

Calcutta



Gazette

सत्यमेव जयते

Extraordinary
Published by Authority

SRAVANA 29]

WEDNESDAY, AUGUST 20, 1997

[SAKA 1919]

PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 2006-L.—20th August, 1997.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XIX of 1997

**THE NETAJI SUBHAS OPEN UNIVERSITY
ACT, 1997.**

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 20th August, 1997.]

An Act to establish and incorporate an open university (mukta viswavidyalaya) in the State of West Bengal and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to establish an open university in the State of West Bengal to provide educational opportunities to all those belonging to the backward and weaker sections of society as well as the students who cannot be accommodated in institutions of higher learning owing to socio-economic conditions and other limitations and to promote equality of opportunity for higher education for a large segment of the population, including those who are in employment and women (including housewives), specially in the remote and inaccessible areas, as also adults who wish to upgrade their knowledge in various fields, through correspondence courses, contact programmes, study centres and various forms of mass media, encouraging and providing instruction, teaching, training and research in various branches of learning and courses of study, promoting advancement and dissemination of knowledge and learning and extending higher education to meet the growing needs of society;

It is hereby enacted in the Forty-eighth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

*The Netaji Subhas Open University Act, 1997.**(Chapter I.—Preliminary.—Sections 1, 2.)*

CHAPTER I

Preliminary

Short title,
extent and
commencement

1. (1) This Act may be called the Netaji Subhas Open University Act, 1997.

(2) It extends to the whole of West Bengal.

(3) This section and Chapter VII shall come into force at once; and the remaining provisions of this Act shall come into force on such date or dates as the State Government may by notification appoint, and different dates may be appointed for different provisions of this Act.

Definitions

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

- (1) "Academic Council" means the Academic Council of the University;
- (2) "academic year" means a period of twelve months commencing on the first day of July or such other period of twelve months, commencing on such date, as the Executive Council may specify in respect of all the study centres and courses of study or any particular study centre or course of study;
- (3) "Co-ordinator" means the head of a regional centre;
- (4) "correspondence-cum-contact programme student" means a student enrolled in any one of the study centres;
- (5) "Department" means a department of studies of the University;
- (6) "distance education system" means the system of imparting education through correspondence course, broadcasting, telecasting, seminar, contact programme or any other means or combination of means;
- (7) "employee" means any person appointed by the University, and includes Teachers and other employees of the University;
- (8) "Executive Council" means the Executive Council of the University;
- (9) "Finance Committee" means the Finance Committee of the University;
- (10) "Minister" means the Minister-in-charge of the Higher Education Department of the State Government;
- (11) "non-teaching employee" means the non-teaching employee, not holding any teaching post (including part-time teaching post), appointed or recognized as such by the University;
- (12) "notification" means a notification published in the *Official Gazette*;
- (13) "prescribed" means prescribed by Statutes or Ordinances or Regulations made under this Act;
- (14) "Regional Centre" means a centre established as such by the University, for maintaining records regarding enrolment of students, despatching teaching materials, making arrangements for holding lectures in the classes in Study Centres, and dealing with other allied matters;
- (15) "Regulations" means the Regulations made under this Act;
- (16) "School of Studies" means a School of Studies of the University;
- (17) "State Government" means the Government of West Bengal in the Higher Education Department;
- (18) "Statutes" and "Ordinances" means respectively the Statutes and Ordinances made under this Act;
- (19) "student" means a student of the University, and includes any person who has enrolled himself for pursuing any course of study of the University;
- (20) "Study Centre" means a centre established, maintained or recognised by the University for the purpose of advising or counselling, or for rendering such other assistance in the activities of the University as may be required by the students;
- (21) "Teacher" means a Professor, Associate Professor, Reader, Assistant Professor, Lecturer or such other person as may be designated as such by Statutes for imparting instruction or for giving guidance or rendering assistance of academic nature to students for pursuing any course of study;

*The Netaji Subhas Open University Act, 1997.**(Chapter II.—The University.—Sections 3, 4.)*

- (22) "the University" means the Netaji Subhas Open University as constituted under this Act;
- (23) "University Centre" means the place where the administrative offices of the University are situated.

CHAPTER II

The University

The University.

3. (1) There shall be constituted a University by the name of the Netaji Subhas Open University which shall consist of the Chancellor, the Vice-Chancellor, the Directors, the members of the Executive Council and the members of the Academic Council.

(2) The University shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the name of the Netaji Subhas Open University.

(3) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all processes in such suits and proceedings shall be issued to, and served on, the Registrar.

(4) The headquarters of the University shall be located at such place within West Bengal as the State Government may by notification specify.

Objects of the University

4. The objects of the University shall be,—
- (a) to provide opportunities for higher education through (i) correspondence courses, (ii) contact programmes and study centres, and (iii) audio-visual mass-media such as radio and television, presenting special institutional programmes, either live or through cassettes including video cassettes and other softwares;
 - (b) to provide opportunities for higher education to men and women (i) being deprived of the benefit of higher education in the normal course owing to socio-economic conditions or other limitations or (ii) being drop-outs or (iii) being brought under the scheme of adult education or (iv) working in homes or engaged in cultivations or employed in factories, offices or schools or engaged in any profession or vocation;
 - (c) to organise certificate courses, diploma courses, degree courses, post-graduate courses and research courses for the benefit of the working population in various fields and for the benefit of those who wish to enrich their lives by studying cultural and aesthetic subjects;
 - (d) to design and develop distance education programme relevant to the specific needs of the people of the State;
 - (e) to design and develop education and training packages to meet the demand for technical and vocational manpower needed for the economic development of the State;
 - (f) to establish mechanism through network and other arrangement to share programmes, services, technology and other resources to ensure cost-effectiveness of education and training;
 - (g) to make provision for research for innovative course development and for advancement and dissemination of knowledge;
 - (h) to collaborate with the Indira Gandhi National Open University established under the Indira Gandhi National Open University Act, 1985, and other open universities in the country in extending educational opportunities to the people, and/or to recognise, or collaborate with, other research institutions in the country for promotion of research activities.

*The Netaji Subhas Open University Act, 1997.**(Chapter II.—The University.—Section 5.)*

Powers of the University

5. (1) The University shall have the following powers, namely:—
- (i) to provide for instruction in such branches of knowledge, technology, vocations and profession as the University may determine from time to time and to make provision for research;
 - (ii) to plan and prescribe courses of study for degrees, diplomas or certificates, or for any other purpose;
 - (iii) to hold examinations and confer degrees, diplomas, certificates or other academic distinctions or recognitions on persons who have pursued a course of study or conducted research in the manner laid down by Statutes or Ordinances;
 - (iv) to confer honorary degrees or other distinctions in the manner laid down by the Statutes;
 - (v) to determine the manner in which distance education in relation to the academic programme of the University may be organised;
 - (vi) to institute, with the approval of the State Government professorships, readerships, lecturerships and other academic positions necessary for imparting instruction or for preparing educational material or for conducting other academic activities, including guidance, designing and delivery of course and evaluation of the work done by the students, and to appoint persons to such professorships, readerships, lecturerships and other academic positions;
 - (vii) to co-operate with, and seek the co-operation of, other universities and institutions of higher learning, professional bodies and organisations for such purposes as the University considers necessary;
 - (viii) to institute and award fellowships, scholarships, prizes and such other awards for recognition of merit as the University may deem fit;
 - (ix) to establish and maintain such Regional Centres as may be determined by the University from time to time;
 - (x) to establish, maintain or recognise Study Centres in the manner laid down by Statutes;
 - (xi) to provide for the preparation of instructional materials, including films, cassettes, tapes, video cassettes and other softwares;
 - (xii) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, lesson writers, evaluators and other academic staff;
 - (xiii) to recognise examinations of, or periods of study (whether in full or part) at, other universities, institutions or other places of higher learning as equivalent to examinations or periods of study in the University, and to withdraw such recognition at any time;
 - (xiv) to make provision for research and development in educational technology and related matters;
 - (xv) to create, with the approval of the State Government, administrative, ministerial and other necessary posts and to make appointments thereto;
 - (xvi) to receive benefactions, donations, and gifts and to acquire, hold, maintain and, with the approval of the State Government dispose of any property, movable or immovable, including trust and Government property, for the purposes of the University;
 - (xvii) to borrow, with the approval of the State Government, whether on the security of the property of the University or otherwise, money for the purposes of the University;
 - (xviii) to enter into, carry out, vary or cancel contracts;
 - (xix) to demand and receive such fees and other charges as may be laid down by the Ordinances;

*The Netaji Subhas Open University Act, 1997.**(Chapter II.—The University.—Sections 6, 7.)*

- (xx) 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 codes of conduct;
- (xxi) to recognise any institution of higher learning or studies for such purposes as the University may determine and to withdraw such recognition;
- (xxii) to appoint, either on contract or otherwise, visiting Professors, Emeritus Professors, Consultants, fellows, scholars, artists, course writers and such other persons who may contribute to the advancement of the objects of the University;
- (xxiii) to recognise persons working in other universities, institutions or organisations as teachers of the University on such terms and conditions as may be laid down by Ordinances;
- (xxiv) to determine standards and to specify conditions for the admission of students to courses of study of the University which may include examination, evaluation and any other method of testing;
- (xxv) to make arrangements for the promotion of the general health and welfare of the employees;
- (xxvi) to inspect Regional Centres and Study Centres and to take measures to ensure that proper standards of instructions are maintained therein;
- (xxvii) to collaborate and interact with the West Bengal State Council of Higher Education constituted under the West Bengal State Council of Higher Education Act, 1994, other universities, specially the Indira Gandhi National Open University, referred to in clause (h) of section 4, and other open universities in the country, and other educational or research institutions and authorities, in such manner and for such purposes as the University may determine.
- (xxviii) to do all such acts as may be necessary or incidental to the exercise of all or any of the powers of the University as are necessary and conducive to the promotion of all or any of the objects of the University.

West Ben Act
XXXVII of 1994

(2) Notwithstanding anything contained in any other law for the time being in force, but without prejudice to the provisions of sub-section (1), it shall be the duty of the University to take all such steps as it may deem fit for the promotion of the open university and distance education systems and for the determination of standards of teaching, evaluation and research in such systems, and for the purpose of performing this function, the University shall have such powers, including the power to allocate and disburse grants to the Regional Centres or the Study Centres, or to any other university or institution of higher learning, as may be specified by the Statutes.

University open
to all classes,
castes and creeds.

6. (1) The University shall be open to persons of either sex and of whatever race, creed, caste or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be appointed as a Teacher of the University or to hold any other office therein or admitted as a student in the University, or to graduate thereat, or to enjoy or exercise any privilege thereof.

(2) Nothing in sub-section (1) shall be deemed to prevent the University from making any special provision for the appointment or admission of women or of persons belonging to the weaker sections of the society, and, in particular, of persons belonging to the Scheduled Castes or Scheduled Tribes.

Inspection and
inquiry

7. (1) The State Government shall have the right to cause an inspection to be made by any person, not below the rank of Joint Secretary to the Government of West Bengal or Registrar or Professor of a university, or by a committee of not less than two persons, not below the rank of Joint Secretary to the Government of West Bengal or Registrar or Professor of a university, into its buildings, laboratories, libraries, museums, workshops

*The Netaji Subhas Open University Act, 1997.**(Chapter III.—Chancellor and other officers of the University.—Sections 8-10.)*

and equipment or of any Regional Centre or Study Centre maintained by the University. The State Government shall have also the right to cause an inquiry to be made into the teaching and other work conducted or done by the University by such person or group of persons as the State Government deems fit. The State Government shall, in every such case, give notice to the University of its intention to cause such inspection or inquiry to be made, and the University shall be entitled to represent its case.

(2) The State Government shall forward to the Vice-Chancellor a copy of the inspection report for obtaining the views of the Executive Council and, on receipt of such views, may give such advice as it considers necessary and fix a time-limit for action to be taken thereon by the University.

(3) The Executive Council shall, within such time as the State Government may fix, report to that Government through the Vice-Chancellor the action which has been taken or is proposed to be taken on the advice as aforesaid.

(4) The State Government may, where action has not been taken by the University to the satisfaction of that Government within the time fixed, after considering the explanation, if any, furnished, or the representation made, by the Executive Council, issue such directions as it may think fit, and the University shall comply with such directions. If the University does not comply with such directions within such time as the State Government may specify, that Government may take such further action as it may consider necessary.

CHAPTER III

Chancellor and other officers of the University

The Chancellor

8. (1) The Governor of the State of West Bengal shall, by virtue of his office, be the Chancellor of the University.

(2) The Chancellor shall exercise such powers as may be conferred on him by or under the provisions of this Act or the Statutes or the Ordinances.

(3) Where power is conferred upon the Chancellor to make nominations to any authority or body of the University, the Chancellor shall, to the extent necessary, nominate persons to represent interests not otherwise adequately represented.

(4) Every proposal to confer any honorary degree shall be subject to confirmation by the Chancellor.

Officers of
the University.

9. The following shall be the officers of the University:—

- (1) the Vice-Chancellor;
- (2) the Registrar;
- (3) the Directors;
- (4) the Finance Officer;
- (5) such other persons as may be declared by Statutes to be the officers of the University.

The Vice-
Chancellor

10. (1) The Vice-Chancellor shall be appointed by the Chancellor in consultation with the Minister from a panel of not less than three persons recommended by a committee consisting of three members of whom two shall be nominated by the Executive Council and one shall be nominated by the Chancellor. The person nominated by the Chancellor shall be the convenor of the committee, provided that no person who is an employee of the University or of any Regional Centre or Study Centre or a member of any authority of the University, shall be nominated to be a member of the committee.

(2) (a) The Vice-Chancellor shall hold office for a term of four years or till he attains the age of 65 years, whichever is earlier, and shall be eligible for re-appointment for another term of four years or till he attains the age of 65 years, whichever is earlier.

(b) The Chancellor may, notwithstanding the expiration of the term of the office of the Vice-Chancellor or his attaining the age of 65 years, allow him to continue in office till a successor assumes office, provided that he shall not continue as such for any period exceeding six months.

*The Netaji Subhas Open University Act, 1997.**(Chapter III.—Chancellor and other officers of the University.—Sections 11-13.)*

(3) The Vice-Chancellor shall be a whole-time officer of the University and shall be paid from the University Fund such salary and allowances as the Chancellor may decide in consultation with the State Government.

(4) The Vice-Chancellor may resign his office by writing under his hand addressed to the Chancellor.

(5) If—

- (a) the Vice-Chancellor is, by reasons of leave, illness or other cause, temporarily unable to exercise the powers and perform the duties of his office, or
- (b) a vacancy occurs in the office of the Vice-Chancellor by reason of death, resignation or expiry of the term of his office or otherwise,

then, during the period of such temporary inability or pending the appointment of a Vice-Chancellor, as the case may be, the Chancellor may authorise, in consultation with the Minister, any person to exercise the powers and perform the duties of the Vice-Chancellor.

(6) The vacancy in the office of the Vice-Chancellor occurring by reason of death, resignation or expiry of the term of his office or otherwise shall be filled up by appointment of a Vice-Chancellor in accordance with the provisions of sub-section (1) within a period of six months from the date of occurrence of the vacancy, and such period shall be held to include any period for which a Vice-Chancellor is allowed to continue in office under clause (b) of sub-section (2) or a person is appointed to exercise the powers and perform the duties of the Vice-Chancellor under clause (b) of sub-section (5).

Powers and
duties of the
Vice-Chancellor

11. (1) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall, by virtue of his office, be a member and the Chairman of the Executive Council and the Academic Council and also the Chairman of any other authority or body of the University of which he may be a member. He shall also be entitled to be present at and to address any meeting of any other authority or body of the University of which he may not be a member, but shall not be entitled to vote thereat.

(2) The Vice-Chancellor shall have the power to convene meetings of the Executive Council and of any other authority or body of the University.

(3) It shall be the duty of the Vice-Chancellor to ensure that the provisions of this Act, and the Statutes, the Ordinances and the Regulations are faithfully observed, and to take such action as may be necessary for this purpose.

(4) The Vice-Chancellor shall have the power to exercise general control and supervision over all other officers of the University and over all Teachers and other employees of the University and generally over all the affairs of the University.

(5) The Vice-Chancellor shall exercise such other powers and discharge such other duties as may be delegated to him by any authority or body of the University or as may be prescribed by Statutes, Ordinances or Regulations.

(6) The Vice-Chancellor may take on behalf of the University such action as he may deem expedient in any matter which, in his opinion, is either urgent or of an emergent nature and shall report the same for confirmation at the next meeting to the authority or body which, in the ordinary course, would have dealt with the matter:

Provided that if the action taken by the Vice-Chancellor is not approved by the authority or body concerned, the matter shall immediately be referred to the Executive Council, if the authority or body concerned is other than the Executive Council, or to the Chancellor, if the authority or body concerned is the Executive Council. The decision of the Chancellor or the Executive Council, as the case may be, shall be final.

(7) The Vice-Chancellor may, subject to the prior approval of the Executive Council, delegate any of his powers to any other officer subordinate to him.

The Directors.

12. Every Director shall be appointed in such manner, on such emoluments and other conditions of service, and shall exercise such powers and perform such functions, as may be prescribed by Statutes.

The Registrar.

13. (1) The Registrar shall be appointed in such manner, on such emoluments and other conditions of service as may be prescribed by Statutes.

(2) The Registrar shall exercise such powers and perform such functions as may be prescribed by Statutes.

The Netaji Subhas Open University Act, 1997.

(Chapter III.—Chancellor and other officers of the University.—Sections 14, 15.—
Chapter IV.—Authorities of the University.—Sections 16-23.)

The Finance
Officer

14. The Finance Officer shall be appointed in such manner and on such emoluments and other conditions of service, and shall exercise such powers and perform such functions, as may be prescribed by Statutes.

Other
Officers

15. The manner of appointment, emoluments, powers and duties of the other officers of the University shall be prescribed by Statutes.

CHAPTER IV

Authorities of the University

Authorities of
the University

16. The following shall be the authorities of the University:—

- (1) the Executive Council;
- (2) the Academic Council;
- (3) the School of Studies;
- (4) the Finance Committee; and
- (5) such other authorities as may be declared by the Statutes to be the authorities of the University.

The Executive
Council

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

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by Statutes.

The Academic
Council

18. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation of, and be responsible for, the maintenance of standards of learning, education, instruction, evaluation and examination 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.

(2) The constitution of the Academic Council and the term of office of its members shall be prescribed by Statutes.

The School of
Studies

19. (1) There shall be such number of Schools of Studies as the University may determine from time to time.

(2) The constitution, powers and functions of the School of Studies shall be prescribed by Statutes.

The Finance
Committee

20. The constitution, powers and functions of the Finance Committee shall be prescribed by Statutes.

Other
authorities

21. The constitution, powers and functions of the other authorities which may be declared by the Statutes to be the authorities of the University shall be prescribed by Statutes.

Cessation of
membership in
certain cases

22. When a person is qualified to be a member of any authority or body of the University by virtue of his membership of any other authority or body or by virtue of any profession, he shall cease to be a member of the authority or body of the University when he ceases to be a member of the other or to be engaged in that profession.

Filling of casual
vacancies.

23. Any casual vacancy among the members (other than *ex officio* members) of any authority or body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant, and any person so appointed, elected or co-opted to fill a casual vacancy shall be a member of such authority or body for the unexpired portion of the term for which the person whose place he fills would have been a member.

*The Netaji Subhas Open University Act, 1997.**(Chapter IV.—Authorities of the University.—Sections 24, 25.—**Chapter V.—University funds etc.—Sections 26-31.)*

Disputes as to the constitution of the University authorities and bodies

24. 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 Chancellor whose decision thereon shall be final.

Proceedings of the University authorities or bodies not invalidated by vacancies

25. No act or proceedings of any authority or body of the University shall be invalidated merely by reason of the existence of any vacancy or vacancies among its members.

CHAPTER V

University funds etc.

General fund

26. The University shall have a general fund to which shall be credited—
 (a) its income including the fees and endowments;
 (b) contributions or grants which may be made by the Government on such conditions as it may impose; and
 (c) other contributions or grants or loans raised.

Other funds.

27. The University shall have such other funds and maintain such accounts as the Executive Council may determine on the recommendation of the Finance Committee, provided that the University shall not divert and invest any portion of any grant given to it by the State Government in any form or divert it to any fund other than the general fund without the prior approval of the State Government.

Power to accept funds from Government or to raise loans.

28. The University may accept funds from the Government of India or the State Government or the Government of other States in India or the University Grants Commission established under the University Grants Commission Act, 1956, or other universities or recognised institutions and may, with the approval of the State Government, raise loans from other sources.

3 of 1956.

Diversion of funds, upgradation of posts, etc

29. The University shall not, without the prior approval of the State Government or in contravention of the provisions of this Act, divert fund, earmarked for one purpose, for any other purpose or upgrade any post or revise the scales of pay of its officers and other employees or implement any scheme which involves the contribution from the State Government or create any post or posts resulting in, either immediately or in future, a recurring liability on the State Government. The University shall not also fill up any post, by whatever name called, without first creating it with the prior approval of the State Government.

Control of expenditure.

30. (1) The budget of the University showing the receipt and expenditure of the University on different accounts for a financial year shall be submitted to the State Government for approval at least four months before the beginning of such financial year.

(2) The State Government shall, within three months of commencement of the financial year to which the budget relates, communicate its approval or otherwise of the budget to the University.

(3) The State Government may, from time to time, release grants to the University on its request.

(4) Notwithstanding anything to the contrary contained in this Act, the University shall not, except with the prior approval of the State Government, incur any expenditure on any account in excess of the amount specified in the budget on that account.

Annual Accounts and Audit

31. (1) The Annual Statement of Accounts of the University shall, after examination by the Executive Council, be subjected to such audit as the State Government may direct.

(2) Such Annual Statement of Accounts shall, together with the copies of the audit report thereon, be considered by the Executive Council. A copy of the Annual Statement of Accounts and a copy of the audit report thereon shall be submitted to the Chancellor along with the views of the Executive Council. Any observation of the Chancellor and the State Government shall be considered by the Executive Council at a meeting and the Executive Council shall take such corrective action as it thinks fit.

*The Netaji Subhas Open University Act, 1997.**(Chapter V.—University funds etc.—Sections 32-36.—
Chapter VI.—Statutes, Ordinances and Regulations.—Section 37.)*

(3) The University shall have a continuous internal audit, and the report of such audit shall be submitted to the State Government as soon as possible after the end of every financial year.

(4) The Chancellor or the State Government may require the University to supply to him or that Government as the case may be, any information in regard to the accounts and the budget and any other information and the University shall comply with such requisition.

Letter of
appointment of
employees

32. (1) Every employee of the University shall be appointed under a written contract and shall be provided with a letter of appointment containing the terms and conditions of his appointment.

(2) Any dispute arising out of a contract between the University and any employee may, at the request of the employee, be referred by the Vice-Chancellor to a Tribunal which shall consist of one member nominated by the Executive Council, one member nominated by the employee concerned and one member nominated by the Chancellor. The member nominated by the Chancellor shall be the Chairman of the Tribunal.

Appeal against
order of Vice-
Chancellor or
Discipline
Committee etc

33. Any student or candidate for an examination whose name has been removed from the rolls of the University by the order of the Vice-Chancellor or by a resolution of the Discipline Committee or the Examination Committee as may be formed, as the case may be, and who has debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of communication of such orders or copy of such resolution to him, appeal to the Executive Council, and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Discipline Committee, as the case may be.

Appeal against
the decision of an
officer or
authority

34. Every employee or student of the University shall, notwithstanding anything contained in this Act, have a right to appeal, within such time as may be prescribed by Statutes, to the Executive Council against the decision of any officer or authority of the University and, thereupon, the Executive Council may confirm, modify or reverse the decision appealed against the procedure for settlement of such dispute shall be prescribed by Statute.

Pension, provident
fund, etc

35. The pension, provident fund and any other terminal benefit to the officers, Teachers and other employees of the University shall be such as may be decided by the University with the prior approval of the State Government:

Provided that any provident fund instituted by the University for the benefit of its officers, Teachers and other employees shall be governed by the provisions of the Provident Funds Act, 1925, as if such fund were a Government Provident Fund, and the Executive Council shall have the power to make Statutes, not inconsistent with the provisions of this Act, for the administration of the fund.

19 of 1925.

Protection of
action taken
in good faith.

36. No suit or other legal proceedings shall lie against any Teacher or other non-teaching 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 or the Statutes or the Ordinances.

CHAPTER VI

Statutes, Ordinances and Regulations

Statutes

37. Subject to the provisions of this Act, the Executive Council shall have the power to make Statutes for all or any of the following matters:—

- (a) the manner of appointment of the Vice-Chancellor, the term of his appointment, the emoluments and other conditions of his service and the powers and functions that may be exercised and performed by him so far as these have not been provided in the Act;

*The Netaji Subhas Open University Act, 1997.**(Chapter VI.—Statutes, Ordinances and Regulations.—Sections 38, 39.)*

- (b) the manner of appointment of the Directors, the Registrar, the Finance Officer and other officers, the emoluments and other conditions of their service and the powers and functions that may be exercised and performed by each of them;
- (c) the constitution of the Executive Council and other authorities of the University, the terms of office of the members of such authorities and the powers and functions that may be exercised and performed by such authorities;
- (d) the appointment of Teachers and other employees of the University, their emoluments and other conditions of service and qualifications for their appointment;
- (e) the pension or provident fund for the benefit of the employees of the University;
- (f) the principles governing the seniority of service of the employees of the University;
- (g) the procedure in relation to any appeal or application for review by any employee or student of the University against the action of any officer or authority of the University, including the time within which such appeal or application for review shall be preferred or made;
- (h) the procedure for the settlement of disputes between the employees or students of the University and the University;
- (i) the co-ordination and determination of standards of education of the University and distance education systems the allocation and disbursement of grants to Regional Centres and Study Centres, and co-ordination between the University and other universities and institutions;
- (j) the conditions required to be fulfilled by a Study Centre for admission to the privileges of the University;
- (k) the rules and procedure for election to the Executive Council and other authorities or bodies of the University;
- (l) all other matters which under this Act are required to be or may be prescribed by Statutes.

How to make Statutes

38. (1) The Executive Council may consider the draft of any Statute. The draft shall be passed by the Executive Council. The Executive Council may make such amendment in the draft as it may deem fit before it is finally passed.

(2) A Statute passed in the manner provided in sub-section (1) shall be presented to the Chancellor for assent and shall come into force on being assented to by the Chancellor on the recommendation of the Minister, provided that the Chancellor may withhold assent to the Statute or remit the Statute to the Executive Council for reconsideration in the light of the observations, if any, made by him.

(3) A Statute shall remain in force until repealed or amended by a new Statute similarly passed and assented to by the Chancellor on the recommendation of the Minister.

(4) The Chancellor or the State Government may advise the University to adopt a new Statute or to amend an existing Statute.

Ordinances

39. (1) The Academic Council shall have the power to make, subject to the provisions of this Act and the Statutes, Ordinances which may provide for all or any of the following matters:—

- (a) the admission of students in the University;
- (b) imposition and collection of fees, fines and other dues payable to the University;
- (c) prescribing the equivalence of examinations, degrees and diplomas of other universities and institutions;
- (d) the courses of study, the examinations to be held, and the conditions on which students shall be admitted to examinations for any degree, diploma, certificate or title of the University;

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Chapter VII.—Transitory provisions.—Sections 41, 42.)

- (e) the grant of exemptions;
- (f) the appointment, duties and remuneration of examiners;
- (g) the recognition of libraries and museums;

and all other matters which under this Act or the Statutes are required to be or may be prescribed by Ordinances.

(2) All Ordinances shall be submitted, as soon as may be, to the Executive Council for approval. If the Executive Council rejects or amends the draft of any Ordinance, it may refer it back to the Academic Council for reconsideration.

(3) An Ordinance shall be deemed to be passed by the Executive Council if it is approved by a majority vote.

(4) An Ordinance passed in the manner as provided in sub-section (3) shall be presented to the Chancellor for assent and, on its being assented to by the Chancellor in consultation with the Minister, shall come into force with effect from such date as the Chancellor may direct, provided that the Chancellor may withhold assent to the Ordinance or remit the Ordinance to the Executive Council for reconsideration in the light of the observations, if any, made by him.

(5) The Chancellor shall have the power to cancel or modify any Ordinance.

Regulations

40. The authorities of the University may make regulations consistent with the provisions of this Act, the Statutes and the Ordinances for the conduct of their own business and that of the committees, if any, appointed by them and not provided for in this Act or the Statutes or the Ordinances.

CHAPTER VII

Transitory provisions

The First
Chancellor

41. (1) The Governor of West Bengal holding Office at the date of publication of this Act in the *Official Gazette* shall be the first Chancellor of the University.

(2) The first Chancellor shall exercise all the powers conferred on the Chancellor by or under this Act. For the first constitution of the Executive Council, the Academic Council and other authorities of the University, the first Chancellor shall nominate members thereof in accordance with the provisions of this Act.

First
Vice-Chancellor.

42. (1) Notwithstanding anything contained in this Act, the first Vice-Chancellor shall be appointed by the first Chancellor in consultation with the Minister and on such terms and conditions as the first Chancellor may determine in consultation with the State Government, within three months from the date of publication of this Act in the *Official Gazette*. He shall hold office for such period as may be determined by the first Chancellor from time to time and such period shall, in no case, exceed four years from the date on which he assumes office. The first Vice-Chancellor shall exercise all the powers and perform all the duties of the Vice-Chancellor under this Act. He shall also be in charge of the administration of funds and finances of the University and shall take necessary steps to maintain the accounts of the University.

(2) The first Vice-Chancellor, in consultation with the State Government and after giving due regard to any suggestion given by it, shall, with the assistance of a committee consisting of not less than six members nominated by the State Government, cause the first Statutes, the first Ordinances and the first Regulations of the University to be made. The first Statutes, the first Ordinances and the first Regulations shall come into force after the first Chancellor has approved the same in consultation with the Minister, with effect from such date or dates as the first Chancellor may appoint.

(3) The first Statutes, the first Ordinances or the first Regulations of the University shall remain in force until they are amended or until new Statutes, new Ordinances or new Regulations, as the case may be, are made under the provisions of this Act.

*The Netaji Subhas Open University Act, 1997.**(Chapter VII.—Transitory provisions.—Section 43.)*

(4) If a vacancy occurs in the office of the first Vice-Chancellor before the expiry of the period of his office by reason of death, resignation or otherwise, then, the first Chancellor, in consultation with the Minister, may, on the terms and conditions provided in sub-section (1), in aggregate appoint another person to be the first Vice-Chancellor for the purposes of this section for the unexpired portion of such period or such further period, not exceeding in aggregate the period of four years which shall include the period served by the first Vice-Chancellor appointed under sub-section (1).

Advisory
Committee

43. (1) There shall be an Advisory Committee to be constituted by the State Government of which the first Vice-Chancellor shall be the Chairman.

(2) The Advisory Committee shall consist of the following members:—

- (a) the first Vice-Chancellor—Chairman;
- (b) the Secretary, Higher Education Department, Government of West Bengal, or his nominee not below the rank of Deputy Secretary to the Government of West Bengal;
- (c) the Secretary, Finance Department, Government of West Bengal, or his nominee not below the rank of Deputy Secretary to the Government of West Bengal;
- (d) five Teachers of which three shall be Professors or Readers of Universities and two shall be Teachers of affiliated Colleges, nominated by the State Government in consultation with the first Vice-Chancellor;
- (e) two persons, conversant with University administration, nominated by the first Chancellor in consultation with the Minister.

(3) The function of the Advisory Committee shall be to assist and advise the Chairman of the Committee—

- (a) in drafting a plan for implementation of the programme of the University for the purposes of this Act;
- (b) in selecting sites of the University, Regional Centres and Study Centres and making necessary arrangements for securing the accommodation, furniture and equipments and such other things as are deemed necessary;
- (c) in formulating, with the approval of the State Government, the final staff pattern (both teaching and non-teaching) of the University, Regional Centres and Study Centres and in prescribing the qualifications for recruitment of such staff;
- (d) in preparing the programme of the teaching activities of the University consisting of—
 - (i) the preparation of syllabi of different courses of study;
 - (ii) the determination of the method of operation of contact programmes and audiovisual mass media;
 - (iii) the preparation of teaching materials conforming to different stages of the academic programme;
 - (iv) the preparation of written lessons of practical works at home and also lessons for homework;
 - (v) the making of arrangement for writing textbooks if necessary;
 - (vi) the prescribing of the equivalence of examinations, degrees and diplomas of other universities and institutions and other such allied and ancillary matters.

(4) The Advisory Committee shall examine the annual accounts of the University.

(5) In the case of any difference of opinion between the Chairman and the members of the Advisory Committee, the matter shall be referred to the first Chancellor whose decision shall be final.

*The Netaji Subhas Open University Act, 1997.**(Chapter VII.—Transitory provisions.—Sections 44-50.)*

Temporary posts
of the University

44. For the purposes of clause (d) of sub-section (3) of section 43, the University shall have the following temporary posts, and the Vice-Chancellor shall appoint persons to such posts on the recommendation of the Selection Committee to be constituted with the approval of the State Government:—

(a) as many posts of Director (to be filled up by academicians in the rank of Professors) as there are Schools of Studies:

Provided that one Director may be appointed for more than one School of Studies, and

(b) two posts of expert lesson-writer—one in the rank of Reader and the other in the rank of Lecturer—for each subject to be taught under the concerned faculty:

Provided that the persons appointed to the posts mentioned in clauses (a) and (b) shall be in service on the basis of contract to be renewed from time to time:

Provided further that the absorption of such persons in permanent posts to be created by the University with the concurrence of the State Government under the provisions of this Act shall be subject to their being selected by the Selection Committee to be constituted for the purpose by Statutes.

Panel of
Advisers.

45. The Advisory Committee shall prepare a panel or panels of advisers who are specialists in the subjects to be taught.

Interim Board
of Studies

46. (1) The Advisory Committee shall constitute an Interim Board of Studies in each subject under the respective School of Studies. The Interim Board of Studies shall consist of the following members:—

(a) the Vice-Chancellor—Chairman;

(b) the concerned Director—Vice-Chairman;

(c) the concerned Reader and the concerned Lecturer, who are lesson-writers;

(d) two Teachers of Universities or Colleges who are experts in the subject, selected by the Vice-Chancellor;

(e) specialist or specialists in the concerned subject from the panel of advisers prepared under section 45, selected by the Advisory Committee.

(2) The Interim Board of Studies shall prescribe the syllabus and course content of each subject, formulate the teaching programme and decide the teaching aids, and shall function till the Schools of Studies are constituted and commence functioning.

Lessons.

47. The lessons shall be written by the concerned Readers and Lecturers appointed under clause (b) of section 44 following the guidelines to be provided by the respective Interim Board of Studies and shall be scrutinised by the Director concerned and finally approved by the Advisory Committee.

Sub-Committee

48. The Advisory Committee may constitute a Sub-Committee for the purpose of carrying out its functions.

Expenses to be
met from
University fund

49. All expenses towards the holding of the meetings of the Advisory Committee, Sub-Committee and Interim Board of Studies and all other incidental expenses, including the remuneration to be paid, shall be met from the University fund.

Annual Accounts
and Audit.

50. (1) The Annual Statement of Accounts of the University shall, after examination by the Advisory Committee, be subjected to such audit as the State Government may direct.

(2) Such Annual Statement of Accounts shall, together with the copies of the audit report thereon, be submitted to the State Government, and the State Government may, thereupon, take such action as it deems fit.

*The Netaji Subhas Open University Act, 1997.**(Chapter VII.—Transitory provisions.—Sections 51-57.)*

Appointment
of staff.

51. The first Vice-Chancellor may, subject to the approval of the State Government, appoint such administrative, clerical and other staff (including technical staff) as it deems necessary for giving effect to the provisions of this Chapter. If necessary, such posts may be filled up by persons on the basis of contract to be renewed from time to time. On and from the date appointed under section 54, such posts shall stand abolished unless they fit in with the general staff pattern formulated with the approval of the State Government. For their absorption in regular posts, the incumbents shall have to appear before the Selection Committee to be constituted for the purpose with the approval of the State Government.

Filling up of
vacancies in the
Advisory
Committee etc.

52. The vacancy in the office of a member of the Advisory Committee occurring by reason of death, resignation or otherwise shall be filled up by the State Government in consultation with the first Vice-Chancellor, and the vacancy in the office of a member of any Sub-Committee or Interim Board of Studies or panel of advisers occurring by reason of death, resignation or otherwise shall be filled up by the first Vice-Chancellor in consultation with the Advisory Committee.

Validation.

53. No act or proceedings of the Advisory Committee or any Sub-Committee or Interim Board of Studies shall be invalid merely by reason of the existence of any vacancy or vacancies among its members.

Appointment of
date on which
the Executive
Council etc.
shall commence
to perform
their functions.

54. The State Government shall by notification appoint a date and on and from such date the Executive Council, the Academic Council, other authorities of the University, the Regional Centres and the Study Centres shall commence to perform their respective functions and the first Statutes, the first Ordinances and the first Regulations of the University made under sub-section (2) of section 42 shall be deemed to be the first Statutes, the first Ordinances and the first Regulations of the University made under section 38, section 39 and section 40 respectively.

Dissolution of
Advisory
Committee etc.

55. On and from the date referred to in section 54, the provisions of sections 43, 45, 46, 47, 48, 52 and 53 shall stand repealed and, thereupon, the Advisory Committee, the panels of advisers, the Interim Board of Studies, and the Sub-Committees constituted by the Advisory Committee shall stand dissolved, and the members thereof or the advisers, as the case may be, shall be deemed to have vacated their respective offices.

Savings.

56. Notwithstanding anything contained in section 55, anything done or deemed to have been done or any action taken or deemed to have been taken or any appointment made under this Act prior to the date referred to in section 54 shall, unless it is otherwise provided in this Act, be deemed to have been validly done or taken or made under this Act.

Removal of
difficulties.

57. (1) If, by reason of any provision of this Act, any difficulty arises in giving effect to the provisions of this Chapter, the first Vice-Chancellor as Chairman of the Advisory Committee shall refer such difficulty to the State Government which may make such order or do such thing, not inconsistent with the provisions of this Chapter, as appears to it to be necessary or expedient for removing the difficulty.

(2) If, on account of any lacuna or omission in the provisions of this Act, or for any other reason whatsoever, any difficulty arises as to the first constitution of any authority of the University under this Act, or otherwise in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order do anything which appears to it to be necessary for the purpose of removing the difficulty notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force.

By order of the Governor,

S. MAITRA,
Special Officer & ex officio
Jt. Secy. to the Govt. of West Bengal.