

Bill No. 109 of 2010

THE INSTITUTES OF TECHNOLOGY (AMENDMENT) BILL, 2010

A

BILL

further to amend the Institutes of Technology Act, 1961.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Institutes of Technology (Amendment) Act, 2010. Short title and

commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

59 of 1961.

2. In the Institutes of Technology Act, 1961 (hereinafter referred to as the principal Act), in section 2, for the words “and the Indian Institute of Technology, Roorkee”, the words “the Indian Institute of Technology, Roorkee, the Indian Institute of Technology, Bhubaneswar, the Indian Institute of Technology, Gandhi Nagar, the Indian Institute of Technology, Hyderabad, the Indian Institute of Technology, Indore, the Indian Institute of Technology, Jodhpur, the Indian Institute of Technology, Mandi, the Indian Institute of Technology, Patna, the Indian Institute of Technology, Ropar and the Indian Institute of Technology (Banaras Hindu University), Varanasi” shall be substituted.

Amendment of section 2.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in clause (c), after sub-clause (iv), the following sub-clauses shall be inserted, namely:—

“(v) in relation to the society known as the Indian Institute of Technology, Bhubaneshwar, the Indian Institute of Technology, Bhubaneshwar;

(vi) in relation to the society known as the Indian Institute of Technology, Gandhinagar, the Indian Institute of Technology, Gandhinagar;

(vii) in relation to the society known as the Indian Institute of Technology, Hyderabad, the Indian Institute of Technology, Hyderabad;

(viii) in relation to the society known as the Indian Institute of Technology, Indore, the Indian Institute of Technology, Indore;

(ix) in relation to the society known as the Indian Institute of Technology, Rajasthan, the Indian Institute of Technology, Jodhpur;

(x) in relation to the society known as the Indian Institute of Technology, Mandi, the Indian Institute of Technology, Mandi;

(xi) in relation to the society known as the Indian Institute of Technology, Patna, the Indian Institute of Technology, Patna;

(xii) in relation to the society known as the Indian Institute of Technology, Punjab, the Indian Institute of Technology, Ropar;

(xiii) in relation to the Institute of Technology, Banaras Hindu University, referred to in the Statute 25(A)(1) of the Statutes set out in the Schedule to the Banaras Hindu University Act, 1915, the Indian Institute of Technology (Banaras Hindu University), Varanasi;”;

(b) after clause (g), the following clause shall be inserted, namely:—

“(ga) “Institute of Technology, Banaras Hindu University” means the Institute of Technology, Banaras Hindu University, referred to in Statute 25(A)(1) of the Statutes set out in the Schedule to the Banaras Hindu University Act, 1915;”;

(c) in clause (j), after sub-clause (iii), the following sub-clauses shall be inserted, namely:—

“(iv) the Indian Institute of Technology, Bhubaneshwar;

(v) the Indian Institute of Technology, Gandhinagar;

(vi) the Indian Institute of Technology, Hyderabad;

(vii) the Indian Institute of Technology, Indore;

(viii) the Indian Institute of Technology, Rajasthan;

(ix) the Indian Institute of Technology, Mandi;

(x) the Indian Institute of Technology, Patna;

(xi) the Indian Institute of Technology, Punjab;”;

(d) after clause (l), the following clause shall be inserted, namely:—

“(m) “zone”, in relation to an Institute, means such group of States and Union territories as the Central Government may, by notification in the Official Gazette, specify.”.

4. In section 4 of the principal Act, after sub-section (IC), the following sub-section shall be inserted, namely:— Amendment of section 4.

“(ID) The Institute of Technology, Banaras Hindu University shall, on such incorporation, be called the Indian Institute of Technology (Banaras Hindu University), Varanasi.”.

5. In section 5 of the principal Act, the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:— Amendment of section 5.

“*Explanation 2.* — The reference in this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology, Bhubaneswar, the Indian Institute of Technology, Gandhinagar, the Indian Institute of Technology, Hyderabad, the Indian Institute of Technology, Indore, the Indian Institute of Technology, Jodhpur, the Indian Institute of Technology, Mandi, the Indian Institute of Technology, Patna and the Indian Institute of Technology, Ropar, as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 2010 come into force.”.

6. After section 5A of the principal Act, the following section shall be inserted, namely:— Insertion of new section 5B.

"5B. On and from the commencement of the Institutes of Technology (Amendment) Act, 2010,— Effect of incorporation of Indian Institute of Technology (Banaras Hindu University), Varanasi.

(a) any reference to the Institute of Technology, Banaras Hindu University in any law for the time being in force (other than this Act) or in any contract or other instrument shall be deemed as a reference to the Indian Institute of Technology (Banaras Hindu University), Varanasi;

(b) all property, movable and immovable, of or belonging to the Institute of Technology, Banaras Hindu University, shall vest in the Indian Institute of Technology (Banaras Hindu University), Varanasi;

(c) all rights and liabilities of the Institute of Technology, Banaras Hindu University shall be transferred to, and be the rights and liabilities of, the Indian Institute of Technology (Banaras Hindu University), Varanasi;

(d) every person employed in the Institute of Technology, Banaras Hindu University immediately before such commencement shall hold his office or service in the Indian Institute of Technology, (Banaras Hindu University), Varanasi by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Indian Institute of Technology (Banaras Hindu University), Varanasi in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Indian Institute of Technology (Banaras Hindu University), Varanasi of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that any reference, by whatever form of words, to the Director of the Institute of Technology, Banaras Hindu University in any law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Director of the Indian Institute of Technology (Banaras Hindu University), Varanasi; and

(e) on the commencement of the Institutes of Technology (Amendment) Act, 2010,—

(i) the Vice-Chancellor of the Banaras Hindu University, appointed under the provisions of the Banaras Hindu University Act, 1915 shall be deemed to have been appointed as *ex officio* Chairman of the Board of Governors of the Indian Institute of Technology (Banaras Hindu University), Varanasi under this Act, and shall hold office for a period of three years with effect from such commencement; 16 of 1915.

(ii) the Director of the Institute of Technology, Banaras Hindu University, appointed under the provisions of the Banaras Hindu University Act, 1915 shall be deemed to have been appointed as Director of the Indian Institute of Technology (Banaras Hindu University), Varanasi under this Act, and shall hold his office till Director is appointed under this Act. 16 of 1915.

Explanation.—The reference in this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology (Banaras Hindu University), Varanasi as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 2010 come into force.”.

Amendment
of section 6.

7. In section 6 of the principal Act, in sub-section (I), after clause (m), the following clauses shall be inserted, namely:—

“(ma) supporting and collaborating with technical education institutions located in the zone with a view to enhance their quality and capability;

(mb) advising the State Government and the Union territory included in its zone in the matter of technical education and any technological issue referred by them to the Institute for advice.”.

Amendment
of section 11.

8. In section 11 of the principal Act,—

(i) after clause (e), the following proviso shall be inserted, namely:—

“Provided that in the case of the Indian Institute of Technology (Banaras Hindu University), Varanasi,—

(a) the Board of such Institute shall consist of Vice-Chairman to be nominated, after a period of three years from the commencement of the Institutes of Technology (Amendment) Act, 2010, by the Executive Council referred to in clause (d) of section 2 of the Banaras Hindu University Act, 1915, from amongst its members including its Vice-Chancellor;” 16 of 1915.

(b) two persons to be nominated by the Executive Council referred to in clause (d) of section 2 of the Banaras Hindu University Act, 1915, from amongst its members including its Vice-Chancellor;” 16 of 1915.

(ii) the *Explanation* shall be omitted.

9. In section 14 of the principal Act, after clause (e), the following proviso shall be inserted, namely:— Amendment of section 14.

16 of 1915. “Provided that in case of the Indian Institute of Technology (Banaras Hindu University), Varanasi, three members shall be nominated by the Executive Council referred to in clause (d) of section 2 of the Banaras Hindu University Act, 1915.”.

10. In section 38 of the principal Act,—

Amendment of section 38.

(a) after clause (i), the following clauses shall be inserted, namely:—

“(j) until the first Statutes and Ordinances in relation to the Indian Institute of Technology, Bhubaneswar, the Indian Institute of Technology, Gandhinagar, the Indian Institute of Technology, Hyderabad, the Indian Institute of Technology, Indore, the Indian Institute of Technology, Jodhpur, the Indian Institute of Technology, Mandi, the Indian Institute of Technology, Patna and the Indian Institute of Technology, Ropar are made under this Act, the Statutes and Ordinances of such Institute, as in force immediately before the commencement of the Institutes of Technology (Amendment) Act, 2010, shall apply to those Institutes with necessary modifications and adaptations in so far as they are not inconsistent with the provisions of this Act;

16 of 1915. (k) the Executive Council, referred to in clause (d) of section 2 of the Banaras Hindu University Act, 1915, functioning as such immediately before the commencement of the Institutes of Technology (Amendment) Act, 2010, shall continue to so function until a new Board is constituted for the Indian Institute of Technology (Banaras Hindu University), Varanasi under this Act, but on the constitution of a new Board under this Act, the Executive Council of the Banaras Hindu University shall cease to function so far as the Indian Institute of Technology (Banaras Hindu University), Varanasi is concerned;

16 of 1915. (l) the Academic Council, referred to in clause (a) of section 2 of the Banaras Hindu University Act, 1915, functioning as such immediately before the commencement of the Institutes of Technology (Amendment) Act, 2010 shall continue to so function until a new Senate is constituted for the Indian Institute of Technology (Banaras Hindu University), Varanasi under this Act, but on the constitution of a new Senate under this Act, the Academic Council of the Banaras Hindu University shall cease to function so far as the Indian Institute of Technology (Banaras Hindu University), Varanasi;

(m) until the first Statutes and the Ordinances in relation to the Indian Institute of Technology (Banaras Hindu University), Varanasi are made under this Act, the Statutes and Ordinances as are applicable to the Indian Institute of Technology, Kanpur immediately before the commencement of the Institutes of Technology (Amendment) Act, 2010, shall apply to the Indian Institute of Technology (Banaras Hindu University), Varanasi with the necessary modifications and adaptations in so far as they are not inconsistent with the provisions of this Act;

(n) notwithstanding anything contained in the Institutes of Technology (Amendment) Act, 2010, any student who joined classes of the Indian Institute of Technology, Banaras Hindu University on or after the commencement of 2006-2007 academic session or completed the courses on or after 2009-2010 academic session shall for the purpose of clause (b) of sub-section (1) of section 6, be deemed to have pursued a course of study in the Indian Institute of Technology (Banaras Hindu University), Varanasi provided that such student has not already been awarded degree or diploma for the same course of study;

(o) if any difficulty arises in giving effect to the provisions of the Institutes of Technology (Amendment) Act, 2010, the Central Government

may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this clause after the expiry of two years from the commencement of the Institutes of Technology (Amendment) Act, 2010:

Provided further that every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.”;

(b) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

“*Explanation 3*.— The reference in clauses (k), (l) and (m) of this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology (Banaras Hindu University), Varanasi, as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 2010 come into force.”.

STATEMENT OF OBJECTS AND REASONS

The Institutes of Technology Act, 1961 was enacted by Parliament in December, 1961 to, *inter alia*, declare certain Institutes of Technology to be institutions of national importance.

2. The Government of India has set up eight new Indian Institutes of Technology as registered societies. These institutes need to be brought within the ambit of the aforesaid Act for the purpose of declaring them as institutions of national importance.

3. The Expert Committee constituted by the Government of India identified certain academic institutions which had the potential for being upgraded to the level of Indian Institutes of Technology. The Institute of Technology, Banaras Hindu University was identified as one of such institutions. The Government of India made an announcement in March, 2008 of its intention to convert Institute of Technology, Banaras Hindu University into an Indian Institute of Technology. This is in line with the overall thinking of the Government to have more Indian Institutes of Technology level institutions by upgrading existing institutions as well as creating new Indian Institutes of Technology.

4. Accordingly, a need has been felt to amend the said Act to effectuate the conversion of Institute of Technology, Banaras Hindu University into Indian Institute of Technology (Banaras Hindu University), Varanasi and to bring the eight newly set up Indian Institutes of Technology within its ambit. The Institutes of Technology (Amendment) Bill, 2010, *inter alia*, seeks to make the following amendments to the Institutes of Technology Act, 1961, namely:—

(a) to include eight new Indian Institutes of Technology and declare them as institutions of national importance;

(b) to declare the Institute of Technology, Banaras Hindu University as an institution of national importance and integrate it with the Indian Institutes of Technology system;

(c) to empower the Central Government to notify “Zones” in the country for advising the State Government and the Union territory included in its zone in the matter of technical education and any technical issue referred by them to the institute for advice;

(d) to cast upon the Indian Institutes of Technology, a duty to support States or Union territories technologically in their “Zones” and address their technological problems;

(e) to incorporate the newly set up Indian Institutes of Technology and Indian Institute of Technology (Banaras Hindu University), Varanasi under the provisions of the Act;

(f) to provide that till such time the Statutes and Ordinances of new Indian Institutes of Technology and Indian Institute of Technology (Banaras Hindu University), Varanasi come into force, the new Indian Institutes of Technology, including Indian Institute of Technology (Banaras Hindu University), Varanasi, would be governed by the existing Statutes and Ordinances of such Indian Institute of Technology, as in force;

5. The Bill seeks to achieve the above Objectives.

NEW DELHI;
The 23rd August, 2010.

KAPIL SIBAL

FINANCIAL MEMORANDUM

Clause 2 of the Institutes of Technology (Amendment) Bill, 2010 provides for establishment of eight new Indian Institutes of Technology including conversion of Institute of Technology – Banaras Hindu University into Indian Institute of Technology Varanasi and their declaration as institutions of national importance.

2. The estimated expenditure for establishment of eight new IITs would be about Rs. 4232.00 crores as non-recurring and Rs. 1848.00 crores as recurring expenditure for a six years period. The estimated non-recurring expenditure for conversion of IT-BHU into IIT (BHU), Varanasi would be about Rs. 160.00 crores during the 11th Plan period. The recurring expenditure would be approximately Rs. 131.48 crores per annum during 2010-11 and 2011-2012.

3. The expenditure for establishment of eight new IITs and conversion of IT-BHU into IIT (BHU) Varanasi would be met from the Consolidated Fund of India through the budgetary provision under the Department of Higher Education, Ministry of Human Resource Development.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 10 of the Bill inserts new clauses (j) and (m) in section 38 of the Act which empowers the Institutes of Technology to make Statutes and Ordinances. New clause (o) empowers the Central Government, by order, to remove certain difficulties which may appear to it to be necessary or expedient. Further, such order is not to be made under the said clause after the expiry of a period of two years from the commencement of the proposed legislation. Every such order shall be laid before each House of Parliament.

2. The matters in respect of which the statutes, ordinances or orders may be made or issued are matters of administrative details and procedure and, as such, the delegation of legislative power is of a normal character.

ANNEXURE

EXTRACTS FROM THE INSTITUTES OF TECHNOLOGY ACT, 1961

(59 OF 1961)

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Declaration of certain institutions as institutions of national importance.

2. Whereas the objects of the institutions known as the Indian Institute of Bombay, the College of Engineering and Technology, Delhi, the Indian Institute of Technology, Guwahati, Assam, the Indian Institute of Technology, Kanpur, the Indian Institute of Technology, Madras and the Indian Institute of Technology, Roorkee are such as to make them institutions of national importance, it is hereby declared that each such institution is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

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(c) "corresponding Institute" means,—

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(j) "society" means any of the following societies registered under the Societies Registration Act, 1860, namely:—

21 of 1860.

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Incorporation of institutes.

4. (1)

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Effect of incorporation of institutes.

5. On and from the commencement of this Act,—

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Explanation.—The reference in this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology, Guwahati as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 1994 come into force.

35 of 1994.

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Powers of Institutes.

6. (1) Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following duties, namely:—

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Board of Governors.

11. The Board of an Institute shall consist of the following person, namely:—

* * * * *

(e) two professors of the Institute, to be nominated by the Senate.

Explanation.—In this section, the expression "zone" means a zone as for the time being demarcated by the All-India Council for Technical Education for the purposes of this Act.

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14. The Senate of the Institute shall consist of the following persons, namely:— Senate.

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(e) such other member of the staff as may be laid down in the Statues.

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38. Notwithstanding anything contained in this Act,— Transitional provisions.

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LOK SABHA

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BILL

further to amend the Institutes of Technology Act, 1961.

(Shri Kapil Sibal, Minister of Human Resource Development)

GMGIPMRND—4265LS(S4)—25-08-2010.