

**THE HIMACHAL PRADESH PRIVATE UNIVERSITIES (ESTABLISHMENT AND
REGULATION) BILL, 2009.**

A

BILL

to provide for establishment and regulation of private universities in the State for higher education and to regulate their functioning and for matters connected therewith or incidental thereto.

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

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Private Universities (Establishment and Regulation) Act, 2009.

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

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

- (a) “Board of Management” means the Board of Management constituted under section 20;
- (b) “Campus” means the area of university within which it is established;
- (c) “distance education” means education imparted by combination of any two or more means of communication, viz. broadcasting, telecasting, correspondence courses, seminars, contact programmes and any other such methodology;
- (d) “Employee” means any person appointed by the university and includes teachers and other staff of the university;
- (e) “Governing Body” means the Governing Body constituted under section 19;
- (f) “fee” means monetary collection made by the university or its colleges, institutions or study centers, as the case may be, from the students by whatever name it may be called, which is not refundable;
- (g) “Government” means the Government of Himachal Pradesh;
- (h) “Higher education” means study of a curriculum or course for the pursuit of knowledge beyond 10+2 level;
- (i) “hostel” means a place of residence for the students of the university, or its colleges, institutions and study centres, established or recognized to be as such by the university;
- (j) “Notification” means a notification published in the Official Gazette;
- (k) “off campus centre” means a centre of the university established by it outside the main campus operated and maintained as its constituent unit, having the university’s complement of facilities, faculty and staff;
- (l) “Official Gazette” means the Rajpatra of Himachal Pradesh;
- (m) “prescribed” means prescribed by rules made under this Act;
- (n) “regulating body” means a body established by the Central Government for laying down norms and conditions for ensuring academic standards of higher education, such as University Grants Commission, All India Council of Technical Education, National Council of Teacher Education, Medical Council of India, Pharmaceutical Council of India, National Council of Assessment and Accreditation, Indian Council of Agriculture Research, Distance Education Council, Council of Scientific and Indian Research etc. and includes the Government;

- (nn) “Regulatory Commission” means the Regulatory Commission established under section 4;
- (o) “Schedule” means the Schedule appended to this Act;
- (p) “section” means a section of this Act;
- (q) “sponsoring body” means a body desirous of setting up a university which may be,-
 - (i) a Society registered under the Societies Registration Act, 1860 (21 of 1860); or
 - (ii) any Public Trust registered under the Indian Trusts Act, 1882 (22 of 1882) or under the relevant laws in any other State or Union Territory; or
 - (iii) a company registered **under section 25** of the Companies Act, 1956 (1 of 1956) ;

Provided that no member of such society, author or trustee of such trust or member of such company shall be a person other than a citizen of India;

- (r) “State” means State of Himachal Pradesh;
 - (s) “statutes”, “ordinances” and “regulations” mean respectively, the statutes, ordinances and regulations of the university made under this Act;
 - (t) “student” means a person enrolled in the university for taking a course of study for a degree, diploma or other academic distinction instituted by the university, including a research degree;
 - (u) “study centre” means a centre established and maintained or recognized by the university for the purpose of advising, counseling or for rendering any other assistance required by the students in the context of distance education;
 - (v) “teacher” means a Professor, Reader, Lecturer or any other person required to impart education or to guide research or to render guidance in any form to the students for pursuing a course of study of the university; and
- Visitor**
- (w) “University” means a university established and incorporated under this Act.

“University Grant Commission” means the University Grants Commission established under section 4 of THE UNIVERSITY GRANTS COMMISSION ACT, 1956 (3 of 1956)

3. The objects of the university.—The objects of a University shall include,—

- (a) To provide instructions, teaching and training in higher education with a view to create higher levels of intellectual abilities;
- (b) To establish facilities for education and training;
- (c) To carry out teaching, research and offer continuing education programmes;
- (d) To create centres of excellence for research and development relevant to the needs of the State and for sharing knowledge and its application;
- (e) To establish campus in the State;
- (f) To establish examination centres;

- (g) To institute degrees, diplomas, certificates and other academic distinctions on the basis of examination or any such other method; while doing so, the university shall ensure that the standards of degrees, diplomas, certificates and other academic distinctions are not lower than those laid down by regulating bodies; and
- (h) To set up off campus centres, subject to applicable rules or regulations.

4. Submission of proposal for establishment of a university and its evaluation.—(1)

An application containing proposals and the project report to establish a university in the private sector shall be made by the sponsoring body to the ~~Government~~ **Regulatory Commission**, along with such fee as may be prescribed.

(2) The project report shall contain the following particulars, namely: —

- (a) The details of the sponsoring body along with the copies of its registration certificate, constitution and bye-laws;
- (b) The information regarding financial resources of the sponsoring body along with latest audited accounts;
- (c) The name, location, areas of operation and headquarters of the proposed university;
- (d) The objectives of the university;
- (e) Justification regarding the necessity of establishment of the proposed university;
- (f) The nature and courses of study with course-wise enrolment targets and research proposed to be undertaken by the university and their relevance to the development goals and local needs of the State and phasing of such programmes over the first five years;
- (g) The details of land/buildings and infrastructure facilities required by the university and means of acquiring the same;
- (h) the details of plans for campus development such as construction of buildings, infrastructure facilities and other amenities, procurement of equipment, etc. to be undertaken before the university starts functioning and phased programme for first five years and sources of finance for the same;
- (i) The experience and expertise in the concerned disciplines available with the sponsoring body;
- (j) the proposed fee structure with reference to the details of expenditure on unit cost basis and the extent of concessions or rebates in fees or free-ships and scholarships proposed for students from economically or socially backward families, including Scheduled Castes, Scheduled Tribes, Other Backward Classes and handicapped students;
- (k) the schemes for the generation of funds internally through fees from students, revenues anticipated from consultancy services and other activities included in the objects of the university and other anticipated income;
- (l) The system proposed to be followed for selecting students for admission to the courses of study at the university;
- (m) The system proposed to be followed for appointment of employees in the university;
- (n) if the university is desirous of taking up distance education programmes, details of such study centres;
- (o) If the university proposes to start programmes for the benefit of farmers, women and industries, details thereof;
- (p) Details of playgrounds and other facilities available or proposed to be created for games, sports and extra curricular activities;
- (q) The arrangements proposed to be made for academic auditing; and

(r) Any other details as the sponsoring body may like to give.

(3) ~~The Government,~~ **Regulatory Commission**, on receipt of an application complete in all respect, shall make such inquiries as it may deem necessary and shall forward its views on the proposal to the Government.

(4) **The Regulatory Commission, before furnishing its views to the Government, shall notify in the Official Gazette and at least in one daily newspaper having wide circulation in the State the fact of receipt of the application seeking the views of the general public on the proposal.**

(5) The **Regulatory Commission** shall consider the application on the following grounds, namely:—

(a) Financial soundness of the sponsoring body and its ability to set up the infrastructure of the proposed university;

(b) background of the sponsoring body i.e. its expertise and experience in the field of education, its general reputation, and its commitment to follow the norms of the regulating bodies; and

(c) Potentiality of the courses proposed to be offered that is to say whether the courses proposed would be able to develop human resources as per the requirements of contemporary demands, offer new opportunities in emerging branches of education and the requirements of the State.

(5) The **Regulatory Commission**, while considering the proposal and the project report under sub-section (4), may call for such other information from the sponsoring body as it thinks proper.

(6) The **Regulatory Commission** shall submit its report to the Government within a period of two months from the date of its receipt:

Provided that while computing the period of two months, the period commencing from the date on which requisition for any information under sub-section (5) is issued and ending on the date on which requisite information is submitted to the Regulatory Commission, shall be excluded.

5. Issuance of the letter of intent and compliance report.—(1) After the receipt of the report of the ~~committee constituted under sub-section (3) of section 4,~~ **Regulatory Commission**, if the Government is satisfied that it is advisable to establish the university, it may issue a letter of intent asking the sponsoring body to—

(a) Establish an endowment fund in accordance with the provisions of section 9;

(b) Acquire **atleast 50 Bigha of land** and construct a minimum of 10,000 square meters of covered space suitable for conducting academic programmes, and for other purposes;

(c) purchase books and journals, including subscription thereof, at least worth ten lacs rupees or as per the norms of regulating bodies, whichever is higher, and give an undertaking to incur expenditure for library networking and other facilities so as to well equip the library and to provide adequate facilities within first three years which shall not be less than thirty lacs rupees or as per the norms of regulating body, whichever is higher;

(d) purchase equipments, computers, furniture, other movable and

immovable assets and infrastructure facilities [(except buildings, under clause (b)] worth one hundred lacs rupees or as per the norms of regulating bodies, whichever is higher, and give an undertaking to procure within the first five years equipments, computers, furniture, other movable and immovable assets and infrastructure facilities other than buildings, under clause (b) worth not less than three hundred lacs rupees or as per the norms of regulating bodies, whichever is higher;

- (e) **Give an undertaking to provide at least 25% reservation in admissions in every courses to the students who are bonafide Himachalis on the basis of merit;**
- (f) give an undertaking to appoint at least one Professor, two Associate Professors and adequate number of Lecturers along with necessary supporting staff in each department or discipline atleast one month before commencement of studies;
- (g) give an undertaking to take up co-curricular activities like seminars, debates, quiz programmes and extra-curricular activities like games, sports, National Service Scheme, National Cadet Corps, etc. for the benefit of students as per the norms laid down by the regulating bodies;
- (h) Give an undertaking for the establishment of provident fund and to take up welfare programmes for the employees;
- (i) give an undertaking to give preference to bonafide residents of Himachal Pradesh in the employment by the university;
- (j) Give an undertaking not to dissolve the University before fifteen years of its establishment; and
- (k) Fulfil such other conditions and provide such other information as may be prescribed by the University Grants Commission, All India Council for Technical Education or any other statutory body established by the law of the Central or the State Government.

(2) The sponsoring body shall fulfil the requirements and conditions specified in sub-section (1) within a period of one year from the date of issue of letter of intent and report compliance to the ~~Government~~ **Regulatory Commission**.

(3) On receipt of compliance report, the **Regulatory Commission** Government shall verify the compliance report and submit its report to the Government within one month from the date of receipt thereof from the Government specifying whether the sponsoring body has fulfilled the requirements and conditions laid down in sub-section (1).

(4) If the sponsoring body fails to comply with the provisions of sub-section (2), its proposal shall stand rejected and the letter of intent issued under sub-section (1) shall stand cancelled:

Provided that the Government may further extend the time upto ~~three~~ six months to the sponsoring body if there exists sufficient reasons for the delay.

6. Establishment of the university.—(1) The Government, if satisfied, after considering the report submitted under sub-section (3) of section 5 that the sponsoring body has complied with the provisions of sub-section(1) of section 5, may introduce a Bill in the Vidhan Sabha to ~~notification in the Official Gazette~~, establish a university with such name, location, jurisdiction and with such conditions as may be specified in the Bill.

7. Visitor (1) The Governor of Himachal Pradesh shall be the Visitor of the University.

(2) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment of any Colleges and of any Institution maintained by the University and also of the examinations, teaching and other work conducted or done by the University and to cause an enquiry to be made in like manner in respect of any matter connected with the University.

(3) The Visitor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(4) The Visitor may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor communicate to the **Executive Council** the views of the Visitor with such advice, as the Visitor may offer upon the action to

(5) The executive council shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(6) Where the **Executive Council** does not within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall be bound to comply with such directions.

(7) without prejudice to the foregoing provisions of this Section the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances

Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made and if any cause is shown within a reasonable time shall consider the same.

8. Admissions.—(1) Admission in the university shall be made strictly on the basis of merit:

Provided that for the purpose of filling minority quota in the university established and administered by minority community, zone of consideration for determination of merit shall be limited only to the students belonging to that minority community.

(2) Merit for admission in the university may be determined either on the basis of marks or grade obtained in the qualifying examination for admission and achievements in co-curricular and extra-curricular activities or on the basis of marks or grade obtained in the entrance test conducted at State level either by an association of the universities conducting similar courses or by any agency of the State:

Provided that admission in professional and technical courses shall be made only through entrance test.

(3) Seats for admission in the university, for the students belonging to scheduled castes, scheduled tribes and other backward classes and handicapped students, shall be reserved as per the policy of the State Government.

(4) At least 25% seats for admission to each course shall be reserved for students who are Bonafide Himchalis.

9. Fee structure.—(1) The university may, from time to time, prepare and revise, its fee structure and send it to the Government for its approval and the Government shall convey the approval within one month from the receipt of the proposal:

Provided that if the approval of the Government is not conveyed within one month, it shall be deemed to have been approved by the Government:

Provided further that the fee structure for each course shall be decided before the issue of prospectus and shall be reflected in the prospectus.

Provided further that the fee structure shall not be revised or modified during the academic year.

(2) The fee structure prepared by the university shall be considered by the **Regulatory Commission**, in the manner as may be prescribed, which shall submit its recommendations to the Government after taking into consideration whether the proposed fee is,—

(a) Sufficient for generating—

(i) Resources for meeting the recurring expenditure of the university; and

(ii) The savings required for the further development of the university; and

(b) Not unreasonably excessive.

(3) After receipt of the recommendations under sub-section (2), if the Government is satisfied, it may approve the fee structure.

(4) The fee structure approved by the Government under sub-section (3) shall remain valid until next revision.

10. Examinations.—At the beginning of each academic session and in any case not later than 30th of August of every calendar year, the university shall prepare and publish a semester-wise or annual, as the case may be, Schedule of Examinations for each and every course conducted by it and shall strictly adhere to such schedule.

Explanation.—“Schedule of Examination” means a table giving details about the time, day and date of the commencement of each paper which is a part of a Scheme of Examinations and shall also include the details about the practical examinations:

Provided that if, for any reason whatsoever, university is unable to follow this Schedule, it shall, as soon as practicable, submit a report to the Government giving the detailed reasons for making a departure from the published Schedule of Examination. The Government may, thereon, issue such directions as it may deem fit for better compliance in future.

11. Declaration of results.—(1) The university shall strive to declare the results of every examination conducted by it within thirty days from the last date of the examination for a particular course and shall in any case declare the results latest within forty-five days from such date:

Provided that if, for any reason whatsoever, the university is unable to finally declare the results of any examination within the period of forty-five days, it shall submit a report incorporating the detailed reasons for such delay to the Government. The Government may, thereon, issue such directions as it may deem fit for better compliance in future.

(2) No examination or the results of an examination shall be held invalid only for the reasons that the university has not followed the Schedule of Examination as stipulated in sections

34 and 35.

12. Convocation.—(1) The convocation of the university shall be held in every academic year in the manner as may be specified by the statutes for conferring degrees, diplomas or for any other purpose.

(2) Convocation will be presided by the Visitor if he chooses to be present.

13. Accreditation of the university.—The university shall obtain accreditation from the National Council of Assessment and Accreditation (NAAC), Bangalore **within** three years of its establishment and inform the Government and such other regulating bodies which are connected with the courses taken up by the university about the grade provided by NAAC to the university and the university shall get renewed such accreditation at an interval of every five years thereafter.

14. University to follow rules, regulations, norms, etc. of the regulating bodies.—Notwithstanding anything contained in this Act, the university shall be bound to comply with all the rules, regulations, norms, etc. of the regulating bodies and provide all such facilities and assistance to such bodies as are required by them to discharge their duties and carry out their functions.

15. Annual report.—(1) The annual report of the university shall be prepared by the Board of Management which shall include among other matters, the steps taken by the university towards the fulfillment of its objects and shall be approved by the Governing Body and copy of the same shall be submitted to the sponsoring body.

(2) Copies of the annual report prepared under sub-section (1) shall also be presented to the Visitor, Government and the Regulatory Commission.

16. Annual accounts and audit.—(1) The annual accounts including balance sheet of the university shall be prepared under the directions of the Board of Management and the annual accounts shall be audited at least once in every year by the auditors appointed by the university for this purpose.

(2) A copy of the annual accounts together with the audit report shall be submitted to the Governing Body.

(3) A copy of the annual accounts and audit report along with the observations of the Governing Body shall be submitted to the sponsoring body.

(4) Copies of annual accounts and balance sheet prepared under sub-section (1) shall also be presented to the Visitor, Government and the Regulatory Commission.

17. (1) The Regulatory Commission shall examine the annual report and annual accounts and audit report and within sixty days of the receipt of the report sent its comments to the Government.

(2) The advice of the Government keeping in view the comments of the Regulatory Commission or otherwise, if any, arising out of the annual report and annual accounts and audit report of the university shall be placed before the Governing Body and the Governing Body shall issue such directions, as it may deem fit and compliance thereof shall be reported to the Government.

18. Powers of the Government to inspect the university.—(1) For the purpose of

ascertaining the standards of teaching, examination and research or any other matter relating to the university, the Government may, after consultation with the Vice-Chancellor, cause an assessment to be made in such manner as may be prescribed, by such person or persons as it may deem fit.

(2) The Government shall communicate to the university its recommendations in regard to the result of such assessment for corrective action and the university shall take such corrective measures as are necessary so as to ensure the compliance of the recommendations.

(3) If the university fails to comply with the recommendation made under sub-section (2) within a reasonable time, the Government may give such directions as it may deem fit which shall be binding on the university.

19. (1) The University Grants Commission may cause periodic inspection of the private university, and for this purpose the University Grants Commission may call for all relevant information from the concerned private university, as provided in the University Grants Commission (Returns and Information by Universities) Rules, 1979 as amended from time to time.

(2) After inspection and assessment of a private university providing graduate degree, postgraduate degree and/or diploma courses, the University Grants Commission may indicate to the Private University any deficiency and non-conformity with the relevant University Grant Commission regulations and give it reasonable opportunity to rectify the same and if the University Grants Commission is satisfied that the private university has even after getting an opportunity to do so, failed to comply with the provisions of any of the regulations, the university Grants Commission may pass an order prohibiting the private university from offering any course for the award of the graduate degree, post graduate degree and/or diploma, as the case may be, till the deficiency is rectified.

(3) The University Grants Commission may take action against the private University for awarding a graduate degree, post graduate degree or diploma which is not specified by the University Grants Commission, and inform the public in general through a notification and a private university containing such programme and awarding unspecified degrees shall be liable for penalty under Section 24 of the University Grants Commission Act, 1956(3 of 1956).

20. *Dissolution of the university by the sponsoring body.*—(1) The sponsoring body may dissolve the university by giving a notice to this effect to the Visitor, Government, Regulatory Commission, the employees and the students of the university at least one year in advance:

Provided that dissolution of the university shall have effect only after the last batches of students of the regular courses have completed their courses and they have been awarded degrees, diplomas or awards, as the case may be.

(2) The Regulatory Commission, on receipt of such information, shall have the right to issue such directions to the sponsoring body for the fulfillment of its obligations under sub-section (1) as it may deem necessary, and if the sponsoring body contravenes the provisions of sub section (1), the endowment fund shall be forfeited by the Regulatory Commission and the Regulatory Commission shall make arrangements for completion of courses, conduct of examinations, award of degrees, etc. of students of the private university, either by undertaking the job itself or by assigning the job to some other university in such manner that the interest of the students are not affected adversely in

any manner and expenditure made for these arrangement for the students shall be made good from the money deposited in the endowment fund and/or general fund of the private university.

(2) On the dissolution of the university all the assets and liabilities of the university shall vest in the sponsoring body:

Provided that in case the sponsoring body contravenes the undertaking given as per clause (j) of sub-section (1) of section 5, all the assets of the university shall vest in the Government free from all encumbrances.

21. Special powers of the Government in certain circumstances.—(1) If it appears to the Government on the advise of Regulatory Commission or otherwise that the university has contravened any of the provisions of this Act or the Rules, statutes or ordinances made thereunder or has contravened any of the directions issued by it under this Act or has ceased to carry out any of the undertakings given under sub- section (1) of section 5 or a situation of financial mis-management or mal-administration has arisen in the university, it shall issue notice requiring the university to show cause within forty five days as to why an order of its liquidation should not be made.

(2) If the Government, on receipt of reply of the university and the comments of the Regulatory Commission on it, on the notice issued under sub-section (1), is satisfied that there is a prima facie case of contravening all or any of the provisions of this Act or the rules, statutes or ordinances made thereunder or of contravening directions issued by it under this Act or of ceasing to carry out the undertaking given under sub- section (1) of section 5 or of financial mis-management or mal-administration, it shall make an order of such enquiry by the Regulatory Commission as it may consider necessary;

(3) If the State Government considers it necessary to suspend the Board of Management, it shall, by notification published in the official Gazette, order suspension of the Board Management and shall make such arrangement in consultation with the sponsoring body for the administration of the business of the private university, as it may consider necessary;

(4) The inquiry officer or officers appointed under sub-section (3) shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of any such document or any other material as may be predicable in evidence;
- (c) Requisitioning any public record from any court or office; and
- (d) Any other matter which may be prescribed.

(5) The inquiry officer or officers inquiring under this Act shall be deemed to be a civil court for the purposes of section 195 and Chapter 26 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) On receipt of the enquiry report from the officer or officers appointed under sub-section (3), if the Government is satisfied that the university has contravened all or any of the provisions of this Act or the rules, statutes, or ordinances made thereunder or has violated any of the directions issued by it under this Act or has ceased to carry out the undertakings given by it under sub-section (1) of section 5 or a situation of financial mis-management and mal-administration has arisen in the university which threatens the academic standard of the university, it shall issue orders for the liquidation of the university and appoint an administrator.

(7) The administrator appointed under sub-section (6) shall have all the powers and be subject to all the duties of the Governing Body and the Board of Management under this Act and shall administer the affairs of the university until the last batch of the students of the regular courses have completed their courses and they have been awarded degrees, diplomas or awards, as the case may be.

(8) After having awarded the degrees, diplomas or awards, as the case may be, to the last batches of the students of the regular courses, the administrator shall make a report to the effect to the Government.

(9) On receipt of the report under sub-section (8), the Government shall, by notification in the Official Gazette, issue an order dissolving the university and from the date of publication of such notification, the university shall stand dissolved and all the assets and liabilities of the university shall vest in the sponsoring body from such date.

(10) The State Government during the period of management of private university under sub-section (8) shall use the fund available with the private university and the surplus, if any, shall be forfeited.

(11) All the expenses incurred in the process of enquiry and till the completion of admission of the students shall be met from the endowment fund or general fund of the private university

Chapter IV Regulatory Commission

22. (1) A Regulatory Commission shall be established by the State Government for the purpose of providing a regulatory mechanism at the State level and for working as an interface between the State Government and the central regulatory bodies for the purpose of ensuring appropriate standards of teaching, examination, research, extension programme, protection of interest of the students and reasonable service conditions of the employees.

(2) The Regulatory Commission shall function under the general control of the Visitor.

(3) The Regulatory Commission shall consist of a Chairman and two full time members, out of which one member shall be member academic and another member as member administration and not exceeding two part time members.

(4) The Regulatory Commission shall have a full time or part time Secretary.

(5) The Chairman shall be appointed by the Visitor from a panel recommended by the State Government consisting of eminent educationists who have a thorough knowledge of the working of the institutions of higher education.

(6) The member and the Secretary shall be appointed by the Visitor from a panel recommended by the State Government consisting of persons of repute in the field of education, finance, law, administration management.

(7) The Chairman and the members shall not be connected in any way with any of the private universities established under this Act.

(8) The Chairman and member of the Regulatory Commission shall hold office for a term of three years and two years respectively from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall be eligible to be considered for a second term of aforesaid years, subject to the upper age limit of sixty-five years:

Provided that notwithstanding the expiry of the said period of three years or two years, as the case may be, he shall continue in office until his successor is appointed and enters upon his office, but such period shall not exceed six months:

Provided further that after the expiry of the term, the Chairman and the member of the Regulatory Commission shall be prohibited to accept any pecuniary benefits in any form or in any name whatsoever, and any assignment or employment in any of the private universities established under this Act.

(9) The other terms and conditions of services of the Chairman and the members, mode of authentication of orders and decisions of the Regulatory Commission and instruments issued by the Regulatory Commission, procedure for meeting of the Regulatory Commission, recruitment and service conditions of the staff of the Regulatory Commission temporary, association of persons with the Regulatory commission, for particular purpose, fund of the Regulatory commission ,its budget, annual report, accounts, audit and such other matter as may be required for proper functioning of the Regulatory Commission shall be provided in the **rules** made by the State Government in this regard.

(10) It shall be the general duty of the Regulatory Commission-

- (a) to take all such steps as it considers necessary for determination and maintenance of standards of teaching, examination and research in the private university;
- (b) notwithstanding anything contained in any other law for the time being in force, to ensure that private universities collect only such fees and other charges, which cover the cost of education imparted by them and also give a reasonable surplus to enable them to maintain assets and carry out further expansion;
- (c) to ensure that the teachers of the private university have at least the minimum educational qualifications prescribed by the University Grants Commission or other regulatory bodies;
- (d) to ensure that the staff of the private university is appointed in conformity with the Statutes, Ordinances and norms or guidelines prescribed by the University Grants Commission and other concerned statutory bodies;
- (e) to ensure that students enrolled in the private university are not exploited and no unethical means are adopted to collect undue or excessive fee from them ;
- (f) to take action pertaining to and pursuant upon liquidation of a private university including arrangement for completion of courses, conduct of examinations, award of degrees etc, by assigning the job to some other State university in such a manner that the interest of the students are not adversely affected and the expenditure made for these arrangements for the students along with the process of liquidation of the private university shall be made good from the money deposited in the endowment fund and or general fund.

(11) The State Government may issue directions on matters of policy to the Regulatory Commission which shall be binding.

23. Power to make rules.—(1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

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

- (a) The manner of making proposal to establish a university and the fees payable under sub-section (1) of section 4;
- (b) Other particulars to be contained in the project report under sub-section (2) of section 4;
- (c) the mode of establishment of endowment fund, the manner of its investment, payment of income from it to the sponsoring body, its forfeiture and mode of its return to the sponsoring body under sub-section (3) of Section 11;
- (d) mode of collection of fee from the private university and depositing amount so collected in the consolidated fund under proviso to Section 12;
- (e) other matters to be provided for in the Statutes under sub-section(1) of Section 22;
 - a. mode of authentication of orders and decisions of the Regulatory Commission and the instruments issued by the Regulatory Commission,
 - b. terms and conditions of services of Chairman and the members, procedure for meeting of the Regulatory Commission,
 - c. provision of staff to the Regulatory Commission and their service conditions,
 - d. temporary association of persons with the Regulatory Commission, its budget, annual report, accounts and audit and such other matters as may be required for proper functioning of the Regulatory Commission under sub- section (9) of Section 36;
- (f) Other matters which are required to be, or may be, prescribed by rules under this Act.

(3) All the rules made under this Act shall be laid, as soon as may be after they are so made, before the State Legislative Assembly, while it is in session, for a period of not less than ten days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which they are so laid or of the session immediately following, the State Legislature makes any modification in any of such rules or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

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

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

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly.

STATEMENT OF OBJECTS AND REASONS

Education is the basic factor which plays a very important role in the all round development of human beings. The socio-economic conditions of the State and the country require more attention to education. With a view to accelerate the pace of development, it is imperative to open more educational institutions with modern and sophisticated facilities. With each passing day, the need for opening new Colleges, Universities, Professional Colleges/Institutions etc. is gaining momentum in the State.

Like other States in the country, Societies. the private sectors have been approaching the Government for establishing Universities. Many State Governments have allowed the setting up of private Universities. The State Government has been receiving many applications from such parties to establish private Universities in the State. Establishment of such private Universities would require legislation in each individual case. As such, there is an urgent need to bring a legislation which would provide for establishment and regulation of private Universities in the State for higher education.

Keeping in view the above, it has been decided to bring a legislation *i.e.* the Himachal Pradesh Private Universities (Establishment and Regulation) Bill, 2009 which will enable checking the expertise, the financial position and the background of the party before issue of “letter of intent“ and final step of establishment of an University will be taken only after obtaining another report about the creation of required facilities and expenditure incurred. This system of repeated checks will ensure that only financially sound, experienced and committed parties reach the final stage *i. e.* the enactment of a separate Act for each University. The Bill further provides for requiring the proposed University to obtain approval from regulatory authorities and also provides for intervention of the State Government in certain circumstances while at the same time giving considerable freedom to the management.

This Bill seeks to achieve the aforesaid objectives.

ISHWAR DASS DHIMAN,
EDUCATION MINISTER.

SHIMLA:
The.....2009.

FINANCIAL**MEMORANDUM**

The Bill seeks to provide for the establishment of a Regulatory Commission in the State. The provisions of this Bill, if enacted shall involve financial expenditure of Rs -----
-----on the State Exchequer.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 44 and 27(2) of the Bill seeks to empower the State Government to make rules for carrying out purposes of this Act and to make First statutes of the University respectively. Further clauses 28(2) and 29 of the Bill seek to empower Board of Management of the university to make subsequent statutes and ordinances of the university respectively. The proposed delegations of powers are essential and normal in character.

**THE HIMACHAL PRADESH PRIVATE UNIVERSITIES (ESTABLISHMENT AND
REGULATION) BILL, 2009**

A
BILL

*to provide for establishment and regulation of private Universities in the State for higher
education and to regulate their functioning and for matters connected therewith or
incidental thereto.*

ISHWAR DASS DHIMAN,
EDUCATION MINISTER.

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PRINCIPAL SECRETARY (LAW).

SHIMLA:
The.....2009.