

THE PROTECTION OF HUMAN RIGHTS ACT, 1993

ACT NO. 10 OF 1994

[8th January, 1994.]

An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:-

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PRELIMINARY

CHAPTER I

PRELIMINARY

1.

Short title, extend and commencement.

1.Short title, extend and commencement. (1) This Act may be called the Protection of Human Rights Act, 1993.

(2) It extends to the whole of India:

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

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(3) It shall be deemed to have come into force on the 28th day of September, 1993.

2.

Definition.

2. Definition.- (1) In this Act, unless the context otherwise requires,--

- (a) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;
- (b) "Chairperson" means the Chairperson of the Commission or of the State Commission, as the case may be;
- (c) "Commission" means the National Human Rights Commission constituted under section 3;
- (d) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India;
- (e) "Human Rights Court" means the Human Rights Court specified under section 30;
- (f) "International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;
- (g) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;
- (h) "National Commission for Minorities" means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992 (19 of 1992);
- (i) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution;
- (j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990 (20 of 1990);
- (k) "notification" means a notification published in the Official Gazette;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code (45 of 1860);
- (n) "State Commission" means a State Human Rights Commission constituted under section 21.

(2) Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to a corresponding law, if any, in force in that State.

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THE NATIONAL HUMAN RIGHTS COMMISSION

CHAPTER II

THE NATIONAL HUMAN RIGHTS COMMISSION

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Constitution of a National Human Rights Commission.

3. Constitution of a National Human Rights Commission.- (1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of-

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

(b) one Member who is, or has been, a Judge of the Supreme Court;

(c) one Member who is, or has been, the Chief Justice of a High Court;

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4). There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

4.

Appointment of Chairperson and other Members.

4. Appointment of Chairperson and other Members.- (1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal.

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of-

- | | | |
|-----|---|----------------|
| (a) | the Prime Minister | --chairperson; |
| (b) | Speaker of the House of the People | --member; |
| (c) | Minister-in-charge of the Ministry of Home Affairs in the Government of India | --member; |
| (d) | Leader of the Opposition in the House of the People | --member; |
| (e) | Leader of the Opposition in the Council of States | --member; |
| (f) | Deputy Chairman of the Council of States | --member; |

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

5.

Removal of a Member of the Commission.

5. Removal of a Member of the Commission.- (1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,--

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) is unfit to continue in office by reason of infirmity of mind or body; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

6.

Term of office of Members.

6. Term of office of Members.- (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member, shall be ineligible for further employment under the Government of India or under the Government of any State.

7.

Member to act as Chairperson or to discharge his functions in certain circumstances.

7. Member to act as Chairperson or to discharge his functions in certain circumstances.- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

8.

Terms and conditions of service of Members.

8. Terms and conditions of service of Members.- The salaries and allowances payable to, and other terms and conditions of service of the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and condition, of service of a Member shall be varied to his disadvantage after his appointment.

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9.

Vacancies, etc., not to invalidate the proceedings of the Commission.

9. Vacancies, etc., not to invalidate the proceedings of the Commission.- No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

10.

Procedure to be regulated by the Commission.

10. Procedure to be regulated by the Commission.- (1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

11.

Offices and other staff of the Commission.

11. Offices and other staff of the Commission.- (1) The Central Government shall make available to the Commission-

(a) an officer Of the rank of the Secretary to the Government of India who shall be the Secretary-General of the

Commission; and

(b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers no staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

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FUNCTIONS AND POWERS OF THE COMMISSION

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

12.

Functions of the Commission.

12. Functions of the Commission.- The Commission shall perform all or any of the following functions, namely:-

(a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of-

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where Demons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

- (d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections, of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the promotion of human rights.

13.

Powers relating to inquiries.

13. Powers relating to inquiries.- (1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and in particular in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code (45 of 1860).

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100, of the Code of Criminal Procedure, 1973 (2 of 1974), in so far as it may be applicable.

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(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 (2 of 1974), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section, 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860), and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

14.

Investigation.

14. Investigation.- (1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised

under sub-section (1) may, subject to the direction and control of the Commission,--

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office,

(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

15.

Statement made by persons to the Commission.

15. Statement made by persons to the Commission. No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement;

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Provided that the statement--

(a) is made in reply to the question which he is required by the Commission to answer; or

(b) is relevant to the subject matter of the inquiry.

16.

Persons likely to be prejudicially affected to be heard.

16. Persons likely to be prejudicially affected to be heard.- If, at any stage of the inquiry, the Commission-

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

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PROCEDURE:

CHAPTER IV

PROCEDURE

17.

Inquiry into complaints.

17. Inquiry into complaints.- The Commission while inquiring into the complaints of violations of human rights may-

(i) call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it:

Provided that-

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

18.

Steps after inquiry.

18. Steps after inquiry.- The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely-

(1) where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

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(2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(3) recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(4) subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative;

(5) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(6) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

19.

Procedure with respect to armed forces.

19. Procedure with respect to armed forces.- (1) Notwithstanding anything contained in this Act, while dealing with complaints of

violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely:-

(a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

20.

Annual and special reports of the commission.

20. Annual and special reports of the commission.- (1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the, annual report.

(2) The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

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STATE HUMAN RIGHTS COMMISSIONS

CHAPTER V

STATE HUMAN RIGHTS COMMISSIONS

21.

Constitution of State Human Rights Commission.

21. Constitution of State Human Rights Commission.- (1) A State Government may constitute a body to be known as the..... (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(2) The State Commission shall consist of-

(a) a Chairperson who has been a Chief Justice of a High Court;

(b) one Member who is, or has been, a Judge of a High Court;

(c) one Member who is, or has been, a district judge in that State,

(d) two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

(4) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

(5) A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter:

Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this sub-section shall have effect as if for the words and figures "List II and List III in the Seventh Schedule to the Constitution", the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir and in respect of matters in relation to which the Legislature of that State has power to make laws" had been substituted.

22.

Appointment of Chairperson and other Members of State Commission.

22. Appointment of Chairperson and other Members of State

Commission.- (1) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of

- (a) the Chief Minister --chairperson;
- (b) Speaker of the Legislative Assembly - member;
- (c) Minister in-charge of the Department of Home in that State - member;
- (d) Leader of the Opposition in the Legislative Assembly -member:

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Provided further that where there is a Legislative Council in a State, the Chairman of that Council and the Leader of the Opposition in that Council shall also be members of the Committee:

Provided also that no sitting Judge of a High Court or a sitting district judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

(2) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

23.

Removal of a Member of the State Commission.

23. Removal of a Member of the State Commission.- (1) Subject to the provisions of sub-section (2), the Chairperson or, any other Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,-

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude,

24.

Term of office of Members of the State Commission.

24. Term of office of Members of the State Commission.- (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

25.

Member to act as Chairperson or to discharge his functions in certain circumstances.

25. Member to act as Chairperson or to discharge his functions in certain circumstances.- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge

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the functions of the Chairperson until the date on which the Chairperson resumes his duties.

26.

Terms and conditions of service of Members of the State Commission.

26. Terms and conditions of service of Members of the State Commission. The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

27.

Offices and other staff of the State Commission.

27. Offices and other staff of the State Commission.- (1) The State Government shall make available to the Commission-

(a) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and

(b) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

28.

Annual and special reports of State Commission.

28. Annual and special reports of State Commission.- (1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of

action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

29.

Application of certain provisions relating to National Human Rights Commission to State Commissions.

29. Application of certain provisions relating to National Human Rights Commission to State Commissions.- The provisions of sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:-

(a) references to "Commission" shall be construed as references to "State Commission";

(b) in section 10, in sub-section (3), for the word "Secretary General", the word "Secretary" shall be substituted;

(c) in section 12, clause (f) shall be omitted;

(d) in section 17, in clause (i), the words "Central Government or any" shall be omitted.

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CHAPTER VI

HUMAN RIGHTS COURTS

30.

Human Rights Courts.

30. Human Rights Courts.- For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences:

Provided that nothing in this section shall apply if-

(a) a Court of Session is already specified as a special court; or

(b) a special court is already constituted,

for such offences under any other law for the time being in force.

31.

Special Public Prosecutor.

31. Special Public Prosecutor.- For every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less, than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

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FINANCE, ACCOUNTS AND AUDIT

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

32.

Grants by the Central Government.

32. Grants by the Central Government.- (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

33.

Grants by the State Government.

33. Grants by the State Government.- (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

(2) The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V, and such sums shall be treated as expenditure payable out of the grants referred to in sub-

section (1).

34.

Accounts and audit.

34. Accounts and audit.- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission

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under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected. vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

35.

Accounts and audit of State Commission.

35. Accounts and audit of State Commission.- (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit

shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4), The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

CHAP

MISCELLANEOUS

CHAPTER VIII

MISCELLANEOUS

36.

Matters not subject to jurisdiction of the Commission.

36. Matters not subject to jurisdiction of the Commission. (1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

37.

Constitution of special investigation teams.

37. Constitution of special investigation teams.- Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and

prosecution of offences arising out of violations of human rights.

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38.

Protection of action taken in good faith.

38. Protection of action taken in good faith.- No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report, paper or proceedings.

39.

Members and officers to be public servants.

39. Members and officers to be public servants.- Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

40.

Power of Central Government to make rules.

40. Power of Central Government to make rules.- (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the salaries and allowances and other terms and conditions of service of the Members under section 8;

(b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and

other staff under sub-section (3) of section 11;

(c) any other power of a civil court required to be prescribed under clause (f) of sub-section (1) of section 13;

(d) the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of section 34; and

(e) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.

41.

Power of State Government to make rules.

41. Power of State Government to make rules.- (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the salaries and allowances and other terms and conditions of service of the Members under section 26;

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(b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 27;

(c) the form in which the annual statement of accounts is to be prepared under sub-section (1) of section 35.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

42.

Power to remove difficulties.

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

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

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

43.

Repeal and savings.

43. Repeal and savings.- (1) The Protection of Human Rights Ordinance, 1993 is (Ord. 30 of 1993) hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done Or taken under the corresponding provisions of this Act.

K. L. MOHANPURIA,

Secy to the Govt. of India.

THE PREVENTION OF INSULTS TO NATIONAL HONOUR ACT, 1971

No. 69 of 1971

(23rd December, 1971)

(Amended by the Prevention of Insults to National Honour (Amendment) Act, 2005)

No. 51 of 2005

(20th December, 2005)

An Act to Prevent Insults to National Honour

Be it enacted by Parliament in the Twenty- second year of the Republic of India as follows: -

1. **SHORT TITLE AND EXTENT**

- (1) This Act may be called the Prevention of Insults to National Honour Act, 1971.
- (2) It extends to the whole of India.

2. **INSULT TO INDIAN NATIONAL FLAG AND CONSTITUTION OF INDIA**

Whoever in any public place or in any other place within public view burns, mutilates, defaces, defiles, disfigures, destroys, tramples upon or *otherwise shows disrespect to or brings into contempt (whether by words, either spoken or written, or by acts) the Indian National Flag or the Constitution of India or any part thereof, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Explanation 1 – Comments expressing disapprobation or criticism of the Constitution or of the Indian National Flag or of any measures of the Government with a view to obtain an amendment of the Constitution of India or an alteration of the Indian National Flag by lawful means do not constitute an offence under this section.

Explanation 2 – The expression, “Indian National Flag” includes any picture, painting, drawing or photograph, or other visible representation of the Indian National Flag, or of any part or parts thereof, made of any substance or represented on any substance.

Explanation 3 – The expression “public place” means any place intended for use by, or accessible to, the public and includes any public conveyance.

*Explanation 4 - The disrespect to the Indian National flag means and includes—

- (a) a gross affront or indignity offered to the Indian National Flag; or
- (b) dipping the Indian National Flag in salute to any person or thing; or
- (c) flying the Indian National Flag at half-mast except on occasions on which the Flag is flown at half-mast on public buildings in accordance with the instructions issued by the Government; or

- (d) using the Indian National Flag as a drapery in any form whatsoever except in state funerals or armed forces or other para-military forces funerals; or
- (e) #using the Indian National Flag:-
 - (i) as a portion of costume, uniform or accessory of any description which is worn below the waist of any person; or
 - (ii) by embroidering or printing it on cushions, handkerchiefs, napkins, undergarments or any dress material; or
- (f) putting any kind of inscription upon the Indian National Flag; or
- (g) using the Indian National Flag as a receptacle for receiving, delivering or carrying anything except flower petals before the Indian National Flag is unfurled as part of celebrations on special occasions including the Republic Day or the Independence Day; or
- (h) using the Indian National Flag as covering for a statue or a monument or a speaker's desk or a speaker's platform; or
- (i) allowing the Indian National Flag to touch the ground or the floor or trail in water intentionally; or
- (j) draping the Indian National Flag over the hood, top, and sides or back or on a vehicle, train, boat or an aircraft or any other similar object; or
- (k) using the Indian National Flag as a covering for a building; or
- (l) intentionally displaying the Indian National Flag with the "saffron" down.

3. **PREVENTION OF SINGING OF NATIONAL ANTHEM**

Whoever intentionally prevents the singing of the Indian National Anthem or causes disturbances to any assembly engaged in such singing shall be punished with imprisonment for a term, which may extend to three years, or with fine, or with both.

***3A MINIMUM PENALTY ON SECOND OR SUBSEQUENT OFFENCE**

Whoever having already been convicted of an offence under section 2 or section 3 is again convicted of any such offence shall be punishable for the second and for every subsequent offence, with imprisonment for a term, which shall not be less than one year.

Note 1: * Inserted vide The Prevention of Insults to National Honour (Amendment) Act, 2003 (No. 31 of 2003 dated 8.5.2003)

Note 2: # Inserted vide The Prevention of Insults to National Honour (Amendment) Act, 2005 (No. 51 of 2005 dated 20.12.2005)



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 24]

No. 24]

नई दिल्ली, शुक्रवार, मई 6, 2016/ वैशाख 16, 1938 (शक)

NEW DELHI, FRIDAY, MAY 6, 2016/VAISAKHA 16, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 6th May, 2016/Vaisakha 16, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 5th May, 2016, and is hereby published for general information:—

THE SIKH GURDWARAS (AMENDMENT) ACT, 2016

No. 21 OF 2016

[5th May, 2016.]

An Act further to amend the Sikh Gurdwaras Act, 1925.

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follow:—

1. (1) This Act may be called the Sikh Gurdwaras (Amendment) Act, 2016.

Short title and
commencement.

(2) It shall be deemed to have come into force from 8th October, 2003.

Punjab Act
VIII of 1925.

2. In the Sikh Gurdwaras Act, 1925 (hereinafter referred to as the principal Act), in section 49, for the proviso, the following proviso shall be substituted, namely:—

Amendment
of section 49.

“Provided that no person shall be registered as an elector who—

(a) trims or shaves his beard or *keshas*;

(b) smokes; and

(c) takes alcoholic drinks.”

Amendment
of section 92.

3. In section 92 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

“Provided that no person shall be registered as an elector who—

(a) trims or shaves his beard or *keshas*;

(b) smokes; and

(c) takes alcoholic drinks.”.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

THE STATE EMBLEM OF INDIA (PROHIBITION OF IMPROPER USE) ACT, 2005

No. 50 of 2005

(20th December, 2005)

An Act to prohibit the improper use of State Emblem of India for professional and commercial purposes and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

**Short title,
extent,
application and
commencement**

1. (1) This Act may be called the State Emblem of India (Prohibition of Improper Use) Act, 2005.

(2) It extends to the whole of India, and also applies to citizens of India outside India.

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

Definitions

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

(a) "competent authority" means any authority competent under any law for the time being in force to register any company, firm, other body of persons or any trade mark or design or to grant a patent;

(b) "emblem" means the State Emblem of India as described and specified in the Schedule to be used as an official seal of the Government.

**Prohibition of
improper use of
emblem.**

3. Notwithstanding anything contained in any other law for the time being in force, no person shall use the emblem or any colourable imitation thereof in any manner which tends to create an impression that it relates to the Government or that it is an official document of the Central Government, or as the case may be, the State Government, without the previous permission of the Central Government or of such officer of that Government as may be authorised by it in this behalf.

Explanation.- For the purposes of this section, "person" includes a former functionary of the Central Government or the State Governments.

**Prohibition of
use of emblem
for wrongful
gain.**

4. No person shall use the emblem for the purpose of any trade, business, calling or profession or in the title of any patent, or in any trade mark or design, except in such cases and under such conditions as may be prescribed.

**Prohibition of
registration of
certain
companies, etc.**

5. (1) Notwithstanding anything contained in any other law for the time being in force, no competent authority shall,-

(a) register a trade mark or design which bears the emblem, or

(b) grant patent in respect of an invention which bears a title containing the emblem.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority shall refer the question to the Central Government and the decision of the Central Government thereon shall be final.

**General powers
of Central
Government to
regulate use of
Emblem.**

6. (1) The Central Government may make such provision by rules as appears to it to be necessary, to regulate the use of the emblem in official seal that is used in offices of the Central Government and State Governments and their organisations including diplomatic missions abroad, subject to such restrictions and conditions as may be prescribed.

(2) Subject to the provisions of this Act, the Central Government shall have powers-

(a) to notify the use of emblem on stationery, the method of printing or embossing it on demi-official stationery by the constitutional authorities, Ministers, Members of Parliament, Members of Legislative Assemblies, officers of the Central Government and the State Government;

(b) to specify the design of the official seal consisting of the emblem;

(c) to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Government;

(d) to provide for guidelines for display of emblem on public buildings in India, the diplomatic missions and on the buildings occupied by India's consulates abroad;

(e) to specify conditions for the use of emblem for various other purposes including the use for educational purposes and the armed forces personnel;

(f) to do all such things (including the specification of design of the emblem and its use in the manner whatsoever) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

Penalty

7(1) Any person who contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both or, if having been previously convicted of an offence under this section, is again convicted of any such offence, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

(2) Any person who contravenes the provisions of section 4 for any wrongful gain shall be punishable for such offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

Previous sanction for prosecution	8. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorized in this behalf by general or special order of the Central Government.
Savings	9. Nothing in this Act shall exempt any person from any suit or other proceedings which might be brought against him under any other law for the time being in force.
Act to have overriding effect.	10. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument having effect by virtue of such enactment.
Power to make rules.	<p>11.(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-</p> <ul style="list-style-type: none"> (a) cases and conditions regulating the use of emblem under section 4; (b) making rules to regulate the use of the emblem in official seal of the Government and specifying restrictions and conditions relating thereto under sub-section (1) of section 6; (c) the use of emblem on stationery, design of official seal consisting of emblem and other matters under sub-section (2) of section 6; (d) authorising officer by general or special order for giving previous sanction for instituting prosecution under section 8; and (e) any other matter which is required to be, or may be, prescribed. <p>(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.</p>

THE SCHEDULE

[See section 2(b)]

STATE EMBLEM OF INDIA

DESCRIPTION AND DESIGN

The State Emblem of India is an adaptation from the Sarnath Lion Capital of Asoka which is preserved in the Sarnath Museum. The Lion Capital has four lions mounted back to back on a circular abacus. The frieze of the abacus is adorned with sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening Dharma Chakras. The abacus rests on a bell-shaped lotus.

The profile of the Lion Capital showing three lions mounted on the abacus with a Dharma Chakra in the center, a bull on the right and a galloping horse on the left, and outlines of Dharma Chakras on the extreme right and left has been adopted as the State Emblem of India. The Bell-shaped lotus has been omitted.

The motto "Satyameva Jayate" – Truth alone triumphs – written in Devanagari script below the profile of the Lion Capital is part of the State Emblem of India.

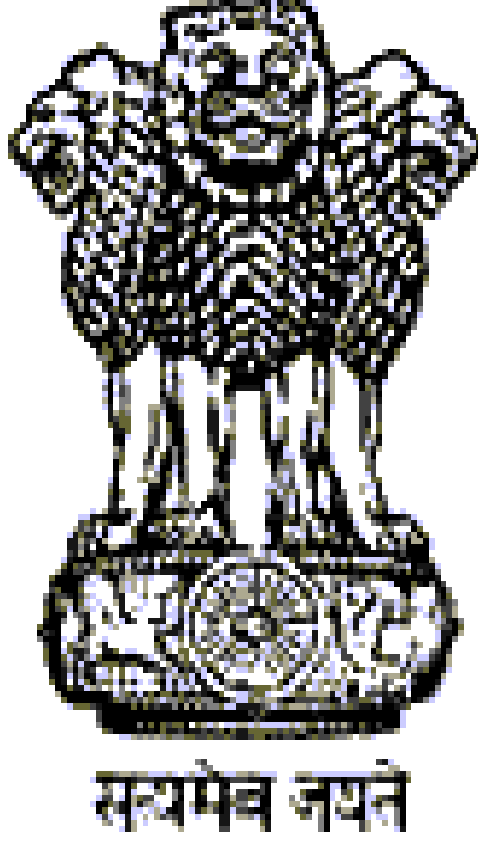
The State Emblem of India shall conform to the designs as set out in Appendix I or Appendix II.

Appendix I



Note. - This design is in simplified form and meant for reproduction in small sizes such as for use in stationery, seals and die-printing.

Appendix II



Note. - This design is more detailed and meant for reproduction in bigger sizes.

**THE PUNJAB SPECIAL POWERS (PRESS)
ACT, 1956**

(PUNJAB ACT NO. 38 OF 1956)

[Received the assent of the President on India on the 19th October, 1956, and first published for general information in the Punjab Government Gazette (Extraordinary) of the 25th October, 1956]

1	2	3	4
Year	No.	Short Title	Whether affected by later legislation
1956	38	The Punjab Special Powers (Press) Act, 1956.	Extended to the territories which, immediately before the 1 st November, 1956, were comprised in the State of Patiala and East Punjab States Union by Punjab Act No. 5 of 1957. ² Amended by- Punjab Act No. 40 of 1957. ³ Punjab Act No. 29 of 1960. ⁴

BE it enacted by the Legislature of the State of Punjab in the Seventh Year of the Republic of India as follows:-

1. **Short title extent and commencement:** (1) This Act may be called the Punjab Special Powers (Press) Act, 1956.
- (2) It extends to the State of Punjab.
- (3) It shall come into force at once.

¹ (For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1956, page 1149.

² (For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1957, page 339.

³ (For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1957, page 1662.

⁴ (For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1960, page 1913.

2. **Power to control publication:** (1) The State Government or any authority so authorized in this behalf if satisfied that such action is necessary for the purpose of preventing or combating any activity prejudicial to the maintenance of communal harmony affecting or likely to affect public order may, by order in writing addressed to a printer, publisher or editor:-

- (a) prohibit the printing or publication in any document or any class of documents of any matter relating to a particular subject or class of subjects for a specified period or in a particular issue or issues of a newspaper or periodical.

Provided that no such order shall remain in force for more than two months from the making thereof ¹[unless before the expiry of such period the State Government, by an order made in the like manner, extends it by any period not exceeding two months at a time as it thinks fit so, however, that the total period of the original order does not exceed six months].

Provided further that the person against whom the order has been made may, within ten days of the passing of this order, make a representation to the State Government, which may on consideration thereof modify, confirm or rescind the order;

- (b) require that any matter, covering not more than two columns, be published in any particular issue or issues of a newspaper or periodical on payment of adequate remuneration and may, while doing so, specify the period (not exceeding one week) during which and the manner in which such publication shall take place;
- (c) require that any matter relating to a particular subject or class of subjects, shall before publication be submitted for scrutiny by an authority appointed by the State Government in its behalf and published only in accordance with the directions given thereat.

(2) In the event of disobedience of an order under this section, the State Government or the authority issuing the order may, without prejudice to the other penalty to which the person guilty of the disobedience is liable under this Act, order the seizure of all copies of any publication concerned and of any printing press or other instrument or apparatus used in the publication.

1 Added by Punjab Act No.29 of 1960, section 2.

3. **Power to prohibit entry into Punjab of newspapers etc.:** ¹(1) [The State Government or any authority authorized by it in this behalf, if satisfied that such action is necessary for the purpose of preventing or combating any activity prejudicial to the maintenance of communal harmony affecting or likely to affect public order, may , by order notified in the official Gazette, prohibit the bringing into Punjab of any newspaper, periodical, leaflet, or other publications.

Provided that no such order shall remain in force for more than two months from the making thereof ² [unless before the expiry of such period the State Government, by an order made in the like manner, extends it by any period not exceeding two months at a time as it thinks fit so, however that the total period of the original order does not exceed six months].

Provided further that a person aggrieved by such order may, within ten days of the passing thereof, make a representation to the State Government which may on consideration thereof modify, confirm or rescind the order.

(2) In the event of disobedience of an order under this section, the State Government or the authority issuing the order may, without prejudice to the other penalty to which the person guilty of the disobedience is liable under this Act, order the seizure of all copies of any newspaper, periodical, leaflet or other publication concerned.

4. **Penalty:** Whoever contravenes, disobeys or neglects to comply with any order made or direction given under section 2 and 3 of this Act shall, on conviction, be liable to be punished with imprisonment of either description which may extend to one-year or with fine up to one thousand rupees or with both.

1 Substituted by Punjab Act No.40 of 1957, section 2.

2. Added by Punjab Act No.29 of 1960, section 2.



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सी.जी.-डी.एल.-अ.-28092020-222067
CG-DL-E-28092020-222067

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 56] नई दिल्ली, सोमवार, सितम्बर 28, 2020/ आश्विन 6, 1942 (शक)
No. 56] NEW DELHI, MONDAY, SEPTEMBER 28, 2020/ASVINA 6, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE RASHTRIYA RAKSHA UNIVERSITY ACT, 2020

No. 31 OF 2020

[28th September, 2020.]

An Act to establish and declare an institution to be known as the Rashtriya Raksha University as an institution of national importance and to provide for its incorporation and matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Rashtriya Raksha University Act, 2020.

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.

2. Whereas the objects of the Rashtriya Raksha University are such as to make it an institution of national importance, it is hereby declared that the Rashtriya Raksha University is an institution of national importance.

Declaration of
Rashtriya
Raksha
University as
an institution
of national
importance.

Definitions.

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

(a) "Academic Council" means the Academic Council of the University referred to in section 17;

(b) "affiliated college" means an institution recognised as such by the Executive Council in accordance with the provisions of this Act and the Statutes made thereunder;

(c) "college" means an institution maintained by or admitted to the privileges of the University and includes an affiliated college;

(d) "Dean" means the Dean of the University appointed under section 25;

(e) "department" means an academic department of the University;

(f) "distance education system" means the system of imparting education through any means of communication, such as, broadcasting, telecasting, internet, correspondence courses, seminars, contact programmes or the combination of any two or more such modes;

(g) "employee" means any person appointed by the University and includes teachers, other academic and non-academic staff of the University;

(h) "Executive Council" means the Executive Council of the University constituted under section 16;

(i) "Finance Committee" means the Finance Committee of the University constituted under section 19;

(j) "Fund" means the Fund of University referred to in section 31;

(k) "Governing Body" means the Governing Body of the University constituted under section 13;

(l) "notification" means a notification published in the Official Gazette;

(m) "Pro Vice-Chancellor" means the Pro Vice-Chancellor of the University appointed under section 23;

(n) "Registrar" means the Registrar of the University appointed under section 24;

(o) "School" means a school of study of the University;

(p) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University made under this Act;

(q) "student" means a student of the University and includes any person who has enrolled for pursuing any course of study in the University;

(r) "teachers" means professors, associate professors and assistant professors appointed or recognised as such by Statutes for the purposes of imparting instruction in the University or for giving guidance for research or rendering assistance to students for pursuing any course of study in the University;

(s) "University" means the Rashtriya Raksha University established under section 4;

(t) "Vice-Chancellor" means the Vice-Chancellor of the University appointed under section 22.

CHAPTER II

ESTABLISHMENT OF UNIVERSITY

Establishment
and
incorporation
of University.

4. (1) The Raksha Shakti University in the State of Gujarat, established under the Raksha Shakti University Act, 2009, shall be established as a body corporate under this Act by the name of Rashtriya Raksha University.

Gujarat Act
14 of 2009.

(2) The Rashtriya Raksha University shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by the said name, sue or be sued.

(3) The Headquarters of the University shall be at Gandhinagar in the State of Gujarat.

(4) The University may establish and maintain centres and campuses at such other places in India and abroad as it may deem fit.

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

Effect of
incorporation
of University.

(a) any reference to the Raksha Shakti University in any contract or other instrument shall be deemed as a reference to the University;

(b) all property, movable and immovable, of or belonging to the Raksha Shakti University shall vest in the University;

(c) all rights and liabilities of the Raksha Shakti University shall be transferred to, and be the rights and liabilities of, the University;

(d) every person employed by the Raksha Shakti University immediately before the commencement of this Act shall hold his office or service in the University 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 enacted, 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 University in accordance with the term of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the University of compensation equivalent to three months' remuneration in case of permanent employees and one month's remuneration in the case of other employees:

Provided further that every person employed before the commencement of this Act, pending the execution of a contract, shall be deemed to have been appointed in accordance with the provisions of a contract consistent with the provisions of this Act and the Statutes:

Provided also that any reference, by whatever form of words, to the Vice-Chancellor of the Raksha Shakti 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 Vice-Chancellor of the University;

(e) every person pursuing any academic or research course in every existing institute or department under Raksha Shakti University, immediately before commencement of this Act, shall be deemed to have migrated and registered with the corresponding institute or department, on such commencement at the same level of course in the University from which such person migrated and shall continue to pursue such academic or research course in the University;

(f) all suits and other legal proceedings instituted by or against Raksha Shakti University, immediately before the commencement of this Act, shall be continued or instituted by or against the University;

(g) all colleges, institutions, faculties and departments affiliated to, or admitted to the privileges of, or maintained by, the Raksha Shakti University shall stand affiliated to, or admitted to the privilege of, or maintained by, the University.

Objects of
University.

6. The objects of the University shall be to promote global standards and to provide—

(a) dynamic and high standards of learning and research;

(b) working environment dedicated to the advancement and dissemination of education, research, training and scholarship of the highest quality in the domain of policing including coastal policing, security, law enforcement, criminal justice, cyber security, cyber crime, artificial intelligence and related areas of internal security; and

(c) public safety with a view to build human capital having the highest ideals of citizenship and citizen centric services with special reference to women, weaker sections and minorities, who are endowed with the necessary intellectual acumen, moral commitment and professional competence to meet hands-on, the challenges of crime, justice and public safety in a free society.

Powers and
functions of
University.

7. (1) Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:—

(a) to provide instructions and research in such branches of police sciences including coastal policing, security, cyber security, artificial intelligence, cyber crime, risk management, social sciences including studies related to gender sensitisation, minorities and weaker sections, juvenile justice and such other subjects relevant for the Government as well as private sector, as the University may think fit, and for the advancement of learning, research and dissemination of knowledge in such branches;

(b) to plan and prescribe courses of study such as degrees, diplomas and certificates including in-service courses of short and long duration;

(c) to endeavour to design and conduct through its affiliated colleges, integrated courses including post-matriculation in policing related or allied subjects;

(d) to hold examinations and grant degrees, diplomas, certificates and other academic distinctions;

(e) to confer honorary degrees or other distinctions;

(f) to grant, subject to such conditions as the University may determine, diplomas or certificates to, of evaluation or any other method of testing, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(g) to provide facilities through distance education system to such persons as it may determine;

(h) to introduce semester system, continuous evaluation and choice-based credit system and enter into agreements with other Universities and academic institutions for credit transfer and joint degree programmes;

(i) to obtain accreditation from the National Assessment and Accreditation Council or any other accrediting agency at the national level;

(j) to introduce e-governance with an effective management information system;

(k) to fix, demand and receive fees and other charges;

(l) to establish, maintain and manage colleges, institutions and halls in other States and Union territories and hostels for the residence of students;

(m) to establish such centres and specialised laboratories or other units for research and instructions as are, in the opinion of the University, necessary for the furtherance of its objects;

(n) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health, general welfare, cultural and corporate life;

(o) to institute academic and other posts and to make appointments thereto (except in the case of the Vice-Chancellor) as may be necessary for imparting instructions and managing all affairs of the University;

(p) to appoint persons working in any other University or academic institution, including those located outside the country as teachers of the University for a specified period;

(q) to co-operate, collaborate or partner or associate with educational or other institutions and organisations, public and private, including those located outside the country having objects wholly or partly similar to those of the University by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(r) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(s) to provide for the preparation of instructional material, including related software and other audio-visual aids;

(t) to make provisions for research and development in areas of core competence of the University;

(u) to enter into, carry out, vary or cancel contracts;

(v) to provide, control and maintain discipline among the students and all categories of employees and to lay down the conditions of service of such employees including their code of conduct;

(w) to establish and maintain such infrastructure as may be necessary;

(x) to set up campuses across the country and off-shore campuses as per requirement;

(y) to admit foreign students, Overseas Citizen of India card holder, Person of Indian Origin, non-resident Indian, children of Indian workers in Gulf and South-East Asian Countries, in such manner and as may be laid down in the Statutes;

(z) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the University.

(2) Notwithstanding anything contained in sub-section (1), the University shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

8. The jurisdiction of the University shall extend to the whole of India.

Jurisdiction of University.

9. (1) The University shall be open to all persons irrespective of gender, race, caste, creed, disability, domicile, ethnicity, social or economic background.

University to be open to all races, creeds and classes.

(2) No bequest, donation or transfer of any property shall be accepted by the University which in the opinion of the Executive Council involves conditions or obligations opposed to the spirit and object of this section.

(3) Admissions to every academic programme of study in the University shall be based on merit assessed through transparent and reasonable criteria disclosed prior to the commencement of the process of admission by the University:

Provided that the University shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006.

10. (1) It shall be the endeavour of the University to take necessary measures to maintain an all-India character, high standard of teaching and research.

Admission of students.

(2) Admission of students for courses in the University shall be made on an all-India basis in such manner as may be specified in the Ordinances.

(3) Admission of students on international basis may be made in such manner as may be laid down in the Statutes and the directions or instructions or guidelines issued by the Central Government in this behalf.

Teaching at University.

11. All teaching at the University shall be in accordance with the Statutes and Ordinances made in this behalf.

CHAPTER III

AUTHORITIES OF UNIVERSITY

Authorities of University.

12. The following shall be the authorities of the University, namely:—

- (a) Governing Body;
- (b) Executive Council;
- (c) Academic Council;
- (d) Finance Committee; and
- (e) such other authorities as may be laid down in the Statutes to be the authorities of the University.

Governing Body.

13. (1) The Central Government may, by the notification in the Official Gazette, constitute a Governing Body of the University from such date as it may specify therein.

(2) The Governing Body shall consist of not more than fifteen members including the Chairperson, with majority of members from academia, industry and relevant professional fields, to be nominated by the Central Government including the following, namely:—

- (a) Chairperson;
- (b) Vice-Chancellor of the University, *ex officio*;
- (c) one representative of the Ministry of Home Affairs not below the rank of Joint Secretary, *ex officio*;
- (d) an officer of Indian Legal Service, not below the rank of Joint Secretary, to be nominated by the Central Government, *ex officio*;
- (e) two representatives of the Government of Gujarat being officers not below the rank of Secretary in that Government;
- (f) one representative of State Police Universities by rotation;
- (g) one person of eminence from the academia or field of education;
- (h) one person of eminence or expertise from the industry or corporate sector;
- (i) one person to be an expert of global eminence from a field having relevance to the objects of the University;
- (j) not more than three persons having expertise in defence, policing, internal security and allied fields.

(3) The Central Government may, in consultation with such State Governments as it deems fit, appoint the Chairperson of the Governing Body, who shall be an eminent person from the field of academia, defence, security, law enforcement or internal security.

Term of office, vacancies among, and allowances payable to, members of Governing Body.

14. (1) Save as otherwise provided in this section, the term of office of a member of the Governing Body, other than an *ex officio* member, shall be for a period of three years from the date of nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(4) Notwithstanding anything contained in this section, an outgoing member shall, unless the Governing Body otherwise directs, continue in office until another person is nominated as a member in his place.

(5) The members of the Governing Body shall be entitled to such travelling and other allowances as may be laid down in the Statutes, but no member shall be entitled to any salary by reason of this sub-section.

15. (1) Subject to the provisions of this Act, the Governing Body of the University shall be responsible for the general policy making, superintendence, direction and control of the affairs of the University and shall exercise all the powers of the University not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Academic Council.

Powers and
functions of
Governing
Body.

(2) It shall be the general duty of the Governing Body to co-ordinate the activities of the University.

(3) Without prejudice to the provisions of sub-section (2), the Governing Body shall perform the following functions, namely:—

(a) to formulate and review the broad policies and programmes of the University and suggest measures for the development of the University;

(b) to advise on matters relating to the duration of the courses, degrees and other academic distinctions to be conferred by the University, admission standards and other academic matters;

(c) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and fellowships, levying of fees and other matters of common interest;

(d) to examine the development plans of the University and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(e) to examine the annual budget estimates of the University and to recommend to the Central Government the allocation of funds for that purpose;

(f) to lay down the policy and take decisions on questions of policy relating to the administration and working of the University;

(g) to institute courses of study;

(h) to make Statutes;

(i) to institute and appoint persons to academic as well as other posts;

(j) to make necessary recommendation in matters for the furtherance of the objective of the University;

(k) to consider and direct the Executive Council to amend or repeal Ordinances;

(l) to consider and pass resolutions on the annual report, annual accounts and the budget estimates of the University for the next financial year, together with a statement of its development plans, submitted by the Executive Council and Academic Council, as it thinks fit;

(m) to delegate any of its powers to the Executive Council, Vice-Chancellor, Pro Vice-Chancellors, Deans, Registrar or any authority of the University or to a committee or to any other officer or employee, of the University;

(n) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

(4) The Governing Body shall have the power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

Executive
Council.

16. (1) The Executive Council shall be the principal executive body of the University.

(2) The Vice-Chancellor shall be the *ex officio* Chairperson of the Executive Council.

(3) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be such as may be laid down in the Statutes:

Provided that such number of members as may be laid down in the Statutes shall be from among the members of the Governing Body.

Academic
Council.

17. The Academic Council of the University shall consist of the following persons, namely:—

(a) the Vice-Chancellor shall be the *ex officio* Chairperson of the Academic Council;

(b) the professors appointed or recognised as such by the University for the purpose of imparting instruction;

(c) three persons to be appointed by the Governing Body from among persons of national or international eminence in the industry or academia having relevance to the objects of the University;

(d) two persons, not being employees of the University, to be nominated by the Vice-Chancellor, from amongst educationists of repute;

(e) one person with wide experience in policing and internal security on rotation from States and Union territories to be nominated by the Central Government; and

(f) two persons from international universities to be nominated by the Governing Body.

Functions of
Academic
Council.

18. The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and Ordinances made thereunder, co-ordinate and exercise control and general supervision over the academic policies of the University and shall be responsible for the maintenance of standards of learning, education, instruction, evaluation and examinations within the University and shall exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Statutes.

Finance
Committee.

19. The constitution, powers and functions of the Finance Committee shall be such as may be laid down in the Statutes.

Board for
Affiliation
and
Recognition.

20. (1) The Board for Affiliation and Recognition shall be responsible for admitting colleges and institutions to the privileges of the University.

(2) The constitution of the Board for Affiliation and Recognition, the term of office of its members and its powers and duties shall be such as may be laid down in the Statutes.

Officers of
University.

21. The following shall be the officers of the University, namely:—

(a) Vice-Chancellor;

(b) Pro Vice-Chancellor;

(c) Registrar;

(d) Dean;

(e) Finance Officer; and

(f) such other officers as may be laid down in the Statutes to be officers of the University.

22. (1) The Central Government may, in consultation with such State Governments as it deems fit, appoint the Vice-Chancellor of the University, who shall be a person possessing the highest level of competence, integrity, moral and institutional commitment, with extensive knowledge in policing or research or administration or social sciences, preferably having wide experience in police training and internal security or a distinguished academician with a minimum of ten years administrative experience in a reputed research or academic organisation.

Vice-Chancellor.

(2) The Vice-Chancellor shall be principal academic and chief executive officer of the University and shall be responsible for the proper administration of the University and for the imparting of instruction and maintenance of discipline therein.

(3) The Vice-Chancellor shall submit annual reports and accounts to the Governing Body.

(4) It shall be the duty of the Vice-Chancellor to ensure that decisions taken by the Governing Body are implemented.

(5) The Vice-Chancellor shall ordinarily preside over the meetings of the Academic Council and convocations of the University.

(6) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be assigned to him by this Act or laid down in the Statutes or Ordinances.

23. The Pro Vice-Chancellor of the University shall be appointed in such manner, on such emoluments and other conditions of service and shall exercise such powers and perform such duties, as may be laid down in the Statutes.

Pro Vice-Chancellor.

24. (1) The Registrar of the University shall be appointed in such manner and on such terms and conditions as may be laid down in the Statutes.

Registrar.

(2) The Registrar shall be the custodian of records, common seal, funds of the University and such other property of the University as the Governing Body shall commit to his charge.

(3) The Registrar shall act as the Secretary of the Governing Body, the Executive Council, the Academic Council and such other committees as may be laid down in the Statutes.

(4) The Registrar shall be responsible to the Vice-Chancellor for the proper discharge of his functions.

(5) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Vice-Chancellor.

25. The Dean of the University shall be appointed in such manner, on such emoluments and other conditions of service and shall exercise such powers and perform such duties, as may be laid down in the Statutes.

Dean.

26. The Finance Officer shall be appointed in such manner, on such emoluments and other conditions of service and shall exercise such powers and perform such duties, as may be laid down in the Statutes.

Finance Officer.

27. The powers and duties of other authorities and officers, other than those hereinbefore mentioned, of the University including their terms and conditions of service shall be such as may be laid down in the Statutes.

Other authorities and officers.

28. For the purpose of enabling the University to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the University in each financial year such sums of money in such manner as it may think fit.

Grants by Central Government.

Grants by
State
Governments.

29. The University may receive such sums of money as grants-in-aid annually or as one-time grant from any State Government.

CHAPTER IV

ACCOUNTS AND AUDIT

Corpus of
University.

30. The University may receive funds from the Central Government or State Governments or other sources or use its funds to maintain and operate a corpus of the University.

Fund.

31. (1) The University shall maintain a Fund to which shall be credited—

- (a) all moneys provided by the Central Government;
- (b) all moneys received from State Governments;
- (c) all fees and other charges received by the University;
- (d) all moneys received by the University by way of grants, gifts, donations, benefactions, bequests or transfers; and
- (e) all moneys received by the University in any other manner or from any other source.

(2) All moneys credited to the Fund of the University shall be deposited in such banks or invested in such manner as the University may, with the approval of the Central Government, decide.

(3) The Fund of the University shall be applied towards meeting its expenses including expenditure incurred in the exercise of its powers and discharge of its duties under this Act.

Accounts and
audit.

32. (1) The University shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form and accounting standard as may be specified, by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the University shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by it in connection with such audit shall be payable by it to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the University shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the University.

(4) The accounts of the University as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Pension and
provident
fund.

33. (1) The University may constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be laid down in the Statutes.

(2) Where any provident fund has been constituted under sub-section (1), the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund.

CHAPTER V

ANNUAL REPORT AND APPOINTMENTS

34. (1) The annual report of the University shall be prepared by the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and an outcome based assessment of the research being undertaken by it, and be submitted to the Governing Body on or before such date as may be specified and the Governing Body shall consider the report in its annual meeting.

Annual report of University.

(2) The annual report as approved by the Governing Body shall be published and placed on the website of the University.

(3) The Executive Council shall prepare and release for every year a report, in English and in Hindi, the working of the University in the previous year on or before the expiry of nine months from the close of financial year, and a copy of the same, together with an audited statement of accounts showing the income and expenditure for the previous year shall be submitted to the Central Government within that stipulated time, and the same may be caused to be laid before each House of Parliament.

35. All appointments of the employees of the University, except that of the Vice-Chancellor, shall be made in accordance with the procedure laid down in the Statutes, by—

Appointments.

(a) the Governing Body, if the appointment is made on the academic staff in the post of Assistant Professor or above, or if the appointment is made on the non-academic staff, in any post equivalent to Group 'A' and above;

(b) by the Vice-Chancellor, in any other case.

CHAPTER VI

STATUTES AND ORDINANCES

36. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) the manner of recognition of an institution by the Executive Council as affiliated college;

(b) the constitution, powers and functions of, authorities and other bodies including disciplinary committee and examination committee, of the University as may be constituted from time to time;

(c) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(d) the appointment, powers and duties of the officers of the University and their emoluments;

(e) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(f) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(g) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(h) the principles governing the seniority of service of the employees of the University;

- (i) the procedure for arbitration in cases of dispute between employees or students and the University;
- (j) the procedure for appeal to the Governing Body by any employee or student against the action of any officer or authority of the University;
- (k) the conferment of autonomous status on a college or an institution or a department;
- (l) the establishment and abolition of Schools, departments, centers, halls, colleges and institutions;
- (m) the manner of co-operation and collaboration with other Universities, institutions and other agencies including learned bodies, associations and the private sector;
- (n) the conferment of honorary degrees;
- (o) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (p) the management of colleges and institutions established by the University;
- (q) the delegation of powers vested in the authorities or officers of the University;
- (r) the maintenance of discipline among the employees and students; and
- (s) any other matter which by this Act is to be, or may be, laid down in the Statutes.

Statutes how made.

37. (1) The first Statute of the University shall be made by the Governing Body with the prior approval of the Central Government and a copy of the same shall be laid, as soon as may be it is made, before each House of Parliament.

(2) The Governing Body may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Governing Body shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Governing Body.

Ordinances.

38. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to examinations, degrees and diplomas to the University;
- (f) the conditions and institution for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examination including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence and teaching of women students and the specifying of special courses of studies for them;

(j) the establishment of centers of studies, boards of studies, specialised laboratories and other committees;

(k) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(l) the setting up of machinery for redressal of grievances of employees and students; and

(m) any other matter which by this Act or Statutes, is to be, or may be, specified in the Ordinances.

39. (1) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council. Ordinances
how made.

(2) All Ordinances made by the Executive Council shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Governing Body and shall be considered by the Governing Body at its next succeeding meeting.

(3) The Governing Body shall have power by resolution to approve, modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

CHAPTER VII

TRIBUNAL OF ARBITRATION

40. (1) Every employee of the University shall be appointed under a written contract, which shall be retained by the University and a copy of the same shall be given to the employee concerned. Tribunal of
Arbitration
for
employees.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and chaired by an umpire appointed by the Governing Body.

(3) The decision of the Tribunal of Arbitration shall be final and no suit shall lie in any civil court in respect of the matters decided by the said Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

(5) The procedure for regulating the work of the Tribunal shall be laid down in the Statutes.

41. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by an order of the Vice-Chancellor on the recommendation of the disciplinary committee or examination committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such order by him, appeal to the Governing Body and the Governing Body may confirm, modify or reverse the decision of the Vice-Chancellor. Redressal for
debarment
from
examination
and
disciplinary
action against
students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 40 shall apply to a reference made under this sub-section.

CHAPTER VIII

MISCELLANEOUS

Disputes as to constitution of authorities and bodies.

42. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Central Government, and the decision of that Government thereon shall be final.

Power of Central Government to make rules in respect of matters relating to Governing Body.

43. (1) The Central Government may, after previous publication, make rules to carry out the purposes relating to Governing Body.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of filling vacancies among the members of the Governing Body;

(b) the disqualifications for being chosen as, and for being a member of the Governing Body;

(c) the circumstances in which, and the authority by which, members may be removed;

(d) the meetings of the Governing Body and the procedure for conduct of business;

(e) the travelling and other allowances payable to members of the Governing Body; and

(f) the manner in which functions of the Governing Body may be exercised.

Acts and proceeding not to be invalidated by vacancies, etc.

44. No act of the Governing Body or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

University to be public authority under Right to Information Act.

45. The provisions of the Right to Information Act, 2005 shall apply to the University, as if it were a public authority defined in clause (h) of section 2 of that Act.

22 of 2005.

Power of Central Government to review work and progress made and to hold enquiries.

46. (1) The Central Government may, from time to time, appoint one or more persons to review the work and progress of the University, including colleges and institutions administered by it, and hold enquiries thereof and to submit a report thereon in such manner as the Central Government may direct.

(2) Upon receipt of any such report, the Central Government may, after obtaining the views of the Governing Body thereon through the Vice-Chancellor, take such action and issue such directions as it considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

<p>47. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances made thereunder.</p>	Protection of action taken in good faith.
<p>48. (1) The Governing Body shall have the authority to deal with any matter pertaining to the University and not specifically dealt with in this Act.</p>	Residuary provisions.
<p>(2) The decision of the Governing Body on all such matters shall, subject to revision by the Central Government, be final.</p>	
<p>49. The University shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.</p>	Power of Central Government to issue directions.
<p>50. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:</p>	Power to remove difficulties.
<p>Provided that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.</p>	
<p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	
<p>51. (1) Every rule, Statute or Ordinance made and every notification issued under this Act shall be published in the Official Gazette.</p>	Laying of rules, Statutes, Ordinances and notifications.
<p>(2) Every rule, Statute or Ordinance made and every notification issued under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, Statute, Ordinance or notification or both Houses agree that the rule, Statute, Ordinance or notification should not be made, the rule, Statute, Ordinance or notification 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, Statute, Ordinance or notification.</p>	
<p>52. (1) The existing Board of Governors, Finance Committee and other committees functioning in the Raksha Shakti University, Gujarat shall continue to function till such time the University constitutes the authorities or committees under the provisions of this Act.</p>	Transitional provisions.
<p>(2) The existing officers of the Raksha Shakti University, Gujarat such as, Vice-Chancellor, Registrar or Finance Officer, shall continue to function till such time the officers are appointed under the provisions of this Act.</p>	
<p>53. (1) The Raksha Shakti University Act, 2009 is hereby repealed.</p>	Repeal of Gujarat Act 14 of 2009.
<p>(2) Notwithstanding such repeal,—</p> <p>(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Raksha Shakti University Act, 2009, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by or under this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and</p>	

(b) all the proceedings of selection committee or any other authority, if any, for the appointment or promotion of teachers and other employees that took place before the commencement of this Act and all actions of the concerned authorities in respect of the recommendations of such selection committee or authority, if any, where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceedings in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take a decision to the contrary.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.