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West Bengal Act VIII of 1975

THE WEST BENGAL COUNCIL OF HIGHER SECONDARY EDUCATION ACT, 1975.

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West Bengal Act VIII of 1975¹

THE WEST BENGAL COUNCIL OF HIGHER SECONDARY EDUCATION ACT, 1975.

AMENDED

West Ben. Act IX of 1984.
West Ben. Act XIII of 1987.
West Ben. Act XVI of 1989.
West Ben. Act XIX of 1990.
West Ben. Act XXXV of 1994.

[3rd April, 1975.]

An Act to establish a Council of Higher Secondary Education in the State of West Bengal, to define the powers and functions of such Council and to provide for certain matters connected therewith.

WHEREAS it is expedient to establish a Council of Higher Secondary Education in the State of West Bengal, to define the powers and functions of such Council and to provide for certain matters connected therewith;

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

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Council of Higher Secondary Education Act, 1975.

Short title and extent.

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

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

Definitions.

- (a) "Council" means the West Bengal Council of Higher Secondary Education established under section 3;
- (b) "the Fund" means the West Bengal Council of Higher Secondary Education Fund referred to in section 28;
- (c) "Head of Institution" means the head of the teaching staff of an Institution by whatever name he or she may be designated;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV, of the 27th February, 1975, page 266; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 3rd March,

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Education Act, 1975.*

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(Chapter I.—Preliminary.—Section 2.)

- (d) "Higher Secondary Education", except in relation to such class of students as the State Government may specify in this behalf, mean such education, commencing after the terminal stage of school education in the pattern of secondary education introduced with effect from the 1st day of January, 1974, which concludes with the passing of the public examination by whatever name called and instituted by the West Bengal Board of Secondary Education, as is provided for students with a view to qualifying them for admission to diploma or degree course instituted by a University or by Government or by a Statutory Body, and includes, subject to any general or special order of the State Government, education in—
- (i) Humanities,
 - (ii) Sciences,
 - (iii) Commerce,
 - (iv) Agriculture,
 - (v) Technical courses, or
 - (vi) Other courses, vocational or otherwise, which the State Government may, in consultation with the Council, specify;
- (e) "Institution" means a Higher Secondary School or an educational institution or department of a college or institution imparting instruction in Higher Secondary Education;
- (f) "Managing Committee", used with reference to an Institution, means the person or the body of persons for the time being entrusted with the management of the affairs of the Institution;
- (g) "member" means a member of the Council;
- (h) "notification" means a notification published in the *Official Gazette*;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "President" means the President of the Council;
- (k) "recognised" with its grammatical variations, used with reference to Institutions, means recognised under this Act;
- (l) "regulation" means a regulation made by the Council under this Act;
- (m) "rule" means a rule made by the State Government under this Act; and

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(Chapter II.—The Council.—Sections 3, 4.)

- (n) "Secondary Education", except in relation to such class of students as the State Government may specify in this behalf, means such education in the pattern of Secondary Education introduced with effect from the 1st day of January, 1974, imparted in any institution defined as such in the West Bengal Board of Secondary Education Act, 1963, as terminates with the passing of the public examination by whatever name called and instituted by the West Bengal Board of Secondary Education.

West Ben.
Act V of
1963.

CHAPTER II

The Council

3. (1) The State Government shall, as soon as may be after this Act comes into force, establish a Council to be called the West Bengal Council of Higher Secondary Education.

Establishment and incorporation of the West Bengal Council of Higher Secondary Education.

(2) The Council shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act and shall by its name sue and be sued.

4. (1) The Council shall consist of the following members, namely:—

Composition of the Council.

- (a) the President who shall be appointed by the State Government;
- (b) the President of the West Bengal Board of Secondary Education established under the West Bengal Board of Secondary Education Act, 1963, *ex officio*;
- ¹(c) the Director of School Education, West Bengal, *ex-officio*;
- (d) the Director of Technical Education, West Bengal, *ex-officio*;
- (e) the Director of Industries, West Bengal, *ex-officio*;
- (f) the Director of Agriculture, West Bengal, *ex-officio*;
- ²(ff) the Director, State Council of Educational Research and Training, West Bengal, *ex-officio*;

¹Clause (c) was substituted for the original clause by s. 2(1)(a) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1984 (West Ben. Act IX of 1984).

²Clause (ff) was inserted by s. 2(1) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1990 (West Ben. Act XIX of 1990).

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Education Act, 1975.*

[West Ben. Act

(Chapter II.—The Council.—Section 4.)

- ¹(g) persons not exceeding eight in number to be nominated by the State Government, of whom—
- (1) one shall be a woman interested in education,
 - (2) one shall be a Principal of a College imparting instruction in Higher Secondary Education,
 - (3) one shall be a Dean of any of the Faculties of the Bidhan Chandra Krishi Viswavidyalaya, and
 - (4) one shall be the Head of a Higher Secondary School imparting instruction in Higher Secondary Education (hereinafter referred to in this sub-section as Higher Secondary School);
- ²(h) six teachers of Higher Secondary Schools having qualifications for imparting instruction in Higher Secondary Education to be elected by the teachers of such schools in the manner prescribed;
- (i) two representatives of the West Bengal Legislative Assembly to be elected by the members of such Assembly amongst themselves in the manner prescribed;
- ³(i1) one representative of the Court of the Vidyasagar University of Midnapore to be elected by the members of such Court from amongst themselves in the manner prescribed;
- ³(i2) one representative of the Court of the Jadavpur University to be elected by the members of such Court from amongst themselves in the manner prescribed;
- ³(i3) one representative of the Court of the University known as Rabindra Bharati to be elected by the members of such Court from amongst themselves in the manner prescribed;
- ³(i4) one representative of the Court of the University of Kalyani to be elected by the members of such Court from amongst themselves in the manner prescribed;
- (j) one representative of the Senate of the University of Calcutta to be elected by the members of the Senate from amongst themselves in the manner prescribed;

¹Clause (g) was substituted for the original clause by s. 2(1) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1994 (West Ben. Act XXXV of 1994). Prior to this substitution the word "Viswavidyalaya", in sub-clause (3), was substituted, w.e.f. the 20th day of July, 1981, for the words "Viswa Vidyalaya;" by s. 2(2) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1990 (West Ben. Act XIX of 1990).

²Clause (h) was substituted for the original clause by s. 2(2) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1994 (West Ben. Act XXXV of 1994).

³Cluses (i1), (i2), (i3) and (i4) were inserted by s. 2(3) ibid.

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(Chapter II.—The Council.—Section 5.)

- 2
- (k) one representative of ¹[the Court of the University of Burdwan] to be elected by the members of ²[such Court] from amongst themselves in the manner prescribed; and
 - (l) one representative of ³[the Court of the University of North Bengal] to be elected by the members of ⁴[such Court] from amongst themselves in the manner prescribed;
 - ⁵(m) one person elected by the employees of the Council from amongst themselves ⁶[in the manner provided by regulations.]
- (2) The President shall be a whole-time officer of the Council.
- (3) The members referred to in clauses (a) to (g) of sub-section (1) and the following persons to be nominated by the State Government shall be the first members of the Council, namely:—
- (i) two members of the West Bengal Legislative Assembly;
 - (ii) one member of the Senate of the University of Calcutta;
 - (iii) one member of ⁷[the Court of the University of Burdwan];
 - (iv) one member of ⁸[the Court of the University of North Bengal.]
- (4) The first members of the Council other than the President shall hold office for such period not exceeding two years as the State Government may specify.

5. The President shall receive such salary and allowances, if any, from the West Bengal Council of Higher Secondary Education Fund as the State Government may determine.

Salary and allowances of the President of the Council.

¹The words within the square brackets were substituted for the words "the University of Burdwan" by s. 2(1)(b)(i) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1984 (West Ben. Act IX of 1984).

²The words within the square brackets were substituted for the words "such University" by s. 2(1)(b)(ii). *ibid.*

³The words within the square brackets were substituted for the words "the North Bengal University" by s. 2(1)(c)(i). *ibid.*

⁴The words within the square brackets were substituted for the words "such University" by s. 2(1)(c)(ii). *ibid.*

⁵Clause (m) was inserted by s. 2 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1989 (West Ben. Act XVI of 1989).

⁶The words within the square brackets were substituted for the words "in the manner prescribed." by s. 2(4) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1994 (West Ben. Act XXXV of 1994).

⁷The words within the square brackets were substituted for the words "the University of Burdwan;" by s. 2(a) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1987 (West Ben. Act XIII of 1987).

⁸The words within the square brackets were substituted for the words "the University of North Bengal;" by s. 2(b), *ibid.* Prior to this substitution the words "the University of North Bengal" were substituted for the words "the North Bengal University" by s. 2(2) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1984 (West Ben. Act IX of 1984).

(Chapter II.—The Council.—Sections 6-10.)

Publication of the names of the President and members of the Council.

6. The names of the President and other members of the Council appointed, nominated or elected under section 4 shall be published in the *Official Gazette*, as soon as may be after their appointment, nomination or election, as the case may be.

Term of office of nominated or elected members of the Council.

7. (1) Subject to the provisions of this Act, a nominated or elected member shall hold office for such term not exceeding three years as the State Government may specify and such term shall be computed from the date on which the name of the nominated or elected member is published under section 6.

¹(1A) The term of office of nominated or elected members shall be held to include any period which may elapse between the expiry of the said term and the date of nomination or election, as the case may be, of new members to the Council to fill vacancies arising by efflux of time.

(2) On the expiration of the term of office specified under sub-section (1), a nominated or elected member may be renominated or re-elected.

Casual vacancies.

8. If a nominated or elected member dies or resigns his office or otherwise ceases to be a member, the vacancy shall be filled up by a fresh nomination or election, as the case may be, under section 4.

Term of office of the President.

9. The appointment of the President under clause (a) of sub-section (1) of section 4 shall be for such period as the State Government may specify in this behalf, but the State Government may extend the period from time to time so, however, that the total period of appointment does not exceed four years from the date of first appointment and on the expiration of the said period or the extended period, if any, the President may be reappointed.

Supervening disqualification of the President or nominated or elected member.

10. If the President or a nominated or elected member becomes, after his appointment or nomination or election, as the case may be, subject to any of the disqualifications specified in section 14 he shall cease to hold office with effect from such date as the State Government may direct.

¹Sub-section (1A) was inserted by s. 3 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1994 (West Ben. Act XXXV of 1994).

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(Chapter II.—The Council.—Sections 11-14.)

11. (1) When a person is qualified to be a member of any Board of Studies or Committee of the Council by virtue of his membership of the Council or of any other authority or body of the Council, he shall cease to be a member of such Board of Studies or Committee, as the case may be, of the Council, when he ceases to be a member of the Council or such other authority or body of the Council.

Cessation of membership in certain cases.

(2) When a person is nominated or elected as a member of the Council or of any Board of Studies or other authority or body of the Council from any constituency, he shall cease to be such member when he ceases to belong to that constituency.

12. (1) The President may resign his office by giving a notice in writing to the State Government stating his intention so to do, and on such resignation being accepted by the State Government the President shall be deemed to have vacated his office.

Resignation of the President and nominated or elected member.

(2) A nominated or elected member may resign his office by giving a notice in writing to the President stating his intention so to do, and on such resignation being accepted by the Council, such member shall be deemed to have vacated his office.

13. If the President dies or resigns his office or ceases to hold office or is temporarily absent or by any reason unable to perform the function of the President, the State Government shall authorise a member of the Council to exercise the powers and perform the duties of the office of the President until the President resumes office or a new President is appointed, as the case may be.

Temporary and acting arrangement for the office of the President.

14. A person shall be disqualified for being appointed or nominated or elected a member of the Council if he—

Disqualifications for membership.

- (a) has been adjudged by a competent Court to be of unsound mind;
- (b) is an undischarged insolvent;
- (c) being a discharged insolvent, has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part;

²Section 11 was substituted for the original section by s. 4 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1994 (West Ben. Act XXXV of 1994). Prior to this substitution there occurred following changes in original section 11, namely:—

- (i) the words "the University of North Bengal" were substituted for the words "the North Bengal University" by s. 3 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1984 (West Ben. Act IX of 1984), and
- (ii) the words "the Court of the University of Burdwan or the Court of the University of North Bengal," were substituted for the words "the University of Burdwan or the University of North Bengal," by s. 3 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1987 (West Ben. Act XIII of 1987).

(Chapter II.—The Council.—Sections 15-17.)

- (d) has been convicted by a Court of an offence which is declared by the State Government to be an offence involving moral turpitude, unless—
- (i) such disqualification is condoned by the State Government, or
 - (ii) the term of his sentence of imprisonment, or a period of five years from the date of his conviction, whichever is longer, has expired;
- (e) directly, or indirectly, by himself or his partner,—
- (i) has or had any share or interest in any text-book approved by the Council or published by or under the authority of the Council, or
 - (ii) has any interest in any work done by order of, or in any contract entered into by or on behalf of, the Council:

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

Conduct of meetings.

15. The President, or in his absence, one of the members of the Council elected from amongst those present, shall preside at meetings of the Council, and the President or such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes.

Restriction on voting.

16. (1) No member of the Council shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any Institution of which he is either a teacher or a member of the Managing Committee.

(2) The President or the member presiding at a meeting of the Council shall decide any question arising under sub-section (1) and his decision thereon shall be final.

Persons in the service of the Council.

17. (1) The Council shall have a Secretary who shall be appointed by the State Government on such terms and conditions as may be determined by the State Government.

(2) (a) The Council may appoint such other officers and employees as it considers necessary for carrying out the purposes of this Act.

¹Sub-section (2) was substituted for the original sub-section by s. 3 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1990 (West Ben. Act XIX of 1990).

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(Chapter III.—The Boards.—Section 18.)

(b) The method of recruitment and the conditions of service (including the scales of pay and allowances, if any) of the other officers and employees shall be such as may, subject to the approval of the State Government, be determined by regulations published in the *Official Gazette*.

(3) Subject to the general control and supervision of the President, the Secretary shall be the principal administrative officer of the Council and be entitled to attend and speak at any meeting of the Council, but shall not be entitled to vote.

CHAPTER III

The Boards

18. (1) The Council may constitute Boards of Studies in one or more of the following branches, namely:—

- (a) Humanities,
- (b) Sciences,
- (c) Commerce,
- (d) Agriculture,
- (e) Technical courses, and
- (f) Other courses, vocational or otherwise.

(2) Each such Board of Studies shall consist of—

- (i) the President,
- (ii) one member to be nominated by the State Government,
- (iii) one member to be elected by the members of the Council from amongst themselves,
- (iv) two members to be elected by the members of the Council from amongst the members of the teaching staff of the Institutions imparting instruction in the branch in respect of which the Board of Studies is to be constituted, and
- (v) not more than two members to be nominated by the President from amongst the experts in the branch of education in respect of which the Board of Studies is to be constituted.

(3) The term of office of the members of each of Boards of Studies shall be two years, but the Council may extend the period from time to time so, however, that the total period does not exceed three years.

(4) The President shall be the Chairman of each of the Boards of Studies and the Secretary to the Council shall be the Secretary thereto.

(5) Each Board of Studies shall perform such functions as may be assigned to it by the Council.

(Chapter IV.—Committees of the Council,—Sections 19, 20.)

(6) The Chairman shall preside over the meetings of each such Board of Studies and in his absence, the members present shall elect one from amongst themselves to preside.

(7) A member of any such Board who is a member of the Council shall continue to hold office until he ceases to be a member of the Council.

CHAPTER IV

Committees of the Council

Constitution
of
Committees.

19. (1) The Council may, with the approval of the State Government, constitute any or more of the following Committees, namely:—

- (a) the Recognition Committee;
- (b) the Syllabus Committee;
- (c) the Examinations Committee;
- (d) the Finance Committee;
- (e) the Appeal Committee;
- (f) such other Committee or Committees as it may think fit.

(2) Each of the Committees referred to in clauses (a) to (d) and (f) of sub-section (1) shall be composed of the President as its Chairman and wholly or in part of members of the Council and the total number of members including the President shall not exceed seven.

(3) The Appeal Committee shall be composed of not more than seven members including a person who holds or has held the office of a Judge not below the rank of a District Judge as its Chairman and other members all or some of whom shall be members of the Council.

(4) There shall be a Secretary to each such Committee who shall be deputed by the President from amongst the officers of the Council.

Functions of
Committees.

20. (1) It shall be the duty of the Recognition Committee to advise the Council on all matters concerning the recognition of institutions.

(2) It shall be the duty of the Syllabus Committee to—

- (a) advise the Council on matters relating to the syllabus and the courses of studies to be followed and the books to be studied in recognised Institutions and for examinations instituted by the Council;
- (b) advise the Council on any matter relating to the syllabus, courses of studies or books to be studied, as may be referred

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*(Chapter V.—Powers and functions of the Council and the
President.—Section 21.)*

(3) It shall be the duty of the Examinations Committee to advise the Council on—

- (a) the selection of Paper-setters, Moderators, Tabulators, Examiners, Invigilators, Supervisors and others employed in connection with examinations instituted by the Council and the rates of remuneration to be paid to them;
- (b) the fees to be paid by candidates for such examinations;
- (c) any matter relating to such examinations which may be referred to it by the Council, for advice.

(4) It shall be the duty of the Finance Committee to prepare the budget of the Council and to advise the Council on such matters relating to finance as may be referred to it by the Council, for advice.

(5) (a) All appeals by the members of the teaching and the non-teaching staff against decisions of Managing Committees of the recognised Institutions shall be heard and decided by the Appeal Committee.

(b) The decisions of the Appeal Committee on such appeals shall be final and no suit or proceeding shall lie in any Civil or Criminal Court in respect of any matter which has been or may be referred to, or has been decided by, the Appeal Committee.

(6) Any other Committee or Committees that may be constituted under clause (f) of sub-section (1) of section 19 shall have such powers or functions as the Council may assign to such Committee or Committees.

CHAPTER V

Powers and functions of the Council and the President

21. (1) It shall be the duty of the Council to advise the State Government on all matters relating to Higher Secondary Education referred to it by the State Government.

Functions of
the Council.

(2) Subject to any general or special order of the State Government, the provisions of this Act and any rule made thereunder, the Council shall have generally the power to direct, supervise and control Higher Secondary Education, and in particular the power—

- (a) to grant or refuse recognition to Institutions, and to withdraw such recognition, if it thinks fit, after considering the recommendations of the Recognition Committee, if any, in accordance with such regulations as may be made in this behalf.

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Education Act, 1975.*

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*(Chapter V.—Powers and functions of the Council and the
President.—Section 21.)*

- (b) to maintain a register of recognised Institutions;
- (c) to provide for inspection of recognised Institutions;
- (d) to provide by regulations, after considering the recommendation of the Syllabus Committee, if any, the curriculum, the syllabus, the courses of studies to be followed and the books to be studied in recognised Institutions and for examinations instituted by the Council;
- (e) to undertake, if necessary, with the approval of the State Government, the preparation, publication or sale of text-books and other books for use in recognised Institutions;
- (f) to maintain and publish, from time to time, list of books approved for use in recognised Institutions and for examinations instituted by the Council and to remove the name of any such book from any such list;
- (g) to institute Higher Secondary Examinations for purposes of this Act and such other examinations as it may think fit and to make regulations in this behalf;
- (h) to make regulations regarding the conditions to be fulfilled by candidates presenting themselves for examinations instituted by the Council;
- (i) to publish results of the examinations instituted by the Council and to award diplomas, certificates, prizes and scholarships in respect thereof;
- (j) to provide by regulations after considering the recommendations of the Examinations Committee, if any, the rates of remuneration to be paid to Paper-setters, Moderators, Tabulators, Examiners, Invigilators, Supervisors and others employed in connection with examinations instituted by the Council, and the fees to be paid by candidates for such examinations;
- (k) to grant permission to candidates to appear at examinations instituted by the Council and to refuse or withdraw such permission if it thinks fit in accordance with such regulations as may be made in this behalf;
- (l) to administer the West Bengal Council of Higher Secondary Education Fund;
- (m) to provide by regulations the procedure for filing and disposal of appeals by members of the teaching and non-teaching staff against decisions of the Managing Committees of recognised Institutions;

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(Chapter V.—Powers and functions of the Council and the
President.—Section 22.)

- (n) to institute and administer such Provident Funds as may be prescribed;
- (o) to make regulations relating to the conduct, discipline and appeal in respect of the officers and employees of the Council;
- (p) to perform such other functions as may be assigned to it by the State Government.

(3) Subject to the provisions of sub-section (2), the Council shall have the power to make regulations in respect of any matter for the proper exercise of its powers under this Act.

(4) No regulation shall be valid unless it is approved by the State Government and the State Government may, in according such approval, make such additions, alterations or modifications therein as it thinks fit:

Provided that before making any such addition, alteration or modification the State Government shall give the Council an opportunity to express its views thereon within such period not exceeding one month as may be specified by the State Government.

(5) All regulations approved by the State Government shall be published in the *Official Gazette*.

22. (1) The President shall be responsible for carrying out and giving effect to the decisions of the Council and of any Board of Studies or Committee constituted under this Act.

Powers and
duties of the
President.

(2) The President may, in any emergency, exercise any of the powers of the Council provided however that he shall not act contrary to any decision of the Council, and shall, as soon thereafter as may be, report to the Council the action taken by him together with the reasons therefor.

(3) The President shall—

- (a) exercise general supervision and control over the Secretary and the other officers and employees appointed by the Council;
- (b) assign to each member of the Council, the Board of Studies or the Committee such duties as he thinks fit;
- (c) sanction such claims of travelling allowances and at such rates as the State Government may determine;
- (d) take such other action not inconsistent with any decision of the Council as he considers necessary for the proper functioning of the Council.

*(Chapter VI.—Meetings.—Sections 23, 24.—Chapter VII.—
Finance and Audit.—Sections 25, 26.)*

CHAPTER VI

Meetings

Meetings of
the Council.

23. (1) The annual meeting of the Council shall be held in the month of July each year.

(2) The Council shall meet at such other times as may be appointed by the President, but in no case less than four times a year.

(3) One-third of the total number of members of the Council shall form a quorum at any meeting of the Council.

Regulations
relating to
meetings.

24. The Council shall make regulations relating to meetings of the Council, of any Board of Studies or of any Committee constituted by the Council and the procedure to be followed at such meetings.

CHAPTER VII

Finance and Audit

Annual
Report.

25. (1) The President shall place before the annual meeting of the Council held in the year following the year in which it is constituted and before every annual meeting thereafter a report on the working of the Council during the last preceding financial year.

(2) The report shall be forwarded to the State Government within one month of its presentation before the annual meeting of the Council together with such comments thereon as the Council may think fit to make.

Budget.

26. ¹(1) The Council shall hold a special meeting by the 31st October of every financial year and shall place before the said meeting a budget estimate showing, in such form as may be prescribed, the anticipated income and expenditure of the Council for the next financial year.

²(2) The budget estimate as aforesaid shall, after confirmation by the Council, be forwarded to the State Government by the 30th November of the financial year in which the special meeting referred to in sub-section (1) is held.

¹Sub-section (1) was substituted for the original sub-section by s. 4(a) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1987 (West Ben. Act XIII of 1987).

²Sub-section (2) was substituted for the original sub-section by s. 4(b) ibid.

VIII of 1975.]

(Chapter VII.—Finance and Audit.—Section 26.)

(3) (a) The State Government shall ¹[within two months] of the receipt of the budget estimate either accord its approval to the same or return it to the Council with such comments and suggestions as it deems necessary if in its opinion such estimate—

- (i) is not reasonably accurate with reference to ascertainable facts or shows a deficit in its closing balance;
- (ii) includes new items of recurring expenditure which are likely to impose upon the Council in the future financial liabilities which the Council is not likely to be able to meet from its income; and
- (iii) includes provisions for expenditure which are not in accordance with the provisions of this Act.

(b) If the budget estimate is returned under clause (a), the Council shall consider the comments and suggestions made by the State Government and may, if it thinks fit, revise the said estimate. The Council shall then submit the budget estimate as so revised to the State Government, or, the Council shall, if it does not think fit to revise the estimate, submit it in its original form to the State Government within one month of receiving it together with its replies on the comments and suggestions made by the State Government.

(c) If the State Government does not approve of the budget estimate as revised by the Council or if the budget estimate is returned by the Council without revision, the State Government may amend the budget estimate by making—

- (i) such modifications as are in its opinion necessary to render the estimate reasonably accurate with reference to ascertainable facts or to balance the income and expenditure;
- (ii) additions, alterations or modifications in any provision relating to new expenditure of a recurring nature;
- (iii) any alteration or modification in any provision for expenditure which, in its opinion, is not in accordance with the provisions of this Act;

and shall forward the budget estimate as so amended to the Council and the budget estimate so returned shall be the budget estimate of the Council for the relevant year.

¹The words within the square brackets were substituted for the words "within three months" by s. 4(c) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1987 (West Ben. Act XIII of 1987).

*The West Bengal Council of Higher Secondary
Education Act, 1975.*

[West Ben. Act

(Chapter VII.—Finance and Audit.—Sections 27-29.)

¹(4) Notwithstanding anything contained in the foregoing provisions of this section, the budget estimate of the Council for the financial year 1987-88 shall be submitted to the State Government and the approval or otherwise of the said estimate shall be accorded by the State Government in accordance with the provisions of this Act as in force immediately before the coming into force of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1987.

Grants by
the State
Government.

27. The State Government may, after considering the budget estimate, the accounts of the Council and such reports as it may call for, make such annual or periodical grants to it as it may think fit:

Provided that on the establishment of the Council and before the first budget estimate is forwarded to the State Government, the State Government may, after considering such report as it may call for from the Council, make such initial grant to the Council as may be considered necessary.

Fund of the
Council.

28. (1) The Council shall have a Fund to be called the West Bengal Council of Higher Secondary Education Fund to which shall be credited—

- (a) all sums which may be paid by the State Government under section 27;
- (b) all fees realised under any of the provisions of this Act;
- (c) all sums representing income from endowments or from property owned or managed by the Council; and
- (d) all other sums received by or on behalf of the Council from any other source whatsoever.

(2) The Fund shall vest in the Council and shall be under its control and shall be held by it in trust for the purposes of this Act.

(3) All monies payable to the credit of the Fund shall forthwith be paid into the Reserve Bank of India or the State Bank of India to the credit of the Fund, and all cheques drawn on the Fund shall be signed by the President or by such other person as he may authorise in writing in this behalf.

Application
of the Fund.

29. No expenditure shall be incurred from the Fund except for the purposes of this Act, and unless such expenditure is provided for in the budget as approved under this Act or can be met by re-appropriation sanctioned in the prescribed manner.

¹Sub-section (4) was substituted for the original sub-section by s. 4(d) of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1987 (West Ben. Act XIII of 1987).

VIII of 1975.]

(Chapter VII.—Finance and Audit.—Sections 30-32.)

30. The Council shall keep an account of all its receipts and expenditure in the manner prescribed. Accounts.

31. (1) The accounts of the Council shall be examined and audited annually in such manner as may be prescribed by an auditor or auditors appointed by the State Government. Audit.

(2) For the purpose of examination and audit under sub-section (1) an auditor appointed under that sub-section may—

- (a) require in writing the production before him of any document relating to the Council or the assets thereof which he considers to be necessary for the proper conduct of the audit;
- (b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document to answer any question relating thereto; and
- (c) require any person so appearing before him to submit a statement in writing in respect of any such document.

(3) It shall be the duty of the Council, and of every member thereof, and of the Secretary and the members of the staff in the service of the Council to afford to the auditor every facility for the examination and audit of the accounts of the Council and to comply with any requisition made by the auditor under sub-section (2) and with the requirement of any rule made in this behalf.

(4) Any person who wilfully neglects or refuses to comply with a requisition made under sub-section (2) or with the requirement of any rule made in this behalf shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(5) No complaint in respect of any offence punishable under sub-section (4) shall be made except with the previous sanction of the State Government.

(6) No Magistrate other than a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence punishable under sub-section (4).

32. (1) Not more than fourteen days after completion of the audit the auditor shall submit to the State Government a report on the accounts audited, and shall send a copy thereof to the Council which shall forward it to the State Government together with its observations thereon. Audit report.

(2) The State Government shall take such action on the audit report

(Chapter VIII.—Supplemental provisions.—Sections 33-39.)

CHAPTER VIII

Supplemental provisions

Payment of
allowances.

33. Subject to the provisions of section 5, members of the Council shall receive such allowances for attending the meetings or for other purposes as the State Government may determine.

Council to
furnish
information.

34. The Council shall furnish to the State Government such reports, returns and statements as may be prescribed and such further information on any matter relating to the Council as the State Government may require.

Power of
State
Government
to suspend
proceedings.

35. The State Government may, by order in writing stating the reasons therefor, suspend the execution of any resolution or order of the Council or of any Board of Studies or any Committee constituted under this Act and prohibit the doing of any act which purports to be done or intended to be done under this Act, if the State Government is of opinion that such resolution, order or act is in excess of the powers conferred by or under this Act upon the Council, or the Board or the Committee, as the case may be.

Certain
persons to
be deemed
to be public
servants.

36. The members of the Council, or every Board or Committee constituted under this Act, persons in the service of the Council and any person appointed under this Act to audit the accounts of the Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Indemnity.

37. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything in good faith done or intended to be done under this Act.

Savings.

38. No act or proceeding taken under this Act shall be invalid on the ground merely of—

- (a) the existence of any vacancy in, or defect in the constitution of, the Council, or any Board or any Committee constituted under this Act,
- (b) any member of the Council having voted on any matter in contravention of the provisions of section 15, or
- (c) any defect or irregularity not affecting the merits of the case.

Transitory
provisions.

39. (1) The President shall make the first regulations for the purposes of this Act.

(2) The first regulations shall remain in force for a period of one year or until regulations are made by this Council under the provisions

VIII of 1975.]

(Chapter VIII.—Supplemental provisions.—Section 40.)

40. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

Power to
make rules.

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

- (a) the acquisition, possession and disposal of property by the Council, the conditions of such acquisition, possession and disposal, and the performance by the Council of any function referred to in sub-section (2) of section 3;
- (b) the manner of election of the members of the Council specified in clauses (h) to [(m)] of sub-section (1) of section 4;
- (c) the Provident Funds referred to in clause (n) of sub-section (2) of section 21 as may be instituted and administered by the Council;
- (d) the composition, powers, functions, approval and supersession of Managing Committees of recognised Institutions;
- (e) the form in which Budget estimate of the Council shall be prepared as referred to in sub-section (1) of section 26;
- (f) the time within which the Budget estimate shall be forwarded to the State Government as referred to in sub-section (2) of section 26;
- (g) the manner in which all payments to and from the West Bengal Council of Higher Secondary Education Fund shall be made;
- (h) the manner of re-appropriation under section 29;
- (i) the manner and form in which accounts of receipts and expenditure shall be kept under section 30;
- (j) the manner in which examination and audit of the accounts of the Council shall be made under section 31;
- (k) the reports, returns and statements to be furnished by the Council under section 34 and the forms of such reports, returns and statements;
- (l) any other matter required to be prescribed or provided or made by rules.

¹The letter and brackets within the square brackets were substituted, w.e.f. the 23rd day of June, 1989, for the letter and brackets "(l)" by s. 4 of the West Bengal Council of Higher Secondary Education (Amendment) Act, 1990 (West Ben. Act XIX of 1990).

*The West Bengal Council of Higher Secondary
Education Act, 1975.*

[West Ben. Act VIII of 1975.]

(Chapter VIII.—Supplemental provisions.—Sections 41, 42.)

Council to
be guided by
directions of
the State
Government.

41. The Council shall, in exercising its powers and performing its duties under this Act, be guided by such directions, as the State Government may, by notification, give from time to time, regarding the scope and content of Higher Secondary Education.

Repeal and
savings.

42. (1) The West Bengal Council of Higher Secondary Education Ordinance, 1975, is hereby repealed.

West Ben.
Ord. 1 of
1975.

(2) Anything done or any action taken under the West Bengal Council of Higher Secondary Education Ordinance, 1975, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 31st day of January, 1975.
