

SIKKIM



GOVERNMENT

GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Monday 18th April, 2016

No. 116

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 03/LD/16

dated: 07/04/2016

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 29th day of March, 2016 is hereby published for general information:-

THE SIKKIM STATE HIGHER EDUCATION COUNCIL ACT, 2016

(ACT NO. 03 OF 2016)

AN

ACT

to provide for establishment of a State Higher Education Council in Sikkim and to maintain the standards of coaching, examination and research in Universities and affiliated colleges in Sikkim for the purpose of smooth implementation of Rashtriya Uchchar Shiksha Abhiyan (RUSA) in the State of Sikkim and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Sixty-seventh Year of the Republic of India as follows:

- | | | |
|------------------------------|----|---|
| Short title and commencement | 1. | (1) This Act may be called the Sikkim State Higher Education Council Act, 2016. |
| | | (2) It shall come into force at once. |
| Definition | 2. | In this Act, unless the context otherwise requires, |
| | | (a) "Chairman" means the Chairman of the State Council; |

- (b) "college" means a college affiliated to a university and includes a Government college, university college, engineering or technological college, medical college or any such college established under the law;
- (c) "Government college" means a college maintained by the Government;
- (d) "university college" means a college maintained and managed by a university;
- (e) "Degree" means a degree in arts, science, commerce, fine-arts, engineering, technology, management, medicine, law or in any other subject recognized by a University in Sikkim, and includes a post graduate and doctoral degrees;
- (f) "Diploma" means a diploma awarded on completion of a course of study after graduation, but does not include a certificate;
- (g) "Government" means the State Government of Sikkim;
- (h) "higher education" means an education above the twelfth class leading to a degree or diploma;
- (i) "notification" means a notification published in the Official Gazette of the State Government and the word "notified" shall be construed accordingly;
- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "State Council" means Sikkim State Higher Education Council (SSHEC) constituted under sub-section (1) of section 3 of this Act;
- (l) "teacher" means a Lecturer, Assistant Professor, Reader, Associate professor or a Professor of a University or a College, and includes a Lecturer in senior scale or Lecturer in Selection Grade;
- (m) "university" means a university established under any State or Central Act, and includes a deemed university in Sikkim;

Explanation – "Deemed University" means an institution of higher education, other than a university, declared by the Central Government to be deemed to be a university under Section 3 of the University Grants Commission Act, 1956;

Constitution of Sikkim State
Higher Education Council

- (n) "University Grants Commission" means the University Grants Commission Established under section 4 of the University Grants Commission Act, 1956;
- (o) "Vice Chancellor" means the Vice Chancellor of a university, and includes the Director of a University;
- (p) "Principal" means principal of a Government College, University College, Engineering or Technological college, medical college or any such college established under the law.

3. (1) The Government may, by notification, constitute a State Council for the purpose of this Act to be known as the Sikkim State Higher Education Council, with effect from such date as may be specified in the notification.
- (2) The State Council shall be a body corporate with perpetual succession and a common seal and shall sue and be sued by the name of the Sikkim State Higher Education Council.
- (3) The headquarters of the State Council shall be located in Gangtok.

Composition of the State Council

4. (1) The State Council shall consist of the following members, namely: -
- (a) Chairman and Vice Chairman**
- (i) Minister-in-Charge, Human Resource Development Department, shall be the ex-officio Chairman of the State Council;
 - (ii) A Vice-Chairman should be an eminent educationalist/ educational administrator to be appointed by the Government.
- (b) Ex-officio Members**
- (i) Secretary, University Grants Commission, or his nominee not below the rank of a Joint Secretary, University Grants Commission.
 - (ii) Secretary-in-Charge, Human Resource Development Department, Government of Sikkim and State Project Director (RUSA).
 - (iii) Secretary-in-Charge, Health Care, Human Services and Family Welfare Department, Government of Sikkim.

- (iv) Secretary-in-Charge, Finance, Revenue and Expenditure Department, Government of Sikkim.
- (v) Director of Technical Education, Government of Sikkim.
- (vi) Director of Higher Education, Government of Sikkim – Member Secretary.

(c) Other Member

- (i) Two Vice-Chancellors of the Universities located in Sikkim – to be nominated by the Government.
- (ii) Two members from amongst the Principals of the affiliated colleges – to be nominated by the Government.
- (iii) Two Teachers from amongst the Teachers of the universities conducting Post Graduate courses – to be nominated by the Government.
- (iv) Two Teachers from amongst the Teachers of the affiliated colleges conducting undergraduate/post graduate courses - to be nominated by the Government.
- (v) One eminent educationist – to be nominated by the Government.
- (vi) One member to be nominated by the Government from amongst the eminent Scientists.
- (vii) One member, who shall represent the industry - to be nominated by the Government.
- (viii) One technical expert – to be nominated by the Government.

(2) Every appointment or nomination under this section shall, except in the case of ex-officio members, shall take effect from the date on which such appointment or nomination is made by the Government.

Appointment of Vice
Chairman and other members

5. (1) The Vice-Chairman and other members (other than an ex-officio members) shall be appointed by the Government ordinarily for a term of 4 (four) years and shall be eligible for re-appointment for a second term:

Provided that no person who has attained the age of 65 (sixty five) years shall be eligible to be appointed as Vice-Chairman;

Provided further that it shall be competent for the Government to make any appointment under this sub-section for a term of less than 4 (four) years if it considers necessary to do so:

Provided also that the Vice-Chairman or any other member (other than ex-officio member) who incurs any disqualification under the rules made in this behalf shall cease to hold the office of the Vice-Chairman or of the member of the State Council.

- (2) The Vice-Chairman or any other member (other than ex-officio member) may resign from his/her office by writing under his/her hand addressed to the Government, and every such resignation shall take effect from the date on which it is accepted by the Government.
- (3) The Vice-Chairman or any other member (other than an ex-officio member) shall not be removed from his/her office except by an order of the Government on the ground of willful omission or refusal to carry out the provisions of this Act or abuse of the powers vested on him/her and after such inquiry as may be, shall be given an opportunity of making his/her representation against such removal.
- (4) A member of the State Council by virtue of his acquiring financial or other interest shall cease to be a member of the State Council and be removed as a member in accordance with this Act.
- (5) If any casual vacancy occurs in the office of the Vice-Chairman or any other member (other than an ex-officio), whether by reason of his death, resignation or inability to discharge his function owing to illness or other capacity or for any other reason, such vacancy shall be filled by the Government as soon as may be in the manner provided in sub-section (1). Such Vice-Chairman or nominated or appointed member shall hold office only for the remainder of the term for which the person whose place he/she fills would have remained as the Vice-Chairman or nominated or appointed member, as the case may be.
- (6) The office of the Vice-Chairman and the Members, and the terms and conditions of service of the Vice-Chairman and other members shall, subject to the provisions of this sub-section, be such as may be prescribed.

- (7) The Chairman, the Vice-Chairman and the Member Secretary shall exercise such powers and perform such function as may be prescribed.
6. Removal from membership of the Council 6. If, at any time, it appears to the Government that a member appointed or nominated or elected has proved himself to be unfit to hold such office or has been guilty of misconduct or neglect which in the opinion of the Government renders his removal from the membership of the State Council, as expedient, the Government may, after giving such member, a reasonable opportunity of showing cause as to why he should not be removed from the State Council and after examining the same decide whether to continue or remove such member, as the case may be, from his membership and in case of such removal from the membership of the State Council it shall be made by notification.
7. Meeting 7. The State Council shall meet at such times and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be provided by regulations made under this Act.
8. Validity of Act or Proceedings 8. No act or proceedings of the State Council shall be deemed to be invalid by reason of any vacancy in, or any defect in the constitution of the State Council.
9. Association of or with State Council 9. The State Council may associate with it in such manner and for such purpose as may be prescribed any person whose assistance or advice is required for carrying out its work. A person associated with the State Council for such purpose shall have the right to take part in the discussions relevant to such purpose but shall not have the right to vote at a meeting of the State Council and shall not be a member for any other purpose. The State Council may associate its members of degree, medical, engineering and such other university or colleges to such other expert bodies as the Government may, by order specify with a view to developing co-ordination among the Universities or Colleges.
10. Requisition of Officers and Employees 10. The State Council may requisition suitable manpower from Human Resource Development Department in accordance with the prescribed guidelines, in addition to their existing duties.
11. Authentication of orders/instruments 11. All orders and decisions of the State Council shall be authenticated by the signature of the Chairman or any other member authorized by the State Council in this behalf and all other instruments issued by the State Council shall be authenticated by the signature of the

Secretary or any other officer of the State Council authorized in the like manner in this behalf.

Functions of the State Council

12. (1) It shall be the general duty of the State Council to co-ordinate and determine standards in institutions of higher education or research and scientific and technical institutions in accordance with the guidelines issued by the University Grants Commission from time to time.

The State Council shall have the following functions, namely:-

(i) **Planning and Co-ordination**

- (a) to prepare consolidated programs in the sphere of higher education in the State, keeping in view the guidelines that may be issued by the University Grants Commission or by the Ministry of Human Resource Development separately from time to time and to assist in their implementation, bearing in mind the overall priorities and perspectives of higher education in State;
- (b) to co-operate with the University Grants Commission in respect of determination and for maintenance of standards of Higher Education and suggest remedial action, wherever necessary;
- (c) to evolve prospective plans for development of Higher Education in the State;
- (d) to forward the development programs of Universities and Colleges in the State to the University Grants Commission along with its comments and recommendation;
- (e) to monitor the progress of implementations of such developmental programs;
- (f) to promote co-operation and co-ordination of the educational institutions among themselves and explore the scope for interaction with industry and other related establishment;
- (g) to formulate the principles as per the guidelines of the Government and the University Grants Commission for starting new educational institutions, keeping in view the various norms and requirements to be filled;
- (h) to suggest ways and means of mending additional resources for education in the State;

(i) to work in liaison with the All India Council for Technical Education, Indian Council for Agricultural Research, and other national level apex bodies or authorities on Higher Education in different areas of Higher Education;

(ii) Academic functions

(a) to encourage and promote innovations in curricular development, restructuring of courses and updating of syllabi in the Universities and the Colleges;

(b) to devise methods and steps to improve the standards of examinations conducted by the Universities and suggest necessary reforms;

(c) to facilitate training of teachers in College and Universities;

(d) to develop programmes for greater academic co-operation and interaction between University teachers and college teachers and to facilitate mobility of students and teachers within and outside the State;

(e) to conduct entrance examination for admission to institutions of higher education and render advice on admissions;

(f) to encourage sports, games, physical education and cultural activities in the Universities and Colleges;

(g) to encourage extension activities and promote interaction with agencies concerned with regional planning and development of higher education;

(h) to prepare an overview report on the working of the Universities and the Colleges in the State and to furnish a copy of the report to the University Grants Commission.

(i) to perform such other function as may be prescribed for promoting excellence in higher education and scientific research;

(iii) Advisory functions

(a) to advise the Government (i) in determining the block grants and in laying down the basis for such grants: (ii) on setting up a State Research Board so as to link research work for educational research work of educational institutions with that of the research agencies and industry, keeping in view the overall

research needs of the State. (iii) regarding improvement on the laws relating to the Universities including laws relating to the establishments of new Universities. (iv) on the policy of earning "while learning", (v) towards performing any other functions necessary for the furtherance of higher education in the State;

- (b) to advise the Universities to make new Statutes, Ordinances or Regulations on the basis of the respective university Act or to amend the existing Statutes, Ordinances or Regulations where necessary, keeping in view the various norms and requirements to be fulfilled.

Roles and Responsibilities
of Member Secretary

13. The Member Secretary shall-
- (a) call the meeting of the State Council as and when required; prepare the agenda for the meeting, record the minutes and proceedings of the State Council meetings;
 - (b) do the correspondence with all the concerned for smooth functioning of the State Council;
 - (c) issue of directives/circulars as advised by the State Council;
 - (d) manage the State Council funds, maintain the fund flow statements, prepare statutory financial statements with the approval of State Project Director (RUSA);
 - (e) report to authorities of the State Council;
 - (f) do any other matter, as may be advised by the State Council.

Funds of Council

14. (1) The State Council shall have its own Fund to be called the Sikkim State Higher Education Council Fund (hereinafter referred to as the fund) consisting of the grants from the Government, grants received from the Central Government or from the UGC for higher education and such other funds as may be received by the State Council from any other source.
- (2) The Government may pay to the State Council in each financial year such sum as may be considered by the Government to be necessary for the functioning of the State Council.

(3) All money belonging to the fund and all receipts of the State Council shall be deposited or invested in such manner as may be prescribed.

(4) The State Council may spend such sums as it may think fit for performing its functions under this Act, and such sum shall be treated as expenditure payable out of the fund of the State Council.

Allocation of grants

15. (1) It shall be the duty of the State Council to allocate grants to different Universities and degree Colleges, in the State from out of the fund received by it under sub-section(1) of section 14 and release the same to the concerned Universities and Colleges.

(2) Notwithstanding anything contained in any law for the time being in force, the State Council shall have the right to cause an enquiry to be made by such person or persons as it may consider necessary into the grants made by it to a University or a College or in to any expenditure made thereof after giving previous notice to such University/Colleges, as the case may be, of its intention to cause such enquiry.

Annual financial statements

16. (1) The State Council shall prepare an annual financial statement on or before such date as may be prescribed, of the estimated capital and the revenue receipts and expenditure for the ensuing year and submit the same to the Government.

(2) The statement as aforesaid shall include a statement of salaries and allowances of members, officers and employees of the State Council and of such other particulars as may be prescribed.

(3) The Government shall, as soon as may be after the receipts of such statement, cause it to be laid before the State Legislature.

(4) The State Council shall take into consideration any observations made on such statement in the State Legislature.

(5) The State Council may at any time during the year in respect of which a statement under sub-section (1) has been submitted to the Government a supplementary statement, and the provisions of this section shall apply to such supplementary statement as they apply to the statement under sub-section (1).

Annual Report

17. The State Council shall prepare an annual report once in every year, in such form and at such time as may be prescribed, giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the Government, and the Government shall cause the same to be laid before the State Legislature. A copy of the report shall also be sent to the University Grants Commission.

Books of Accounts, Audit and Statutory Reports

18. (1) The State Council shall maintain such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.
- (2) The State Council shall, as soon as may be after closing its annual accounts, prepare a statement of accounts in such form, and forward the same to the Government by such date, as the Government may determine.
- (3) The accounts of the State Council shall be audited by such authority, at such times, and in such manner, as may be prescribed.
- (4) The annual accounts of the State Council together with the audit report thereon shall be forwarded to the Government and the Government shall cause the same to be laid before the State Legislature, and shall also forward a copy of the audit report to the State Council for taking appropriate action on the matters arising out of the audit report.

Furnishing of Returns to the Government

19. (1) The State Council shall furnish to the Government such return or other information with respect to its property or activities as the Government may from time to time require.
- (2) The State Council shall be competent to seek such returns, report and information from any University or College as it may consider necessary for the performance of its functions.

Inspection and Enquiry

20. (1) The Government shall have the right to cause an inspection to be made by an officer, not below the rank to Joint Secretary to the Government, authorized by it, of the State Council and also to cause an enquiry to be made in to the work done by the State Council in respect of any matter entrusted to it. The Government shall in every case give notice to the State Council of its intention to cause such inspection or inquiry to be made the State Council shall be entitled to be represented there at. The officer making the inspection or inquiry shall inform the Government of the results thereof.

- (2) The Government shall communicate to the State Council its views with reference to the results of such inspection or inquiry and may advise the State Council on the action to be taken.
- (3) The State Council shall, within such time as the Government may fix, report the actions, if any, which is proposed to be taken, upon such advice.
- (4) The Government may, where action has not been taken by the State Council within the time as aforesaid to its satisfaction, issue such directions as it may think fit, and the State Council shall comply with such directions.

Examination of Records

21.

The Government may, either *suo moto* or on an application made to them, call for and examine the records of any order passed or decision taken by the State Council under the provisions of this Act, for the purpose of satisfying itself as to the legality or propriety of such order or decision or as to regularity of such procedure, and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the State Council or the person likely to be affected thereby a reasonable opportunity of being heard.

Power to make rules

22.

- (1) The Government may, by notification, make rules to carry out the purposes of this Act.
- (2) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature and if, before the expiry of the session in which it is so laid or next session, the State Legislature make any modification in any such rules or the State Legislature decides that the rules should not be made, the rules shall thereafter have effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make Regulations

23.

- (1) Subject to the provisions of this Act and the rules made there under, the State Council may, by notification, make regulation to carry out the provisions of the Act for -

- (a) regulating the meeting of the State Council and the procedure for conducting business there at under section 7, and regulating the manner in which and the purposes for which persons may be associated with the council under section 9 of the Act.
- (2) No regulation shall be enforced under this section except with the previous approval of the Government.

Power to remove difficulties

24.

If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to be necessary for removing the difficulty.

**(Lakchung Sherpa) SSJS
L.R.-cum-Secretary,
Law Department.**