

The West Bengal State Council Of Higher Education Act, 1994.

WEST BENGAL

India

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Act 37 of 1994

- Published on 29 July 1994
- Commenced on 29 July 1994
- [This is the version of this document from 29 July 1994.]
- [Note: The original publication document is not available and this content could not be verified.]

The West Bengal State Council Of Higher Education Act, 1994. West Bengal Act 37 of 1994 [29th July, 1994.] Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 29th July, 1994. An Act to provide for the establishment of a State Council of Higher Education in West Bengal. Whereas there are guidelines laid down by the University Grants Commission for the setting up of State Councils of Higher Education; And whereas it is expedient to establish a State Council of Higher Education in West Bengal, keeping in view the guidelines laid down by the University Grants Commission in order to maintain the standards of teaching, examination and research in Universities and affiliated colleges in West Bengal largely in line with the objectives determined by the University Grants Commission, monitor the performance of the affiliated colleges in this respect, and strengthen the planning and co-ordination of education programmes in higher education so as to (a) fulfil the need of the future development, (b) control unplanned expansion, (c) channelise higher education in desirable directions on the basis of the socio-economic need and academic requirement and, finally, (d) act as a link as far as possible between the Universities and the colleges on the one hand and the State Government on the other and work closely with the University Grants Commission; It is hereby enacted as follows:-

1. Short title and commencement.

(1) This Act may be called the West Bengal State Council of Higher Education Act, 1994. (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless, there is anything repugnant in the subject or context, -(a) "Chairman" means the Chairman of the State Council of Higher Education; (b) "college" means a college affiliated to a University, and includes a Government college, University college, engineering or technological

college, or medical college. Explanation I. - "Government college" means a college maintained and managed by the Government. Explanation II. - "University college" means a college maintained and managed by a University; (c) "degree" means a degree in arts, science, commerce, fine arts, engineering, technology, management, law or in any other subject recognised by a University in West Bengal, and includes a postgraduate degree; (d) "diploma" means a diploma awarded on completion of a course of study after graduation, but does not include a certificate; (e) "Government" means the Government of West Bengal; (f) "higher education" means, an education above the twelfth class leading to a degree or diploma; (g) "notification" means a notification published in the Official Gazette, and the word "notified" shall be construed accordingly; (h) "prescribed" means prescribed by rules made under this Act; (i) "State Council" means the West Bengal State Council of Higher Education constituted under sub-section (1) of section 3; (j) "Teacher" means a Lecturer, Assistant Professor, Reader, Associate Professor or Professor of a University or a college, and includes a Lecturer in senior scale or a Lecturer in Selection Grade; (k) "University" means a University established under any State or Central Act, and includes a Deemed University in West Bengal. Explanation. - "Deemed University" means an institution for higher education, other than a University, declared by the Central Government to be deemed to be a University under section 3 of the University Grants Commission Act, 1956. (l) "University Grants Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956; (m) "Vice-Chancellor" means a Vice-Chancellor of a University, and includes the Director of a Deemed University.

3. State Council.

(1) The Government may, by notification, constitute a State Council for the purposes of this Act to be called the West Bengal State Council of Higher Education, with effect from such dates as may be specified in the notification. (2) The State Council shall be a body corporate with perpetual succession and a common seal and shall sue and be sued by the name of the West Bengal State Council of Higher Education. (3) The headquarters of the State Council shall be located at Calcutta.

4. Composition of State Council.

(1) The State Council shall consist of the following members, namely:—(a) (i) Chairman; and (ii) a Vice-Chairman, to be appointed by the Government from amongst the eminent educationists; (b) ex officio members (i) Secretary, University Grants Commission, or his nominee, not below the rank of a Joint Secretary, University Grants Commission; (ii) Secretary, Higher Education Department of the Government; (iii) Secretary, Finance Department of the Government; (iv) Director of Public Instruction of the Government; (v) Director of Technical Education of the Government; (vi) Secretary, Department of Science and Technology of the Government; (vii) Vice-Chancellors of all Government-aided Universities offering education in humanities, basic sciences, engineering and technical subjects through conventional as well as distance modes; and (viii) Chairman, West Bengal College Service Commission; (c) Other members (i) two Vice-Chancellors of the Government-aided Universities not covered under sub-clause (vii) of clause (b) of this sub-section, to be nominated by the Government; (ii) one member from amongst the Principals of the affiliated colleges to be nominated by the Government; (iii) two Teachers from amongst the Teachers of the Universities

conducting post-graduate courses to be nominated by the Government;(iv)two Teachers from amongst the Teachers of the affiliated Colleges conducting undergraduate courses to be nominated by the Government;(v)one eminent educationist to be nominated by the Government;(vi)one member nominated by the Government from amongst the eminent scientists;(vii)one member, who shall represent the industry, to be nominated by the Government;(viii)one technical expert to be nominated by the Government;(ix)one Member-Secretary to be appointed by the Government.(2)Every appointment or nomination under this section shall, except in the case of ex officio members, take effect from the date on which such appointment or nomination is made by the Government.

Section 4 substituted by W.B. Act 25 of 2007, which was earlier as under:"4. Composition of the State Council.- (1) The State Council shall consist of the following members, namely:-(a)Chairman and Vice-Chairman(i) Minister-in-charge, Higher Education, who shall be the ex officio Chairman of the State Council;(ii) a Vice-Chairman to be appointed by the Government;(b)ex officio members(i) Secretary, University Grants Commission, or his nominee not below the rank of a Joint Secretary, University Grants Commission;(ii) Secretary, Higher Education, Department of Education of the Government;(iii) Secretary, Finance Department of the Government;(iv) Director of Public Instruction of the Government;(v) Director of Technical Education of the Government;(vi) Director of Agriculture of the Government;(c)other members(i) eight Vice-Chancellors of the Universities in West Bengal to be nominated by the Government;(ii) one member from amongst the Principals of the affiliated colleges to be nominated by the Government;(iii) three teachers from amongst the Teachers of the Universities conducting post-graduate courses to be nominated by the Government;(iv) two teachers from amongst the Teachers of the affiliated colleges conducting undergraduate courses to be nominated by the Government;(v) one eminent educationist to be nominated by the Government;(vi) one member nominated by the Government from amongst the eminent scientists;(vii) one member, who shall represent the industry, to be nominated by the Government;(viii)one technical expert to be nominated by the Government;(ix) one Member-Secretary to be appointed by the Government.(2) Every appointment or nomination under this section shall, except in the case of ex officio members, take effect from the date on which such appointment or nomination is made by the Government."

5. Terms and conditions of service of Chairman, Vice-Chairman and members.

(1)The Chairman, the Vice-Chairman or any other member (other than an ex officio member) shall be appointed by the Government ordinarily for a term of four years and shall be eligible for reappointment for a second term:Provided that it shall be competent for the Government to make any appointment under this sub-section for a term of less than four years, if it considers necessary so to do:Provided further that the Chairman, the Vice-Chairman or any other member (other than an ex officio member) who incurs any disqualification under the rules made in this behalf shall cease to hold the office of the Chairman, the Vice-Chairman or member.(2)The Chairman, the Vice-Chairman or any other member (other than an ex officio member) may resign his office by writing under his hand addressed to the Government, and every such resignation shall take effect from the date on which it is accepted by the Government.(3)The Chairman, the Vice-Chairman or any other member (other than an ex officio member) shall not be removed from his office except by

an order of the Government on the ground of wilful omission or refusal to carry out the provisions of this Act or abuse of the powers vested on him and after such inquiry as may be ordered by the Government when such Chairman, Vice-Chairman or member, as the case may be, shall be given an opportunity of making his representation against such removal.(4)When a person, is qualified to be a member of the State Council by virtue of his representing a particular institution or interest, he shall cease to be member of the State Council when he ceases to represent such institution or interest.(5)If any casual vacancy occurs in the office of the Chairman, the Vice-Chairman or any other member (other than an ex officio member), whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity or for any other reason, such vacancy shall be filled by the Government as soon as may be in the manner provided in sub-section (1). Such Chairman, the Vice-Chairman or nominated or appointed member shall hold office only for the remainder of the term for which the person whose place he fills would have remained.(6)The selection criteria, age, conditions of service of the Chairman, the Vice-Chairman and other members (other than an ex officio member) of the State Council shall be such as may be prescribed:Provided that the office of the Chairman, the Vice-Chairman and Member-Secretary shall be whole-time.(7)The Chairman, the Vice-Chairman and the Member-Secretary shall exercise such powers and perform such functions as may be prescribed.(8)In case the Chairman is absent from duties, the Vice-Chairman of the State Council shall hold the office of the Chairman during the period the Chairman remains absent and in case both the Chairman and the Vice-Chairman are absent from duties temporarily, one of the members of the State Council shall, with the approval of the Minister-in-Charge, Higher Education Department of the Government, hold the office of the Chairman during the period the Chairman remains absent. In case the post of Chairman becomes vacant temporarily owing to death, resignation or serious ailment of the Chairman, Minister-in-Charge, Higher Education Department of the Government shall be authorised to fill the vacancy temporarily till such vacancy is filled by the Government under sub-section (5).

Section 5 substituted by W.B. Act 25 of 2007, which was earlier as under :-"5. Terms and conditions of service of Chairman, Vice-Chairman and members.- (1) The Vice-Chairman and other members (other than an ex officio member) shall be appointed by the Government ordinarily for a term of four years and shall be eligible for re-appointment for a second term:Provided that a person who has not attained the age of sixty-five years shall be eligible to be appointed as Vice-Chairman:Provided further that it shall be competent for the Government to make any appointment under this sub-section for a term of less than four years if it considers necessary so to do:Provided also that the Vice-Chairman or any other member (other than an ex officio member) who incurs any disqualification under the rules made in this behalf shall cease to hold the office of Vice-Chairman or member.(2) The Vice-Chairman or any other member (other than an ex officio member) may resign his office by writing under his hand addressed to the Government, and every such resignation shall take effect from the date on which it is accepted by the Government.(3) The Vice-Chairman or any other member (other than an ex officio member) shall not be removed from his office except by an order of the Government on the ground of wilful omission or refusal to carry out the provisions of this Act or abuse of the powers vested on him and after such inquiry as may be ordered by the Government when such Vice-Chairman or member, as the case may be, shall be given an opportunity of making his representation against such removal.(4) When a person is qualified to be a member of the State Council by virtue of his representing a particular institution or

interest, he shall cease to be a member of the State Council when he ceases to represent such institution or interest.(5) If any casual vacancy occurs in the office of the Vice-Chairman or any other member (other than an ex-officio member), whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity or for any other reason, such vacancy shall be filled by the Government as soon as may be in the manner provided in sub-section (1). Such Vice-Chairman or nominated or appointed member shall hold office only for the remainder of the term for which the person whose place he fills would have remained as the Vice-Chairman or nominated or appointed member, as the case may be.(6) The office of the Vice-Chairman and the Member-Secretary shall be wholetime and salaried, and the other terms and conditions of service of the Vice-Chairman and other members shall, subject to the provisions of this sub-section, be such as may be prescribed.(7) The Chairman, the Vice-Chairman and the Member-Secretary shall exercise such powers and perform such functions as may be prescribed."

6. Meetings of the State Council.

- The State Council shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be provided by regulations made under this Act.

7. Vacancies amongst members or defect in constitution not to invalidate acts or proceedings of the State Council.

- No act or proceedings of the State Council shall be deemed to be invalid by reason of any vacancy in, or any defect in the Constitution of, the State Council.

8. [Temporary association of person with the State Council for particular purpose. [[Section 8 substituted by W.B. Act 25 of 2007, which was earlier as under:

'8. Temporary association of persons with the State Council for particular purpose. - The State Council may associate with it in such manner and for such purpose as may be prescribed any person whose assistance or advice is required for carrying out its work. A person associated with the State Council for such purpose shall have the right to take part in the discussions relevant to such purpose but shall not have the right to vote at a meeting of the State Council and shall not be a member for any other purpose. The State Council may associate with it members of Medical, Engineering and Agricultural Universities and such other expert bodies as the Government may, by order, specify with a view to developing co-ordination among the Universities.']]- The State Council may associate with it in such manner and for such purpose as may be prescribed any person whose assistance or advice is required for carrying out its work. A person associate with the State Council for such purpose shall have the right to take part in the discussions relevant to such purpose but shall not have the right to vote at a meeting of the State Council and shall not be a member for any other purpose. The State Council may associate with its members from the Universities offering Medical or any other professional courses and such other expert bodies as the Government may, by order, specify with a view to developing coordination among the Universities.]

9. Staff of the State Council.

(1)The State Council may appoint officers [other than Member-Secretary] [Words substituted for the words 'other than Secretary,' by W.B. Act 25 of 2007.] and other employees with the previous approval of the Government from time to time in accordance with the prescribed guidelines.(2)The classification and methods of recruitment, conditions of service, pay and allowance, disciplinary conduct and functions and responsibilities of the officers and other employees referred to in sub-section (1) shall be such as may be prescribed.

10. [Authentication of orders and other instruments of the State Council. [[Section 10 substituted by W.B. Act 25 of 2007, which was earlier as under:-

'10. Authentication of orders and other instruments of the State Council. - All orders and decisions of the State Council shall be authenticated by the signature of the Chairman or any other member authorised by the State Council in this behalf, and all other instruments issued by the State Council shall be authenticated by the signature of the Secretary or any other officer of the State Council authorised in the like manner in this behalf.']] - All orders, decisions and instruments of the State Council shall be authenticated by the signature of the Chairman or the Vice-Chairman in the absence of the Chairman and the Member-Secretary.]

11. Powers and functions of the State Council.

(1)It shall be the general duty of the State Council to co-ordinate and determine standards in institutions of higher education or research and scientific and technical institutions in accordance with the guidelines issued by the University Grants Commission from time to time.(2)The functions of the Council shall include -(1)Planning and co-ordination -(a)to prepare consolidated programmes in the sphere of higher education in the State, keeping in view the guidelines that may be issued by the University Grants Commission from time to time, and to assist in their implementation, bearing in mind the overall priorities and perspectives of higher education in the State;(b)to co-operate with University Grants Commission in respect of determination and maintenance of standards of higher education and suggest remedial action, wherever necessary;(c)[to evolve perspective plans for development of higher education in the State of West Bengal and to finalise such perspective plans in consultation with the Government; [[Sub-clauses (c) and (d) substituted by W. B. Act 25 of 2007, which were earlier as under:-'(c) to evolve perspective plans for development of higher education in the State;(d)to forward the developmental programmes of Universities and colleges in the State to the University Grants Commission along with its comments and recommendations;'.]](d)to submit the development programmes of Universities and Colleges to the Government along with its comments and recommendations for onward transmission to University Grants Commission and other bodies;](e)to monitor the progress of implementations of such development programmes;(f)to promote co-operation and co-ordination of the educational institutions among themselves and explore the scope for interaction with industry and other related establishments;Sub-clauses (g), (h) and (i) substituted by W.B. Act 25 of 2007, which were earlier as under:-["(g) to formulate the principles as per the guidelines of the Government and the University Grants Commission for

starting new educational institutions, keeping in view the norms and requirements to be fulfilled and, if desired by the Government, to make recommendations to the Government on the need and suitability of establishing any new college after making proper scrutiny and field inspection of the proposed college and to make recommendation in consultation with the Government and the University concerned regarding extension of affiliation of new subjects in existing colleges; [(g) to formulate the principles as per the guidelines of the Government and the University Grants Commission for starting new educational institutions, keeping in view the various norms and requirements to be fulfilled;(h)to suggest ways and means of mending additional resources for education in the State;(i)to work in liasion with the All India Council for Technical Education, Indian Council of Agricultural Research and other national level apex bodies or authorities on higher education in different areas of higher education.]](h)to suggest ways and means of augmenting additional resources for education in the State of West Bengal and to extend guidance to educational institutions for internal resources generations;(i)to work in liasion with the All India Council for Technical Education, Indian Council of Agricultural Research and other national level apex bodies or authorities in different areas of higher education;](j)[to encourage girl students to go for higher studies and also to monitor enrolment of girl students in colleges and Universities; [Sub-clauses (j), (k) and (l) inserted by W.B. Act 25 of 2007.](k)to identify measures needed and also to initiate steps for improving upon the access of the members of the families faced with socially disadvantageous positions to the institutions of higher education;(l)to maintain close vigil over functioning of colleges in known backward areas in the State of West Bengal and to identify infrastructure deficiencies and accordingly to keep the Governing Bodies of the concerned colleges, the affiliating University, and the Government informed of these deficiencies.](2)Academic functions -(a)to encourage and promote innovations in curricular development, restructuring of courses and updating of syllabi in the Universities and the colleges;(b)to devise methods and steps to improve the standards of examinations conducted by the Universities and suggest necessary reforms;(c)to facilitate training of Teachers in colleges and Universities;(d)to develop programmes for grater academic co-operation and interaction between University Teachers and college Teachers and to facilitate mobility of students and Teachers within and outside the State;(e)to conduct entrance examination for admission to institutions of higher education and render advice on admissions;(f)to encourage sports, games, physical education and cultural activities in the Universities and colleges;(h)to encourage extension activities and promote interaction with agencies concerned with regional planning and development of higher education;(i)to prepare an overview report on the working of the Universities and the colleges in the State and to furnish a copy of the report to the University Grants Commission and the Government;(j)to perform such other function as may be prescribed for promoting excellence in higher education and scientific research.(3)Advisory functions -(a)to advise the Government, -(i)in determining the block maintenance grants and in laying down the basis for such grants;(ii)on setting up a State Research Board so as to link research work of educational institutions with that of the research agencies and industry, keeping in view the overall research needs of the State;(iii)regarding improvement on the laws relating to the Universities including laws relating to the establishments of new Universities;(iv)on the policy of "earning while learning";(v)towards performing any other functions necessary for the furtherance of higher education in the State;(b)to advise the Universities to make new Statutes, Ordinances or Regulations on the basis of the respective University Act or to amend the existing Statutes, Ordinances or Regulations, where necessary, keeping in view the various

norms and requirements to be fulfilled.

12. Fund of the State Council.

(1)The State Council shall have its own Fund to be called the West Bengal State Council of Higher Education Fund (hereinafter referred to as the Fund) consisting of the grants from the Government, grants received from the Central Government for higher education and such other funds as may be received by the State Council from any other source.(2)The Government may pay to the State Council in each financial year such sum as may be considered by the Government to be necessary for the functioning of the State Council.(3)All money belonging to the Fund and all receipts of the State Council shall be deposited or invested in such manner as may be prescribed.(4)The State Council may spend such sums as it may think fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the State Council.

13. Release of grants in aid to the Universities, institutions, etc.

(1)It shall be the duty of the State Council to allocate grants to different Universities and degree colleges in the State from out of the fund received by it under sub-section (1) of section 12 and release the same to the concerned Universities and colleges.(2)Notwithstanding anything contained in any law for the time being in force, the State Council shall have the right to cause an enquiry to be made by such person or persons as it may consider necessary into the grants made by it to a University or a college or into any expenditure made thereof after giving previous notice to such University or college, as the case may be, of its intention to cause such enquiry.

14. Annual financial Statement.

(1)The State Council shall prepare an annual financial statement on or before such date as may be prescribed, of the estimated capital and revenue receipts and expenditure for the ensuing year and submit the same to the Government.(2)The statement as aforesaid shall include a statement of salaries and allowances of members, officers and employees of the State Council and of such other particulars as may be prescribed.(3)The Government shall, as soon as may be after the receipt of such statement, cause it to be laid before the State Legislature.(4)The State Council shall take into consideration any observations made on such statement in the State Legislature.(5)The State Council may, at any time during the year in respect of which a statement under sub-section (1) has been submitted, submit to the Government a supplementary statement, and the provisions of this section shall apply to such supplementary statement as they apply to the statement under sub-section (1).

15. Annual report.

- The State Council shall prepare once in every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the Government, and the Government shall cause the same

to be laid before the State Legislature. A copy of the report shall also be sent to the University Grants Commission.

16. Accounts and Audit.

(1)The State Council shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.(2)The State Council shall, as soon as may be after closing its annual accounts, prepare a statement of accounts in such form, and forward the same to the Government by such date, as the Government may determine.(3)The accounts of the State Council shall be audited by such authority, at such times, and in such manner, as may be prescribed.(4)The annual accounts of the State Council together with the audit report thereon shall be forwarded to the Government and the Government shall cause the same to be laid before the State Legislature, and shall also forward a copy of the audit report to the State Council for taking appropriate action on the matters arising out of the audit report.

17. Directions by the Government.

(1)In the discharge of its functions under this Act, the State Council shall be guided by such directions on questions of policy relating to State purposes or in case of any emergency as may be given to it by the Government.(2)If any dispute arises between the Government and the State Council as to whether a question is or is not a question of policy relating to State purposes or whether an emergency has arisen, the decision of the Government thereon shall be final.

18. Returns and information.

(1)The State Council shall furnish to the Government such return or other information with respect to its property or activities as the Government may from time to time require.(2)The State Council shall be competent to seek such returns, reports and information from any University or college as it may consider necessary for the performance of its functions.

19. Inspection and enquiry.

(1)The Government shall have the right to cause an inspection to be made by an officer, not below the rank of Joint Secretary to the Government, authorised by it, of the State Council and also to cause an inquiry to be made into the work done by the State Council in respect of any matter entrusted to it. The Government shall in every case give notice to the State Council of its intention to cause such inspection or inquiry to be made and the State Council shall be entitled to be represented thereat. The officer making the inspection or inquiry shall inform the Government of the results thereof.(2)The Government shall communicate to the State Council its views with reference to the results of such inspection or inquiry and may advise the State Council on the action to be taken.(3)The State Council shall, within such time as the Government may fix, report to it the action, if any, which is proposed to be taken, or has been taken, upon such advice.(4)The Government may, where action has not been taken by the State Council within the time as aforesaid

to its satisfaction, issue such directions as it may think fit, and the State Council shall comply with such directions.

20. Revision.

- The Government may, either suo motu or on an application made to them, call for and examine the records of any order passed or decision taken by the State Council under the provisions of this Act, for the purpose of satisfying itself as to the legality or propriety of such order or decision or as to regularity of such procedure, and pass such order with respect thereto as it may think fit: Provided that no such order shall be made except after giving the State Council or the person likely to be affected thereby a reasonable opportunity of being heard.

21. Power to make rules.

(1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act. (2) Every rule made under this Act and every order made under section 23 shall, as soon as may be after it is made, be laid before the State Legislature and if, before the expiry of the session in which it is so laid or the next session, the State Legislature makes any modification in any such rule or order, or the State Legislature decides that the rule or the order should not be made, the rule or the order 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 under that rule or order.

22. Power to make regulations.

(1) The State Council may make regulations consistent with this Act and the rules made thereunder:-(a) regulating the meeting of the State Council and the procedure for conducting business thereat; and (b) regulating the manner in which and the purposes for which persons may be associated with the Council under section 8. (2) No regulation shall be made under this section except with the previous approval of the Government.

23. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may make such order, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.