

The Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Act, 2013

MAHARASHTRA

India

The Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Act, 2013

Act 20 of 2013

- Published on 21 August 2013
- Commenced on 21 August 2013
- [This is the version of this document from 21 August 2013.]
- [Note: The original publication document is not available and this content could not be verified.]

The Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Act, 2013 Maharashtra Act No. 20 of 2013[21st August, 2013](First published, after having received the assent of the Governor in the "Maharashtra, Government Gazette", on the 21st August 2013.)An Act to provide for prohibition of establishment of unauthorized institutions and introduction of unauthorized courses of study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education in the State of Maharashtra and for matters connected therewith or incidental thereto. Whereas it was expedient to provide for effectively prohibiting and dealing with persons establishing unauthorized institutions and introducing or conducting unauthorized courses of study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education in the State of Maharashtra and for matters connected therewith or incidental thereto; And Whereas both Houses of the State Legislature were not in session; And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law, for the purposes aforesaid, and, therefore, promulgated the Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Ordinance, 2013, on the 11th July

2013; And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fourth Year of the Republic of India, as follows : -

Chapter I Preliminary

1. Short title and commencement.

(1) This Act may be called the Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Act, 2013, (2) It shall be deemed to have come into force on the 11th July 2013.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Agriculture Education" means the education relating to agriculture within the meaning of clause (b) of section 2 of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983 and includes such other programmes or courses of study as may be declared by the Government to be the programmes or courses of study in Agriculture Education; (b) "Agricultural Educational Institution" means an Institution which offers programmes or courses of study in Agriculture Education but does not include any university established by or under any law for the time being in force; (c) "Animal and Fishery Sciences Education" means the programmes or courses of study in Animal and Fishery Sciences within the meaning of clause (17) of section 2 of the Maharashtra Animal and Fishery Sciences University Act, 1998, and includes such other programmes or courses of study as may be declared by the Government to be the programmes or courses of study in Animal and Fishery Sciences Education; (d) "Animal and Fishery Sciences Educational Institution" means an Institution offering programmes or courses of study in Animal and Fishery Sciences, but does not include any university established by or under any law for the time being in force; (e) "Appellate Authority" means an Appellate Authority appointed under section 7; (f) "appropriate authority" means any authority established by or under, - (i) the Indian Nursing Council Act, 1947, (ii) the Dentists Act, 1948, (iii) the Indian Medical Council Act, 1956, (iv) Indian Medicine Central Council Act, 1970, (v) the Indira Gandhi National Open University Act, 1985, (vi) the All India Council for Technical Education Act, 1987, (vii) the National Council for Teacher Education Act, 1993, (viii) an Agricultural University constituted under the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983, (ix) the Yashwantrao Chavan Maharashtra Open University Act, 1989, (x) an university constituted under the Maharashtra Universities Act, 1994, (xi) the Maharashtra State Board for Technical Education Act, 1997, (xii) the Maharashtra Animal and Fisheries Science University Act, 1998, or (xiii) Maharashtra University of Health Sciences Act, 1998, and also includes the National Council for Vocational Training established by the Government of India, Ministry of Labour, and the Maharashtra State Board of Vocational Education established by the Government and any other officer or authority, as may be notified by the Government to be an appropriate authority in respect of any programme or course of study; (g) "certificate course" in relation to the programmes or courses of study in Health Sciences

means a programme or self designed course of study designed by the Maharashtra University of Health Sciences established under the Maharashtra University of Health Sciences Act, 1998, and in relation to any other programme or course of study by an Educational Institution, means the programme or course the duration of which is below one year;(h)"Competent Authority" means the Competent Authority appointed under section 5;(i)"Educational Institution" means an Institution conducting programmes or courses of study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher Education, Industrial Training Institute and Industrial Training Centre, Technical Education or, as the case may be, Vocational Education;(j)"Government" means the Government of Maharashtra;(k)"Health Sciences" means the programmes or courses of study or research in Health Sciences within the meaning of clause (17) of section 2 of the Maharashtra University of Health Sciences Act, 1998 and includes such other programmes or courses of study as may be declared by the Government to be the programmes or courses of study in Health Sciences;(l)"Health Sciences Educational Institution" means an Institution which offers programmes or courses of study in Health Sciences, but does not include any university established by or under any law for the time being in force;(m)"Higher Education" means programmes, courses of study or research and training in Higher Education such as Arts, Commerce, Science, Law and Management and includes such other programmes, courses of study or areas of knowledge, as the case may be, declared by the Government to be the programmes or courses of study or areas of knowledge in Higher Education;(n)"Higher Educational Institution" means an Institution which offers programmes or courses of study in Higher Education but does not include any university established by or under any law for the time being in force;(o)"Industrial Training" means the training which generates work force as the field need of various industries;(p)"Industrial Training Institute and Industrial Training Centre" means the Institutes or Centres which imparts Industrial Training and approved by the National Council for Vocational Training, Government of India, Ministry of Labour;(q)"prescribed" means prescribed by rules made under this Act;(r)"Technical Education" means the programmes or courses of study and research and training in education, such as engineering, technology, architecture, town planning, pharmacy and applied arts and crafts and includes any other programmes or courses of study as may be declared by the Government of India to be the programmes or courses of study in Technical Education;(s)"Technical Educational Institution" means an Institution which offers programmes or courses of study or learning in Technical Education, but does not include any university established by or under any law for the time being in force;(t)"unauthorized course" means the programme or course of study which is not approved by the appropriate authority;(u)"unauthorized institution" means the Educational Institution which is not approved by the appropriate authority;(v)"Vocational Education" means the programmes or courses of study which impart knowledge and skill development in the fields of engineering, para-Health Sciences, commerce, agriculture, fisheries, dairy and veterinary for generation of employment or self-employment and includes any other programmes or courses of study as may be declared by the Government to be the programmes or courses of study in Vocational Education;(w)"Vocational Educational Institution" means an Institution which offers programmes or courses of study in Vocational Education, but does not include any university established by or under any law for the time being in force.

Chapter II

Prohibition of Establishment of Unauthorized Institutions and Introducing Unauthorized Courses

3. Prohibition of establishment of unauthorized institutions and introducing unauthorized courses.

(1)No person shall establish or cause to be established or conduct, an Educational Institution, without prior approval of the appropriate authority.(2)No person or an Educational Institution shall introduce or cause to be introduced or conduct a programme or course of study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher Education, Technical Education or Vocational Education, without prior approval of the appropriate authority.(3)No person or an Educational Institution other than the Institution approved by the Yashwantrao Chavan Maharashtra Open University, constituted under the Yashwantrao Chavan Maharashtra Open University Act, 1989, shall conduct their programmes or courses of study or any study centre in the State of Maharashtra, without prior consultation with the Government.

4. Prohibition regarding certain advertisements.

- No person or any Educational Institution shall publish or cause to be published, or arrange or take part in the publication or exhibition of any advertisement relating to such Educational Institution or programmes or courses of study conducted in such Educational Institution or centre which he knows or believes to be not true, intending thereby to cause or knowing it to be likely to make another person believe that the said Educational Institution or programme or course of study is approved by the appropriate authority.

Chapter III

Authorities

5. Competent Authority.

- The Government may, by notification in the Official Gazette, appoint an officer holding the post not below the rank of Deputy Director to be the Competent Authority for the purposes of this Act and different officers may be appointed for different Educational Institutions and for different programmes or courses of study.

6. Powers and functions of Competent Authority.

(1)If the Competent Authority, on the basis of any complaint filed before him or otherwise, is satisfied that any Educational Institution is established or any programme or course of study is introduced or conducted in contravention of the provisions of subsection (1) or (2) of section 3, he

may, by order, direct the closure of such Educational Institution or programme or course of study, with immediate effect: Provided that, the Competent Authority shall, before passing any such order, give the concerned person or Educational Institution, a reasonable opportunity of being heard. (2) While directing the closure of unauthorized institution or unauthorized programme or course of study under sub-section (1), the Competent Authority may direct the Institution and the persons in charge of the management of such Institution or programme or course, to return to the students who have taken admission therein, the fees and other sums or charges paid for the purpose of the admission. (3) The Competent Authority shall also publish or cause to be published the names of the unauthorized institutions or programmes or courses of study in local newspapers having wide circulation and also by such other means including electronic media, as he may deem fit, so that the general public or students may avoid taking of admission in such Institutions or programmes or courses of study. (4) In addition to the order for closure of unauthorized institutions or programmes or courses of study under sub-section (1), the Competent Authority may impose upon the institution and any other person in charge of the management of such institution or programme or course of study which is an unauthorized institution or which offers unauthorized programme or course, a penalty which shall not be less than one lakh rupees but which may extend to five lakhs rupees. (5) The Competent Authority may exercise such other powers and perform such other functions as may be prescribed. (6) The procedure to be followed by the Competent Authority for exercising his powers and discharging his functions under the Act shall be such as may be prescribed.

7. Appellate Authority.

- The Government may, by notification in the Official Gazette, appoint an officer not below the rank of Deputy Secretary to Government, to be the Appellate Authority for the purposes of this Act and different officers may be appointed for different Educational Institutions, programmes or courses of study.

8. Appeals.

(1) Any person or an Educational Institution aggrieved by an order of the Competent Authority may, within the period of fifteen days from the date of the order of the Competent Authority, prefer an appeal before the Appellate Authority: Provided that, the Appellate Authority may condone the delay in filing the appeal beyond the said period of fifteen days, if he is satisfied that, the appellant was prevented from filing the appeal due to circumstances beyond his control. (2) The procedure to be followed by the Appellate Authority in deciding the appeal shall be such as may be prescribed. (3) Every order or decision of the Appellate Authority in appeal shall be final.

Chapter IV

Offences and Penalties

9. Offences.

- Contravention of any of the provisions of sections 3 and 4 shall be an offence.

10. Punishments.

(1)Any person who contravenes the provisions of sub-section (1) or (2) of section 3 shall, on conviction, be punished with imprisonment for a term which may extend to one year or with a fine, which shall not be less than one lakh rupees but which may extend to five lakh rupees or with both.(2)Any person or an Educational Institution, who contravenes the provisions of sub-section (3) of section 3, shall, on conviction, be punished with a fine, which shall not be less than one lakh rupees but which may extend to five lakh rupees.(3)Any person or an Educational Institution who contravenes the provisions of section 4, shall, on conviction, be punished with a fine, which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

11. Offences by companies.

(1)Where an offence under this Act has been committed by a company, every person, who, at the time when the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that, nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly.Explanation. - For the purposes of this section,-(a)"company" means a body corporate and includes a firm or other association of persons or body of individuals, whether incorporated or not; and(b)"Director" in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

Chapter V

Miscellaneous

12. Competent Authority and Appellate Authority to have powers of Civil Court.

- The Competent Authority and the Appellate Authority shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in the Civil Court under the Code of

Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:-(i)summoning and enforcing the attendance of the complainant, students and representatives of the Educational Institutions and examining them on oath;(ii)requiring the discovery and production of documents;(iii)receiving evidence on affidavits;(iv)requisitioning, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, any public record or document or copy of such record or document from any office;(v)issuing commissions for the examination of witnesses or documents;(vi)reviewing their own decisions;(vii)any other matter which may be prescribed.

13. Code for advertising of Educational Institutions or programmes or courses of study.

(1)Every Educational Institution shall follow the self-imposed discipline required under the Advertising Council of India Code for self-regulation in advertising.(2)Without prejudice to the generality of the provisions of sub-section (1), the Educational Institutions shall, while advertising, follow the following norms:-(i)an advertisement offering a degree or diploma or certificate which is required by law to be accredited, recognised, approved or endorsed by an institute or an authority shall specify the name of the institute or an authority which has accredited, recognised, approved or endorsed the course,(ii)in case the Educational Institution making the advertisement or the programme or course of study for which the advertisement is issued, is not accredited, recognised or approved by any authority from which such accreditation, recognition or approval is needed, but is affiliated to another institution which has received such accreditation, recognition or approval from the requisite authority, then the advertisement shall state the full name and location of the such Educational Institution to which it is affiliated;(iii)in case the Educational Institution is affiliated to another Educational Institution, as is described in clause (ii) above, then fonts and logo if any and the graphical images of the Educational Institution making the advertisement, in the print as well as audio or audio-visual-media shall be of the same size as that of the Educational Institution to which it is affiliated;(iv)the advertisement shall not state or lead the reader to believe that, the enrolment in the Educational Institution or to the programmes or courses of study will provide the student with job, temporary or permanent, or job promotions, or increase in the salary, and the like, unless the person issuing the advertisement is able to substantiate his claim in such advertisement;(v)the advertisement shall not make any claim of whatsoever, regarding the extent of the batch placed, highest or average marks or gradation and ranking obtained by a student, obtaining admissions to other educational institutions, testimonials of students, affiliation to foreign institution, and the like, unless the person making the advertisement is able to substantiate the claims made in such advertisement.

14. Recovery of penalty as arrear of land revenue.

- The penalty levied by the Competent Authority under sub-section (4) of section 6, unless paid to the Competent Authority may be recovered as an arrear of land revenue.

15. Saving in respect of certificate courses.

- Any Educational Institution may conduct a certificate course: Provided that, the nomenclature of such course shall not be similar to the courses approved by the appropriate authority.

16. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Competent Authority or the Appellate Authority, for anything which is done, or intended to be done in good faith under this Act, or any rule, order or instrument made under this Act.

17. Competent Authority, etc., to be public servants.

- Every Competent Authority and every Appellate Authority appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

18. Power to make rules.

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. (2) Except when the rules are made for the first time, every rule made under this Act shall be subject to the condition of previous publication. (3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, 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 done or omitted to be done under that rule.

19. Act to be in addition to and not in derogation of any other law.

- The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

20. Power to remove difficulty.

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as the occasion requires, by order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary and expedient for the purpose of removing the difficulty: Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act. (2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

21. Repeal of Maharashtra Ordinary XIII of 2013 and saving.

(1)The Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Ordinance, 2013, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification or order issued, or appointment made) under the said Ordinance shall be deemed to have been done, taken or made, as the case may be, under the corresponding provisions of this Act.