

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

1972-73

FIFTH REPORT



HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
MARCH, 1973

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**COMPOSITION OF THE COMMITTEE
(1972-73)**

Chairman —

Rao Abhai Singh

Members—

Shri Gulab Singh Jain

Shri Hari Singh Nalwa

* Shri Harmohinder Singh Chatha

*Ch. Sarup Singh

Ch. Partap Singh Daulta

Ch. Phool Chand (Mullana)

Ch. Ram Lal

Advocate General.

Secretariat—

Shri Raj Kumar Malhotra, Secretary.

Shri Raj Krishan, Deputy Secretary.

*Shri Harmohinder Singh Chatha resigned from the Membership of the Committee with effect from the 11th October, 1972, on his appointment as Minister of State, and in his place Chaudhri Sarup Singh, M.L.A., was nominated by the Speaker on the 11th October, 1972, *vide* notification No. HVS-LA (Sub-Leg) 71-50, dated the 13th October, 1972.

INTRODUCTION

1. I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to submit the report on their behalf, present their Fifth Report.

2. The Committee, consisting of eight Members including Advocate General, was nominated by the Speaker, Haryana Vidhan Sabha, under sub-rule (1) of Rule 265-B of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly on the 15th May, 1972- *vide* notification No. HVS-LA (Sub-Leg)-22/72/17, dated the 15th May, 1972. One Member, Shri Harmohinder Singh Chatha, resigned from the Membership of the Committee with effect from the 11th October, 1972, on his appointment as Minister of State and in his place Chaudhri Sarup Singh, M.L.A., was nominated by the Speaker, Haryana Vidhan Sabha, on the 11th October, 1972—*vide* notification No. HVS-LA(Sub-Leg)-72/50, dated the 13th October, 1972.

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

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

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

CHANDIGARH :
The 28th February, 1973.

ABHAI SINGH,
Chairman.

REPORT

1 The Committee on Subordinate Legislation for the year 1972-73, consisting of eight Members including the Chairman and the Advocate-General was nominated by the Speaker, Haryana Vidhan Sabha, under sub-rule (1) of Rule 265-B of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly on the 15th May, 1972, *vide* notification No HVS-LA(Sub-Leg) -22/72/17, dated the 15th May, 1972

2 Rao Abhai Singh was appointed Chairman of the Committee.

3 Shri Harmohinder Singh Chatha resigned from the membership of the Committee with effect from the 11th October, 1972, on his appointment as Minister of State and in his place Chaudhri Sarup Singh was nominated.

4 The Committee held 20 sittings during their term. Before scrutinising the Rules and Regulations framed under certain Acts, the Committee discussed its scope and functions and the procedure for scrutinising the rules, regulation, etc

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in Rules 265-A, 265-I and 265-J of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly, as applicable to the Haryana Vidhan Sabha. Rule 265-A enjoins upon the Committee to "scrutinise and report to the House whether powers to make regulations, rules, sub-rules, bye-laws, etc conferred by the Constitution or delegated by Legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker" Further Rule 265-I lays down that while examining any such set of rules, etc., the Committee shall, in particular, consider :—

- (i) Whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made ;
- (ii) Whether it contains matters which in the opinion of the Committee should more properly be dealt within an Act of the Legislature ;
- (iii) Whether it contains imposition of any tax ;
- (iv) Whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power ,
- (v) Whether it involves expenditure from the Consolidated Fund of the State or the Public Revenue ;
- (vi) Whether it directly or indirectly bars the jurisdiction of the courts ,
- (vii) Whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made ;

- (viii) Whether there appears to have been unjustifiable delay in the publication or laying it before Legislature ;
- (ix) Whether for any reason its form or purport calls for any elucidation.

Rule 265-J lays down as follows :—

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

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

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

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

Some of the Parliamentary Conventions established in connection with the scrutiny of Rules, Regulations, by laws, etc. are reproduced below :—

- (1) The Committee would scrutinise only such rules as had already been framed and published in the Gazettee and not the draft rules.
- (2) The Committee should see that rules are framed under an Act as early as possible after the commencement of the Act and in no case this period should exceed six months. If the Rules are not framed within six months, the Committee may ask the Department about the reasons for the delay in framing the Rules. This is only by convention.
- (3) Executive should ensure that no rule goes beyond the power delegated by Legislature. If the Rules go beyond the power

delegated by Legislature, the Committee may examine the same and report to the House

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

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

(i) Short title, year, preamble and serially numbering of Rules.

The Committee observe that all the set of rules framed under an Act or Constitution should bear the Short title, the year in which the rules were framed, preamble to show under what provisions of the Act the rules have been framed and rules should also be serially and centrally numbered.

(ii) Reference of Section under which Rules are framed.

The function of the Committee on Subordinate Legislation is to scrutinise and report to the House whether the powers given under an Act or conferred by the Constitution or delegated by Legislature are properly exercised.

The Committee observe that keeping in view the discharging of its functions promptly and smoothly, the reference of relevant sections of the Act, under which the rules are framed, should be indicated in the margin of each rule so that the Committee may be able to see whether a particular rule does not travel beyond the scope of the provisions of the Act in pursuance of which it is made.

The Committee recommend that whenever rules are supplied to them the authority or the relevant section under which a particular rule has been framed should also be mentioned in the margin of each rule and, if necessary, the rules may be got republished for the sake of reference of the Committee in particular and for the convenience of the Public in general.

(iii) Delay in framing the Rules.

The Committee note with regret that the Government framed certain rules, regulations etc. long after the relevant Acts had been enacted. In this connection, a few examples may be quoted. The Punjab Khadi and Village Industries Board Act was enacted in the year 1955, whereas the Punjab Khadi and Village Industries Board Rules were framed in the year 1957 and the Punjab Khadi and Village Industries Board Regulations were framed in the year 1958.

The Committee observe that it is not understood how in the absence of rules, the purposes of the Act could exactly be carried out and are of the view that the delay in framing the Rules actually defeats the very object of the Act under which they are framed.

In this connection, the Committee in para 10 of their Report for the year 1959-60, observed "that in a number of cases rules have been framed long after the promulgation of the relevant Acts and are, therefore, strongly of the view that it is absolutely essential that rules under the Act should be framed as soon as possible after the promulgation of the Acts. In other words, the time lag between the promulgation of the Acts and framing and enforcement of the Rules made thereunder should be as little as possible. It has further been observed that in some cases delay in framing the rules had actually defeated to some extent the object of the Act under which they have been framed."

The Committee for the year 1969-70, accordingly recommended that a procedure should be evolved by the Administrative Departments by which the delay in framing, publication and enforcement of rules may be minimised. This committee also reiterate the said recommendation.

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

The Committee also reiterate the recommendation made earlier that ordinarily the rules should be framed under an Act as early as possible after the commencement of the Act and in no case this period should exceed six months. If no rules are framed within the said period after the commencement of the Act, the Department should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the Rules within that period.

(iv) Supply of Printed and Corrected Copies of the Rules.

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

The Committee reiterate their recommendations made earlier that copies of the Rules should be supplied to them by the Department concerned in the form in which the rules are published/republished in the Government Gazette. If, however, it is not possible for the Departments to do so, it should be ensured that the copies of the Rules are up-to-date, meticulously prepared and duly corrected before supplying them to the Committee.

The Committee note that in the text of some set of the rules the word "Punjab" in place of the word "Haryana" and the words "Parts A State" in place of "State" had been used. The Committee observe that such redundant words should be substituted by the proper terminology words to suit the changed circumstances.

(v) Certificate regarding supply of copies of the Rules corrected up-to-date.

Some of the departments supplied copies of the rules which were not corrected and amended up-to-date. The Committee observed that in the absence of correct and up-to-date amended copies of the Act, much time of the Committee is wasted and it affects the smooth working of the Committee. This also results in avoidable wastage of valuable time and energy of the Committee.

The Committee recommend that the department concerned should supply to the Committee a certificate alongwith each set of rules and Acts that these are corrected and amended up-to-date.

(vi) Supply of copies of Rules/Regulations, etc. to the Committee.

The Committee observed that most of the departments did not supply the copies of the rules till the finalization of their Report. This obviously hampered the work entrusted to the Committee. Sometimes, the departmental representatives state that the copies of the rules or the information sent for, by the Committee are not available with them, because original file containing those rules or information were left in the erstwhile State of Punjab. The Committee observe that this naturally affects the working of the department. It is not understood as to how the work of the department is carried on in the absence of the Rules etc. This incidentally means that the Rules are not available even to the public. The Committee, therefore, recommend that the Government Departments should furnish the copies of the rules at their earliest.

(vii) Implementation of recommendations of the Committee.

The Committee observe with great regret that the Work regarding the implementation of recommendations made by the Committee in their previous reports is very slow. Some of the Departments despite repeated reminders have not even intimated as to what action has so far been taken by them in regard to the implementation of the recommendations of the Committee.

It is felt that the very object with which the Committee was constituted would be defeated if their recommendations are either not implemented at all or are implemented after a long time.

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

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

Serial No.	Reference to Paragraph and Page No of the Report.	Rule No.	Observation/Recommendation of the Committee.	Action taken by the Government.
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their earlier reports in the following proforma :—

***QUARTERLY STATEMENT SHOWING THE IMPLEMENTATION OF RECOMMENDATIONS/OF THE COMMITTEE ON SUBORDINATE LEGISLATION.**

*1st quarterly—1st January to 31st March.

*2nd quarterly—1st April to 30th June.

*3rd quarterly—1st July to 30th September.

*4th quarterly—1st October to 31st December.

SCRUTINY OF RULES

The Committee scrutinised the following rules, regulations, etc :—

- (i) The Punjab Registration of Money-lenders Rules, 1939, framed under the Punjab Registration of Money-lenders Act, 1938.
- (ii) The Punjab Warehouses Rules, 1958, framed under the Punjab Warehouses Act, 1957.
- (iii) Rules framed under the Restriction of Habitual Offenders (Punjab) Act, 1918.
- (iv) The Punjab Industrial Housing Rules, 1956, framed under the Punjab Industrial Housing Act, 1956.
- (v) The Punjab Khadi and Village and Industries Board Rules, 1957 and the Punjab Khadi and Village Industries Board Regulations, 1958, framed under the Punjab Khadi and Village Industries Board Act, 1955
- (vi) The Haryana Cattle Fairs Rules, 1970 framed under the Haryana Cattle Fairs Act, 1970.

THE PUNJAB REGISTRATION OF MONEY-LENDERS RULES, 1939, FRAMED UNDER THE PUNJAB REGISTRATION OF MONEY-LENDERS ACT, 1938.

Rule 2.

- "2. Application for registration under section 4 of the Act shall be made, in the annexed form A, to the Collector of the District where the applicant has his residence, or, if he has no residence in Punjab, where he has his principal place of business in the State".

The Committee observed that in rule 2 and in subsequent provisions of the rules, for the word "Punjab" wherever occurring, substitute "Haryana".

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

The Committee recommend that in rules 2 and 19(1) for the word "Punjab" the word "Haryana" be substituted.

Rule 3.

- "3. Application for registration shall bear the court fee prescribed in Article 1(b) of Schedule II of the Court Fees Act, 1870, and shall be signed and verified by the applicant in the manner provided in Order VI, Rules 14 and 15 of the First Schedule to the Code of Civil Procedure for plants in suits."

The Committee observed that in rules 3 and 17, after the words "Code of Civil Procedure" the year in which the said Code was enacted be clearly mentioned in the rules.

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

The Committee recommend that in rules 3 and 17, after the words "Code of Civil Procedure", the sign and figures, "1898", be inserted.

Rule 5.

- "5. Every application form, registration shall be presented by the applicant personally or through a duly authorised agent; Provided that where there are more applicants than one, any one of them may present it."

The Committee recommend that in rule 5, for "from" the word "for" be substituted.

Rule 7.

- "7. On registration of the applicant's named under the preceding rule the Collector shall issue a certificate to him in form B annexed".

The Committee recommend that in rule 7, for the word "named" the word "name" be substituted.

Rule 14.

- "14. In application for the renewal of the licence shall be made not less than one month before its expiry, provided that the Collector may for sufficient reasons condone a delay not exceeding one month on payment of a penalty of two rupees."

The Committee observed that after the words "sufficient reasons" the words "recorded in writing" be inserted so that the Collector may for sufficient reasons recorded in writing condone a delay.

The Department in their written reply stated that Government had no objection to this proposal.

Accordingly, the Committee recommend that after the words "sufficient reasons" the words "recorded in writing," be inserted

Rule 20.

"20. (1) Every appeal against an order of a Collector under section 6 of the Act shall be preferred in the form of a memorandum stamped as required under Article 1 (c) of Schedule II of the Court Fees Act, 1870, and shall be accompanied by an attested copy of the order appealed against.

(2)	:	*	*	*	*	*
(3)	*	*	.	*	*	*
(5)	*	*	*	*	*	*

The Committee observed that between the words "memorandum" and "stamped" the words "duly verified and", be inserted.

The Department in their written reply stated that the Government had no objection to this proposal

Accordingly, the Committee recommend that between the words "memorandum" and "Stamped" the words "duly verified and," be inserted.

The Committee observed that the Punjab Registration of Money-lenders Rules, 1939 be republished after carrying out the mistakes/amendments pointed out by the Committee.

Act.

The Committee was of the view that the words "any Part A State or Part C State" occurring in Section 2(1) and Section 2(4) be suitably amended.

The Committee was further of the view that in Section 2(8) (v) for words and figure "Indian Companies Act, 1913", the title of the Act which repealed this Act may be substituted.

The Department agreed with the views of the Committee

THE PUNJAB WAREHOUSES RULES 1958, FRAMED UNDER THE PUNJAB WAREHOUSES ACT, 1957

The Committee, after scrutinising the rules and the written replies to the observations of the Committee furnished by the Department, made the following further observations/recommendations —

General.

The Committee enquired whether the Department consulted the relevant Punjab Government Gazette, in which the Punjab Warehouses Rules, 1958, were published, and informed the Committee of the date of their publication.

The Departmental representative stated that this would be done and the Committee informed accordingly.

Rule 2(c)

"2(c) "Non-Negotiable receipt" means a receipt on the production of which the goods specified therein shall be delivered to the person who tendered the goods to the warehouseman for storage"

The Committee discussed the matter with the departmental representative and decided that the words "Non-Negotiable receipt" wherever occurring in the rules be substituted by the words "Negotiable receipt".

The Committee recommend that the words "non-negotiable receipt" occurring in rule 2(c) and in subsequent rules wherever occurring be substituted by the words "negotiable receipt"

"2(e) "Year" means the calendar year commencing from the first day of January."

The Committee discussed the matter with the departmental representative and decided that the definition of the "Year" be as follows :—

'Year' means a financial year commencing from the first day of April".

The Committee recommend that sub-rule 2 (c) may be amended accordingly.

Rule 5(i)

"5(i) A license under sub-section (2) of section 4 of the Act shall be granted in form III, subject to the following conditions,—

(i) every warehouseman shall maintain in respect of each warehouse for which a license has been granted, net assets liable for the payment of any indebtedness arising from the conduct of a warehouse to the extent of at least Rs. 5/- per 100 cft. storage capacity of the licensed warehouse. Such assets may consist of movable or immovable property. These assets shall be suitably insured against any loss or damage according to the directions issued from time to time by the Registrar in this behalf".

The Committee observed that this sub-rule was un-intelligible as some words/sentences appeared to be missing. It would like to know the correct wording of the sub-rule.

The Department in their written reply intimated the correct wording as under :—

"Every Warehouseman shall maintain in respect of each warehouse for which a license has been granted, net assets liable for the payment of any indebtedness arising from the conduct of a warehouse to the extent of at least Rs 5 for 100 cft storage capacity of the licensed warehouse. Such assets may consist of movable or immovable property. These assets be suitably insured against any loss or damage according

to the directions issued from time to time by the Registrar, in this behalf".

5 The Committee accepted the above reply given by the Department in respect of this Sub-rule, and also desired that the word "for" occurring in line 4 of the said sub-rule of the written reply be substituted by the word "per" and the word "assts" in line 7 be corrected as "assets"

Rule 5(iii)

"5(iii) Whenever any warehouseman has become incompetent or has ceased to conduct the business of a warehouse, he shall inform the authority granting the license immediately "

6 The Committee felt that the word "incompetent" used in this sub-rule did not give the correct intention. Therefore, this word should be substituted by a proper and correct word so that even a lay man could understand it correctly.

The Department in their written reply stated that the word "incompetent" may be substituted by the words "incapable of conducting".

The Committee accepted the suggestion of the Department and recommend that this sub-rule be amended accordingly.

Rule 7(2)

"7(2) The security furnished under sub-rule (1) shall be liable to forfeiture in part or in whole by the Registrar if he is satisfied that the warehouseman was violated any of the provisions of the Act or these rules "

7 The Committee recommend that in line 3, for the word "was" substitute the word "has", and the following proviso be added at the end of this sub-rule .—

"Provided that warehouseman shall be given an opportunity of being heard before his security is forfeited "

The Department in their written reply agreed to these proposals of the Committee

Rule 8 and 9

"8. The names and locations of the warehouses and names and addresses of the warehousemen licensed under the Act, as on the 1st day of January every year shall be published in the Punjab Government Gazette before the 10th of February of the same year.

9. The orders passed under sub-section (2) of section 9 of the Act, by the prescribed authority for the suspension, revocation or cancellation of a license shall take effect from the date of the communication of such orders. All cases of suspension, revocation or cancellation of the licenses shall be published in the Punjab Government Gazette."

4 The Committee recommend that for the words "Punjab Government Gazette" occurring in these rules be substituted by the words "Haryana Government Gazette"

The Department in their written reply agreed to it.

Rule 15

"15 On receipt of application, the fact that the receipt is lost shall be published by the warehouseman, at least in one local newspaper giving one month's clear notice of the issue of a duplicate receipt thereof. The expenses in this regard shall be borne by the applicant".

9 The Committee recommend that for the words "Local news paper" occurring in lines 2-3 substitute "Daily Hindi Newspaper" having wide circulation in that locality".

The Department in their written reply agreed to it.

Rule 18

"18 Every depositor shall supply copies under his signatures of any endorsement regarding transfer, mortgage or encumbrance of goods as may be recorded on the warehouse receipt within 48 hours from making such endorsement".

10 The Committee were of the view that some form should be prescribed for making compliance of this rule and suggested the following form for the purpose —

Serial No	Date of Receipt	Goods described in the receipt	Name of the party in whose favour the endorsement has been made	Actual wording of the endorsement.	Date on which endorsement has been made.	Name of the person making the endorsement
1	2	3	4	5	6	7

The Department in their written reply stated that the above suggested form may be adopted with the proviso that warehousing corporations set up as a result of the Parliamentary enactment called "Warehousing Corporation Act, 1962" are exempted.

The Committee agreed to the proposal of the Department and recommend that the form be prescribed accordingly

Rule 21

The Committee were of the view that a provision should be added in this rule that a warehouseman shall maintain a fire extinguisher at his own cost.

The Department in their written reply agreed to it

Rule 23 (1)

"23 (1) Every Warehouseman shall insure goods stored in his warehouse against loss or damage by fire, flood, theft and burglary, for an amount not less than the market value of the goods on the date on which they were deposited in the warehouse, and the insurance shall be made with a company which is on the list of companies approved for this purpose by the Registrar".

12 The Committee was of the opinion that for the words "a company which is on the list of companies approved for this purpose by the Registrar", be substituted by the words "a scheduled Insurance Company".

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

The Committee recommend that this rule be amended accordingly.

Rule 23 (3)

"23 (3). In the said rules for rule 24, the following shall be substituted"

13 The Committee recommend that this sub-rule may be deleted.

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

Rule 25.

"25 Every warehouseman shall keep the goods stored in his warehouse in an orderly manner so as to permit easy access to allots and to facilitate inspecting, sampling, counting and identification and each lot".

14 The Committee recommend that in line 4 for the word "and" the word "of" be substituted.

The Department in their written reply agreed to it.

Rule 30.

"30. All goods for storage shall be delivered at the warehouse, properly marked and packed for handling. The depositor shall furnish at or prior to such delivery a manifest showing marks, brands or sizes to be kept and accounted for separately and the class of storage desired otherwise the goods may be stored in bylk or asserted lots in the discretion of the warehouseman and will be charged for accordingly".

15 The Committee recommend that in line 6, for the words "bylk" and "asserted" substituted the word "bulk" and assorted".

The Department in their written reply agreed to it.

Rule 39.

"39. Any person desiring himself to be licensed as weigher, sampler or classifier shall give an application in Form XI to the Registrar. Each such application shall be accompanied by a fee of Rs. 5. The Registrar shall, after making such inquiries as he may consider necessary, issue a licence on execution of any agreement by the applicant in such forms as he may direct. The licence shall be issued in Form XII, subject to the following conditions :—

- (1) No weigher, sampler or classifier will be licensed unless he is literate and has at least two years experience in such line of work in a firm or a market committee established under the Punjab Agricultural Produce Market Act, 1939".

* * * * *

(6) The Committee recommend that in this rule for the words and figures "The Punjab Agricultural Produce Markets Act, 1939" substitute "The Punjab Agricultural Produce Markets Act, 1961", because the Act of 1939 was repealed in the year 1961.

The Department in their written reply agreed to it.

Rule 44(4)

"44(4) In the conduct of proceedings before them the Board of arbitrators shall follow the procedure prescribed in the India Arbitration Act, 1940. Every award passed by the Board shall, if not carried out, be executed in the same manner as a decree of a civil court".

(7) The Committee observed that reference of the title and the year of "The India Arbitration Act, 1940" seemed to be incorrect, which the Committee desired to be corrected.

The Department in their written reply stated that this would be done.

Rule 46.

"46. At least a week's notice shall be given for suspension, revocation, or cancellation of a licence under sub-section (1) of section 9 of the Act. The notice shall be sent by registered post. If the warehouseman fails to show cause within the specified time the prescribed authority may decide the matter without giving any further notice".

(8) The Committee recommend that after the word "Registered post" insert "with acknowledgement due".

The Department in their written reply agreed to it.

Rule.47.

"47 Where a licence is held by a partnership firm and such partnership is dissolved, every partner of the firm shall send a report of dissolution to the Registrar within a week of the dissolution".

19.

The Committee was of the view that this rule should be worded as follows :—

"In case a licence is held by a partnership firm and the Registrar or the prescribed authority received intimation from any of the partners that the firm has been dissolved, he shall issue notice inviting objection from the other partners of the firm before passing final orders".

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

The Committee recommend that the Rule may be amended accordingly.

Rule 51(1)(b)

* * * * *

"51(1)(b). Government, if the order appealed against is passed by the Registrar, Co-operative Societies".

20.

The Committee observed that in this sub-rule it is provided that appeal from the order of the Registrar will lie to the Government. The "Government" here seems to mean "The Secretary to Government Co-operative Department" or "The Minister Co-operative Department" or "The Chief Secretary to Government Haryana". The term "Government" may be clearly defined in the rules for the purpose of filing the appeal.

The Department in their written reply stated that the "Government" may be clarified to mean "Secretary to Government, Haryana, Co-operative Department".

The Committee agreed to the suggestion of the Department and recommend that the rule be amended accordingly.

Rule 51(2)

"51(2). No appeal shall be entertained by the Registrar, Co-operative Societies or the Government, as the case may be, unless the same is accompanied by a copy of the orders appealed against".

21

The Committee noted that the words "a copy of the orders" have been used in this rule whereas there is no provision in the rules where a copy of the orders could be obtained by a person concerned. Therefore, the Committee was of the view that a provision should be made to this effect.

The Department in their written reply stated that necessary provision would be made.

The Committee recommend that the rule should be amended and got republished in the light of observation made by the Committee

RULES FRAMED UNDER THE RESTRICTION OF HABITUAL OFFENDERS (PUNJAB) ACT, 1918

General

The Committee observed that in these rules short title had not been given. The Home Department in their written reply stated that these rules may be called "The Haryana Restriction of Habitual Offenders Rules."

During the oral examination of the representatives of the Home Department, the Committee pointed out whether the title can be changed keeping in view the fact that the Restriction of Habitual Offenders (Punjab) Act was enacted in the year 1918, the departmental representatives replied in the negative.

The Committee recommend that the title of the Rules should be "The Restriction of Habitual Offenders Rules, 1918" and not "The Haryana Restriction of Habitual Offenders Rules".

The Committee further desired to know whether the copies of the Rules supplied to them were amended and corrected up-to-date.

The departmental representative stated that all the records pertaining to this Act and Rules framed thereunder were with the erstwhile Punjab Government. It was possible that there might be some amendment, about which they might not be aware. It was, therefore, difficult to say that these were latest rules because some amendments might have been made by the erstwhile Punjab Government.

The Committee recommend that these rules may be got re-published after giving the preamble, the short title and the reference of the sections in the margin of each rule under which each rule has been framed.

The departmental representative stated that this would be done when these rules are got republished and it will take about a year to republish the rules and the Committee would be informed. The Committee agreed to this proposal.

Rule 1 A (New Rule)

The Committee recommend that the existing rule 1 may be substituted as follows.—

"Short title 1. "These rules may be called the Restriction of Habitual Offenders Rules, 1918,"

and after rule 1, a new rule 1A be inserted as under :—

"1. A Definition—In these rules the expression "Court" includes

Magistrate of the 1st class whether Judicial or Executive, as the case may be."

The departmental representative agreed to this proposal

Rule 2(b)(i)

"2(b)(i) —But in special cases it is inexpedient to select any other village or town as the case may be, in the district within which the person ordinarily resides."

3 The Committee recommend that after the word "resides", the words "or works for gain" be added.

Rule 2(b)(ii)

"2(b)(ii) —If the person restricted has been twice convicted of offences under Chapter XVII of the Indian Penal Code, and is not an owner of land or occupancy tenant, the area of restriction may be any settlement establishment under section 16 of the Criminal Tribes Act, 1911, but the Court must obtain the concurrence of the Deputy Commissioner for Criminal Tribes before restricting any person to such settlement."

The Department in their written reply suggested that the above rule may be amended as follows :—

"Rule 2(b)(ii) —If the person restricted has twice been convicted of offence under Chapter XVII of the Indian Penal Code and is not the owner of land, the Court passing the restriction order may with the prior concurrence of the Superintendent Incharge of a reformatory settlement, established under Section 14 of the Habitual Offenders (Control and Reform) Act, 1952, may fix such settlement as the area of its restriction"

7 The Committee agreed to the suggestion of the Department and recommend that the rule may be amended accordingly and the Committee informed.

Rule 8

"8. *Conditions, attaching to absence on leave.*—Any person granted leave of absence under rule 6 or rule 7 shall travel to his destination and return to his residence by the pass by the headman of the village of destination, and within three days of his arrival he shall report himself at the police station within the limits of which his destination is situated, and shall present his pass for endorsement."

The Department in the written reply suggested that this rule may be amended as follows :—

"8 *Conditions attaching to absence on leave* —Any person granted leave of absence under Rules 6 and 7 shall proceed to his destination and will return to his place of restriction by the route

specified in his leave pass. On reaching his destination, he shall have to get the time and date of his arrival endorsed on his pass by the headman of the village and then within 3 days of his arrival he should report himself at the Police Station within the limits of which his place of restriction is situated to present his pass for further endorsement”.

5 The Committee agreed to this suggestion of the Department and recommend that the rule may be amended accordingly and the Committee informed.

Rule 11.

“11 *Form of passes.*—Passes issued under rule 6 or rule 7 shall be printed and filled in Urdu in Form B appended to these rules. They shall be drawn up in triplicate and each part shall be signed or sealed by the authority granting the pass. One part shall be retained by such authority granting the pass, the second shall be given to the person granted leave, and the third part shall be sent to the officer-in-charge of the police station within the limits of which the destination of the holder of the pass lies”

6 The Committee recommend that in line 2, for the words “in Urdu” substitute the words “in Hindi”.

Rule 13.

“13. *Withdrawal of Passes*—Any pass granted under these rules may at any time be withdrawn by the authority which granted it, or by the District Magistrate or any officer duly authorised by him in writing in this behalf”

7 The Committee after thorough going through the comments of the Home Department to the effect that there appeared to be no justification for recording the reasons in writing for the withdrawal of a pass, and discussion with the representatives of the Home Department came to the conclusion that in the interest of equity and justice after the word “withdrawn” in this rule, the words “after recording in writing the reasons therefor,” be added

Forms A & B.

8 The Committee recommend that in forms ‘A’ and ‘B’ the word “Urdu” be substituted by the word “Hindi”.

THE PUNJAB INDUSTRIAL HOUSING RULES, 1956 FRAMED UNDER THE PUNJAB INDUSTRIAL HOUSING ACT, 1956. Industries

9 The Committee observed that there was no reference of the section of the Act in the margin of the Rules, under which each rule had been framed. In the absence of the reference, the Committee felt that it was rather difficult to find out under what precise authority each rule had been framed.

The departmental representative stated that these rules were framed in 1956 by the composite Punjab State. There was no practice to indicate the relevant sections in the margin of the rules.

- 2 The Committee observed that the reference of the section of the Act in the margin of the Rules, under which each rule has been framed, be indicated when the rules are got republished.

Rule 4.

The Committee observed that the notes below rule 4(2) should be treated as a sub-rule. The departmental representative stated that the notes indicate the procedure for allotment of tenements in certain contingencies. It explained the method for inviting applications, and to determine which tenements were available for allotment. It was thus explanatory note to rule 4 and as such it should remain in the form of 'Notes'.

- 3 The Committee, after going through the reply furnished by the Department and the oral examination of the departmental representative, recommend that in rule 4 "notes" should be in the form of "Explanations"

Rule 5.

- "5. (1) Whenever houses constructed under the Scheme are vacant and the Labour Commissioner is of the view that they should be let out, he shall issue a notice specifying therein the number of houses available for allotment, the monthly rent and other particulars thereof alongwith the terms and conditions of allotment. Copies of the notice shall be sent at least ten clear days in advance of the proposed allotment to the managements of all local factories governed by the factories Act, 1948. Copies of the notice shall also be pasted at such other prominent places as deemed proper by the labour Commissioner

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

The Committee, after fully discussing the matter, recommend that in rule 5(1) the notice period of 10 clear days be extended to 15 clear days for allotment of available houses. The same notice period should also be provided for displaying of notices at prominent places. The Committee was further of the opinion that there should be no discretion,

with the Labour Commissioner in regard to specifying the prominent places. The prominent places should be specified in the rules where copies of notices are to be displayed. The Committee recommend that this rule should be amended accordingly.

The Committee pointed out the following mistakes in the copies of the rules supplied to them for scrutiny and suggest to correct them as follows:—

- 4 Rule 4(2) the words "two-roomed" be substituted by the words "two roomed".
- 5 Rule 7 the word "Punjab" be substituted by "Haryana" and for "perition" substitute "petition"
- 6 Rule 8 in item No. 1, for the figure "2,7000.00" substitute "2,700 00".
- 7 The Committee recommend that in future printed copies of the rules be supplied to the Committee and if cyclostyled copies of the rules are supplied, the same should be meticulously compared and checked before supplying the same to the Committee.

THE PUNJAB KHADI AND VILLAGE AND INDUSTRIES
BOARD RULES, 1957 AND THE PUNJAB KHADI
AND VILLAGE INDUSTRIES BOARD REGU-
LATIONS, 1958, FRAMED UNDER THE
PUNJAB KHADI AND VILLAGE INDUS-
TRIES BOARD ACT, 1955

General.

The Committee observed that there was no reference of the section of the Act in the margin of each rule, in the absence of which it was difficult for the Committee to find out under what precise authority each rule had been framed.

The Department in their written reply stated that reference of section of the Act in the margin of each rule would be quoted at the time of re-publication of these rules.

The Committee recommend that this may be done when the rules are got re-published.

Rule 6(b).

"6(b) The Secretary of the Board, may, on behalf of the Board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if the contract or agreement were not entered into on his own behalf provided that the amount of contract or agreement shall not exceed Rs 10,000/-"

✓ The Committee observed that this sub-rule is not happily worded.

The Committee observed therefore, recommend that it should be redrafted so as to convey its sense properly.

The Department in their written reply stated that the Law Department will be approached to get the sub-rule (b) re-drafted in the light of the observations made by the Committee.

The Committee agreed to the proposal of the Department and desired that sub-rule (b) be re-drafted in consultation with the Law Department and they may be apprised accordingly.

Regulation 18.

"18. The functions of the Committees shall mainly be .

A. *Budget and Finance Committee* —(i) Preparation of Budget estimates; (ii) Procurement of finances, (iii) Scrutiny of annual programme, (iv) watching progress of expenditure, (v) Study and evaluation of progress made and results achieved

B. *Executive Committee* —(i) It will discharge functions of the Board under section 16, 17 and 18 of the Act with regard to appointment, fixation of pay, conditions of service, and the functions and duties of Officers and servants of the Board:

(ii) It will decide all matters of urgent importance left ambiguous under the resolutions of the Board

(iii) All matters of urgent importance as the Chairman considers proper to be placed before the Committee.

(iv) All matters that may be referred to the Executive Committee for consideration and decision by the Board.

C. *Khadi Committee* — Consideration of ways and means to expand Khadi and Village Industries in the State

D. *Co-operative Advisory Committee* —Consideration of ways and means to expand Khadi and Village Industries in the State on Co-operative lines.

E. *Pilot Project Committee* —Consideration of work to be done into the Community Project Area.

The Committee observed that the power of appointment, fixation of pay, conditions of service and functions and duties of officers and servants of the Board have to be determined by the Board under sections 16, 17 and 18 of the Act. Regulation 18-B delegates all these functions to the Executive Committee. Regulation 20 further provides that recruitment to the post under the Board shall be made by the Executive Committee. There is, however, no provision in the Act for delegating powers and functions which vest in the Board under the aforesaid sections of the Act to any authority, as has been done under the above mentioned Regulations. The Committee, therefore, desired to know as to whether this was not an instance of excessive delegation?

The Department in their written reply stated that no doubt under sections 16, 17 and 18 of the Punjab Khadi and Village Industries Board, Act, 1955 the powers for appointment of officers and servants have been given to the Board. But according to section 11 of the said Act, the Board has to be authorised to appoint one or more committees for the purpose of securing efficient discharge of its functions etc.

In view of this the Board delegated its functions with regard to the appointment of officers and servants etc., under regulation 18 to the Executive Committee consisting of 5 members of the Board. There does not appear to be excessive delegation since the constitution of such a Committee is envisaged in section 11 of the Act.

The departmental representative stated during his oral examination that the Department will obtain the Legal advice of the Legal Remembrancer Haryana, and would apprise the Committee.

The Committee agreed to this proposal of the departmental representative.

Regulation 21,

The Committee recommend that in this regulation as well as in subsequent regulations for the word "Punjab" wherever occurring, substitute the word, "Haryana".

THE HARYANA CATTLE FAIRS RULES, 1970 FRAMED UNDER THE HARYANA CATTLE FAIRS ACT, 1970

Rule 4,

All fees, rents or other sums of money, received by the certificate writer shall be deposited by him daily with the fair officer on the close of the day who shall further deposit the same in the Cattle Fair Fund as soon as practicable."

The Committee recommend that in rule 4, for the words "as soon as practicable" the words "on the next working day after the conclusion of the fair" be substituted.

Rule 5,

- | | | | | | |
|-----|-----|--|---|---|---|
| "5" | (1) | + | * | * | * |
| | (2) | * | * | * | * |
| | (3) | * | * | * | * |
| | (4) | * | * | * | * |
| | (5) | Arrangement shall be made for the disposal of waste water from public stand posts, liquid and solid wastes from the latrines, urinals and baths and removal of all refuse, garbage and cattle dung | | | |

2 The Committee recommend that after sub rule (5) of rule 5 the following sub-rule be added :—

“(6) Arrangement shall be made for a Veterinary Dispensary in the Fair premises”.

Rule 9.

“9: (1) The Cattle Fair Fund shall be of the nature of a Personal Ledger Account in the name of the Deputy Commissioner of the district at the district level and the Accounts Officer of Development and Panchayat Department the State level or such other officer as may be appointed by the State Government in this behalf.

(2)

3 The Committee recommend that in Rule 9(1) after the words “Development and Panchayat Department” the word “at” be inserted.

Rule 11.

Constitution of Committee “11. (1) The members including the chairman of the committee under section 5 of the act shall be nominated by the State Government.

Section 5. (2) The members including the chairman of the Committee shall not be entitled to any allowance or honorarium for attending the meetings of the committee.

(3) The meeting of the committee shall be called by the fair officer as and when required by the chairman of the committee. The fair officer shall also record the proceedings of each meeting and get them confirmed from the committee.

(4) The fair officer shall report to the committee the action taken by him in respect of the recommendations made by the Committee.

4 The Committee recommend that in rule 11, after sub-rule (1), the following sub-rule (2) be inserted and the existing sub-rules (2), (3) and (4) be renumbered as sub-rules (3), (4) and (5) respectively :—

“(2) The quorum to constitute a meeting of the Committee shall be one-third of the total members of the Committee ”

5 In the margin of rule 11, after “Section 5” insert “and Section 22(2) (b)”.