

राजस्थान सरकार
शिक्षा (ग्रुप-4) विभाग

क्रमांक: प. 3 (1) शिक्षा-4/2014 पार्ट

जयपुर, दिनांक 26.4.2016

आयुक्त,
कॉलेज शिक्षा राजस्थान,
जयपुर।

विषय:- राज्य के निजी विश्वविद्यालयों के लिए राज्य नियामक आयोग के गठन हेतु तैयार विधेयक का प्रारूप वेबसाइट पर अपलोड कर हितधारकों (Stake Holders) से सुझाव मांगने बाबत।

महोदय,

राज्य के निजी विश्वविद्यालयों के लिए राज्य नियामक आयोग के गठन हेतु विभाग द्वारा तैयार विधेयक के प्रारूप पर हितधारकों (Stake Holders) से आपत्ति एवं सुझाव मांगे जाने हैं।

अतः Rajasthan Private Higher Educational Institutions Regulatory Commission Bill, 2016 के प्रारूप की फोटो प्रति सलग्न कर लेख है कि इसे स्कैन कर आयुक्तालय की वेबसाइट पर तत्काल अपलोड करवाकर विधेयक पर हितधारकों (Stake Holders) से एक माह में jshegr4@gmail.com पर सुझाव आमंत्रित किये जायें।

सलग्न-उपरोक्तानुसार।

भवदीय,

(राजहंस उपाध्यक्ष)
अतिरिक्त मुख्य सचिव,
उच्चशिक्षा

आयुक्तालय कॉलेज शिक्षा, राजस्थान
क्रमांक: आ.क.शि/वी.आई./ 164 दिनांक 28.4.16

प्रतिलिपि: वेबसाइट प्रभारी को अपलोड हेतु।

विना शर्त
संयुक्त निदेशक (निजी संस्थान)
आयुक्तालय कॉलेज शिक्षा
राजस्थान, जयपुर

Handwritten notes in the top left corner: "checked", "H.O. Education, Govt. of Rajasthan, Jaipur-302 014", and "12-5-16".

Handwritten signature and date: "V. J. Verma" and "12-5-16".

Handwritten number: "4212102-16".

THE RAJASTHAN PRIVATE HIGHER EDUCATIONAL INSTITUTIONS REGULATORY COMMISSION BILL, 2016

A Bill

to provide for establishment of the Regulatory Commission and Regulatory Mechanism in the State for the purpose of ensuring appropriate standard of admission, teaching, examination, research and protection of interest of students and for matters connected therewith or incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-seventh Year of the Republic of India, as follows:-

1. Short title, extent and commencement. - (1) This Act may be called the Rajasthan Private Higher Educational Institutions Regulatory Commission Act, 2016.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force at once.

2. Definitions. - In this Act, unless the context otherwise requires,-

- (a) "All India Council of Technical Education" means All India Council of Technical Education established under All India Council of Technical Education Act, 1987 (Central Act No. 52 of 1987);
- (b) "Council for Scientific and Industrial Research" means Council for Scientific and Industrial Research, New Delhi;
- (c) "Council of Architects" means Council of Architects constituted under section 4 of the Architects Act, 1972 (Central Act No. 20 of 1972);
- (d) "Chairperson" means the Chairperson of Rajasthan Private Higher Educational Institutions Regulatory Commission;
- (e) "Commission" means the Rajasthan Private Higher Educational Institutions Regulatory Commission established under section 3 of this Act;
- (f) "Department of Higher Education" means the Department of Higher Education of the State of Rajasthan;

- (g) "fee" means the total fee charged by the educational institutions by whatever name as tuition fee, institutional development fund etc. from the student for the admission during whole academic session or semester;
- (h) "Government" means the State Government of Rajasthan;
- (i) "higher education" means study of a curriculum or course for the pursuit of knowledge beyond 10+2 level;
- (j) "Indian Council of Agriculture Research" means the Indian Council of Agriculture Research, a society registered under the Societies Registration Act, 1860 (Central Act No. 21 of 1860);
- (k) "Medical Council of India" means Medical Council of India, constituted under section 3 of the Indian Medical Council Act, 1956 (Central Act No. 102 of 1956);
- (l) "NAAC" means the National Assessment and Accreditation Council, Bangalore, an autonomous institution of the UGC;
- (m) "National Council of Teacher Education" means the National Council of Teacher Education constituted under section 3 of the National Council of Teacher Education Act, 1993 (Central Act No. 73 of 1993);
- (n) "Pharmaceutical Council of India" means Pharmaceutical Council of India constituted under section 3 of the Pharmacy Act, 1948 (Central Act No. 8 of 1948);
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "Private Higher Educational Institutions" means all the Private Higher Educational Institutions in the State providing education beyond 10+2 level awarding graduation, post graduation degree, diploma, certificate or any other courses in any discipline in the State but excluding the institutions established under any Central law such as deemed to be universities etc.;
- (q) "Private University" means a university established by an Act of State Legislative Assembly and sponsored by a private entity;
- (r) "Regulating Body" means a body established by the Central Government for laying down norms and conditions for ensuring academic standards of higher education, such as University Grants Commission, All India Council of Technical Education, National Council of Teacher Education, Medical Council of India, Pharmaceutical Council of India, National Assessment and Accreditation Council, Indian Council of Agriculture Research,

Distance Education Council, Council for Scientific and Industrial Research, Council of Architects, Dental Council of India, Indian Nursing Council, Central Council of Indian Medicine, Central Council of Homocopathy, Central Council for Research in Yoga and Naturopathy etc. and includes the State Government;

- (s) "rules" mean the rules made under this Act;
- (t) "State" means the State of Rajasthan;
- (u) "State University" means a university promoted and maintained, either directly or indirectly, by a State Government, and established or incorporated by or under any Rajasthan Act;
- (v) "University Grants Commission" means the University Grants Commission, established under the University Grants Commission Act, 1956 (Central Act No. 3 of 1956);
- (w) "University" means a university established by or under a Law of State Government of Rajasthan.

3. Establishment of Commission.-(1) The State Government may, by notification in the Official Gazette, establish a body to be known as the Rajasthan Private Higher Educational Institutions Regulatory Commission for the purpose of providing a regulatory mechanism in the State and for working as an interface between State Government and the Central Regulatory Bodies for the purpose of ensuring appropriate standards of admission, teaching, examination, research, extension programmes and protection of the interest of the students in the Private Higher Educational Institutions.

(2) The Commission shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold, and dispose of property, both movable and immovable, and to contract, and may by the said name sue and be sued.

(3) The head quarters of the Commission shall be at such place as may be notified by the State Government.

4. Composition of Commission.- The Commission shall consist of a Chairperson and seven members as follows:-

- (i) two full time members who shall be nominated by the State Government from amongst academicians of the State of Rajasthan having at least 25 years of teaching experience in higher educational institutions;
- (ii) two nominated members, not below the rank of Vice-chancellor in

case of State Universities and President in case of Private Universities, who shall be nominated by the State Government one each from State and Private Universities.

- (iii) one ex-officio member who shall be Director/Commissioner of College Education, Rajasthan.
- (iv) one ex-officio member who shall be Director of Medical Education Department of the State of Rajasthan;
- (v) one ex-officio member who shall be Director of Technical Education Department of the State of Rajasthan.

5. Appointment, terms and conditions of services of Chairperson and members.- (1) The Chairperson shall be eminent educationist and having extensive knowledge about the functioning of the State Higher Education of Rajasthan and shall be appointed by the State Government.

(2) The Chairperson and members of the Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of the seventy years, whichever is earlier.

(3) The Chairperson shall not be connected in any way with any private higher education institutions.

(4) The Chairperson shall be head of the Commission.

(5) The Chairperson shall receive pay and allowances and other facilities admissible to the Vice-chancellor of the State University from the fund of the Commission.

(6) The full time members other than ex-officio members shall receive pay and allowances and other facilities equivalent to members of Rajasthan Public Service Commission from the fund of the commission.

(7) The Chairperson and members other than ex-officio members may at any time relinquish office by submitting, not less than sixty days in advance of the date on which he wishes to be relieved, his resignation to the State Government.

(8) A resignation submitted under sub-section (7) shall have effect from the date on which it is accepted by the State Government or on the expiry of sixty days from the date on which it is submitted, whichever is earlier.

(9) When a permanent vacancy occurs in the office of the Chairperson or member by reason of death, resignation, removal or the expiry of the term, it shall be filled by the State Government by fresh nomination or appointment, as the case may be and for so long as it is not so filled, stop-gap arrangement shall be made by the State Government.

(10) When a temporary vacancy occurs in the office of the Chairperson or member by reason of leave, suspension or otherwise, the State Government may make arrangement for the carrying out the functions of the office.

6. Disqualification of Chairperson and members of Commission.- A person shall be disqualified for being a Chairperson or member of Commission, if he-

- (a) is of unsound mind and stands so declared by a competent court;
- (b) is an undischarged insolvent;
- (c) has been convicted of any offence involving moral turpitude;
- (d) is conducting or engaging himself in private coaching classes; or
- (e) has been punished for indulging in or promoting unfair practice in the conduct of any examination, in any form, anywhere.

7. Vacancies not to invalidate the proceedings of the Commission.- No act or proceeding of the Commission shall be invalid merely by reason of any vacancy or defect in the constitution thereof.

8. Removal of Chairperson and members.-(1) The State Government may remove from the Commission the Chairperson or any member, who in its opinion –

- (a) refuses to act; or
- (b) has become incapable acting; or
- (c) has abused his position as a Chairperson or as a member as to render his continuance in the Commission detrimental to the interest of the public; or
- (d) in the case of a member other than ex-officio member, if he remains absent without previous permission of the Chairperson from three consecutive meetings of the Commission; or
- (e) is otherwise unsuitable to continue as Chairperson or member of the Commission; or
- (f) has incurred any disqualification specified in section (6).

(2) The State Government may suspend the Chairperson or any member of the Commission pending an inquiry against him in connection with his proposed removal.

(3) No order of removal under sub-section (1) shall be made unless the Chairperson or member concerned has been given an opportunity to submit his explanation to the State Government with reference to the grounds of his proposed removal.

(4) A Chairperson or a member who has been removed under sub-section (1) shall not be eligible for further appointment as Chairperson or a member of the Commission.

9. Officers and other employees of the Commission.- (1) There shall be a Secretary and a Financial Advisor who shall be deputed by the Government in consultation with the Commission on such terms and conditions, as may be prescribed.

(2) The Commission may appoint such officers and employees as it considers necessary, for the efficient performance of the Commission, after approval of the State Government.

(3) The terms and conditions of service of the officers and employees of the Commission shall be such as may be prescribed.

10. Meetings.- The Commission shall meet, as often as may be necessary, at such time and place and observe such procedure, as may be prescribed in the regulations.

11. Fund.- (1) The Commission shall have a fund to which shall be credited-

- (a) by all the Private Higher Educational Institutions such percentage of total fees every year as may be assessed by the Commission from time to time but not exceeding one per cent of the total fees;
- (b) loan from the State Government which shall be repayable within three years;
- (c) any other grants received from any other sources; and
- (d) all sums received by way of penalties on the Private Higher Educational Institutions.

(2) The Fund shall be operated by the Chairperson through the Financial Advisor of the Commission.

(3) All the money belonging to the Fund shall be deposited in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (No. 2 of 1934).

(4) The Commission may spend such sum as it may think fit for performing its functions under the Act and such sums shall be treated as an expenditure payable out of the Fund of the Commission.

12. Powers and functions of the Commission.-(1) It shall be the duty of the Commission to ensure that standards of admission, teaching, examination, research, extension programme, qualifications and experience of teachers and infrastructure, are being maintained by the Private Higher Educational Institutions in accordance with the guidelines issued by the concerned Regulatory Bodies from time to time. In case of failure of the Private Higher Educational Institution to meet the standards laid down, the Commission shall have the power to penalize the Private Higher Educational Institutions under section 14 of the Act and in case of successive failure of a Private Higher Educational Institution to meet the standards, the Commission may recommend to the State Government and/or Regulatory Body for the winding up of the Private Higher Educational Institution.

(2) The Commission shall ensure that the admissions in the Private Higher Educational Institutions are based on merit achieved in National Common Entrance Test or the State Common Entrance Test or any other test as notified by the State Government and where there is no National Level Common Entrance Test, or State Level Common Entrance Test or any other test, the merit shall be determined strictly on the basis of the marks obtained in the qualifying examination.

(3) The Commission shall develop an appropriate mechanism for receipt and redressal of grievances of students and parents, and direct the Private Higher Educational Institutions to set up a proper Grievances Redressal mechanism for redressal of complaints reported to the Commission. Such complaints shall be redressed within the time fixed by the Commission with details of the steps taken by the Private Higher Educational Institution to redress such complaints.

(4) The Commission may conduct inspections of Private Higher Educational Institutions as and when required and may form expert committees, for inspections of Private Higher Educational Institutions.

(5) The Commission shall have the power to monitor and regulate fees in

Private Higher Educational Institutions. The Commission shall constitute "a committee on fee structure" for the private institutions. The fee structure shall be decided in the prescribed manner for the individual course for the period of three years.

(6) It shall be duty of the Commission to check malpractices and fraudulent activities, and to safeguard the interests of the students in the Private Higher Educational Institutions in the State of Rajasthan.

(7) The Commission shall develop a web portal for, displaying all type information viz. admission, fee structure, examination, curriculum details etc., and, hyper linking the websites of all the Private Higher Education Institutions of Rajasthan for transparency in the functioning of the institutions.

13. Procedure and Powers of the Commission.- (1) The Commission shall, for the purpose of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act No.5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) discovery and production of any document or other material object producible as evidence ;
- (c) receiving evidence on affidavits;
- (d) requisition of any public record;
- (e) issuing commission for the examination of witnesses;
- (f) reviewing its decisions, directions and orders;
- (g) any other matter which may be prescribed.

(2) Every enquiring authority enquiring under this Act shall be deemed to be a civil court for the purpose of section 195 and Chapter XVI of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

(3) The Commission shall have the powers to pass such interim order in any proceeding, hearing or matter as the Commission may consider appropriate.

(4) The Commission may authorize any person, as it deems fit, to represent the interest of the students and parents in the proceedings before it.

(5) All disputes under this Act shall be decided summarily in accordance

with the provisions of Order XXXVII of the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908).

14. Penalties.- (1) The Commission may, for the contravention of any of the provision of this Act or the rules or regulations made thereunder, or directions issued by the Commission, impose penalty on Private Higher Educational Institutions, in such manner as may be prescribed, but not exceeding one crore rupees:

Provided that the maximum penalty for a second or subsequent contravention shall be five crore rupees:

Provided further that no penalty shall be imposed unless the institution concerned is given an opportunity of being heard.

(2) The penalty imposed under sub-section (1) shall be recoverable from the endowment fund or any other Fund or as arrear of land revenue from the Private Higher Educational Institution concerned.

15. Filing of appeal.- (1) Any institution aggrieved by an order passed by the Commission may file an appeal within thirty days from the date of receipt of the order to the State Government:

Provided that the State Government may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the State Government shall, after giving an opportunity of being heard to the parties confirm, modify or reverse the order of the Commission as expeditiously as possible.

(3) The State Government may also, in its discretion, direct that during pendency of appeal, the execution of the order appealed against shall remain stayed.

(4) The order passed by the State Government in such appeal shall be final.

16. Accounts and Audit of the Commission.- (1) The Commission shall maintain its accounts in such form and in such manner as may be prescribed.

(2) The accounts of the Commission shall be audited annually by the Comptroller and Auditor General of India.

(3) The Commission shall send a copy of the audited annual accounts of the Commission to the State Government every year, and the State Government shall cause such accounts to be laid before the House of the State Legislature.

17. Annual Report.- The Commission shall, as soon as may be, after the end of each financial year, prepare and submit to the State Government, before such date and in such form as may be prescribed, a report giving an account of its activities during the previous year and the State Government shall cause every such report to be laid before the House of the State Legislature as soon as may be, after its receipt.

18. Indemnity.- No suit, prosecution or other legal proceeding shall lie against Chairperson, any member, officer or employee of the Commission in respect of anything which is, in good faith, done or intended to be done in pursuance of this Act or the rules made thereunder.

19. Chairperson, Members and employees to be public servant.- The Chairperson, members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act No. 45 of 1860).

20. Power to issue direction.- The State Government may issue such direction to the Commission as, in its opinion, are necessary or expedient for carrying out the purposes of this Act and the Commission shall give effect to all such directions.

21. The Act to have overriding effect.- The provisions of this Act or rules or order made thereunder, shall have effect, notwithstanding anything inconsistent therewith contained in any other Rajasthan law, for the time being in force.

22. Power to make rules.- (1) The State Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) manner in which fee structure shall be decided under sub-section (5) of section 12;
- (b) manner in which penalty is imposed and the minimum and maximum limit of the penalty under section 14;
- (c) the form and manner in which the accounts shall be maintained by the Commission under section 16; and
- (d) such other matter as may be required for proper functioning of the Commission.

(3) Every rule made under this section shall be laid, as soon as may be after they are made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which they are so laid or the session immediately following, the House of the State Legislature makes any modification in any such rule or resolves that any such rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

23. Power to make regulations.- The Commission may, with the prior approval of the State Government, make regulations to carry out the provisions of this Act.

24. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be made after the expiry of two years of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the House of State Legislature.