

THE HIMACHAL PRADESH PRIVATE UNIVERSITIES (ESTABLISHMENT AND REGULATION) BILL, 2006.

(PASSED AS AMENDED BY THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for establishment, incorporation 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 Fifty-seventh 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, 2006.

(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;
- (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 the Companies Act, 1956 (1 of 1956) ;
- (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
- (w) “University” means a university established and incorporated under this Act.

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, 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, on receipt of an application complete in all respect, shall constitute a committee consisting of such members as may be specified in the notification published in the Official Gazette, out of whom at least one shall be an expert, to examine the proposals so submitted.

Explanation.—In this sub-section the expression “expert” means an academician of eminence in the respective field(s) of higher education.

(4) The committee 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 committee, 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 committee shall submit its report to the Government within a period of two months from the date of its constitution:

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 committee, 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, 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 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 15% reservation in admissions to all 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.

(3) On receipt of compliance report, the Government shall refer it to the committee constituted under sub-section (3) of section 4, to verify the compliance report and to 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 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 by notification in the

Official Gazette, establish a university with such name, location, jurisdiction and with such conditions as may be specified in such notification and insert necessary entries in the Schedule:

Provided that, no such notification shall be issued except on a resolution passed by the House of the State Legislature.

(2) The university shall come into existence from the date of publication of the notification in the Official Gazette under sub-section (1).

7. Incorporation of the university.—Every university established under sub-section (1) of section 6 shall be a body corporate by the name notified, having perpetual succession and common seal and shall sue and be sued by the said name.

8. University to be self-financed.—The university shall be self-financed and it shall not be entitled to receive any grant or other financial assistance from the Government.

9. Endowment Fund.—(1) The sponsoring body shall establish an Endowment **Fund** for the university with an amount of three crores rupees which shall be pledged to the Government:

Provided that if the university is to be established in a tribal or backward area, the amount of Endowment Fund shall be one crore rupees.

(2) The Endowment Fund shall be kept as security deposit to ensure strict compliance of the provisions of this Act, rules, regulations, statutes or ordinances made thereunder.

(3) The Government shall have the powers to forfeit, in the prescribed manner, a part or whole of the Endowment Fund in case the university or the sponsoring body contravenes any of the provisions of this Act, rules, statutes, ordinances or regulations made thereunder.

(4) Income from Endowment Fund shall be utilised for the development of infrastructure of the university but shall not be utilised to meet out the recurring expenditure of the university.

(5) The amount of Endowment Fund shall be kept invested, until the dissolution of the university, by way of Fixed Deposit Accounts in any Scheduled Bank subject to the condition that this Fund shall not be withdrawn without the permission of the Government.

10. General Fund.—Every university shall establish a fund, which shall be called the General Fund to which following shall be credited, namely:—

- (a) Fees and other charges received by the university;
- (b) Any contribution made by the sponsoring body;
- (c) Any income received from consultancy and other works undertaken by the university;
- (d) Bequests, donations, endowments and any other grants; and
- (e) All other sums received by the university.

11. Application of General Fund.—The General Fund shall be utilized for the following purposes, namely:—

- (a) For the payment of salaries and allowances of the employees of the university and members of the teaching and research staff, and for payment of any Provident Fund contributions, gratuity and other benefits to such officers and employees;

- (b) For the expenses to be incurred by the university for services availed including services like electricity, telephone etc.;
- (c) for the payment of taxes or local levies wherever applicable;
- (d) for up keeping of the assets of the university;
- (e) For the payment of debts including interest charges thereto incurred by the university;
- (f) for the payment of traveling and other allowances to the members of the Governing Body, the Board of Management, the Academic Council, etc;
- (g) for the payment of fellowships, freships, scholarships, assistantships and other awards to students belonging to economically weaker sections of the society or research associates or trainees, as the case may be, or to any student otherwise eligible for such awards under the statutes, ordinances, regulations or rules made under this Act;
- (h) For the payment of the cost of audit of the funds created under sections 9 and 10;
- (i) For the meeting of expenses of any suit or proceedings to which university is a party;
- (j) For the purpose of movable and immovable assets;
- (k) for the payment of any expenses incurred by the university in carrying out the provisions of this Act or the statutes, ordinances, regulations or rules made thereunder; and
- (l) For the payment of any other expenses as approved by the Board of Management to be an expense for the purposes of the university:

Provided that no expenditure shall be incurred by the university in excess of the limits for total recurring expenditure and total non-recurring expenditure for the year, as may be fixed by the Board of Management, without its prior approval:

Provided further that the General Fund shall, for the purpose specified under sub-clause (e), be applied with the prior approval of the Governing Body.

12. Officers of the university.—The following shall be the officers of the university, namely:—

- (i) The Chancellor;
- (ii) The Vice-chancellor;
- (iii) The Registrar;
- (iv) The Chief Finance and Accounts Officer; and
- (v) Such other persons in the service of the university as may be declared by the statutes to be the officers of the university.

13. The Chancellor.—(1) The Chancellor shall be appointed by the sponsoring body for a period of three years, with the approval of the Government in such manner and on such terms and conditions as may be specified by the statutes.

(2) The Chancellor shall be the Head of the university.

(3) The Chancellor shall preside over at the meetings of the Governing Body and convocation of the University Conferring Degrees, diplomas or other academic distinctions.

(4) The Chancellor shall have the following powers, namely:—

- (a) To call for any information or record;
- (b) To appoint the Vice-Chancellor;
- (c) To remove the Vice-Chancellor in accordance with the provisions of sub-section (7) of section 14; and
- (d) Such other powers as may be specified by the statutes.

14. *The Vice-Chancellor.*—(1) The Vice-Chancellor shall be appointed by the Chancellor, on such terms and conditions as may be specified by statutes, from a panel of three persons recommended by the Governing Body and shall, subject to the provisions contained in sub-section (7), hold office for a term of three years:

Provided that, after the expiry of the term of three years, a person shall be eligible for re-appointment for another term of three years:

Provided further that Vice-Chancellor shall continue to hold office even after expiry of his term till new Vice-chancellor joins; however, in any case, this period shall not exceed one year.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the university and shall have the general superintendence and control over the affairs of the university and shall execute the decisions of various authorities of the university.

(3) The Vice-Chancellor shall preside at the convocation of the university in the absence of the Chancellor.

(4) If in the opinion of the Vice-Chancellor it is necessary to take immediate action on any matter for which powers are conferred on any other authority by or under this Act, he may take such action as he deems necessary and shall, at the earliest opportunity thereafter, report his action to such officer or authority as would have in the ordinary course dealt with the matter:

Provided that if in the opinion of the concerned officer or authority such action should not have been taken by the Vice-Chancellor, then such case shall be referred to the Chancellor, whose decision thereon shall be final.

(5) If, in the opinion of the Vice-Chancellor, any decision of any authority of the university is outside the powers conferred by this Act or statutes, ordinances, regulations or rules made thereunder or is likely to be prejudicial to the interests of the university, he shall request the concerned authority to revise its decision within fifteen days from the date of its decision and in case the authority refuses to revise such decision wholly or partly or fails to take any decision within fifteen days, then such matter shall be referred to the Chancellor and his decision thereon shall be final.

(6) The Vice-Chancellor shall exercise such powers and perform such duties as may be specified by the statutes or the ordinances.

(7) If, at any time upon representation made or otherwise and after making such inquiry as may be deemed necessary, the situation so warrants and if the continuance of the Vice-chancellor is not in the interests of the university, the Chancellor may, by an order in writing

stating the reasons therein, ask the Vice-Chancellor to relinquish his office from such date as may be specified in the order:

Provided that before taking an action under this sub-section, the Vice Chancellor shall be given an opportunity of being heard.

15. *The Registrar.*—(1) The Registrar shall be appointed by the Chancellor in such manner and on such terms and conditions of service as may be specified by the statutes.

(2) The Registrar shall have power to enter into agreement/contract, sign documents and authenticate records on behalf of the university and shall exercise such powers and perform such duties as may be specified by the statutes.

(3) The Registrar shall be the Member-Secretary of the Governing Body, Board of Management and Academic Council, but shall not have the right to vote.

16. *The Chief Finance and Accounts Officer.*—(1) The Chief Finance and Accounts Officer shall be appointed by the Chancellor in such manner and on such terms and conditions of service as may be specified by the statutes.

(2) The Chief Finance and Accounts Officer shall exercise such powers and perform such duties as may be specified by the statutes.

17. *Other officers.*—(1) The University may appoint such other officers as may be necessary for its functioning.

(2) The manner of appointment of other officers of the university and their powers and functions shall be such as may be specified by the statutes.

18. *Authorities of the university.*—the following shall be the authorities of the university, namely:—

- (i) The Governing Body;
- (ii) The Board of Management;
- (iii) The Academic Council; and
- (iv) Such other authorities as may be declared by the statutes to be the authorities of the university.

19. *The Governing Body.*—(1) The Governing Body of the university shall consist of the following, namely:—

- (a) The Chancellor;
- (b) The Vice-Chancellor;
- (c) Five persons, nominated by the sponsoring body out of whom two shall be eminent educationists;
- (d) One expert of management or information technology from outside the university, nominated by the Chancellor;
- (e) Two persons, nominated by the Government; and
- (f) Two members of the State Legislative Assembly, to be elected by the State Legislature.

(2) The Governing Body shall be the supreme authority of the university.

(3) The Governing Body shall have the following powers, namely:—

- (a) to provide general superintendence and directions and to control functioning of the university by using all such powers as are provided by this Act or the statutes, ordinances, regulations or rules made there-under;
- (b) to review the decisions of other authorities of the university in case they are not in conformity with the provisions of this Act or the statutes, ordinances, regulations or rules made thereunder;
- (c) to approve the budget and annual report of the university;
- (d) to lay down the policies to be followed by the university;
- (e) to recommend to the sponsoring body about the voluntary liquidation of the university if a situation arises when smooth functioning of the university does not remain possible, in spite of all efforts; and
- (f) Such other powers as may be prescribed by the statutes.

(4) The Governing Body shall meet at least thrice in a calendar year.

(5) The quorum for meetings of the Governing Body shall be five.

20. *The Board of Management.*—(1) The Board of Management shall consist of the following members, namely:—

- (a) The Vice-chancellor;
- (b) Two members of the Governing Body, nominated by the sponsoring body;
- (c) Three persons, who are not the members of the Governing Body, nominated by the sponsoring body; and
- (d) Three persons from amongst the teachers, nominated by the sponsoring body.

(2) The Vice-Chancellor shall be the Chairperson of the Board of Management.

(3) The powers and functions of the Board of Management shall be such as may be specified by the statutes.

(4) The Board of Management shall meet at least once in every two months.

(5) The quorum for meetings of the Board of Management shall be five.

21. *The Academic Council.*—(1) The Academic Council shall consist of the Vice-Chancellor and such other members as may be specified by the statutes.

(2) The Vice-Chancellor shall be the Chairperson of the Academic Council.

(3) The Academic Council shall be the principal academic body of the university and shall, subject to the provisions of this Act and the rules, statutes and ordinances made thereunder, co-ordinate and exercise general supervision over the academic policies of the university.

(4) The quorum for meetings of the Academic Council shall be such as may be specified by the statutes.

22. Other authorities.—The composition, constitution, powers and functions of other authorities of the university shall be such as may be specified by the statutes.

23. Disqualifications.—A person shall be disqualified for being a member of any of the authorities or bodies of the university, if he—

- (a) Is of unsound mind and stands so declared by a competent court; or
- (b) Is an undischarged insolvent; or
- (c) Has been convicted of any offence involving moral turpitude; or
- (d) Is conducting or engaging himself in private coaching classes; or
- (e) Has been punished for indulging in or promoting unfair practice in the conduct of any examination, in any form, anywhere.

24. Vacancies not to invalidate the proceedings of any authority or body of the university.—No act or proceeding of any authority or body of the university shall be invalid merely by reason of any vacancy or defect in the constitution thereof.

25. Filling of casual vacancies.—In case there occurs any casual vacancy of any member in any authority or body of the university, due to death, resignation or removal of a member, the same shall be filled, as early as possible, by the person or body who appoints or nominates the member whose place become vacant and person appointed or nominated to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been member.

26. Committees.—(1) The authorities or officers of the university may constitute committees with such terms of reference as may be necessary for specific tasks to be performed by such committees.

(2) The constitution of such committees and their duties shall be such as may be specified by the statutes.

27. The First statutes.—(1) Subject to the provisions of this Act, and the rules made thereunder, the First statutes of the university may provide for all or any of the following matters, namely:—

- (a) The constitution, powers and functions of the authorities and other bodies of the university as may be constituted from time to time;
- (b) The terms and conditions of appointment of the Vice-Chancellor and his powers and functions;
- (c) The manner of appointment and terms and conditions of service of the Registrar and Chief Finance and Accounts Officer and their powers and functions;
- (d) The manner of appointment and terms and conditions of service of the employees and their powers and functions;
- (e) The terms and conditions of service of employees of the university;
- (f) The procedure for arbitration in case of disputes between employees, students and the university;
- (g) The conferment of honorary degrees;

- (h) The provisions regarding exemption of students from payment of tuition fee and for awarding to them scholarships and fellowships;
- (i) Provisions regarding the policy of admissions, including regulation of reservation of seats;
- (j) Provisions regarding fees to be charged from the students; and
- (k) Provisions regarding number of seats in different courses.

(2) The First statutes shall be made by the Government and published in the Official Gazette, and a copy thereof shall be laid before the State Legislative Assembly.

28. *The Subsequent statutes.*—(1) Subject to the provisions of this Act and the rules made thereunder, the subsequent statutes of the university may provide for all or any of the following matters, namely:—

- (a) Creation of new authorities of the university;
- (b) Accounting policy and financial procedure;
- (c) Representation of teachers in the authorities of the university;
- (d) Creation of new departments and abolition or restructuring of existing department;
- (e) Institution of medals and prizes;
- (f) Creation of posts and procedure for abolition of posts;
- (g) Revision of fees;
- (h) Alteration of the number of seats in different syllabi; and
- (i) All other matters which under the provisions of this Act are to be specified by the statutes.

(2) The statutes of the university other than the First statutes shall be made by the Board of Management with the approval of the Governing Body.

(3) The Board of Management may, from time to time, make new or additional statutes or may amend or repeal the statutes so made in the manner hereinafter provided in this section:

Provided that Board of Management shall not make any statute or any amendment of the statute affecting the status, powers or constitution of any existing authority of the university until such authority has been given an opportunity of expressing an opinion on the proposal, and any opinion so expressed shall be in writing and shall be considered by the Governing Body.

(4) Every such statute or addition to the statutes or any amendment or repeal of the statutes shall be subject to the approval of the Government:

Provided that no statute shall be made by the Board of Management affecting the discipline of students and standards of instruction, education and examination except in consultation with the Academic Council.

29. *The First ordinances.*—(1) Subject to the provisions of this Act or the rules or statutes made thereunder, the Board of Management may make such First ordinances with the approval of the Governing Body as it deems appropriate for the furtherance of the objects of the university and such ordinances may provide for all or any of the following matters, namely:—

- (a) The admission of students to the university and their enrolment as such;
- (b) The courses of study to be laid down for the degrees, diplomas and certificates of the university;

- (c) the award of the degrees, diplomas, certificates and other academic distinctions, the minimum qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (d) The conditions for awarding of fellowships, scholarships, stipends, medals and prizes;
- (e) The conduct of examinations, including the terms of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (f) Fees to be charged for the various courses, examinations, degrees and diplomas of the university;
- (g) The conditions of residence of the students in the hostels of the university;
- (h) Provision regarding disciplinary action against the students;
- (i) The creation, composition and functions of any other body which is considered necessary for improving the academic life of the university;
- (j) The manner of co-operation and collaboration with other universities and institutions of higher education; and
- (k) All other matters which by this Act or statutes made thereunder are required to be provided by the ordinances.

(2) The Board of Management shall either modify the ordinances incorporating the suggestion of the Governing Body or give reasons for not incorporating any of the suggestions made by the Governing Body and shall return the ordinances along with such reasons, if any, to the Governing Body and on receipt of the same, the Governing Body shall consider the comments of the Board of Management and shall approve the ordinances of the university with or without such modifications and then the ordinances, as approved by the Governing Body shall come into force.

30. *The Subsequent ordinances.*—(1) All ordinances other than the First ordinances shall be made by the Academic Council which after being approved by the Board of Management shall be submitted to the Governing Body for its approval.

(2) The Academic Council shall either modify the ordinances incorporating the suggestions of the Board of Management and the Governing Body or give reasons for not incorporating the suggestions, and shall return the ordinances along with such reasons, if any, the Board of Management and the Governing Body shall consider the comments of the Academic Council and shall approve the ordinances of the university with or without such modification and then the ordinances, as approved by the Governing Body shall come into force.

31. *Regulations.*—The authorities of the university may, subject to the prior approval of the Board of Management, make regulations, consistent with this Act, the rules, statutes and the ordinances made thereunder, for the conduct of their own business and of the committees appointed by them.

32. *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.

33. 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 a committee to be constituted by the State Government, 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.

34. 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.

35. 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.

36. Convocation.—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.

37. 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.

38. 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.

39. 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 Government.

40. 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 Government.

(5) The advice of the Government, if any, arising out of the 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.

41. 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.

42. 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 Government, 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) 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.

43. Special powers of the Government in certain circumstances.—(1) If it appears to the Government 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 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 as it may consider necessary;

(3) The Government shall, for the purpose of any enquiry under sub-section (2), appoint an inquiry officer or officers to inquire into any of the allegations and to make report thereon.

(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.

44. 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) Matter to be prescribed under clause (d) of sub-section (4) of section 43; and
- (d) 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.

45. 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.

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

Schedule

(See section 6)

Sr. No.	Name and location of the university.	Jurisdiction of the university.
1	2	3

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 otherwise require legislation in each individual case. As such, there is an urgent need to bring an omnibus legislation which would provide for establishment, incorporation and regulation of private Universities in the State for higher education. It will obviate the need to have separate

legislation for each new University. At the same time, it does not remove the State's Legislature from its due role by requiring that the notification establishing a University is issued only after a resolution is passed by the State's Legislature.

Keeping in view the above, it has been decided to bring a legislation *i.e.* the Himachal Pradesh Private Universities (Establishment and Regulation) Bill, 2006 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 notifying 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 notification of an 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.

VIRBHADRA SING,
CHIEF MINISTER.

SHIMLA:

The.....2006.

FINANCIAL MEMORANDUM

The Bill seeks to provide for the establishment of private Universities in the State solely in the private sector. The provisions of this Bill, if enacted shall not involve any financial expenditure 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, 2006**

A

BILL

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

VIRBHADRA SINGH,
CHIEF MINISTER.

SURINDER SINGH THAKUR,
PRINCIPAL SECRETARY (LAW).

SHIMLA:
The.....2006.