

**THE MAHARASHTRA STATE COUNCIL OF
EXAMINATIONS ACT, 1998.**

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MAHARASHTRA ACT No. I OF 1999¹.

[THE MAHARASHTRA STATE COUNCIL OF EXAMINATIONS ACT, 1998.]

(This Act received the assent of the Governor on the 2nd January 1999; assent was first published in the *Maharashtra Government Gazette*, Part-IV, on the 6th January 1999.)

An Act to provide for the establishment of a State Council to regulate certain matters pertaining to the scholastic, professional and certain other examinations in the State of Maharashtra and for other matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the establishment of a State Council to regulate the matters pertaining to scholastic, professional and certain other examinations in the State of Maharashtra and for other matters connected therewith or incidental thereto; It is hereby enacted in the Forty-ninth Year of the Republic of India, as follows:-

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Maharashtra State Council of Examinations Act, 1998. Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

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

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

(a) “affiliated institution” means an institution duly recognised by and affiliated to, the Council;

(b) “Commissioner” means the Commissioner of the Maharashtra State Council of Examinations appointed under section 20;

(c) “Council” means the State Council of Examinations or Regional Councils as the case may be, established under section 3;

(d) “bye-laws” means the bye-laws made by the State Council under section 39;

(e) “examination” means one or more examinations conducted by the Council at the end of each prescribed time schedule as declared by the Council in the syllabi;

(f) “Government” means the Government of Maharashtra;

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1998, Part- V-A, p. 266.

* 15th August 2002, vide G.N., School Education Department, No. SPE. 1099/37292/(254/99)/GEN-1, dated the 12th August 2002, published in M.G.G., Part IV-B, Extraordinary, dt. 12-8-2002, pages 817 and 819.

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(g) "prescribed" means prescribed by regulations;

(h) "Principal or Head Master" means the head of the staff of a recognised institution;

(i) "professional examination" means the examination conducted by the Council to gauge the level of knowledge and merits of the candidates for being eligible to enter any professional course they have applied for;

(j) "Regional Council" means a Regional Council established by the Government under sub-section (2) of section 3;

(k) "recognised institution" means an organised body imparting education or training as per the prescribed syllabi which is duly recognised by the School Education Department of Government;

(l) "regulations" means the regulations made by the Government under section 38 and by the State Council under section 37;

(m) "scholastic examination" means the examinations conducted by the Council to measure the scholastic attainment levels of the students at primary and secondary school levels;

(n) "State Council" means the Maharashtra State Council of Examinations established under sub-section (1) of section 3 of the Act.

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF THE COUNCIL.

Establishment
of State
and Regional
Councils.

3. (1) The Government shall by notification in the *Official Gazette*, establish for the purposes of this Act for the whole State, a Council to be called the Maharashtra State Council of Examinations.

(2) The State Government may, likewise, by notification in the *Official Gazette*, establish a Regional Council, for any Region or for all the Regions under such name as may be specified in the notification.

Incorporation
of State
Council.

4. The State Council established under sub-section (1) of section 3 shall be a body corporate having perpetual succession and a common seal and shall have power to contract, acquire, hold and dispose of property, both movable and immovable and to do all things necessary for the purposes of this Act and may sue and be sued by its corporate name.

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5. (1) The State Council shall consist of a Chairperson, appointed by the State Government, from the Maharashtra Education Service, Group-A (Administrative Branch), in the grade of Director of Education, and of the following members, namely :—

Constitution of State and Regional Councils.

Ex Officio Members

(i) The Director of Education of the Government or his nominee not below the rank of Joint Director;

(ii) The Chairman, Maharashtra State Board of Secondary and Higher Secondary Education or his nominee not below the rank of a Divisional Chairman;

(iii) The Director of State Council for Education Research and Training or his nominee not below the rank of Joint Director;

(iv) The Director, Maharashtra State Bureau of Text Book Production and Curriculum Research, Pune;

(v) The Principal, Maharashtra State Institute of Vocational Guidance and Selection, Mumbai;

(vi) The Director, State Institute of Science Education;

(vii) One Officer not below the rank of Deputy Secretary of the School Education Department of Government nominated by the Government;

(viii) All Chairpersons of the Regional Councils.

Nominated Members

(i) One Regional Deputy Director of Education nominated by the Government;

(ii) One Education Officer (Secondary) or Educational Inspector, nominated by the Government;

(iii) One Education Officer (Primary) nominated by the Government;

(iv) Five members nominated by the Government, one each from amongst the Principals or Head Masters of Primary Schools, Secondary Schools, Colleges of Education, Junior Colleges of Education and Institute of Commercial Education;

(v) Three members nominated by the Government having special knowledge or practical experience in the field of education or educational evaluation guidance and selection; and

(vi) Four members nominated by the Government one each from amongst the members of managements of Primary Schools, Secondary Schools, Junior Colleges of Education and Commercial Institutes.

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(2) The Commissioner shall be the *ex officio* Member- Secretary of the State Council who shall be entitled to take part in all the deliberations and proceedings of the meetings of the State Council but shall have no right to vote.

(3) (a) A Regional Council shall consist of a Regional Chairperson from Maharashtra Educational Service, Group-A (Administration Branch) in the grade of Deputy Director of Education, appointed by the Government and of the following members, namely :—

Ex Officio Members

(i) All Regional Deputy Directors in the Region;

(ii) Three Education Officers or Educational Inspectors designated by the State Government from amongst the Officers serving in the jurisdiction of the Region.

Nominated Members

(i) Five members nominated by the Government one each from amongst the Principals or Head Masters of the Secondary Schools, Primary Schools, Junior Colleges of Education, Commercial Institutes and Colleges of Education;

(ii) Four members nominated by the Government from amongst the teachers from the categories mentioned in clause (i);

(iii) Two members from amongst the management of the Educational Institutes;

(iv) Two members from amongst the experts or retired persons in the fields of activities of the Council.

(b) The Assistant Commissioner designated by the Chairperson of the Regional Council shall be the *ex officio*-member-secretary of the Regional Council who shall be entitled to take part in all the deliberations and proceedings of the meetings of the said Council but shall have no right to vote:

Provided that a person shall cease to hold office as a member of the State Council or a Regional Council, as the case may be, if such person ceases to hold the post, designation or office or be a representative of the management body, as the case may be, by virtue of which such person is so appointed and such person shall inform the Chairperson of the Council, in writing under his own hand of his having so ceased to be member of the State Council, or the Regional Council, as the case may be, within a week therefrom.

(4) The names of persons (not being *ex officio* members) who have been nominated, from time to time, as the members of the State Council or the

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Regional Council, as the case may be, shall be published by the Government in the *Official Gazette*.

6. (1) The Chairperson of the State Council and the Chairperson of any Regional Council shall hold office for a term of four years from the date of their appointments as the Chairpersons.

Term of office and conditions of service of Chairperson of Councils.

(2) Nothing in the sub-section (1) shall affect the power of the Government to transfer, in the exigencies of public service, any Chairperson to any other post under the Government during such term; and if any Chairperson superannuates in the service of Government, he shall cease to be the Chairperson unless services are extended or the Chairperson is re-employed in the service of Government and is not transferred to some other post.

(3) The Government may, from time to time, extend the term of office of a Chairperson of the State Council or Regional Council, so however, that the aggregate period of the term shall not exceed eight years.

(4) The Chairperson of the State Council and the Chairperson of a Regional Council shall be the employees of the Government from the Maharashtra Education Services, Group-A and the Chairperson shall draw their salary and allowances from the Consolidated Fund of the State. The salary, allowances and other conditions of service of the Chairperson shall be such as may be determined by the Government.

(5) Where a temporary vacancy of the Chairperson of the State Council occurs, by reason of leave, illness or any other cause, the Commissioner shall discharge the administrative powers of the Chairperson and in case of temporary vacancy of a Chairperson of a Regional Council, Chairperson of State Council, may, appoint another person to be the Chairperson of such Regional Council.

7. (1) The members of the Council other than the *ex officio* members, shall hold office for a term of four years from the date on which their names are published in the *Official Gazette*.

Terms of office of and allowances to members of Council.

(2) The term of office of the out going members shall extend to and expire with, the day immediately preceding the date on which the names of their successors are published in the *Official Gazette*.

(3) The official members shall be entitled to such compensatory allowances and non-official members such remuneration as may be determined by the regulation.

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Disqualifica-
tion of
Chairperson,
members of
Council.

8. A person shall be disqualified for being appointed or nominated as, or for continuing as, a Chairperson or a member of the State Council or any Regional Council or any committee appointed under this Act,—

(a) if such person directly or indirectly, by oneself or one's partner,—

(i) has or had any share or interest in any text-book published, or

(ii) has any share or interest in any work done by order of, or any contract entered into on behalf of the Council:

Provided that, a person who had any share or interest in any text-book referred to in sub-clause (i) shall not be deemed to have incurred the disqualification under that sub-clause, if five years have elapsed from the date of publication of such book;

(b) if an order for removal from office has been made against such person under sub-section (1) or sub-section (2) of section 15;

Explanation.—For the purpose of sub-clause (i) of clause (a)—

(A) the publication of a text-book shall include its republication;

(B) a person shall be deemed to have incurred disqualification by reason of his having any share or interest in the business of the publisher of such text-book.

Vacancy of
Chairper-
son or
member
owing to
disqualifica-
tion.

9. If the Chairperson or a member of the State Council or a Regional Council or any committee becomes subject to any of the disqualifications mentioned in the last preceding section, such person's office shall thereupon be declared vacant by the Government.

Vacancy
of member
owing to
absence
without
permission.

10. If a member nominated or appointed to the State Council or a Regional Council remains absent without prior permission in writing of the Chairperson of the Council from three consecutive meetings thereof, his office thereupon shall become vacant, and shall be so declared by the Chairperson.

Decision on
question as
to vacancy.

11. If any question arises as to whether the office of a Chairperson or a member has become vacant under section 9 or 10, the decision of the Government, in the matter shall be final.

Resignation
of member.

12. A member of the State Council or a Regional Council except the *ex officio* member, may resign his office at any time by tendering his resignation in writing to the Chairperson of the Council; and such member shall be deemed to have vacated his office as soon as the Chairperson has received his resignation.

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13. All casual vacancies in the office of the members or any Committee of the Council shall be filled in, as soon as may be, by nomination or appointment, as the case may be; and the person nominated or appointed in a casual vacancy shall hold office so long only as member in whose place he is nominated or appointed would have held, if the vacancy had not occurred.

Casual
vacancies.

14. No act or proceeding of the State Council or any Regional Council, or any committee of a Council shall be invalid merely by reason of any vacancy in, or any, defect in the constitution of such Council or committee.

Acts and
proceedings
not
invalidated
by
vacancies
or defects
in
constitution.

15. (1) The Government may, on recommendation of the State Council or as the case may be, a Regional Council, and after making such further inquiry, if any, as it may think fit to make, by order remove any member of the State Council or a Regional Council or of any Committee thereof, if such member,—

Removal
of
member.

(a) has been convicted by a Court in India of any offence involving moral turpitude; or

(b) is an un-discharged insolvent; or

(c) has been declared physically disabled by such medical authority as the State Government may specify; or

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

(e) is acting in a way detrimental to the aims and objects of the State Council or a Regional Council:

Provided that no such recommendations shall be made by the State Council or a Regional Council or no order shall be made under clause (e), unless he has been given a reasonable opportunity of showing cause why such recommendation or order should not be made.

(2) The State Government may *suo motu* by order remove any member of the State Council or any Regional Council or any Committee thereof, appointed or nominated whose activities are, in the opinion of the Government, detrimental to, or obstruct, the proper functioning of the State Council or of the Regional Council or of any Committee thereof:

Provided that no member shall be removed from office unless such member has been given a reasonable opportunity of showing cause why such order should not be made against such person.

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(3) Notwithstanding anything contained in sub-sections (1) and (2), the nominated members of the State Council and Regional Council shall hold office during the pleasure of Government and may be removed at any time before the expiry of their term of office.

Meetings of
Council.

16. (1) The State Council and each Regional Council shall meet not less than twice in every year, and six months shall not intervene between two successive meetings.

(2) The Chairperson of the State Council or a Regional Council may at any time if the exigencies so demand or upon a written request of not less than one third of the total number of members of the Council (excluding the *ex-officio* members) call a special meeting of the Council on a date not later than twenty-one days after the receipt of such request by the Chairperson.

Power to
invite
experts and
officers at
meeting.

17. The Chairperson of the Council may invite any person who in its opinion is an expert in the field of education or any officer of the Government, to attend its meeting or of its committees, if the subject with which the expert or the officer is concerned is likely to come up for discussion or consideration at such meeting.

Constitution
of
Committees.

18. (1) The State Council shall constitute the following Committees, namely :—

- (a) Academic Committee.
- (b) Executive Committee.
- (c) Finance Committee.
- (d) Examination Committee.

(2) The State Council may constitute such other Committees as it thinks necessary for the efficient performance of its functions.

(3) Each Regional Council shall appoint Committees designated as follows :—

- (a) Standing Committee.
- (b) Examination Committee.

(4) A Regional Council may appoint such other Committees as may be prescribed for the efficient performance of its functions.

(5) The constitution of every committee appointed by the Council, the term of office of its members and the duties and the functions to be discharged by it shall be such as may be prescribed.

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19. (1) On the date of establishment of the State Council, that State Council shall take over and employ such of the existing staff of the Maharashtra State Bureau of Examinations (hereinafter in this Act, referred to as "the Bureau") except the officers belonging to the Maharashtra Education Service, Group- A and Group B (Administration Branch) serving for the purposes of the Bureau, as the Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and regulations made thereunder:

State Council to absorb certain staff and to assume obligations of Government in respect of matters to which this Act applies.

Provided that, the conditions of service applicable immediately before coming into force of this Act in the case of any such employee shall not be varied to his disadvantage, except with the previous approval of the Government:

Provided further that, any service rendered by such employee under the Government shall be deemed to be in service under the State Council.

(2) Nothing in sub-section (1) shall apply to any existing staff of the Bureau who, by notice in writing given to the Government on the date of coming into force of this Act or such later date as may be determined by the Government, intimates his option not to become or continue as an employee of the State Council; and thereupon he shall be permitted to retire from the Government service and shall be entitled to all such terminal benefits as compensation, pension, gratuity or the like, as may be determined by the Government (such terminal benefits shall not be less favourable than the benefits he would have been entitled to, had his service under the Government ceased on the coming into force of this Act):

Provided that any service rendered by such employee under the Bureau shall be deemed to be the service under the State Council.

(3) All expenditure which the Bureau may have incurred before the appointed day, in connection with any of the purposes of this Act shall be deemed to have been advanced towards capital expenditure by the Government to the State Council on that day under section 27, and all assets acquired by such expenditure shall vest into the State Council.

(4) All property, movable or immovable and all rights and interest of whatsoever kind, and powers and privileges and present activities of the Bureau shall stand transferred and shall vest in the State Council and be applied to the objects and purposes for which State Council is constituted.

(5) All obligations incurred, all contracts entered into and all matters and things engaged to be done, before the first constitution of the State Council by, with or for the State Government or the Bureau for any of the purposes of this Act, in respect of any scheme shall be deemed to have been incurred, entered

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into or engaged to be done by, with or for the State Council and accordingly, all suits or legal proceedings instituted or which might have been instituted by or against the Government or the Bureau, as the case may be, continued or instituted by or against the State Council.

Appoint-
ment
powers and
duties of
Commissi-
oner of
Council.

20. (1) The State Council shall have a Commissioner appointed by Government from amongst persons holding post of a Joint Director of Education from the Maharashtra Education Service, Group A (Administrative Branch).

(2) The Commissioner shall be wholly responsible for design, organisation and conduct of examinations to be conducted by the State Council.

(3) The Commissioner shall be the *ex officio* Chairperson of the Examination Committee of the State Council.

(4) The Commissioner shall be entitled to attend the meetings of all other statutory bodies of the State Council.

(5) The Commissioner shall, subject to the control of the Chairperson of the State Council, be the Executive officer of the State Council.

(6) The Commissioner shall exercise such other powers and perform such other duties as may be prescribed.

Appoint-
ments,
powers and
duties of
Deputy
Commissio-
ners,
Assistant
Commissi-
oners and
Evaluation
Officers of
State
Council.

21. (1) The Government shall appoint two or more Deputy Commissioners from the cadre of Deputy Director of Education from the Maharashtra Education Service, Group A (Administrative Branch), in the State Council.

(2) The State Council shall have Assistant Commissioners appointed by Government from the cadre of Assistant Director of Education from the Maharashtra Education Service, Group A (Administrative Branch), Evaluation Officers from Maharashtra Education Service, Group B (Administrative Branch) and other Officers whose strength shall be decided by the Government as per recommendations of the Chairperson.

(3) The Deputy Commissioners, Assistant Commissioners and Evaluation Officers and other Officers shall perform such duties and shall exercise such powers and authority as directed by the Commissioner.

Other
Officers
and
employ-
ees of
Council.

22. (1) The State Council may, with the approval of the Government, appoint such other officers and employees, as it considers necessary for the efficient performance of its functions and the functions of the Regional Councils under this Act.

(2) The salary, allowances and other conditions of service of the officers and employees appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III.

POWERS AND DUTIES OF THE STATE COUNCIL.

23. (1) Subject to the provisions of this Act, the powers and duties of the State Council shall be as follows :-

Powers and
duties of
State
Council.

(a) to advise the Government on matters of policy relating to scholastic, professional examinations or certain other examinations entrusted to it, from time to time;

(b) to lay down guiding principles for determining curricula and syllabi and also to prepare detailed syllabi for all areas in which examinations are conducted by the State Council;

(c) to prescribe standard requirements in respect of staff, building, furniture, equipment, stationery and other things required for proper imparting of education and training in the institutes where the course content is designated and prescribed by the State Council;

(d) to prescribe, if necessary, any books as text-books or cause to be prepared books and prescribe them as text-books for all concerned courses;

(e) to prescribe the general conditions governing admission of candidates to the various examinations, and to specify the conditions regarding attendance and character, on the fulfilment of which a candidate shall have a right to be admitted to and to appear at examinations;

(f) to conduct examinations and to award certificates to the candidates passing the various examinations;

(g) to institute and award scholarships, stipends, medals, prizes and other rewards and to prescribe conditions therefor;

(h) to receive bequests, donations, endowments, trusts and other transfer of any property or interest therein or rights thereto;

(i) to hold any property, interest or right referred to in clause (h) above and to manage and deal with the same;

(j) to prescribe, demand and receive fees from institutions, individuals recognised or allowed to appear for examinations by the State Council;

(k) to call for special reports and information from the Director of Education or his office or other offices of Education Department and any information from institutes, affiliated to the Council to ensure maintenance of academic standards in these institutions;

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(l) to appoint officers and employees of the State Council [other than the Maharashtra Education Service, Group A and Group B (Administrative Branch)] in its office and in the office of the Regional Councils;

(m) to constitute provident fund for the benefit of staff of the Council;

(n) to approve the annual financial statements pertaining to the State Council and Regional Council and to forward the same to the Government for information;

(o) to conduct statistical and other research for the purpose of evaluation and reform of the curricula, instruction and examination system;

(p) to appoint such committees as it may think necessary for the efficient discharge of its functions under this Act;

(q) to make regulations for the purpose of carrying into effect the provisions of this Act;

(r) to make bye-laws relating to matters such as procedure to be followed by the State Council, Regional Councils, their Committees and any other matter solely concerning the State Council, Regional Councils and their Committees;

(s) to exercise such other powers and perform such other duties as may be conferred or imposed on it by or under this Act;

(t) to do all such acts and things as may be necessary to carry out the purposes of this Act;

(u) to accord affiliation to the institutions desirous of sending students to one or more examinations conducted by the Council, provided the institutions comply with the "condition for according affiliation" prescribed by regulations.

(2) It shall be lawful for the Council to conduct the examinations on the request of any authority on contract basis on the terms and conditions approved by the Council.

(3) The services of the Regional Deputy Directors of Education, Education Officer or Educational Inspectors, Block Education Officers, other concerned officers of the Government and their employees shall be available to the Council to assist the Council for conducting the examinations and other ancillary work connected with such examinations.

Powers and
Duties of
Chairperson
of Councils.

24. (1) It shall be the duty of the Chairperson of the State Council and each of Regional Council to ensure that the provisions of this Act and the regulations and bye-laws made thereunder are faithfully observed and he shall have all powers necessary for this purpose.

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(2) It shall be the duty of the Chairperson of the Council to preside over the meetings of the Council and its Statutory Committees (excluding the Examinations Committee).

(3) In an emergency which, in the opinion of the Chairperson of the State Council or a Regional Council, requires that immediate action should be taken, the Chairperson shall take such action as deem necessary and shall thereafter report this action taken to the Council at its next meeting.

(4) Each Chairperson shall exercise such other powers and perform such other duties, as may be prescribed.

25. Subject to the provisions of this Act, the powers and duties of a Regional Council shall be as follows, namely :—

Powers and
duties of
Regional
Councils.

(a) to advise the State Council on matters of regional importance, either referred to it or on its own initiative, for the purpose of implementation of recommendations of State Council regarding standard requirements in the recognised and affiliated institutions;

(b) to demand and receive such fees as may be prescribed for candidates admitted to the examination;

(c) to conduct in the area of its jurisdiction the final examination on behalf of the State Council;

(d) to appoint examiners, moderators, supervisors and other necessary personnel for conducting the examination in the area of its jurisdiction for evaluation of candidates performance and for compiling and release of results, in accordance with such instructions as the State Council may, from time to time, issue;

(e) to admit candidates for examinations according to the regulations made by the State Council in this behalf;

(f) to open centres within its jurisdiction for the examination conducted by it;

(g) to declare results of the candidates appearing at the examination conducted by it as directed by the State Council in this regard;

(h) to forward list of candidates according to the merit to the State Council for the purpose of award of scholarship, stipend, medals, prizes and other rewards;

(i) to deal with the cases of unfair means according to the procedure laid down by the State Council;

(j) to generally evaluate the performance of the candidates appearing for the examinations and to make necessary recommendations to the State Council in this regard;

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(k) to grant recognition to the institutions under its jurisdiction and to withdraw the same in the prescribed manner;

(l) to call for any information from any affiliated and recognised institution to maintain the academic standards and call for special information or report on being referred to by the State Council or its own initiative from the Regional Deputy Director of Education or any other Educational Functionaries in cases of poor academic fairing or with the intentions to improve the same.

(m) to forward with the remarks, the recommendations of its committees to the State Council for necessary action;

(n) to require institutions recognised by it or the Education Department to extend their co-operation in conduct of the examinations and to withdraw or cause to withdraw the privileges of the Council or the Education Department from any such institution which does not co-operate without any acceptable and tenable reasons after giving such institution a reasonable opportunity of showing cause why such order should not be made;

(o) to conduct such correspondence and other non formal courses leading to the examination as the State Council may specify from time to time;

(p) to exercise such powers as may be delegated to it by the State Council.

Powers of
Government
to issue
directions.

26. (1) The Government shall have the power, after considering the advice, if any, tendered by the State Council, to issue to that Council or a Regional Council such directions as it may consider necessary in regard to all or any of the matters specified in clause (a) of sub-section (1) of Section 23. The Council concerned shall comply with such directions.

(2) The Government shall also have right to address to the State Council or a Regional Council with reference to anything it has conducted or done or is conducting or doing or intends to conduct or do and to communicate to the Council concerned its views in the matter.

(3) The Council concerned shall report to the Government such action, if any, as it proposes to take or has taken upon receipt the communication, under sub-section (2) and shall furnish an explanation if it fails to take appropriate action.

(4) If such Council fails, within a reasonable time to take action to the satisfaction of the Government, the Government after considering the representation or explanation furnished, issue directions which should be complied by the Council.

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(5) In an emergency which, in the opinion of the Government, requires that, immediate action should be taken, the Government may take such action, consistent with this Act, as it deems necessary without previous consultation with the Council concerned and shall forthwith inform it of the action taken.

(6) The Government may by order in writing, specifying the reasons thereof, suspend the execution of any resolution or order of any Council and prohibit the doing of the action ordered or purporting to be ordered to be done by such Council if the Government is of the opinion that such resolution, order or act is in excess of the powers conferred by or under the Act upon such Council.

CHAPTER IV.

FUND, FINANCE, ACCOUNT AND AUDIT.

27. (1) The State Council shall have its own fund and the following receipts be credited thereto—

State Council's fund, its custody and investment.

(a) fees, royalties and charges including penalties, levied and collected, by the Council;

(b) grants, assignments, contributions and loans, if any, made to it by the Government;

(c) bequests, donations and endowments or other contributions, if any;

(d) interest on and sale proceeds of any securities vested in it;

(e) all rents and profits from the property vested in it;

(f) other moneys received by or on behalf of, the State Council.

(2) The State Council may keep in current or saving deposit account with the State Bank of India or with any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, Banking Regulations Act, 1949 or with any other bank approved by the Government in this behalf, such sum of money out of its Funds as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the State Council.

II of
1934.
X of
1949.

(3) Such accounts shall be operated upon by such officers of the Council as may be authorised by it by regulation made in this behalf.

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State Council to pay costs from fund on account of salary, pension, etc., of Chairperson, Commissioner, Deputy Commissioner, Assistant Commissioner Evaluation Officers and other Officers.

28. The State Council shall pay every year out of its Fund to the Government such amount as the Government may determine on account of the salary, pensions, leave and other allowances of the Chairperson and other officers posted in the State Council and Regional Councils by the Government.

General application of fund.

29. Subject to the provisions of this Act, the fund of the State Council shall be applicable only to the payment of charges and expenses incidental to the matters specified in this Act and for any other purpose for which by or under this Act, powers are conferred or duties are imposed upon the State Council and the Regional Councils established under this Act.

How fund shall be drawn against.

30. No payment shall be made by a bank out of the State Council's fund except upon a cheque or letter of credit signed by an officer serving under the State Council or a Regional Council duly authorised by the State Council in this behalf.

Allotment of Regional Council.

31. The State Council shall pay, from time to time, to each Regional Council such sums as the State Council may determine, for enabling the Regional Council to discharge the duties and functions imposed on them by the State Council for conduct of examinations assigned to it within its jurisdiction.

Preparation of annual budget estimates.

32. (1) The State Council shall prepare, before such date and in such manner as may be prescribed, the budget estimates of the income and expenditure of that Council incorporating therein the income and expenditure of Regional Councils for the next financial year.

(2) The State Council shall, on or after the date referred to in sub-section (1) consider the budget estimates prepared by it and submit them as approved by it to the State Government for its information. The State Government may pass such orders with reference to the budget estimates as it thinks fit and communicate the same to the State Council. The State Council shall give effect to such orders.

Annual Accounts and audit.

33. (1) The State Council shall keep its accounts in such form and in such manner as prescribed.

(2) The accounts of the State Council and a Regional Council shall be audited by Auditor appointed by the State Council with the previous approval of the Government.

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(3) The Government may, if it thinks necessary, appoint a Special Auditor to audit the accounts of the Council.

(4) The Auditor or the Special Auditor, as the case may be, shall submit his report to the State Council and shall forward a copy thereof to the Government.

(5) The cost of the audit under sub-section (2) or (3), if any, shall be borne by the State Council.

34. (1) The Government shall have the right to cause an inspection to be made, by such person or persons as it may direct, of the State Council or a Regional Council of the buildings, hostels, laboratories, libraries and equipments of any institution recognised by or affiliated to the State Council; and to cause enquiry to be made in the like manner in respect of any matter connected with any Council. The Government shall, in every case, give due notice to the Council concerned, of its intention to cause an inspection or inquiry to be made, and the Council shall be entitled to appoint the representative, who shall have the right to be present and be heard at such inspection or inquiry.

Inspection
and inquiry.

(2) The Government shall communicate to the Council its views with reference to the results of the inspection or inquiry and may, after ascertaining the opinion of the Council thereon, advise it on the action to be taken and fix a time limit for taking such action.

(3) The Council shall report to the Government such action, if any, as it has taken or proposes to take upon the result of the inspection or inquiry. Such reports shall be submitted, with the opinion of the Council thereon, within such time as the Government may direct.

(4) Where the Council does not, within the time fixed, take action to the satisfaction of the Government, it may, after considering any explanation furnished or representation made by the Council, issue such directions as it may think fit and the Council shall comply with such directions.

35. (1) The State Council and each Regional Council shall furnish to the Government such reports, returns and statements as may be required by the Government and such further information relating to any matter connected with its work as the Government may call for.

Information,
returns, etc.,
to be
furnished
by Councils.

(2) The Government may, after considering any such report, return or statements or information furnished, give such directions consistent with this Act as may be necessary and the State Council or the Regional Council, as the case may be, shall comply with such directions.

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CHAPTER V.

MISCELLANEOUS PROVISIONS.

Manner of exercise of powers delegated to Council or Committee. **36.** All matters relating to the exercise by the State Council of powers conferred upon it by this Act, which have by regulation been delegated by that Council to a Regional Council or a Committee, shall stand referred to that body and that State Council, before exercising any such powers, shall receive and consider the report of the body with respect to the matter in question.

Powers of State Council to make regulations. **37. (1)** The State Council may make regulations with the previous sanction of the Government for the purposes of carrying into effect the provisions of this Act.

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

(a) the constitution, powers and duties of the Committees, appointed under section 18;

(b) the subjects and curricula for the examinations;

(c) the general conditions governing the admission of candidates, for the examinations, and any particulars regarding fees, attendance and character, on the fulfilment of which a candidate shall have a right to be admitted to and to appear at any such examination;

(d) the marks required for passing in any subject and the examination as a whole and for exemption, credit and distinction in any subject;

(e) the fees for admission to the examination and other fees and charges payable in respect of other matters connected with these examinations;

(f) the arrangements for conduct of examinations and publication of results;

(g) the appointment of Examiners, Moderators, Chief Moderators, paper setters, Translators, Centre Conductors and their powers and duties in relation to the examinations and their remuneration;

(h) the qualifications and disqualifications of Examiners, Moderators, Chief Moderators, paper setters, Translators, Centre Conductors, etc.;

(i) the award of certificates;

(j) the appointment of officers and employees of the State Council in its own office and in the office of the Regional Council and the conditions of their service;

(k) the constitution of Provident Fund for the benefit of the said officers and employees of the Council;

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(l) the control, administration, safe custody and management in all respects of the finances of the Council;

(m) the date before which and manner in which the State Council shall prepare its budget estimates;

(n) the compensatory allowances which may be drawn by the members of the Council and the Committees appointed by them;

(o) any other matter which is to be or may be prescribed under this Act.

38. (1) Notwithstanding anything contained in section 37 the first regulations shall be made by the Government and they shall continue to be in force until new regulations are duly made and sanctioned under the said section. First regulations.

(2) If it shall at any time appear to the Government that it is expedient to make any new regulations in respect of any of the matters referred to in section 37 or that any regulations referred to in sub-section (1) or made by the State Council under section 37 need to be modified or repealed either wholly or in part, the Government may, after consultation with the State Council and by notification in the *Official Gazette*, make such regulations; or modify or repeal any such regulations, either wholly or in part. The regulations so made, modified or repealed shall take effect from such date as the Government may in such notification specify or if no such date is specified from the date of publication of the said notification in the *Official Gazette*, except as respects anything done or omitted to be done before such date.

39. The State Council may make bye-laws consistent with this Act and regulations made thereunder to provide for any of the following matters :— Powers of State Council to make bye-laws.

(a) the procedure to be followed at the meeting of the State Council and Regional Councils and the Committees appointed by any of them and the number of members required to form a quorum at such meeting;

(b) any other matter solely concerning the Councils and their Committees not provided for by this Act and the regulations made thereunder.

40. If any question arises regarding the interpretation of any provision of this Act or of any regulations or by-laws made thereunder, the matter, may be referred for decision to the Government and shall be so referred to the Government, if not less than three members of a Council so require. The decision of the Government shall be final. Interpretation in case of doubt.

41. (1) All benefactions accepted or received by the Bureau and held by it immediately before the appointed day shall be deemed to have been accepted, received or held by the State Council under this Act and all conditions on which such Saving.

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benefactions were accepted, received or held shall be deemed to be valid under this Act, notwithstanding that such conditions are inconsistent with the provisions of this Act.

(2) Any will, deed or other document made before the appointed day which contains any bequest, gift, terms or trust in favour of the Bureau shall on and from the appointed day, be construed as if the State Council is named therein instead of the Bureau.

(3) All institutions recognised and admitted to the privileges of the Bureau immediately before the appointed day shall be deemed to be recognised and admitted to the privileges of the corresponding Council established under this Act, save in so far as such recognition or privilege may be withdrawn, restricted or modified by or under the provisions of this Act.

(4) All debts, liabilities and obligations incurred before the appointed day and lawfully subsisting against the Bureau shall be discharged and satisfied by the State Council.

(5) All reference to the Bureau in any enactment or other instruments issued under any enactment shall be construed as reference to the State Council.

(6) Every Committee of the Bureau shall be continued, but as soon as practicable within a period of six months from the date of the coming into force of this Act, be reconstituted in accordance with the provisions of the Act and the regulations made thereunder.

(7) The appointments of Examiners, Moderators, Paper Setters, Translators, Centre Conductors and other staff connected with the examinations or ancillary work validly made and subsisting immediately before the commencement of this Act for the purposes of the Bureau, and such functionaries shall continue to hold office and discharge their duties and functions until fresh appointments are made under this Act for the purposes of the State Council.

(8) All notices, circulars and orders made or issued by the Bureau shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force and be deemed to have been made or issued under this Act.

Protec-
tion
of action
taken in
good
faith.

42. No suit, prosecution or other legal proceedings shall lie against the Government, or the Council or the members or any officer or employees of the Government or of the Councils for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any regulation or bye-laws.

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45 of 1860. 43. The Chairperson, all members, officers and employees of the Council shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, members, officers and employees of Council to be public servants.

44. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires but not later than two years from the coming into force of this Act, by order do anything not inconsistent with the objects and purposes of this Act which appears to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.
