

AUTHORITATIVE ENGLISH TEXT

BILL NO. 15 OF 2018

**THE HIMACHAL PRADESH STATE HIGHER EDUCATION
COUNCIL (ESTABLISHMENT AND REGULATION)
BILL, 2018**

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**THE HIMACHAL PRADESH STATE HIGHER EDUCATION COUNCIL
(ESTABLISHMENT AND REGULATION) BILL, 2018**

ARRANGEMENT OF CLAUSES

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**THE HIMACHAL PRADESH STATE HIGHER EDUCATION
COUNCIL (ESTABLISHMENT AND REGULATION)
BILL, 2018**

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for establishment, incorporation and regulation of the State Higher Education Council (SHEC) for coordinated development of Higher Education and to regulate its functioning and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh State Higher Education Council (Establishment and Regulation) Act, 2018. Short title and commencement.

5 (2) It shall come into force on such date as the State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, appoint.

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

(a) “Chairperson” means the Chairperson of the Council;

10 (b) “college” means a college or institution including autonomous college maintained or approved, or affiliated to any University which provides facility of studying in syllabi from admission until examination;

- (c) "Council" means the Himachal Pradesh State Higher Education Council constituted under section 3;
- (d) "Government" or "State Government" means the Government of Himachal Pradesh;
- (e) "Higher Education" means any education stream whether financial, technical including research studies that leads to award of degree, diploma or certificate but does not include Medical, Agriculture, Animal Husbandry and Horticulture stream; 5
- (f) "institution" means an academic institution of Higher Education maintained by, or admitted to the privileges of the University; 10
- (g) "member" means a member of the Council and includes the Chairperson and Vice-Chairperson;
- (h) "prescribed" means prescribed by the rules made under this Act; 15
- (i) "State" means the State of Himachal Pradesh;
- (j) "University" means any University established by an Act passed by the State Legislature;
- (k) "University Grants Commission" means the Commission established under the University Grants Commission Act, 1956; and 20
3 of 1956.
- (l) "Vice-Chairperson" means the Vice-Chairperson of the Council.

Constitution
of Council.

3. (1) The State Government shall, by notification in the Rajpatra (e- Gazette), Himachal Pradesh, constitute a body to be known as the 25

Himachal Pradesh State Higher Education Council consisting of the following, namely:—

- (a) ex-officio members,—
- | | | | |
|----|--------|---|----------------------|
| 5 | (i) | an eminent academician with proven leadership qualities | Chairperson; |
| | (ii) | Secretary (Higher Education), Government of Himachal Pradesh | Vice-Chairperson; |
| | (iii) | Vice-Chancellors of any two State Public Universities | Member; |
| 10 | (iv) | Vice-Chancellor of Central University | Member; |
| | (v) | two Vice Chancellors of Private Universities to be nominated by the State Government in rotation of two years | Member; |
| 15 | (vi) | Secretary (Finance), Government of Himachal Pradesh or his representative not below the rank of Joint Secretary | Member; |
| 20 | (vii) | Secretary (Technical Education), Government of Himachal Pradesh or his representative not below the rank of Joint Secretary | Member; |
| | (viii) | Director of Higher Education | Member;
and |
| | (ix) | State Project Director (RUSA) | Member
Secretary; |
- (b) non-official members,—
- | | | | |
|----|-----|--|--|
| 25 | (i) | five members to be nominated by the State Government from the field of art, science, civil society, technology or skill development; | |
|----|-----|--|--|

- (ii) two experts from Industry to be nominated by State Government;
- (iii) three Principals of affiliated colleges to be nominated by State Government;
- (iv) one member to be nominated by the Ministry of Human Resource Development, Government of India; 5
- (v) one academician to be nominated by the State Government having experience of planning and policy making in Higher Education.
- (2) The Council shall be a body corporate by the name aforesaid having perpetual succession and a common seal and may by the said name, sue and be sued. 10
- (3) The tenure of each nominated member shall be for a period of six years and one-third of the nominated members shall retire after every two years. 15
- (4) The headquarter of the Council shall be at Shimla.
- 4.** The first Chairperson of the Council shall be appointed by the State Government and shall continue as such until the Selection Committee selects a Chairperson under the provisions of this Act.
- 5.** (1) There shall be an Advisory Committee of three members under the chairmanship of the Chief Secretary for making recommendations to the Selection Committee for the appointment of the Chairperson of the Council. 20
- (2) Two other members of the Advisory Committee shall be reputed academicians or famous intellectuals, out of which one shall be nominated by the State Government and other by the Council. 25

First
Chairperson.

Advisory
Committee.

6. The Selection Committee consisting of the following members shall select the Chairperson on the recommendations of the Advisory Committee, namely:—

Selection
Committee

(a) the Chief Minister;

5 (b) the Education Minister; and

(c) Leader of the Opposition in the State Legislative Assembly:

Provided that, if the portfolio of Education happens to be with the Chief Minister, any other Minister, as may be nominated by the Chief Minister shall, be the member of the Selection Committee.

10 **7.** (1) The tenure of the Chairperson shall be for a period of five years.

Tenure of
Chairperson.

(2) The Chairperson of the Council may be removed by the State Government, if his work and conduct is not found satisfactory.

8. (1) The State Government shall remove a member if,—

Removal of
member.

15 (a) he becomes an undischarged insolvent;

(b) he is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude;

20 (c) he becomes of unsound mind and stands so declared by a competent court;

(d) he refuses to act or becomes incapable of acting;

(e) he is, without obtaining leave of absence from the Council, absents from three consecutive meetings of the Council; or

(f) his work and conduct is found unsatisfactory.

25 (2) On a controversy regarding the disqualification of a member, the decision of the Government shall be final.

(3) No person shall be eligible to be nominated as a member of the Council unless he is a graduate.

Duties and
functions of
Council.

9. The duties and functions of the Council shall be,—

- (a) to make recommendations on the policies of Higher Education for the State (Future Planning, Annual Planning and Budget); 5
- (b) to help the institutions of the State in planning and implementation;
- (c) to coordinate between the top institutions of education, regulatory bodies and the State Government;
- (d) to invigilate and implement the planning of Higher Education; 10
- (e) to manage, frame information system and its maintenance;
- (f) to collect data pertaining to Higher Education at Government level and institution level from time to time;
- (g) to evaluate the institutions in the State in accordance with the key performance indicators framed by the National Higher Education Mission and if required, make parameters; 15
- (h) to plan and suggest measures for continuous growth in teaching quality and research in the State;
- (i) to suggest reforms in examination system;
- (j) to make syllabi contemporary and relevant; 20
- (k) to encourage innovation in research;
- (l) to safeguard the autonomy of the institutions in the State;
- (m) to suggest the establishment of new institutions, colleges;

- (n) to suggest measures to improve the procedures of the recognition of the institutions;
- (o) to advise the Government on issues relating to investments in the Higher Education;
- 5 (p) to advise the Universities in making regulations and bye-laws etc.;
- (q) to manage the amounts received as contribution of the National Higher Education Mission through the State Government;
- 10 (r) to recommend such procedures, as may be required, in making Grants-in-aid by the Government to the institutions;
- (s) to make and follow a transparent procedure for transferring the financial aids to the Universities and colleges under the National Higher Education Mission;
- 15 (t) to advise on the measures to be taken for enhancing access, excellence, inclusion and equity in Higher Education;
- (u) to suggest measures to remove imbalances (including those relating to regions, religions, academic disciplines, gender and other socio-economic factors) in the development of Higher Education and research;
- 20 (v) to specify norms and standards of academic excellence in the matters of accreditation and benchmarking of institutions;
- (w) to advise the State Government, Universities, colleges or institutions and research on any matter as may be referred to the Council; and

(x) to discharge such other functions in relation to the determination, co-ordination and maintenance of standards in Higher Education and research as the State Government may prescribe.

Meeting of Council.

10. (1) The meetings of the Council shall be held as per requirement. However, it shall be mandatory to convene at least one meeting in six months. 5

(2) The Member Secretary of the Council shall convene the meeting of the Council on the advice of the Chairperson.

(3) The quorum of the meeting of the Council shall be one-third of the total members including the Chairperson and Member Secretary. 10

Vacancy not to invalidate proceedings.

11. No act or proceedings of the Council shall be invalid merely on the ground of the existence of any vacancy, absence of member or defect in the constitution of the Council.

Resignation.

12. Any nominated member may forward a resignation letter to the Chairperson: 15

Provided that such resignation shall take effect from the date on which such resignation is accepted by the Chairperson.

Allowances to members.

13. The Members shall be entitled to receive such travelling allowances, daily allowances, local expenses and participation fees etc., as may be prescribed by the State Government. 20

Occurrence of a vacancy.

14. If any vacancy occurs due to death, resignation, retirement or otherwise the State Government shall nominate a member for the remaining term.

Annual accounts and audit.

15. (1) The accounts of the Council and the annual report of accounts shall be maintained in such manner, as may be prescribed. 25

(2) The accounts of the Council shall be audited by an Auditor appointed by the Council.

(3) The Member Secretary shall be responsible for preparing the annual report of accounts and make available a sealed copy of the same to each member and present the same before the Council for approval.

5 (4) Mistakes and irregularities pointed out by the Auditor shall be rectified by the Council by following due procedure.

(5) The audited report of accounts of the Council shall be presented to the State Government within prescribed time limit alongwith the comments of the Council.

10 (6) After receiving the annual accounts and audit report, the State Government shall lay it before the State Legislature as soon as possible.

16. (1) The Council shall present the annual report of its activities every year before the State Government. Annual report.

(2) After receiving the annual report, the State Government shall lay the same before the State Legislature as soon as possible.

15 **17.** No suit, prosecution or other legal proceedings shall lie against any public servant or the State Government in respect of any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder. Protection of action taken in good faith.

20 **18.** (1) The Council may appoint such officers and employees as may be deemed necessary for smooth functioning of the Council. Officers and employees of Council.

(2) The terms and conditions of the service of the officers and employees of the Council shall be such, as may be prescribed.

(45 of 1860) **19.** The members, officers and employees of the Council shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 . Members, officers, and employees of Council to be public servant.

20. The Council may make such regulations, as may be required and are not inconsistent with the provisions of this Act. Power to make regulations.

Power to
remove
difficulties.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Rajpatra (e-Gazette), Himachal Pradesh, make such provisions, not inconsistent with the provisions of this Act or rules made thereunder, as may appear to be necessary or expedient for removing the said difficulty:

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Provided that no order under this section shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Any order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

Power to
make rules.

22. (1) The State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, make rules for carrying out the purposes of this Act.

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(2) All the rules made under this Act, shall be laid, as soon as may be after they are so made, before the Legislative Assembly, while it is in session, for a period of not less than fifteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or the session immediately following, the Assembly makes any modification(s) in the rules or the Assembly decides that the rules should not be made, such rules shall have effect only in such modified form or be of no effect, as the case may be. However, any such modification or annulment shall be without prejudice to the validity of anything previously done.

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STATEMENT OF OBJECTS AND REASONS

There are various educational institutions and regulatory bodies functioning in the State to impart education to the students. But, due to fast changing scenario of the socio-economic environment, there is a need to understand the methods of imparting education in the State. There is a requirement to establish an institution in the State comprising of Academic experts and the representatives from the Government, Universities, Industry and public in order to forge among them a synergic relationship for coordinated development of Higher Education. Therefore, it has become imperative to set up a State Higher Education Council for ensuring the autonomy of all Institutions of Higher Education in the State and to make them accountable for promoting academic excellence and social justice by providing the relevant inputs to the Government for policy formulation and perspective planning. It will also guide and steer the growth of Higher Education in accordance with changing socio-economic needs of the State. The Council will act as a bridge between the Government and Universities and the regulatory bodies.

This Bill seeks to achieve the aforesaid objectives.

(SURESH BHARDWAJ)
Minister-in-charge.

DHARAMSHALA:
THE , 2018.

FINANCIAL MEMORANDUM

Provisions of the Bill, if enacted will entail one time non-recurring expenditure of Rs. 65,00,000/- (Rupees sixty five lakh) only. Apart from this, recurring expenditure to the tune of Rs. 75,00,000/- (Rupees seventy five lakh) approximately per annum will be born by the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 20 and 22 of the Bill seek to empower the Council and the State Government to make regulations and rules respectively for carrying out the purposes of this Act. The proposed delegation of powers is essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA (File No. EDN-A-Ka (1)16/2013)

The Governor of Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh State Higher Education Council (Establishment and Regulation) Bill, 2018, recommends under article 207 of the Constitution of India, the introduction and the consideration of the Bill by the Legislative Assembly.

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(SURESH BHARDWAJ)
Minister-in-Charge.

(YASHWANT SINGH CHOGAL)
Pr. Secretary (Law).

DHARAMSHALA:
The _____, 2018.