Haryana Municipal Drainage and Sanitation Bye laws 1977 framed under the Haryana Municipal Act 1973
- 3 The Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 framed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act 1972
- 4 The Haryana Cooperative Societies Rules 1989 framed under the Haryana Cooperative Societies Act 1984
- 5 The Haryana School Education Rules 2003 framed under the Haryana School Education Act 1995

The Committee also orally examined the various departments of the State Government and made its observations/recommendations on the relevant Rules under scrutiny

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 251, 259 and 260 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly. Rule 251 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 259 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 with in 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 the Legislature and
 - (ix) Whether for any reason its form or purport calls for any elucidation
- Rule 260 lays down as follows —

1. If the Committee is of opinion that any Order/Rules/Bye-law etc. 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 in its Report.

2. If the Committee is of the opinion that any other matter relating to any Order/Rules/Regulation 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/By laws etc. framed 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 257 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly which reads as under:

257 (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) The witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the 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 internal working rules wherein the detailed procedure has been laid down. Generally the Committee from time to time selects a set of rules framed under the various Acts for their scrutiny and examines 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.

However, the Chairperson of the Committee may, on a request being made to him, permit any other senior officer to represent the department before the Committee. After the rules/orders and the departmental representatives have been examined, the Committee prepares the report and presents it to the House. Copies of the report, after its presentation to the House, are forwarded to the concerned departments for taking further action on the observations/recommendations of the Committee. The action taken by the Departments is watched by the Committee from time to time. In case where any Department is not in a position to implement or feels difficulty in giving effect to a recommendation made by the Committee, the Department is required to place its views before the Committee, which may if

it thinks fit present further observations/recommendations to the House after considering the views of the Department in the matter

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 which have been finally published in the Gazette and not the draft rules
- 2 The Department of the Govt would ensure 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 reason for the delay in framing the rules. This is only by convention
- 3 The Executive should ensure that no rule goes beyond the power delegated by legislature. If the rules go beyond the powers 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 those 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 or discretionary power vested in it should be laid down in the rules
- (ii) In case 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 class of persons as contra distinguished from individuals
- (v) In cases where an authority concerned is vested with the power to suspend a license or supplies pending institution or 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 interpretations It should be in simple language so that different people cannot put different interpretations For example expressions like unreasonable large quantity reasonable intervals or frequent intervals etc should be avoided
 - (xi) Generally Rules should not be made applicable from retrospective effect adversely affecting the rights of any class or category unless specifically permitted by the Act
-

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1 Delay in framing the Rules

The Committee reiterates the recommendations made in its previous Thirty Third Report 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

The committee further recommends that whenever an ordinance for amending the Act or bringing new legislation involving provisions for making the Rules is promulgated the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules

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

2 Reference of Section under which Rules are framed

The Committee is of the view that giving of reference of the section in the margin of each rule under which the rule has been framed is essential 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

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 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 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 expeditiously

(ii) Footnote in the Act and Rules

It came to notice of the Committee that sometimes 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 that 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 there under 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 Act and Rules in Hindi

The Committee recommends that sincere efforts be made to publish the Acts and Rules in Hindi also so that the copies of the Acts and Rules may be available in Hindi easily at reasonable price.

5 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.

6 Implementation of recommendations of the Committee

As per prevailing practice and convention the Departments are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations/observations of the Committee made in its Reports. But no time limit is fixed now. With a view to ensuring speedy implementation of their recommendations the Departments should implement the recommendations expeditiously and not later than a period of one year. If in any particular case it had not been possible to adhere to this time limit they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations. Still the cases of delay continues to occur. The Committee can not but stress again that the Department should evolve suitable measures to streamline their procedure in order that the recommendations made by the Committee are implemented on top priority basis within a maximum period of one year.

The Committee 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 the recommendations/observations.



7 Availability of Copies of Acts and Rules to Public

The Committee is of the view that copies of all the Acts and Rules framed there under as amended up to date are generally not available in the Government Press for the use of the Public. The Committee therefore recommends that copies of all the Acts and Rules made there under should be kept up to date by the Department and should get the Acts and the Rules printed/reprinted from the Government Press so that these may be made available for sale to the Public at reasonable price.



Further Observations/Recommendations made by the Committee in respect of non implementation of its earlier recommendations in respect of —

**1 TWENTY EIGHTH REPORT 1996 97
(HOUSING DEPARTMENT)**

The Housing Board, Haryana (Disposal of Property, Betterment Charges, Eviction, Assessment of Damages and Manner of Appeal) Rules, 1975 framed under the Haryana Housing Board Act, 1971

The Committee had made certain observations/recommendations on the above Rules in its 28th Report in the year 1996 97. But the recommendations have not been implemented so far despite protracted correspondence. The replies of the Department received from time to time were placed before the earlier Committees as referred to in their 29th 33rd Reports and the Departmental Representatives also assured the previous Committees to implement the observations/recommendations of the Committee within a period of 2 months.

The Committee in its 33rd Report also expressed displeasure over the long delay on the part of the Department in taking action on the observations/recommendations of the Committee.

This time also the Departmental Representatives have assured the Committee in its meeting held on 20th January 2004 to implement the observations/recommendations of the Committee at the earliest.

The Committee takes an adverse note of the very slow pace of the action being taken on the recommendations made in its 28th Report on the above Rules. The Committee however hopes that the Department would take up the matter seriously in future and carry out the necessary amendments in the aforesaid Rules by notifying the same expeditiously under intimation to the Committee.

2 THIRTY-FIRST REPORT 2000 2001 (EXCISE AND TAXATION DEPARTMENT)

The Haryana Liquor License Rules 1970 framed under the Punjab Excise Act, 1914

The Committee had made certain observations/recommendations on the Haryana Liquor License Rules 1970 as contained in its 31st Report. Further observations were made by the Committee in its 32nd and 33rd Report for implementing the observations/recommendations of the earlier Committees in respect of above Rules at the earliest.

As per assurance given by the Departmental Representatives to the earlier Committees the action for implementation of recommendations has been taken by the Department to a great extent as is clear from the Notification dated 25th November 2003 placed before the Committee in its meeting held on 20th January 2004. The Committee is satisfied to note that the Department has notified the amendments as per its observations/recommendations on Rules 4 6 10 13 16 22 24 27B 30 32 36 37 and 38 of the aforesaid Rules.

The Committee however desires to know the final reply of the Department on the following unimplemented remaining observations/recommendations of the Committee -

The Committee recommends that ending para of rule 2 be re cast as under

Rule 2

Provided that licenses in forms L 1 L 1-A L 1 B L 2 L 3 L 4 L 5 L 6 L 7 L 8 L 9 L 10 L 11 L 12 A L 12 B L 12 C L 13 L 14 L 14 A L 15 and L 16 shall however be granted with the previous consent of the Financial Commissioner

Rule 22

The Committee observes that the word "fair" mentioned in Rule 22 has not been defined. In the absence of specific definition of "fair" it is not clear as to whether the "fair" relates to a cultural fair or a religious fair or some any other type of fair.

Therefore the Committee recommends that the word "fair" be defined suitably in the Rules itself.

The Committee also recommends that in Rule 22(i) in line 4/5 between the words "without the" and "consent" the word "written" be inserted to make the Rule clear.

Rule 24

The Committee further recommends that the criteria/grounds for rejection of application may also be mentioned in the Rules to make the rule clear and comprehensive

Rule 26

The Committee recommends that fixed and assessed fees be suitably revised keeping in view the Price Index

Rule 27 B

The Committee recommends that fixed and assessed fees be suitably revised keeping in view the Price Index

Rule 31

The Committee observes that the rate of assessment vend fee per bulk litre may be suitably revised keeping in view the prevailing circumstances

Rule 37 (31) (b) (i)

The Committee recommends that in Rule 37 (31) (b) (i) keeping in view the rise in prices the sale price may be suitably amended

The information may be sent to the Committee at the earliest so that the matter could be considered by the Committee accordingly

The Committee would also like to draw the attention of the Department to its observations made in para 3 (i) of General observations/recommendations at page 6 of this Report for future compliance

3 THIRTY SECOND REPORT 2001 2002 (IRRIGATION DEPARTMENT)

The Haryana Canal and Drainage Rules, 1976 framed under the Haryana Canal and Drainage Act, 1974

The Committee in its 33rd Report had also watched the implementation work relating to the aforesaid Rules and expected the Department to make necessary amendments in the Rules as per observations/recommendations of the Committee as contained in its 32nd Report already sent to the Department

The Department has supplied a copy of the statement showing the action taken by the Government on the observations/recommendations of the Committee. From the perusal of the above it reveals that the preliminary/draft notification has been issued to amend Rules 3 5 14 20 21 45 65 71 72 94 106 114 118 119 of the aforesaid Rules. Similarly corrigendum has been published in the Haryana Govt Gazette dated 11 12 2003 regarding Rule 16 25 32 46 48 49 101 and 115 as per observations/recommendations of the Committee.

The Committee is satisfied to note the action taken by the Department in the matter. The Committee however expects that necessary amendments in the Rules as per observations/recommendations of the Committee would be notified soon and copies thereof be sent for the information of the Committee in due course of time.

As far as the observations/recommendations on Rule 6 and 34 are concerned the Committee considered the practical difficulties being experienced by the Department in this regard. The Committee therefore recommends to drop the observations/recommendations made on Rule 6 and 34 i.e. regarding frequent alteration in the size of outlets and not taking cognizance of the notice by the Sarpanch or Lambardar respectively.

THIRTY THIRD REPORT 2002 2003

(Jails Department)

(i) The Punjab Habitual Offenders (Control and Reform) Rules 1957 framed under the Punjab Habitual Offenders (Control and Reform) Act, 1952

The Committee had scrutinized the Punjab Habitual Offenders (Control and Reform) Rules 1957 framed under the Punjab Habitual Offenders (Control and Reform) Act 1952 and made certain observations/recommendations as contained in its 33rd Report. The Report of the Committee was sent to the Department on dated 7-4-2003 to implement the observations/recommendations made therein within a period of two months. Several reminders were also sent to the Department to obtain the latest position of the implementation of recommendations/observations of the Committee but no reply received from the Department till to date.

The Committee is unhappy to note that the Department has taken the matter in a casual manner and has not cared even to reply to the repeated communications sent by the Vidhan Sabha Secretariat. The Committee however expects that the Department would take up the matter seriously and send the copies of the notification carrying out the necessary amendments in the relevant Rules expeditiously as per observations/recommendations of the Committee.

(Housing Department)

(ii) The Punjab Industrial Housing Rules, 1956 framed under the Punjab Industrial Housing Act, 1956

The Committee had scrutinized the Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act 1956 and made certain observations/recommendations as contained in its 33rd Report. As per advice of the Industries Department the said report was sent to the Labour and Employment Department on dated 7-4-2003 to implement the observations/recommendations of the Committee made therein within a period of two months. A reminder was also sent to the department to expedite the action in the matter. However the Labour & Employment Department vide their letter dated 22-9-2003 informed the Vidhan Sabha Secretariat that the matter relates to the Housing Department and further correspondents in the matter may be made with the said department.

In view of above communication a copy of the report was sent to the Housing Department on dated 28-10-2003 for implementation of observations/recommendations of the Committee made on the aforesaid Rules. A reminder was also sent on dated 3-12-2003 to expedite the action but no reply received.

At the time of oral examination of the departmental representatives in the meeting held on 20-1-2004 it has been assured by the Housing Department that

necessary action will be taken in the matter on top priority basis and the committee will be informed accordingly

The Committee hopes that the department would take up the matter seriously and necessary amendments will be notified expeditiously and copies sent as per observations/ recommendations of the Committee

(Education Department)

(iii) The Haryana Affiliated Colleges (Security of Service) Rules 1980 framed under the Haryana Affiliated Colleges (Security of Service) Act, 1979

The Committee had scrutinized the Haryana Affiliated Colleges (Security of Service) Rules 1980 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979 and made certain observations/recommendations as contained in its 33rd report. The said report was sent to the Department on dated 7-4-2003 to implement the observations/recommendations made therein with a period of two months. Several reminders were also sent to the Department to obtain the reply regarding latest position of the implementation of observations/recommendations of the Committee. But the department did not reply soon. The Department however vide their letter dated 28th January 2004 stated as under

That the proposal/draft for amendments in the aforesaid Rules has been sent to the Law Department Haryana for advised. Further necessary action will be taken as per Rules

The oral examination of the departmental representatives was also conducted in this regard in the meeting of the Committee held on 3rd February 2004 and the departmental representatives assured the committee that the observations/recommendations of the Committee will be implemented expeditiously. The Committee hopes that the department would take up the matter on top priority level and expects that the copies of the notification amending the aforesaid Rules as per observations/recommendations would be supplied to the Committee at an early date

(iv) The Haryana Affiliated Colleges (Security of Service) Rules, 1993 framed under the Haryana Affiliated Colleges (Security of Service) Act, 1979

The Committee had scrutinized the Haryana Affiliated Colleges (Security of Service) Rules 1993 framed under the Haryana Affiliated Colleges (Security of Service) Act, 1979 and made certain observations/recommendations as contained in its 33rd report. The said report was sent to the Department on dated 7-4-2003 to implement the observations/recommendations made therein with a period of two months. Several reminders were also sent to the Department to obtain the reply regarding latest position of the implementation of observations/recommendations of the Committee

But the department did not reply soon. However the Department vide their letter dated 12-11-2003 stated that the action is being taken in the matter and this Secretariat will be informed after final decision.

The Vidhan Sabha Secretariat again requested the department vide letter dated 3rd December 2003 to supply the latest information regarding implementation of observations/recommendations made on the aforesaid Rules.

The Department in their letter dated 28th January 2004 stated as under -
That the proposal/draft for amendments in the aforesaid Rules has been sent to the Law Department Haryana for advice. Further action will be taken as per Rules."

The oral examination of the departmental representatives was also conducted in this regard in the meeting held on 3rd February 2004 and the departmental representatives assured the Committee that the observations/recommendations of the Committee would be implemented expeditiously. The Committee hopes that the department would take up the matter on the top priority level and expects that the department would supply the copies of the notification amending the relevant rules implementing the observations/recommendations of the Committee at an early date.

(Urban Development Department)

(v) The Haryana Municipal (Boundry Walls Hedges and Fences) bye Laws, 1976 framed under the Haryana Municipal Act 1973

The Committee had scrutinized the Haryana Municipal (Boundry Walls Hedges and Fences) bye Laws 1976 framed under the Haryana Municipal Act 1973 and made certain observations/recommendations as contained in its 33rd Report. The said report was sent to the Department on dated 7-4-2003 to implement the observations/recommendations of the Committee made therein within a period of two months. Several reminders were also sent to obtain the information regarding latest position of the implementation of observations/recommendations made by the Committee. But the Department did not reply soon. However the Department vide their letter dated 5-12-2003 supplied the copies of notification/draft notification incorporating the amendments as per observations/recommendations of the committee.

The oral examination of the Departmental representatives was also conducted in this regard in the meeting held on 13th January 2004 and the Departmental Representatives clarified the position in the matter assuring the implementation of observations/recommendations of the Committee at an early date.

The Committee was satisfied to note that the Department has agreed to its recommendations/observations. The Committee expects that the Department would supply the copies of the final notification amending the aforesaid bye laws at an

early date. The Committee also observes that for issuance of completion certificate expeditiously instructions may also be issued for compliance.

(vi) The Haryana Municipal Delimitation of Wards Rules, 1977 framed under the Haryana Municipal Act, 1973

The Committee had scrutinized the Haryana Municipal Delimitation of Wards Rules 1977 framed under the Haryana Municipal Act 1973 and made certain observations/recommendations as contained in its 33rd report. The said report was sent to the department on dated 7-4-2003 to implement the observations/recommendations made therein within a period of two months. Several reminders were also sent to obtain the information regarding latest position of observations/recommendations of the Committee. The Department sent the copies of the reply vide their letter dated 19-12-2003 containing notification amending the above Rules as per observations/recommendations of the Committee except one recommendation i.e. not deleting the word "affected" in clause (a) of Rule 9.

The oral examination of the Departmental Representatives was also conducted in this regard in its meeting held on 13th January 2004. The matter was also discussed at length. Keeping in view the reply of the department as well as advice of the Law Department as stated by the Departmental Representatives, the Committee recommends to drop the recommendation of the previous Committee made on Rule 9(a) so far as the omission of word "affected" is concerned.

The Committee notes with satisfaction that the Department has issued notification amending the Rules as per observations/recommendations of the Committee.

VI Scrutiny of Rules, bye laws and observations/ recommendations thereon -

1 Scrutiny of the Haryana Municipal (Immovable Encroachments) Bye laws 1978 framed under the Haryana Municipal Act, 1973

The Committee scrutinized the above Bye laws and made the following observations/recommendations —

General observations/recommendations

While examining the above bye laws the Committee came across a large number of typographical mistakes. It was not clear from the copies of the bye laws supplied by the Department as to whether these errors actually exist in original Gazette or not. Thus the Committee had made its observations/recommendations to rectify the errors in paras 1 (i) 2 (ii) 2 (vi) 2 (b) 4 (a) 6 (b) and 7 (a) in Appendix I attached with the Bye laws.

The Committee recommends that the copies of the Rules/Bye laws to be supplied to it by the Departments should be in printed form or in the form of Gazette in which they are published. If however the Department is unable to supply the copies of the Rules/Bye laws as published in the Gazette then it should be ensured that the copies of the Rules etc. are amended up to date/meticulously compared and duly corrected as published in the Gazette before supplying the same to the Committee so as to save its valuable time in pointing out the typographical/printing mistakes or errors. Private publication should be deprecated and discouraged.

Bye laws 5

5 (1) The Committee may grant the permission for a period of one year and may from time to time extend such period. On the expiry of the period so specified or the extended period if any the entire structure shall be deemed to be unauthorized.

(2) When permission is granted by the Committee without specifying any period it may at any time after the expiry of the period specified in clause (1) revoke such permission and on such revocation the entire structure shall be deemed to be unauthorized.

(3) *** _____ ***

(4) *** _____ *** "

The Committee recommends that in line four of Bye laws 5 (2) for the words 'entire structure' substitute the words 'entire licensed structure' to make the rule more clear and meaningful.

The Department in their reply also agreed to the suggestion.

Bye laws 7

7 (1) The site plan shall be drawn to a scale of not less than one centimeter equal to one metre. The scale used shall be marked on the plan. The positions of the north point shall also be indicated.

(2) The detailed drawings shall be drawn to a scale of not less than one centimetre equal to half metre and the scale used shall be marked on the plan.

(3) All plans shall be got prepared from the registered architect or draftsman and signed by the applicant and shall show

- (i) the names of the owners of adjoining building or lands with the names of the lanes (Koochas) and house numbers if any
- (ii) the proposed work by a distinctive colour
- (iii) the material proposed to be used
- (iv) an index to the colour used and
- (v) other details that will enable the committee or its officers to decide the suitability of the proposal

The Committee recommends that in line two of Bye laws 7 (3) after the word "signed" add the sign and words "thumb impression" to make it more clear

FORM A

(SEE BYE LAW 6)

(All entries on this side to be filled in by the applicant)

From

To

The Executive Officer/Secretary

Municipal Committee _____

Sir

I hereby apply under section 181 of the Haryana Municipal Act 1973 for permission to erect re erect an immovable encroachment as specified below situate in _____

I attach the plan drawings and specifications in duplicate as required by the Committee's bye-laws on the subject

I have read the relevant provisions of the Act and the Haryana Municipal (Immovable Encroachment) Bye laws 1978 and undertake to abide by them

Signatures

Date

SPECIFICATIONS

XXX _____ XXX "

The Committee recommends that after the para specifications" in Form A a new para may be added as under -

"The relevant provision of the Act and these Bye laws have been read out to me and I undertake to abide by them "

The Departmental Representatives also agreed to the recommendation

FORM B

(SEE BYE LAW 8)

(All entries on this side to be filled in by the applicant)

1 XXX _____ XXX

to

3 XXX _____ XXX

4 The encroachment shall be open at all times to the inspection of any servant or servants of the Committee authorized in this behalf and the licensee shall if so required produce the licence for the inspection of such servant of the Committee

5 XXX _____ XXX

The Committee recommends that in para 4 for the words, "Servant or servants" wherever occurring the words "employee or employees" may be substituted

The Department in their written reply as well as at the time of oral examination agreed to the recommendation of the Committee

2 Scrutiny of the Haryana Municipal Drainage and Sanitation bye laws 1977 framed under the Haryana Municipal Act, 1973

The Committee Scrutinized the above bye laws and made the following observations/recommendations -

General

As per decision of the Committee the Urban Development Department was requested vide this Sectt Letter dated 24th April 2003 to supply amended up to-date copies of the Haryana Municipal Drainage and Sanitation bye laws 1977 framed under the Haryana Municipal Act 1973 within a week. But the copies of the Bye laws were not received in time. Reminders were issued to the Department and ultimately the copies of the bye-laws received on 27th May 2003. While scrutinizing the above bye laws the Committee came across a large number of typographical/printing mistakes. Thus the Committee had to make observations/recommendations to rectify these mistakes/errors in various bye laws namely Bye laws 5 16 27 36 38 42 57 58 62 65 76 and 79 and to amend the bye laws accordingly. At a late stage on receipt of reply of the department it came to the notice of the Committee that these errors do not exist in the notification published in the original Gazette.

The committee fails to understand as to why the amended up to date copies of the bye-laws were not supplied earlier to committee. Had the department supplied amended up to date copies of the bye laws earlier the valuable time of the committee would have been saved in pointing out the errors/amendments which had actually not existed in the original Gazette.

The Committee feels that the department should note it for future that the amended up to date copies of the Rules/bye laws be sent to the Committee at the earliest as and when so requested by the Committee. The attention of the department is also invited to recommendations made by the Committee in para 3 (i) of the General observations/recommendations of the Committee at page 6 of this Report.

Bye laws 12

Application
before
connection
with public
sewer

"12 (1) After grant of the certificate referred to in the foregoing bye laws or in the event of the said certificate having been deemed to have been granted every person intending to connect a drain to a public sewer shall apply to the Committee at least seven days before the date on which connection is required.

(2) The application shall be accompanied by a certificate referred to in clause (1) above and fee as given in bye laws 81.

(3) On receipt of the application and subject to the requirements of the foregoing bye laws the committee shall accept or reject the request.

(4) In the event of the required connection having been sanctioned the same shall be made only through officer authorized by the committee and through licensed plumber

The Committee recommends that in clause (3) of this bye law the following lines may be added to make the bye law more clear —

"However, the grounds of rejection or application shall be communicated to the applicant at the earliest "

The Department in their written reply stated as under —

"The Department agree with the recommendation of the Committee "

Bye law 14

14 Every person by or for whom any water borne sanitary installation or drainage work or any other work in connection therewith is carried out for any existing or new building or in any other premises shall at all reasonable times afford the committee or any officer duly authorized by it free access to such water borne sanitary installation or drainage work or other work in connection therewith for the purpose of inspection. The committee shall ensure that the basic requirements of these bye laws are carried out but it shall not relieve the house owner or his plumber of the duty of taking due care in the execution of the work and providing good and sufficient material and workmanship

The Committee recommends that in line 4 of this bye law after the words 'reasonable times' i.e. after sunrise and before sunset' may be added to make the bye law more clear

The Department in their written reply stated as under

"The Department agrees with the recommendation of the Committee "

Bye law 17

"17 The committee shall publish in April or October each year a list of licensed plumbers to execute any work under these bye laws shall furnish to the committee the plumbers name of such plumber

List of
licensed
plumbers

The Committee recommends that in bye law 17 after the word "publish" the words "Or display" may be added and the Committee further recommends that in the second line after the words "licensed plumber" be the words "in local Newspaper or on the Notice Board of the Committee respectively" be added to make the bye-law more comprehensive The Committee further

recommends that in last of this bye law after the word "name" the words "and full particulars" may be added to make the bye law amply clear

The Department in their written reply stated as under

Agrees with the recommendation of the Committee for inserting the word "publish or display" but the department is of the view that the word 'Local News Paper or on the Board of the Committee respectively" shall also be inserted after the word "Publish or Display" Agrees with the recommendation for adding the word "and full particulars" after the word "name" in last line

Bye law -1 8

Adequacy
of water
supply

18 Before undertaking the installation of water borne sanitary in installation in any building adequate supply of water to the premise shall be ensured to the satisfaction of the committee

The committee recommends that in this bye law after the word 'adequate the words "regular and be added to make the bye law more clear

The Department in their written reply stated as under -

'The Department agrees with the recommendation of the Committee'

Bye law-27

Water
closets

27 (1) Every water closet pan composition of which should be as per specifications laid down by Indian Standards Institute shall have an efficient siphon trap with a minimum water seal of 75 mm beneath so that sufficient water seal between the pan and any drain or soil pipe is maintained D trap shall not be fixed in connection with the water closets

(2 to 7) X X X X

(8) No self acting or automatic flushing apparatus shall be constructed or fixed except with the prior permission of the committee

(9 to 12) X X X X "

The Committee recommends that in the last line of this bye law the printing error of word "water-closet" may be corrected The Committee would like to know the significance of prior permission of the Committee for self acting or automatic flushing apparatus as mentioned in clause (8) of this bye law?

The Department in their written reply stated as under

(I) Agrees with the recommendation of the Committee for printing of error

(II) For smooth functioning such permission is mandatory

However at the time of oral examination of the Departmental Representatives the committee was informed that there is no need to obtain prior permission for self acting or automatic flushing appropriates. The bye law may be suitably amended.

Bye law 28

28 A urinal connected with a building which has a supply of water laid on shall comply with the following requirements

Urinals

(i) to (xiii) (a) (b) (c)	X	X	X
	X	X	X

Provided that the internal diameter of the waste pipe urinal may not be less than 500 mm in the case of having not more than two basins and 400 mm in case of a single urinal basin.

Provided further that where the two or more urinals are fixed in a range the waste pipe may discharge without the inter position of trap into circular and accessible open channel of glazed stone ware or other equally suitable non absorbent material formed or fixed in or on the floor immediately beneath or in from of such a basin or stall but not exceeding laterally beyond such range and discharging into a suitable and efficient trap.

The Committee recommends that in line five of the last proviso to this bye law for the word 'Laterally' substitute the word "literally" to make the rules intelligible.

The department in their written reply stated as under

Department agrees with the recommendation of the Committee

Bye law-29

"29 (i) Every drain shall –

Laying out
Drains

(a) and (b) (ii) to (iii)	X	X	X
	X	X	X

(iv) where such drain is laid under a wall it shall be protected at that part which is under the wall by means of a relieving arch flag stone iron or any other support which shall not bear in the drain and shall be sufficient size and strength to prevent any disturbance or other injury to such drain.

(v) to (ix) (a) (b) (c)	X	X	X
	X	X	X

The Committee recommends that in clause (iv) of this bye-law for the words 'disturbance or other injury substitute the words "blockade or damage" to make the rule more clear

The Department in their written reply stated as under

The Department agrees with the recommendation of the Committee

Bye law 61

Proximity
for water
supply

"61 Every person shall provide a cesspool in connection with any building or other premises shall not construct such a cesspool within a distance of 30 metres from any percolation well tube-well water course or stream used or likely to be used for human consumption or otherwise in such a position as to render any such water liable to pollution

The Committee recommends that in line two of this bye law after the word "premises" add the word "and" the make the bye law more clear

The Department in their written reply stated as under —

The Department agrees with the recommendation of the Committee

Bye law 62

Open drains
to be
provided
for buildings
not within
30 metres
of a
municipal
drain

62 As far as practicable buildings with this description shall be drained by the open drain in accordance with the provisions hereafter contained —

- (1) The house drain if open shall discharge by means of a 15 cm by 15 cm stoneware gully trap into the cesspool
- (2) All cesspool shall be closely covered and fitted with a cast iron airtight frame and cover and provided with adequate means of ventilation
- (3) All cesspools shall be provided with adequate means of excess for cleaning each manhole being fitted with suitable airtight cast iron frame and cover

The Committee recommends that in line one of clause (2) for the word "cesspool" substitute the word "cesspools" and in line two the word "and" given after the word and sign "cover", be deleted to make the bye law grammatically correct

The Department in their written reply stated as under —

The word "Cesspool" already exists in this bye law. The Department agrees with the recommendation of the Committee for deleting the word 'and' after the word "cover".

Bye law 63

63 The sullage from all washing places shall be discharged among Discharge from washing places
vegetations from or used for gardening purposes but if this is impossible then the sullage shall Discharge into a cesspool having capacity of at least 0 14 cum

The Committee recommends that in line three of this bye law for the words 'shall discharge' substitute the words 'shall be discharged' to make the rule amply clear

The Department in their written reply stated as under

The Department agrees with the recommendation of the Committee

Bye law 67 and 68

67 Every cess pool must be placed in a position convenient for the access of committee carts Location of Cess Pool

68 Every Cesspool shall be constructed of Brick work in cement mortar and internally plastered with a 25 mm coat of cement and sand Construction of Cess Pool
(1 2) The work shall be brought up to 15 cm above the surface of ground and provided with a manhole with suitable cover

The Committee recommends that in the marginal heading of these bye laws the word "cesspool" may be properly written to make it clear

The Department in the written reply stated as under

The Department agrees with the recommendation of the Committee

By law 70

70 The floor of every horse stable shall be paved over the whole area with suitably dressed stone or other suitable material laid on 15 cm bed of good lime or cement concrete. The paving shall have a slope of at least 1 in 48 towards the channel Floors of Horse suitably

The Committee recommends that in line three of this bye law the spelling of word 'atleast' may be corrected

The Department in their written reply stated as under —

The Department agrees with the recommendation of the Committee

Bye law 71

Channels
for Horse
stables

71 (1) A half round channel 30 cm wide of suitably dressed blue stone or other suitable material shall be constructed which shall meet the paving and shall be at right angles to the stable

(2) The channel shall have a longitudinal slope of at least in 1 in 100 at one point or more as may be selected and at each of such point a 15 cm by 15 cm stoneware gully traps fitted with a horizontal and vertical cast iron gratings shall be fixed "

The Committee would like to know the number of Public Horse Stables in Haryana at present?

The Department in their written reply stated as under

This information has to be sought from MCs

At the time of oral examination of the Department the Committee suggested that after locating the stables in the State the Department may provide basic amenities at such places The Departmental representatives assured to look into the matter

Bye law-77

Grating to
be provid
ed for
catchpits

77 A horizontal and a vertical cast iron grating with bars not more than 12 mm apart shall be fixed in the catchpits

The Committee observes that this bye law may be properly worded

The Department in their written reply stated as under

The Department agrees with the recommendation of the Committee

Bye law 83

Penalties

83 (1) Any person who commits breach of these bye laws shall on conviction be punishable with a fine which shall not be less than Rs 25 and more than Rs 200 and where the breach is a continuing breach with a further fine of Rs 10 for every day after the first during which the breach continues

(2) That in case the bill is not paid by the due date 10 per cent penalty will be charged and if the bills are not paid for a further fortnight the connection shall be disconnected without any further notice

The Committee recommends that the amount of penalty for breach of bye laws may be suitably increased suiting to the charged/ present circumstances

The Department in their written reply stated as under —

The Department agrees with the recommendation of the Committee

Forms and Tables

The Committee observes that the Forms and Tables appended with the bye laws requires to be suitably amended keeping in view the changed socio-economic set up of the society. The Committee feels that these Forms and Tables may be suitably changed/amended and simplified wherever necessary keeping in view the requirements of present planning/Schemes for Housing, Industries, Schools Hospitals and other public places etc with a view to provide maximum convenience to the public at large.

Though the above observation of the Committee was sent to the Department yet no comments received thereon. However, at the time of oral examination of the Department the Departmental Representatives stated that the matter will be examined and necessary amendment wherever required will be made at the time of amendment in these Bye laws as per observations/recommendations of the Committee.

3 Scrutiny of the Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 framed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972

The Committee scrutinized the Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 framed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act 1972 and the following observations/recommendations thereon

General observations/recommendations

As per decision of the Committee the Revenue Department was requested vide this Secretariat letter dated 24th April 2003 to supply the amended up-to date copies of the afore said Rules for the use of the Committee within a period of one week. Several reminders were issued to the Department to expedite the reply of copies of the Rules. Ultimately the Department supplied the photocopies of the aforesaid Rules as contained in the private publication on dated 17th July 2003. From the perusal of these photocopies it reveals that before supplying these Rules to the Committee the same have not been meticulously compared with the notification as published in the Gazette as there are several typographical/printing errors therein. As per observations already made in various earlier reports of the Committee as mentioned in para 3(i) of the General observations/recommendations at page 6 of this report also the Committee observes that the Department should note it for future that as and when the Rules are demanded by the Committee the same should be supplied expeditiously as published in the official Gazette in accordance with instructions containing in U O letter no 4475 Pol(4) 67 dated 2nd/5th September 1967 issued by the Chief Secretary to Govt Haryana. If the copies of the Notification/Gazette are not readily available then the private publication should be supplied only after meticulous comparison of the same with Gazette notification so that the valuable time of the Committee is saved in pointing out the clerical/printing mistakes.

Rule 4

4 Manner of services of notice (Sections 4 and 6) (1) Where the person on whom a notice under sub-section (1) of section 4 or sub section (1) of section (6) of the Act is to be found a copy of such notice shall in addition to any other manner of service specified in the Act be affixed in a conspicuous part of the last known place of business of such person (in the presence of two witnesses preferably of the locality in which the public premises are situated) or be delivered to some adult member of his family

(2) The Collector may also cause the contents of any notice proclaimed in the locality by beat of drum}

The Committee recommends as under —

- 1 That notice should be sent by registered post with acknowledgement due to the person concerned at the first instance at his usual or last known place of residence or business**
- 2 Notice should be delivered to any other adult member of his family in case the person concerned is not found**
- 3 The Committee feels that where a copy of notice is delivered to any adult member of the family of the concerned person signature of that person should be obtained in token of acknowledgement of service**
- 4 In case of refusal or when person concerned can not be found then notice should be affixed on the outer door or some other conspicuous part of the premises or last known place of ordinary residence or business in the presence of two witnesses preferably of the locality**
- 5 Report of endorsement to this effect should be made to the Collector who issued the notice**
- 6 If by the above modes of service of notice, the notice is not served, then the contents of the notice should be circulated in the local newspapers or the proclamation be made by beat of drum in the locality**

The Department in their written reply stated as under

The Procedure for the issuance of notice under the Act/Rules is sufficient and there is no need to amend the procedure as these are summary proceedings

However, after the great deal of discussion the Departmental Representatives accepted the proposal of the Committee to amend the rule incorporating the above recommendations/observations to elaborate the procedure and to give ample opportunity to the unauthorized person to defend his case and avoid procedural lacuna

Rule 5

5 Manner of taking possessions of public premises (Section 5 (2) (1) If any obstruction is offered or is in the opinion of the Collector likely to be offered to the taking possession of any public premises under the Act the Collector or any other officer duly authorized by him in this behalf may obtain necessary police assistance

2 Where any public premises of which possession is to be taken under the Act is found locked the Collector or any (1) officer duly authorized by him in this

behalf may either seal the premises or in the presence of two witnesses preferably of the locality in which the public premises are situated break open the locks or open or cause to be opened any door gate or other barrier and enter the premises

Provided that —

- (1) (a) no entry shall be made into or possession taken of a public premises before sunrise or after sunset
- (2) (b) where any public premises is forced open in inventory of the articles found in the premises shall be prepared in the presence of two witnesses (preferably of the locality in which the public premises is situated

The Committee feels that Rule 5 should be re-numbered as Rule 6 Rule 6 should be re numbered as Rule 7 and Rule 7 should be re numbered as Rule 5 because the enquiry should be held after service of notice under Section 4 of the Act and before taking of possession of the public premises from the unauthorized persons

The Department stated that there is no need to change

The Committee recommends that in Rule 5 which is to re numbered as Rule 6, the following provision should be incorporated in sub rule (1) of Rule 6

"Manner of taking possession of public premises (Section 5) (1) when in pursuance of a notice under Section 4 of the Act the unauthorized person has been given reasonable opportunity of being heard, a notice containing order of eviction by the Collector shall be served upon or communicated to the concerned person or displayed or affixed on the conspicuous part of the public premises or ordinary place of residence or business of such person to vacate the public premises within thirty days of the order conveyed/ published

If any person refuses or fails to comply with the order of eviction within thirty days as provided under sub section (1) of Section 5 or any obstructing is offered or is in opinion of the Collector likely to be offered to the taking possession of any public premises under the Act, the Collector or any other officer duly authorized by him in this behalf may obtain necessary police assistance "

The Committee is also of the view that the inventory of the articles found in the premises should also be published in the local newspaper or displayed on the conspicuous part of the office of Gram Panchayat or Municipal Committee/Council, as the case may be

The Department in their reply stated as under —

Provisions already exists

However, after discussion with the departmental representatives at the time of oral examination, the Department agreed to amend the rule accordingly

Rule 7

7 Holding of inquiries [Section 8] (1) where any person on whom a notice or order under the Act has been served desires to be heard through his representative he should authorize such representative in writing

(2) The Collector shall record the summary of the evidence produced before him. The summary of such evidence and any relevant documents filed before him shall form part of the records of the proceedings

Rule 7 which will be renumbered as Rule 5

The Committee recommends that in line one of this Rules for the word and figure "Section 8" substitute the words and figures "Section 8 and 17(2) (d)"

The Committee also recommends that in the line three of sub rule (1) for the word "should" substitute the word "shall"

The Committee further recommends that in line one and two of sub rule (2) the words 'the summary of ' be omitted to comply with the provisions of Indian Evidence Act 1872

The Department in their written reply stated as under —

Agreed with the observations of the Committee

Rule 8

8 Procedure in a appeals [S 11(2) (e) (1) An appeal preferred under section 9 of the Act shall be in writing shall set forth concisely the grounds of objection to the order appealed against and shall be accompanied by a copy of such order

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

The Committee recommends that in the marginal heading of this rule for 'Section 11(2)' substitute the 'Sections 9 and 17(2) (e) to mention the correct authority under the said rule has been framed

The Department in their written reply stated as under —

Agreed with the observations of the Committee

4 Scrutiny of the Haryana Cooperative Societies Rules, 1989 framed under the Haryana Cooperative Societies Act, 1984

OBSERVATIONS OF THE COMMITTEE REGARDING HARYANA COOPERATIVE SOCIETIES RULES 1989 FRAMED UNDER THE HARYANA COOPERATIVE SOCIETIES ACT 1984

The Committee on Subordinate Legislation had scrutinized the Haryana Cooperative Societies Rules, 1989 framed under the Haryana Cooperative Societies Act, 1984 in the year 1992-93 and made the certain observations/recommendations in its 24th Report. The matter remained under process of implementation at the level of cooperative Department for some years. The Committee again made some observations while watching the work relating to implementation of recommendations/observations of the Committee made in its relevant report in the year 1994-95, as contained in its 26th Report. Ultimately the Department implemented the recommendations/observations of the Committee finally in the year 1995 and issued notification amending the aforesaid rules vide notification dated 17th August 1995.

This Committee also decided to examine/scrutinize the Haryana Cooperative Societies Rules 1989. Accordingly, the Department was requested to supply 25 copies of the Cooperative Societies Rules, 1989 as amended upto date vide this Secretariat letter dated 23.4.2003 and the Department supplied the copies of the aforesaid Rules on dated 9.5.2003. While scrutinizing the Haryana Cooperative Societies Rules 1989 framed under the Haryana Cooperative Societies Act, 1984 the Committee came to know that the copies of the notification dated 27th January, 1989 containing the aforesaid Rules as published in the Haryana Government Gazette (Extra) dated 31st January 1989 have been supplied by the Department which are not amended up to date as several amendments were made in the aforesaid Rules during the year 1995 vide notification dated 17th August 1995. The Committee is of the view that the Department should have supplied the amended upto-date copies of the Rules. It seems that the Department took the matter in a casual manner. It is a very serious matter and the Committee expresses its displeasure for the supply of unamended Rules. The Committee further observed that the Department concerned be asked to supply the requisite number of copies of the Rules as amended upto-date within a week so that the Rules may be scrutinized in the subsequent meetings.

Accordingly, the Department was informed about the above observations of the Committee vide this Secretariat letter dated 28th May, 2003. But the Department supplied the copies of the aforesaid rules as contained in a private publication vide their letter dated 9th June, 2003 instead of supplying amended upto date copies of the Rules as published in the Official Gazette.

While scrutinizing the aforesaid Rules the Committee came across a large number of typographical/printing errors particularly in Rules 12-21.

23, 30, 31, 34, 37, 43, 44, 58, 59, 66, 67, 72, 74, 84, 87, 88, 89, 98, 99, 104, 105, 108, 110 and 111 and the Committee observed that necessary amendments may be made in the Rules as per recommendations sent to the Department. Now the Department in their written reply dated 30th January, 2004 has intimated that these errors/mistakes do not exist in the original notification published in the Gazette.

The Committee failed to understand as to why the copies of the Rules were not compared meticulously with the original Gazette by the Department before supplying the same to the Committee despite repeated observations sent to the Department from time to time.

The Committee is, however, pained over the matter which unnecessarily wasted its precious time in pointing out the necessary corrections/amendments in the above Rules which were already correct to a great extent in the copies of the original Gazette Notification. The Committee invites the attention of the Department to its earlier General Observations/Recommendations as contained in this Report also at Page 6 in paragraph 3(i) for strict compliance in future.

Rule –7

7 Procedure on receipt of application. Section 131(2) (ii) - (i) Before passing final order under Section 8, the Registrar may call for such further information from the applicants or make such independent enquiries as he may deem necessary.

(2) After the Registrar is satisfied with regard to the matters stated in sub-section (1) of Section 8, he may register the co-operative society and its bye-laws. A copy of the registered bye-laws along with a certificate of registration in Form II shall be sent by him to the cooperative society.

(3) The particulars of a co-operative society registered under sub-rule (2) shall be entered in the register in Form III.

The Committee also recommends that in the second line of Rule 7(2) between the words "Section 8 he" and "register" the word "may" be substituted with the word "shall".

The Department in their written reply stated as under -

When the RCS is satisfied about the matters stated in Sub-Section 1 of Section 8, then he can be bound to register the society by substituting word 'may' with the word 'Shall'.

The Committee recommends that the rule may be suitably amended.

Rule –12

12 Registration of amendments. Sections 10(4) and 131(2)(iii) - After the Registrar is satisfied with regard to the matters stated in sub-section (2) of Section 10, he may register the amendments and return a copy of the registered amendments to the cooperative society.

(2) The order of the Registrar passed under sub-section (4) of Section 10 shall be communicated by [Registered post with A/D] to the cooperative society.

The Committee also recommends that in line 3 of the above sub rule for the word "may" substitute the word shall to make it mandatory

The Committee further desires that the order passed by the Registrar shall be communicated at the earliest and not later than 15 days from its passing

The Department in their written reply stated as under —

There is no objection in substituting the word ' may' by word ' shall in Rule 12(1)

The provision of communicating the order of RCS at the earliest but not later than 15 days from passing of order be made in the rule

Rule 35

35 Submission of information and returns by Cooperative Societies having State participation 131 (2) (xv) A Cooperative society receiving Government loan or subsidy or society in which a share or shares have been subscribed or liability by way of guarantee for borrowing exceeding fifty per cent of the working capital of the society has been undertaken by the Government shall furnish such information and submit such returns as the sanctioning authority or the Registrar may from time to time require "

The Committee recommends that there should be a provision in case of failure to submit information and return

The Department in their written reply stated as under —

The Chief Executive Officer of the institution is responsible for submission of the return

Instruction in this regard are revised from time to time and are within the competence of RCS

Suggestion noted

Rule 37

CHAPTER VIII Charger and Mortgagor

x	x	x	x	x	x	
	x	x	x	x	x	"

The Committee recommends that in the heading of the Chapter VIII for the words "Charger and Mortgager" substitute the appropriate words "Changes and Mortgages"

The Department in their written reply also accepted the change

Rule 46

46 Service of demand notice (1) and (2)

x	x	x	x	x	x	
	x	x	x	x	x	x

Provided where the defaulter does not reside in the village in which land standing crops or produce which is distraint is situated the written demand shall be sent to the defaulter to his last place of residence by registered post with acknowledgement due

The Committee recommends that in line three of proviso to this rule after the word residence the words or ordinary place of business be substituted to make the rule more clear

The Department in their written reply stated as under —

Observation noted for insertion

Rule -50

50 Power of distrainer to force open doors in presence of Police Officers
Section 131(1)

x	x	x	x	x	x	
	x	x	x	x	x	x

(2) On such representation the officer-in charge of the police station shall send a police officer not below the rank of a head constable to the spot in the presence of whom the distrainer may force open the outer door or such dwelling house

(3) x	x	x	x	x	x	
	x	x	x	x	x	x

The Committee recommends that in line two of sub rule (2) of this rule for the words police officer" the words preferably a lady police officer' be substituted to meet the situation properly

The Department in their written reply stated as under —

Noted for replacement of word police officer" with that of lady police officer'

Rule -56

56 Investigation of claims to any right or interest in distrained property —

(1) Where any claim is preferred by any person other than the defaulter to any right or interest in the distrained property the distrainer shall investigate the claim and dispose lit of on its own merits

Provided that no such investigation shall be made where the distrainer considers that the claim was designedly or unnecessary delayed

(2) Where the property to which the claim applies has been for sale the distrainer may postpone the sale pending the investigation of claim

The Committee would also like to know for its information as to whether any notice to the society concerned or defaulter is given when any claim is preferred by any other person

The Department in their written reply stated as under —

Yes, during the investigation his claim is considered

The Committee recommends that this provision should be mentioned in the Rule itself

Rule 57

57 Application for sale of immovable property and procedure Section 76 (1) —

(1) The application under sub section (1) of section 76 of the Act in (Form X) signed by the committee or any person duly authorized in writing by the committee shall state the amount due for recovery including interest expenses incurred in the service of the notice referred to in clause (b) in sub section (2) of section 75 of the Act the name(s) and address(s) of person(s) on whom such notice was served It shall also contain such description of the immovable property to be proceeded against as may be sufficient for its identification and in case such property can be identified by boundaries or number in the revenue record the specification of such boundaries or numbers

(2) On receipt of the application the sale officer shall give a notice in writing to all the persons referred to in clause (b) of sub section (2) of section 75 of the Act in Form XI stating the amount claimed by the society including expenses incurred by it in the service of notice the particulars of the properties to be sold in case of non payment and the date on or after which the sale shall take place

The Committee would like to know as to whether any site plan/map for the purpose of identification of property is got prepared

The Department in their written reply stated as under

The procedure of sale is prescribed under Section 75 of the Act and the sale is carried out giving the complete details of the property as laid down under rule 59 (2) (4)

The Committee observes that the Rule is required to be amended to give actual identification of the property Therefore, site plan/map of the landed property should be got prepared

The Committee recommends that in view of the above observations this rule may be suitably amended The Departmental Representatives also agreed to look into the matter

Rule – 59

59 Proclamation before sale Section 76(1) (1) The sale officer shall cause a proclamation of the intended sale to be made in Form XII

(2) Such proclamation shall state the time and place of sale and specify as fairly and accurately as possible —

- (a) the property to be sold
 - (b) the revenue or rent payable in respect thereof
 - (c) the amount for the recovery of which the sale is intended to be made and
 - (d) every other thing which the sale officer considers material for a purchaser to know in order to judge the nature and value of the property
- (3) & (4) x x x x x x
- x x x x x x x

The Committee recommends that in sub rule (2) of Rule 59, after the words "state the", the word "date" may also be added to make the rule more clear

The Committee also recommends in sub rule (2) for the words "specify as fairly and accurately as possible", the words "give the following information in detail", be substituted to make the rule crystal clear

The Committee also recommends that in sub rule 2(d) for the word "every" substitute the word "any"

The Department in their written reply stated as under —

Change suggested is noted for inclusion

Rule 70

70 Receipt for payment of arrears Section 76(1) — Every person making a payment towards any money due for the recovery of which an application has been made under these rules shall be entitled to a receipt for the amount to be signed by the distrainer or the sale officer as the case may be. Such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made

The Committee recommends that the name and address of the person in whose name and or whose behalf the payment is to be received should also be mentioned in the receipt

The Department in their written reply stated as under —

Noted for inclusion

Rule 73

73 Creation of Co op Education Fund Sections 87 and 131(2)(xxv) Every Co operative society shall contribute such amount not exceeding two per cent as may be directed by the Registrar from time to time out of its net profits of the year to the Co op education fund to be administered by the State Co op Federation. The contribution payable by a cooperative society shall be charged on the funds of

the co operative society and shall be recoverable in the manner provided in Section 110 The State Cooperative Federation shall prepare regulations with the approval of the Registrar for the utilization and administration of the fund

The Committee recommends that the word "coop education" wherever occurring in these Rules be written in full form

The Committee would also like to know as to whether any regulation have been prepared for the utilization and administration of the Fund If so ten copies of the same may be sent for the perusal of the Committee

The Department in their written reply stated as under —

(i) Noted for inclusion

(ii) There are no such instructions for utilization of cooperative education fund It is provided to Harcofed to pursue its activities

In view of reply the Committee is of the view that some guidelines or regulations may be framed by the Department for proper working

Rule 75

75 Contribution to Guarantee Fund — (1) Where the Government decides to constitute a guarantee fund under sub section (1) of Section 88 of the Act for a Co operative Society or a class of Co-operative then such a society or class of societies shall not contribute to this fund less than two per cent of the remainder of the profits after contribution towards the reserve fund under section 87 of the Act

(2) Notwithstanding anything contained in the rules a guarantee fund shall not be utilized in the business of a society and shall be kept [in any Co operative Bank]

(3) A guarantee fund shall be utilized in the manner as may be specified by the Government from time to time

The Committee would like to know the terms & Conditions presently specified, if any for the utilization of Guarantee Fund?

The Committee would like to know as to whether besides Cooperative Education Fund Reserve Fund and Guarantee Fund any other Fund has been Constituted?

The Department in their written reply stated as under -

There are no terms & conditions presently specified for the utilization of the Guarantee Fund

Statutory funds created only under Section 87 of the Act

The Committee observes that some terms and conditions may be specified for the utilization of the Guarantee Fund

Rule 76 A.

"76A Transfer of assets and liabilities of sick societies by sale

(a) to (f)	x	x	x	x	x	
	x	x	x	x	x	x

(g) The proclamation of sale shall also be circulated/published by affixing notices in the office of Assistance Registrar s Deputy Registrar s the sick society and other relevant place/places which are directly or indirectly concerned with the functioning of the said sick society and will give at least Thirty days time to materialize the entire sale process Prior to two consecutive dates before the commencement of the date fixed for sale the sale officer shall also announce by beat of drum in the locality/village/town by assuring himself that the details of the said property are being brought to the notice of public at large through beat of drum in a fairly reasonable manner The proclamation shall state the time/place of sale and specify as fully and accurately as possible about the nature of the property to be sold and any encumbrance to which the property of the said sick societies is liable and shall keep necessary record thereof

(h) to (o)	x	x	x	x	x	
	x	x	x	x	x	x

The Committee also recommends that in line 10 and 11 in sub rule (g) for the words "specify as fully and accurately as possible about the nature" the words "complete particulars and specification" be substituted to make it property worded

The Department in their written reply stated as under

Noted for inclusion

Rule -77

77 Auditing of Accounts Section 131(2) (xiv) The Accounts of the cooperative Society shall be audited in such manner as the Registrar may specify from time to time

The Committee would like to know as to whether any manner has been prescribed for the auditing of Accounts?

The Department in their written reply stated as under —

In the standing orders procedure is laid down for conducting the audit of the society

The Committee is of the view that some procedure, as the Department thinks necessary or expedient may be prescribed in the Rule itself to avoid confusion

Rule 78

78 Maintenance of account books and other record Section 131(2) (xiv) - A cooperative Society or a class of cooperative societies shall maintain the account books and other record in such form and manner as may be specified by the Registrar by a general or special order from time to time

The Committee would like to know as to whether any manner has been prescribed for the maintenance of accounts books and other record

The Department in their written reply stated as under

Instructions in this regard are issued by Registrar from time & it is also statutory to maintain the books of record as per Section 47 of the Act

The Committee is of the view that some procedure may be prescribed/provided in the Rule to achieve the object in letter and spirit

Rule -82

82 Arbitration fee Section 131(xix) The Registrar shall have power to require the person referring a dispute under sub section (1) of Section 102 of deposit in advance the fee if any to be specified by the Registrar for deciding the dispute

(2) The Registrar may in such cases as he thinks fit order the payment of fee to the arbitrator

(3) No fee shall payable to an arbitrator till the dispute referred to him is finally decided

(4) The Registrar may in his discretion remit the whole or any part of the fees collected under sub rule (1) ”

The Committee would like to know as to whether any minimum and maximum Arbitration fee has been specified

The Department in their written reply stated as under

No, there is no fee prescribed

The Committee is of the view that some guidelines/instructions may be issued in this regard

Rule –83

83 Communication of date time and place of hearing Section 131(2) (xxix) - In an arbitration proceeding the Registrar or the arbitrator as the case may be shall communicate the date time and place of hearing the dispute to all the parties concerned

The Committee is of the view that the intimation regarding date, time and place of hearing should be communicated to the parties by the Registrar or Arbitrator by Registered post with acknowledgement due

Department in their written reply stated as under

Provision is already in the Act

The Committee is of the view that there is no harm to mention the mode of Communication in the Rule also

Rule –90

90 Approval by Registrar on orders of liquidator Section 131(2)(xxvii) - An order passed by the liquidator under clause (b) of sub section (2) of section 107 shall be submitted by him to the Registrar for approval The Registrar may modify such order or refer it back to the liquidator for further enquiry or action "

The Committee recommends that in line three of this rule after the words Registrar may , add the sign and words" after reasons to be recorded," to make the rule more clear

The Department in their written reply stated as under

Noted for inclusion

Rule –94

94 Distribution of assets Section 131(2)(xxvii) - The liquidator shall distribute the realized assets in such manner and in such priority as the Registrar may direct

The Committee recommends that in line two after the word "assets" add the words to the claimants" to make the rule more clear

The Department in their written reply accepted the proposal

Rule – 101

101 disposal of record Section 131 92) (xxvii) – All the books and records of a cooperative society whose registration has been cancelled may be destroyed under the orders of the Register after the expiry of a period of three years from the date of cancellation

The Committee recommends that in line two after the word "destroyed , the words "except relation to the cases pending in court' may be added to make the rule more comprehensive

The department in their written reply stated as under —
Suggestion accepted for inclusion

Rule – 102

102 Enforcement of charge Section 52 and 131 (1) (1) Without prejudice to any other mode of recovery provided in the Act or these Rules the Register or any person subordinate to him empowered by the Registrar in this behalf on the application on a Cooperative Society make an order directing the payment of any debt or outstanding demand due to the society by any member or (ex member) or deceased member by sale of the property or any interest (thereon) which is subject to a charge under section 52 or section 53

Provided that no order issued under this rule unless the member ex member or the nominee heir or legal representative of the deceased member has been served with a notice in the manner given in rule 103

(2) The procedure for sale of property or any interest thereon under sub rule (1) shall be the same as laid down in rule 104

The Committee observes that the proviso to this rule is not properly worded so, it may be recast properly

The department in their written reply stated as under

Placing the word “be” before the word “order” will make the rule clear

The Committee recommends that the Rule may be amended accordingly

Rule – 104

104 Procedure in execution of award etc – (1) Any decree holder requiring the provision of clause (b) of section 110 [to be applied shall apply] to the Recovery Officer within whose jurisdiction defaulter resides or the property of the defaulter is situated

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

5 In the seizure and sale of movable property the following procedure shall be observed

(a) The Sale Officer shall after giving previous notice to the [decree holder and the defaulter proceed] to the village or locality where the defaulter resides or the property to be distrained in situated and serve a demand notice to the defaulter if he is present If the amount due together with the expenses is not at once paid the sale officer shall make the distress and shall immediately deliver to the defaulter a list or inventory of the property distrained and in intimation of the place and day and hour at which the distrained property will be brought to sale if the amounts due are

not discharged by him. If the defaulter is absent the sale officer shall serve the demand notice on some adult member of his family or on his authorized agent or when such service cannot be effected shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix the list of the property attached on the usual place of resident of the defaulter endorsing thereon the place where the property may be lodged or kept and place day and hour of sale.

(b to n) and (6 to 10)

x	x	x	x	x	x	
	x	x	x	x	x	x

(11) In the attachment and sale without attachment of immovable property the following procedure shall be observed

(a to e) x	x	x	x	x	x	
	x	x	x	x	x	x

(f) Where any immovable property is sold under these rules the sale shall be subject to the prior encumbrances on the property if any. The decreeholder shall when the amount for the realization of which the sale is held exceeds Rs 100 furnish to the sale officer within such time as may be fixed by him or by the Recovery Officer an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold or in cases falling under the proviso to sub rule (10) prior to the date of application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer as the case may be. The sale shall be by public auction to the highest bidder provided that it shall be open to the Sale Officer to decline to accept highest bid where the price offered appears to be unduly low or for other reasons and provided also that the Recovery Officer or the Sale Officer may in his discretion adjourn the sale to a specified day and hour recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days a fresh proclamation under clause (e) shall be made unless the judgment debtor consents to waive it. The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village or locality where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer.

Provided that in case where an encumbrance certificate is not obtainable owing to the destruction of the connected records an affidavit from the village patwari

in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records shall be accepted in lieu of an encumbrance certificate

(g to k) and (12) to (26)

x	x	x	x	x	x	
	x	x	x	x	x	x

The Committee recommends that in line three of this sub rule (1) after the word 'resides', the word "or carries on business" may be added to make the rule more exhaustive

The Committee also recommends that in line one of sub rule (5) (a) for the word "previous", substitute the word 'prior' to make it properly worded

The Committee further recommends that in line one of sub rule (11) (e) (iv) for the word "every", substitute the word "any" to make the rule clause

The Committee further recommends that in sub rule (11) (f) in lines twenty ones and twenty two the words, 'The time and place of sale shall be fixed by the Recovery Officer', be omitted being superfluous

Rule – 105

105 Mode of Service Section 131 (2) (xxx) (1 to 5)

x	x	x	x	x	x	
	x	x	x	x	x	x

(6) Where the party to be summoned is a public officer or is the servant of a company or local authority or any institution the officer issuing the summons may if it appears that the summons may be most conveniently so served sent it by registered post pre-paid for acknowledgement for service on the party to be summoned to the head of the office in which he is employed together with the copy to be served endorsed on the original summons "

The Committee recommends that in line one of sub rule (6) for the word 'officer', substitute the word "servant" to make it specific

The Department in their written reply stated as under

Noted for change

Rule – 110

110 Special Rule Section 131 (2) (viii) Notwithstanding anything contained in these rules the procedure laid down in this rule shall apply to a society where the

Government has —

- (a) subscribed to the share capital of a Cooperative Society or
- (b) guaranteed the principal and interest in respect of debentures issued by the society or
- (c) guaranteed the principal and interest in respect of loan and advances too the society or
- (d) assisted the society with loan and grants by not less than one lac rupees
- (i) Atleast fifteen days clear notice specifying the date place time and agenda for a meeting of a general body committee and atleast seven days clear notice for a meeting of any smaller body set up by either of them whether convened by the Registrar The Chief Executive Officer or otherwise shall be given to all the members of the general body/ committee or smaller body as the case may be

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

(ii to iv) and (2)

x	x	x	x	x	x	
	x	x	x	x	x	x

The Committee is of the view that sub rule (i) of this rule seems to be vague and it may be clarified

FORMS/APPENDIX A'

The Committee went through the provisions of the Forms Appended with these rules as well as Appending A' regarding the rules for elections to the Committee under the Co-operative Societies. The Committee observes that there are several typographical/printing mistakes in the Appendix 'A' which requires to be rectified at the time of re printing of the rules

5 Scrutiny of the Haryana School Education Rules, 2003 framed under the Haryana School Education Act, 1995

The Committee scrutinized of the Haryana School Education Rules 2003 framed under the Haryana School Education Act 1995 and made the following observations/recommendations thereon

General observations/recommendations

The Committee observes that the State Government has recently framed the Haryana School Education Rules, 2003. These rules have been made applicable on private schools which were already recognized by the Board/State Government. There are so many requirements in these rules which are required to be complied with to continue recognition. The private schools which are already in existence will face practical difficulties in applying the provisions. The committee feels that either these rules should not be made applicable from retrospective effect on these schools which were already recognized by the Government/Board or should be given sufficient time of atleast four years to these schools so that they may fulfill the requirements/conditions as mentioned in the Rules. The Committee feels that such exemption in application of Rules will certainly help these private recognized non aided schools in sorting out their genuine difficulties. The Committee expects that the Government would take a sympathetic view as a welfare Government in sorting out the practical problems in educational sector.

The Committee recommends that the provisions of exemption may be made in the Rules as under

'Power to exempt – Notwithstanding any contained in these rules, the Government may by general or special order, after recording its reasons and subject to such conditions, if any, as it may impose, exempt any society/trust or institution or class of such societies/trust etc running schools from any of the provisions of these Rules "

The Department in their written reply stated as under

A meeting was held under the Chairmanship of FCEL on 26-8-2003 with the representatives of different association of private schools as per their demand it was decided that the existing school would have to fulfil the requirements under the rules within 3 years instead of 1 year. The amendment to this effect is under process.

In view of the recommendations of the Committee the saving clause in the existing rules will be incorporated.

The Departmental Representative at the time of oral examination assured the Committee to look into the matter accordingly and hardships would be removed to a great extent as per decision of the Government.

Rule 29

Opening
and
establish
ment of
new school
in the State
Sections 3
and 24 (2)
(a) (c)

29 (1) Every individual association of individuals society or trust desirous to establish a new school shall apply to the appropriate authority in Form 1 along with demand draft of Rs 1000/ for Primary Rs 2500/ for Middle Rs 5000/ for High and Rs 10000/- for Senior Secondary school as processing fee in favour of Director expressing their intention to establish such school

(2) The applicant in addition to the application referred to in sub rule (1) shall give an undertaking containing the following particulars namely

- (a) the area in which the new school is proposed to be established and the approximate number of students likely to be enrolled in that school
- (b) the stage of education intended to be imparted in the new school
- (c) the particulars including measurements of the building or other structures in which the school is proposed to be run
- (d) the financial resources from which the expenses for the establishment and running of the school shall be met
- (e) the composition of the managing committee of the proposed new school until the new school is recognized and a new managing committee is constituted in accordance with the scheme of managing committee made under these rules
- (f) the proposed procedure until its recognition under these rules for the selection of the head of the school and other teachers and non teaching staff and the minimum qualifications for their recruitment
- (g) the proposed salary of the staff to be notified
- (h) Admission tuition and other fees and funds which would be levied and collected until its recognition under these rules from the student of the proposed new school
- (i) Any other facility which is proposed to be provided for the students of the proposed new school

(3) The Department may after considering the particulars specified in the application sub rule (1) and after making such inquiries as deemed fit inform the person or persons by whom the application was given to him whether or not opening of the proposed new school would be in the public interest within 90 days from the receipt of this application. If no decision is taken within such period it will be deemed to have been

permitted. However, such permission does not enable school to get recognition automatically for which the applicant shall have to fulfill all the required conditions.

The Committee observes that for opening a new school now so many conditions have been imposed which will create unnecessary hurdles for the unemployed educationists. The committee recommends that the conditions/requirements may be suitably amended/relaxed/waived to easily to achieve the purpose.

The Department in their written reply stated as under

The very purpose of this rule is that the managements who desire to open school should have prior knowledge of requirement of the rules in regard to land, building and other infrastructure necessary for recognition. Because it was experienced earlier that after construction of building the managements apply for recognition and Department had to refuse recognition because of the lack of infrastructure requirement.

After discussing the matter with the departmental representatives, the Committee of the view that the Government/Department is seized of the matter and expects that further positive steps will be taken to mitigate the practical hardships in opening new schools and to achieve the objectives in letter and spirit.

RECOGNITION OF SCHOOLS

30 (1) No private school shall be recognized or continue to be recognized by the appropriate authority unless the school fulfils the following conditions, namely —

Conditions
for recognit
ion Section
3, 4 and 24
(2) (d) (e)

- (a) (i) the school is run by an individual, firm, society or trust and is managed in accordance with a scheme of management made under these rules. The firm, society or trust should be registered under the Societies Registration Act, 1860 (21 of 1860);
- (ii) the prior approval from the Director for opening of new school has been obtained and copy of such approval is attached with the form of application as referred to rule 29;
- (iii) no admission beyond class-III shall be made by any school before the sanction of its recognition or in its anticipation;
- (iv) that all the teachers are suitably trained with minimum qualifications as per Appendix A and are academically and otherwise suitable to teach in these schools and the rate of salary being paid to the staff as notified.

- (v) that the terms on which the teachers are engaged are reflected in the written agreement between the managing committee and each teacher as per Appendix B and the same are attached
- (vi) that the school follows approved courses of instructions as provided in these rules
- (vii) that the admission to the school is open to all without any discrimination based on religion caste race place of birth or any other whimsical or for extraneous except reasons except in the case of minority schools however which shall maintain transparency in admissions
- (viii) that the managing committee observes the provisions of these rules
- (ix) that minimum norms for land building in which school is carried on are in accordance with sub rule 30 (b)
- (x) that the managing committee has submitted the owner's deed of the land – school building as well as play ground in the name of individual/society/trust from the revenue department
- (xi) That the school building is properly planned ventilated and spacious as per architectural norms approved by district town planner/municipality/registered architect
- (xii) That a building safety certificate has been obtained from Public Works Department/municipality/registered engineer
- (xiii) That if there is any business premises in any part of the building in which school is run the portion in which the school is run is separate from such business premises A certificate to this effect should be attached with the application form
- (xiv) That furniture and equipment are adequate and suitable for an educational institution
- (xv) That the salaries of teachers and non teaching staff are paid regularly
- (xvi) That the pledge money as per sub rule 30 (2) has been deposited in the name of District Education Officer/District Primary Education Officer concerned (by designation)
- (xvii) That the school buildings or other structures or the grounds are not used during the day or night for commercial or residential purposes (except separate residence of any employee of the school away from academic wing) or for communal political or non educational activity of any kind whatsoever
- (xviii) That there is no thoroughfare or public passage through any part of the school premises
- (xix) That the sanitary arrangements at the school are adequate and are kept in good order

- (xx) That drinking water arrangements are adequate
- (xxi) That there is a provision of electricity fitting and electric fans in each classroom
- (xxii) That no teacher or student of the school is compelled to attend a class in which religious instruction is given or take part in any religious activity No teacher or student absents himself from religious instruction or religious activity is made to suffer any disability on that account and student is refused admission to the school because exemption from attendance at religious exercises or religious instruction has been claimed by him or his parent or guardians
Provided this provision shall not be applicable to minority school
- (xxiii) That there should be no complaint/inquiry pending against school building/managing committee seeking recognition An undertaking to this effect that land/building is free from litigation shall be submitted
- (xxiv) That facilities are provided for teaching of language in accordance with the three language formula adopted by the Government
- (xxv) That the school is open to inspection by any officer authorized by appropriate authority Director
- (xxvi) That the school furnishes such reports and information as may be required by the Director from time to time and complies with such instructions of the appropriate authority or the Director as may be issued to ensure the continued fulfillment of the condition of recognition or the removal of deficiencies in the working of the school
- (xxvii) That the school shall maintain all records as per rule 28 All records of the school are open to inspection by any officer authorized by the Director or the appropriate authority at any time and the school furnishes such information as may be necessary to enable the Government or the Director to discharge its or his obligations to the affiliated board as the case may be

(b) Minimum norms for land and buildings

(i) Land

Rural	Urban/Controlled areas	
Primary School	0.5 acre	0.5 acre
Middle School	1.5 acre	1 acre
Secondary School	2.5 acre	2 acre
Senior Secondary School	2.5 acre	2 acre

(i) Building —

- (a) Classroom Minimum size – 24 x18 with verandah of 10 width Height of classroom should be atleast 10
- (b) Number of Classrooms will be equal to the number of sections in the school
- (c) Maximum number of students in a section – 50
- (d) The school shall provide the following
 - * Toilet and urinals (staff boys and separate for girls at far off distance)
 - * Drinking water facility
 - * Open space for morning assembly
 - * Boundary Wall
- (e) in case of Middle High and Senior Secondary School the following rooms in addition to class rooms shall be provided
 - * Room for head of the school/office
 - * Library room
 - * Laboratory for practical subject

Note the school building having more than one storey should provide one ramp and one staircase of atleast 6' width

- (2) Pledge money atleast equal to six months basic pay of the staff but in no case less than the amount as mentioned below shall be deposited in the name of District Education Officer/District Primary Education Officer concerned (by designatin) as the case may be -

(a) Primary stage I-V Classes	R s
50 000/	
(b) Middle Stage VI-VIII Classes	R s
1 00 000/	
(c) Secondary Stage IX to X Classes	R s
1 50 000/	
(d) Senior Secondary Stage	Rs
2 00 000/-XI to XII Classes	

- (3) **Every private school should provide the following facilities —**

(i) Physical Education

Suitable playground for the purposes of games sports and materials for such games and sports

(ii) Laboratory work

Each school shall have a well equipped laboratory for each practical subject with at least five sets of equipments for each practical as per syllabus

(iii) Workshop practice

Well equipped workshops shall be provided by school as per requirement

(iv) Co-curricular activities

As many co curricular activities as may be possible so as to give to every student an opportunity of participating in one or more of the following activities namely

- (a) debates
- (b) recitation or elocution
- (c) dramatics
- (d) music (including folk songs) dancing (including folk dances)
- (e) hobbies of different types
- (f) mock/youth parliament
- (g) house system
- (h) prefectorial system
- (i) class competition
- (j) National Cadet Corps/National Social Service
- (k) Scouts and guides/cubes and bulbul
- (l) Science clubs
- (m) Eco labs/clubs
- (n) Activities providing for social services and
- (o) Any other co curricular activity

The Committee recommends that the condition of minimum norms for land and building in which school is already in existence and recognition was given by the Government before the enforcement of the Act/Rules may be relaxed/waived or amended to avoid practical difficulties/hardships

The Committee observes that there may be certain recognized schools in the Stage which are functioning in the cities/towns where sufficient land for play ground may not be easily available now. The committee feels that either the Govt /local authority should allow these schools to use vacant land of the govt /local authority in lieu of some rent or grounds of police line for two/three months for the purposes of games or the Government should allot land at reasonable rates to overcome this practical difficulty

The committee further recommends that the provisions of pledge money is also required to be suitably amended as the amount is on higher side

The Departmental in their written reply stated as under -

The necessary amendments under rule 30 has been proposed as under

- I A Private school can be run in a rented building on lease hold basis with minimum of 20 years irrevocable lease deed provided such buildings fulfill the norms of land and building as prescribed under these rules
- II Two or more adjoining schools may share a common play ground provided such play ground is owned by either of the schools or it is taken on a lease hold basis under an irrevocable lease deed for a minimum period of 20 years
- III The norms for size of class rooms and number of class rooms for the existing permanently recognized school shall be the same as used to be prescribed by the Education Department for various categories in Govt Schools before notification of the Rules 2003
- IV The provision to deposit pledge money has been deleted
The above amendments in the rules is under process

Rule 31

Procedure
for applic-
ation sect
ions 3 4
and 24 (2)
(d)

31 (1) Every private school seeking recognition shall make an application in Form II To the appropriate authority along with Rs 1000/- for Primary school Rs 2500/- for Middle school Rs 5000/- for High School and Rs 10000/ for Senior Secondary School as processing fee in the form of Demand Draft in favour of Director Such application shall either be delivered to the appropriate authority through any individual or sent to that authority by a registered post acknowledgement due ten months before starting of academic session i e before 30th June to 30 September of preceding year The appropriate authority granting recognition shall inform the managing committee by 30th December of preceding year

(2) The concerned District Education Officer/District Primary Education Officer shall forward the file relating to the recognition along with all documents to the appropriate authority

(3) If recognition is refused managing committee may file an appeal against it to appellate authority within 30 days from the date of communication to it of such refusal The appellate authority shall decide the case and inform the managing committee within two months The decision of the appellate authority shall be final

(4) The detailed procedure regarding dealing of the application for recognition shall be issued by the Government separately

The Committee recommends that the detailed procedure regarding dealing of the application should also be mentioned in these rules itself to avoid any confusion in the matter

The Department in their written reply as well as at the time of examination stated as under —

The procedure of dealing recognition cases will be issued in due course

Rule 34

34 (1) The appropriate authority to grant permanent recognition to the schools which seek recognition is as under -

Class	Appropriate authority	Competent authority to grant recognition to schools sections 3 and 24 (2) (d)
I V	District Primary Education Officer	
I VIII (I VIII or VI to VIII)	District Education Officer	
IX (VI X or VIII X) Director	Joint Director Head Quarter Office of Secondary Education	
I XII (VI XII or VIII XII or X-XII)	Director Secondary Education	

(2) There shall be a committee for processing and recommending the cases of recognition received from the appropriate authority consisting of following members namely —

For I VIII class

(a) Additional Deputy Commissioner	Chairman
(b) Sub Divisional Officer (Civil)	Member
(c) District Education Officer/District Primary Education Officer	Member Secretary
(d) Executive Engineer of the Public Works Department Or his representative not below the rank of sub Divisional Engineer	Member

For I VII

(a) Additional Deputy Commissioner	Chairman
(b) Representative of Director	Member Secretary
(c) Sub Divisional Officer (Civil)	Member
(d) District Education Officer	Member
(e) Executive Engineer of the Public Works Department Or his representative not below the rank of Sub Divisional Engineer	Member

(3) The committee constituted above shall screen the cases of recognition and give their recommendation after inspecting the schools to the appropriate authority within thirty days on receipt of the case

(4) The appropriate authority shall take decision on the recommendation of the committee to grant recognition accordingly

NOTE

- 1 The schools established under the provisions of these rules can apply for recognition and the permanent recognition shall be granted in the first instance
- 2 In case of recognition of school stagewise recognition shall be considered only i.e. if the school has got permanent recognition for primary school (I to V) only then it can apply for the recognition of middle school (VI VIII) and soon
- 3 If a school is in a position to provide infrastructural facilities upto any stage in the first instance the school may be considered for recognition to that stage and not stage wise by the appropriate authority

The Committee observes that from the Committee, for processing and recommending the cases of recognition received from the appropriate authority the top bureaucrats namely, Additional Deputy Commissioner and Sub Divisional Officer (Civil) should be excluded as they have so many other multifarious duties in the administration so they can not devote much time for such petty procedural work. The committee recommends that in their places some departmental representatives should be nominated/deputed for the said purpose

This matter was discussed in the meeting of cabinet sub committee held under the Chairmanship Hon'ble Finance Minister. As per recommendations of the Committee the inspection committee for class I to VIII will form the following members -

Sub Divisional Officer ©	Chairman
District Education Officer	Member Secretary
XEN PWD B&R or his representative	Member
Not below the rank of SDE	

It is felt that Constitution of the committee under the Chairmanship of ADC and SDO © in keeping with the spirit of decentralization

The Committee is of the view that in place of top bureaucrats departmental representatives may devote more time to look into the matter

properly as the administrative officers cannot spare much time for the above usual work

The Committee is also of the view that the Departmental may also consider other necessary amendments in the Rules which are essential for the betterment in the Educational sphere

© 2004

Published under the authority of the Haryana Vidhan Sabha and Printed by the
Controller Printing and Stationary Haryana Chandigarh