

Public Notice

The department of education has prepared a draft bill named, the Himachal Pradesh Private Educational Institutions (Accounts, Fees & other Matters) Bill 2011. The copy of bill is annexed at "A" with this notice. The department of education invites suggestions and comments on proposed Bill from general public and private educational institutes, The suggestions and comments may kindly be sent on the following address/ email:-

Principal Secretary (Education) to the
Government of Himachal Pradesh,
H.P. Secretariat,
Shimla-171002

Email address: secy-hedu-hp@nic.in

Fax No- 0177-2620043

The suggestions and comments may kindly be sent within one month. The department will consider the suggestions and comments and then take further action in the matter.

Dated : 11-07-2011

Pr. Secretary (Education) to the
Government of Himachal Pradesh,
Shimla-171002

DRAFT

THE HIMACHAL PRADESH PRIVATE EDUCATIONAL INSTITUTIONS (Accounts, Fees and other matters) BILL, 2011

A BILL to provide for the maintenance of Accounts, fees and other matters of the private educational institutions in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty Second Year of the Republic of India as follows:-

Short title and commencement:

1. (1) This Act may be called the Himachal Pradesh Private Educational Institutions (**Accounts, Fees and other Matters**) Act, 2011.

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

Definitions

2. In this Act, unless the context otherwise requires

- (a) “academic year” means the year commencing on the first day of April ;
- (b) “Appellate Authority” means a person, officer or other authority authorized by the Government , by notification, to perform the functions of the appellate authority under this Act for such area or in relation to such class of private educational institutions, as may be specified in the notification ;
- (c) “competent authority” means a person, officer or other authority (including Himachal Pradesh Board of School Education) authorized by the Government, by notification, to perform the functions of the competent authority under this Act for such area or in relation to such class of private educational institutions, as may be specified in the notification;
- (d) “Government” means the Government of Himachal Pradesh;
- (e) “manager” in relation to a private educational institutions means the person in whom the authority to manage and conduct the affairs of the private educational institutions is vested;
- (f) “managing committee” means the body of individuals who are entrusted with the management of private educational institution;
- (g) General body of Parents and Teachers , to be read as “GPT” , means the parents of all the students studying and the teachers of the concerned Educational Institutions.
- (h) “prescribed” means prescribed by rules made under this Act; and
- (i) “private educational institution” means an educational institution imparting education upto 10+2 school level being run by a management other than Government.

Accounts 3.(1) Every private educational institution shall maintain its accounts on the principles of accounting applicable to non-business organization or not-for-profit organization consisting of receipt & payment account, profit and loss account and balance-sheet and shall maintain and keep the accounts of all income received in the books as may be prescribed.

(2) Every private educational institution shall maintain proper record of the receipt books to be used for charging fees and funds and other income etc.

Annual audit of accounts 4. (1) The accounts of every private educational institution shall be audited at the end of every academic year by a Chartered Accountant

Provided that audit by Chartered Accountant will not be mandatory if the students strength in the private educational institution is less than two hundred.

(2) The manager of the private educational institution shall, within six months after the end of the Academic year, submit to the competent authority, the audit report as per sub-section (1).

(3) The manager of the private educational institution shall publish the details of the fees and funds collected from the students and statement of account on the educational institution website or keep a copy in the school for the perusal of the parents of the children studying in that institution.

Fees and other charges 5 (1) Every private educational institution as and when it proposes to increase fee shall file the details of existing fees and other charges along with any proposal to increase such fees or fund with complete justification, before the “GPT” of the concerned educational institution or elected Executive Committee of the “GPT”.

(2) No private educational institution shall increase fees or collect any additional fund without the prior approval of the “GPT” of the concerned Educational Institution or its Executive Committee.

(3) The manager of the private educational institution or at least nine parents of ‘GPT’, if aggrieved by the decision of increase / non-increase of fees, funds or other charges may appeal to the Deputy Commissioner of the concerned District who shall decide the matter considering all the relevant information within a period of one month.

(4) The proposal to increase the fees and fund should be commensurate with the salary being paid to the staff, requirement of development of infrastructure and facilities being provided to the students and a reasonable surplus;

(5) The private educational institution may collect from the students or parents, fees and fund only under following heads, namely:-

- (i) tuition Fee.
- (ii) refundable securities as may be prescribed.
- (iii) student fund to be used for specific requirement of the students.
- (iv) institutional Development Fund.

Provided that fee and other charges collected under this section shall be utilized

strictly for the same Private Educational Institution.

Closure of private educational institution 6 No private educational institution and no class in a private educational institution shall be closed without a notice, in such form and of such duration as may be prescribed, in writing having been given to the competent authority and without satisfying the competent authority that adequate arrangements have been made either for the continuance of the instruction of the students of the private educational institution or the class, as the case may be, for the period of study for which the students have been admitted.

The period of notice under sub-section (1) shall be such as may be prescribed.

Inspection and returns. 7. (1) The Competent authority may inspect any private educational institution as and when it considers necessary to carry out the provisions of this Act.

(2) The competent authority may direct the manager of such institution to rectify the defects, if any, found during the course of the inspection, within such time as the competent authority may fix in this behalf.

(3) Every private educational institution shall, annually furnish to the competent authority returns viz. detail of teachers, students enrolment, infrastructure and statistics in such form and in such manner as may be prescribed.

Penalties and appeals. 8 If any manager of private educational institution contravenes or attempts to contravene or abets the contravention of any of the provision of this Act or the rules made thereunder, he shall be liable :-

- (a) to fine, on conviction, which may extend to two lakh rupees and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues;
- (b) to recommend to the appropriate authority for withdrawal of recognition granted to run the private educational institution and de-affiliation from concerned Board; and
- (c) to refund double of the amount of unapproved fees charged from the students or parents.

Appeals 9. (1) The manager aggrieved by the decision of the competent authority under any of the provisions of this Act, may, within sixty days from the date of decision, prefer an appeal against such decision to such appellate authority as may be prescribed.

(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving the appellant an opportunity of making his representation, dispose of the appeal as expeditiously as possible.

(3) The appellate authority may, during the pendency of the appeal pass such interim orders as it may deem fit.

Offences by companies 10 : If the person committing an offence under this Act is a company, the company as well as every person-in-charge of and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Cognizance of offence 11: No Court shall take cognizance of any offence punishable under this Act, except on a report in writing, of the facts constituting such offence, made by an officer authorized by the Government in this behalf or members of 'GPT'.

Power to exempt 12 : Notwithstanding anything contained in this Act, the Government may, subject to such conditions as it deem fit, by notification, exempt any private educational institution or class of private educational institutions from all or any of the provisions of this Act or the rules made thereunder.

Competent authority etc. to be public servant 13: Every authority and every officer duly authorized to discharge any duty imposed on it or him by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Indemnity 14: (1) No suit or other proceeding shall lie against the Government for any act done or purporting to be done under this Act or any rules made thereunder.

(2) No suit, prosecution or other proceeding shall lie against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(3) No authority or officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties or the discharge of the function imposed by or under this Act.

(4) No suit, prosecution or other proceeding shall be instituted against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the date of the expiry of six months from the date of the act complained of.

Powers to make rules. 15: (1) The Government may make rules to carry out the purposes of this Act.

(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:-

(a) the manner in which accounts shall be kept under section 3 and the particulars which such accounts shall contain;

(b) the form and period of notice under section 6.

(c) the form and the manner of filing of annual returns under section 7;

(d) the manner of conveying decisions of the competent authority to the manager;

and

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

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the legislative Assembly, while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or successive sessions and if, before the expire of the session in which is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rules should not be made, the rules 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.

Repeal of Act No. 14 of 1999 and savings. 16 (1) The Himachal Pradesh Private Educational Institutions (Regulation) Act, 1997 (Act No.14 of 1999) and the Himachal Pradesh Private Educational Institutions (Regulation) rules, 2003 stand repealed.

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

STATEMENT OF OBJECT AND REASONS

Education is very important for the all round development of a human being and is a most important factor in the socio-economic development of a nation. Due to increasing demand for access to education, private schools have been set up at various places in the State and are playing important role. However, it is important that these privately managed schools function in a transparent manner and charge a reasonable fees in the interest of students and parents. Therefore, it has been decided to repeal the Himachal Pradesh Private Educational Institutions(Regulation Act,1997(Act No.14 of 1999) which was enacted primarily to issue permission and for maintenance of accounts and to re-enact a Law which may provide for maintenance of Accounts, Fees and other matter of the private educational institutions in a transparent manner. The proposed Law provides that private educational institutions shall maintain proper accounts, get the accounts audited from the Chartered Accountant and also publish their accounts. Further, it provides that these institutions shall charge fees and funds, which shall be reasonable in nature. It further empowers the competent authority to inspect the private educational institutions and also not to allow closure of an institution without making adequate arrangements for continuation of the study of the students already admitted. Further is also provides for penalty for contravening of the provisions of the Act. Now, the recognitions to private educational institutions are to be given under the Right of Children to Free and compulsory Education Act, 2009(Central Act.) Therefore, provisions relating to recognition to private educational institutions have not be incorporated under the proposed Law.

This Bill seeks to achieve the aforesaid objectives.

ISHWAR DASS DHIMAN
Minister-in-Charge

SHIMLA:

11th July 2011