

## **MAHARASHTRA STATE COUNCIL OF EXAMINATIONS ACT, 1998**

**1 of 1999**

**[ ]**

### CONTENTS

#### **CHAPTER 1 :- Preliminary**

1. Short title, extent and commencement
2. Definitions

#### **CHAPTER 2 :- Establishment and Constitution of the Council**

3. Establishment of State and Regional Council
4. Incorporation of State Council
5. Constitution of State and Regional Councils
6. Term of office and conditions of service of Chairperson of Councils
7. Terms of office of and allowances to members of Council
8. Disqualification of Chairperson, members of Council
9. Vacancy of Chairperson or member owing to disqualification
10. Vacancy of member owing to absence without permission
11. Decision on question as to vacancy
12. Resignation of member
13. Casual vacancies
14. Acts and proceedings not invalidated by vacancies or defects in constitution
15. Removal of member
16. Meeting of Council
17. Power to invite experts and officers at meeting
18. Constitution of Committees
19. State Council to absorb certain staff and to assume obligations of Government in respect of matters to which this Act applies
20. Appointment, powers and duties of Commissioner of Council
21. Appointment, powers and duties of Deputy Commissioners, Assistant Commissioners and Evaluation Officers of State Council
22. Other officers and employees of Council

#### **CHAPTER 3 :- Powers and duties of the State Council**

23. Powers and duties of the State Council
24. Powers and duties of Chairperson of Councils
25. Powers and duties of Regional Councils

26. Powers of Government to issue directions

**CHAPTER 4 :- Fund, Finance, Account and Audit**

27. State Councils fund, its custody and investment

28. State Council to pay costs from fund on account of salary, pension, etc. of Chairperson, Commissioner, Deputy Commissioner, Assistant Commissioner, Evaluation Officers and other officers

29. General application of fund

30. How fund shall be drawn against

31. Allotment of Regional Council

32. Preparation of annual budget estimate

33. Annual accounts and audit

34. Inspection and inquiry

35. Information, returns, etc., to be furnished by Councils

**CHAPTER 5 :- Miscellaneous Provisions**

36. Manner of exercise of powers delegated to Council or Committee

37. Power of State Government to make regulations

38. First regulations

39. Powers of State Council to make bye-laws

40. Interpretation in case of doubt

41. Savings

42. Protection of action taken in good faith

43. Chairperson, members, officers and employees of Council to be public servants

44. Power to remove difficulties

**MAHARASHTRA STATE COUNCIL OF EXAMINATIONS ACT,  
1998**

**1 of 1999**

**[ ]**

An Act to provide for establishment of State Council to regulate certain matters pertaining to the scholastic, professional and certain other examinations in the State of Maharashtra and for matters connected therewith or incidental thereto; WHEREAS it is expedient to provide for establishment of State Council to regulate the matters pertaining to the scholastic, professional and certain other examinations in the State of Maharashtra and for matters connected therewith or incidental thereto; It is hereby enacted in the Forty-ninth Year of the Republic of India as follows

**CHAPTER 1**

Preliminary

**1. Short title, extent and commencement :-**

(1) This Act may be called the Maharashtra State Council of Examinations Act, 1998

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into 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) "affiliated institution" means an institution duly recognised by and affiliated to the Council;

(b) "Commissioner" means the Commissioner of Maharashtra State Council of Examinations appointed under Section 20 ;

(c) "Council" means the State Council of Examinations or Regional Councils as the case may be, established under Section 3 ;

(d) "bye-laws" means the bye-laws made by the State Council under Section 39 ;

(e) "examination" means one or more examinations conducted by the Council at estate-holder end of each prescribed time schedule as declared by the Council in the syllabi;

(f) "Government" means the Government of Maharashtra;

(g) "prescribed" means prescribed by regulations;

(h) "Principal or Head Master" means the head of the staff of a recognised institution;

(i) "professional examination" means the examination conducted by the Council to gauge the level of knowledge and merits of the candidates for being eligible to enter any professional course they have applied for;

(j) "Regional Council" means a Regional Council established by the Government under subsection (2) of Section 3 ;

(k) "recognised institution" means an organized body imparting education or training as per the prescribed syllabi which is duly recognised by the School Education Department of Government;

(l) "regulations" means the regulations made by the Government under Section 38 and by the State Council under Section 37 ;

(m) "scholastic examination" means the examination conducted by the Council to measure the scholastic attainment levels of the students at primary and secondary school levels;

(n) "State Council" means the Maharashtra State Council of Examinations established under sub-section (1) of Section 3 of this Act.

## CHAPTER 2

### Establishment and Constitution of the Council

#### **3. Establishment of State and Regional Council :-**

(1) The Government may, by notification in the Official Gazette, establish for the purposes of this Act for the whole State, a Council to be called the Maharashtra State Council of Examinations.

(2) The State Government may, likewise, by notification in the Official Gazette, establish a Regional Council, for any Region or for all the Regions under such name as may be specified in the notification.

#### **4. Incorporation of State Council :-**

The State Council established under sub-section (1) of section shall be a body corporate having perpetual succession and a common seal and shall have power to contract, acquire, hold and dispose of property, both movable and immovable and to do all things necessary for the purposes of this Act, and may sue and be sued by its corporate name.

#### **5. Constitution of State and Regional Councils :-**

(1) The State Council shall consist of a Chairperson, appointed by the State Government, from the Maharashtra Education service, Group-A (Administrative Branch), in the grade of Director of Education, and of the following members, namely:- Ex-officio members-

(i) The Director of Education of the Government or his nominee not below the rank of Joint Director;

(ii) The Chairman, Maharashtra State Board of Secondary and Higher Secondary Education or his nominee not below the rank of Divisional Chairman;

(iii) The Director of State Council for Education Research and Training or his nominee not below the rank of Joint Director;

(iv) The Director, Maharashtra State bureau of Text Book Production and Curriculum Research, Pune;

(v) The Principal, Maharashtra State Institute of Vocational Guidance and Selection, Mumbai;

(vi) The Director, State Institute of Science Education;

(vii) One officer not below the rank of Deputy Secretary of the School Education Department of Government nominated by the Government;

(viii) All Chairperson of the Regional Councils. Nominated Members

(i) One Regional Deputy Director of Education nominated by the Government;

(ii) One Education Officer (Secondary) or Educational Inspector, nominated by the Government;

(iii) One Education Officer (Primary) nominated by the Government;

(iv) Five members nominated by the Government, one each from amongst the Principals or Head Masters of Primary Schools, Secondary Schools, Colleges of Education, Junior Colleges of Education and Institute of Commercial Education;

(v) Three members nominated by the Government having special knowledge or practical experience in the field of education or educational evaluation, guidance and selection; and

(vi) Four members nominated by the Government, one each from amongst the members of the management of Primary Schools, Secondary Schools, Junior Colleges of Education and Commercial Institutes.

(2) The Commissioner shall be the ex-officio member Secretary of the State Council who shall be entitled to take part in all the deliberations and proceedings of the meetings of the State Council but shall have no right to vote.

(3)

(a) A Regional Council shall consist of a Regional Chairperson from Maharashtra Educational Service, Group-A (Administrative Branch), in the grade of Director of Education, appointed by the Government, and of the following members, namely:- Ex-officio

members-

(i) all Regional Deputy Directors in the Region;

(ii) three Education Officers or Education Inspectors designated by the State Government from amongst the Officers serving the jurisdiction of the Region. Nominated Members

(i) Five members nominated by the Government, one each from amongst the Principals or Head Masters of Primary Schools, Secondary Schools, Colleges of Education, Junior Colleges of Education and Institutes and colleges of Education;

(ii) Four members nominated by the Government from amongst the teachers from the categories mentioned in clause (i);

(iii) Two members from amongst the managements of the Educational Institutes;

(iv) Two members from amongst the experts or retired persons in the fields of activities of the Council.

(b) The Assistant Commissioner designated by the Chairperson of the Regional Council shall be the ex-officio member Secretary of the Regional Council who shall be entitled to take part in all the deliberations and proceedings of the meetings of the State Council but shall have no right to vote: Provided that, a person shall cease to hold office as a member of the State Council, or a Regional Council, as the case may be, if such person ceases to hold post, designation or office or be a representative of the management body, as the case may be, by virtue of which such person is so appointed, and such person shall inform the Chairperson of the Council, in writing under his own hand of his having so ceased to be member of the State Council, or the Regional Council, as the case may be, within a week therefrom.

(4) The names of persons (not being ex-officio members) who have been nominated, from time to time, as the members of the State Council or the Regional Council, as the case may be, shall be published by the Government in the Official Gazette

## **6. Term of office and conditions of service of Chairperson of Councils :-**

(1) The Chairperson of the State Council and the Chairperson of any Regional Council shall hold office for a term of four years from

the date of their appointments as the Chairpersons.

(2) Nothing in sub-section (1) shall affect the power of the Government to transfer, in the exigencies of public service, any Chairperson to any other post under the Government during such term; and if any Chairperson superannuates in the service of Government, he shall cease to be the Chairperson unless services are extended or the Chairperson is re-employed in the service of Government and is not transferred to some other post.

(3) The Government may, from time to time, extend the term of office of a Chairperson of the State Council or Regional Council, so however that the aggregate period of the term shall not exceed eight years.

(4) The Chairperson of the State Council and the Chairperson of any Regional Council shall be employees of the Government from the Maharashtra Educational Service, Group-A and the Chairperson shall draw their salary and allowances from the Consolidated Fund of the State. The salary, allowances and other conditions of Service of the Chairperson shall be such as may be determined by the Government.

(5) Where a temporary vacancy of the Chairperson of the State Council occurs, by reason of leave, illness or any other cause, the Commissioner shall discharge the administrative powers of the Chairperson and in case of a temporary vacancy of the Chairperson of a Regional Council, Chairperson of the State Council may appoint another person to be the Chairperson of such Regional Council.

## **7. Terms of office of and allowances to members of Council** :-

(1) The members of the Council other than the ex-officio members, shall hold office for a term of four years from the date on which their names are published in the Official Gazette.

(2) The term of office of the outgoing members shall extend to and expire with, the day immediately preceding the date on which their names or their successors are published in the Official Gazette.

(3) The non-official Members shall be entitled to such compensatory allowances and non-official members such remuneration as may be determined by the regulation.

## **8. Disqualification of Chairperson, members of Council :-**

A person shall be disqualified being appointed or nominated as, or for continuing as a Chairperson or a member of the State Council or any Regional Council or any Committee appointed under this Act,-

(a) if such person directly or indirectly, by himself or one's partner-  
(i) has or had any share or interest in any text-book published, or  
(ii) has any share or interest in any work done by order of, or any contract entered into 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 that sub-clause, if five years have elapsed from the date of publication of such book;

(b) if an order for removal from office has been made against such person under sub-section or sub-section (2) of Section 15 ;

Explanation - For the purposes of sub-clause (i) of clause (a)-

(A) the publication of a text-book shall include its republication;

(B) a person shall be deemed to have incurred the disqualification by reason of his having share or interest in the business of the publisher of such text-book.

## **9. Vacancy of Chairperson or member owing to disqualification :-**

If the Chairperson or member, of the State Council or a Regional Council or any committee becomes subject to any of the disqualifications mentioned in the last preceding section, such person's office shall thereupon be declared vacant by the Government.

## **10. Vacancy of member owing to absence without permission :-**

If a member nominated or appointed to the State Council or a Regional Council remains absent without prior permission in writing of the Chairperson of the Council from three consecutive meetings thereof, his office thereupon becomes vacant, and shall be so declared by the Chairperson.

## **11. Decision on question as to vacancy :-**

If any question arises as to whether the office of Chairperson has become vacant under Section 9 or Section 10, the decision of the Government, in the matter shall be final.



**12. Resignation of member :-**

A member of the State Council or a Regional Council excel ex-officio member may resign his office at any time by tendering his resignation in writing to Chairperson of the Council; and such member shall be deemed to have vacated his office as so the Chairman has received his resignation.

**13. Casual vacancies :-**

All casual vacancies in the office of the members or any Command of the Council shall be filled in, as soon as may be, by nomination or appointment, as the case may and the person nominated or appointed in a casual vacancy shall hold office so long only as member in whose place he is nominated or appointed would have held, if the vacancy had not occurred.

**14. Acts and proceedings not invalidated by vacancies or defects in constitution :-**

No Act proceeding of the State Council or any Regional Council, in any committee of the Council shall invalid by reason of any vacancy in, or any defect in a constitution of such Council or Committee.

**15. Removal of member :-**

(1)The Government may, on the recommendation of the said Councilor as the case may be, the Regional Council, and after making such further inquiry, if any, a may think fit to make, by order remove any member of the State Council or the Regional Council of any Committee thereof, if such member-

(a) has been convicted by a Court in India of any offence involving moral turpitude; or

(b) is an undischarged insolvent; or

(c) has been declared physically disabled by such medical authority as the State Government may specify; or.

(d) is of unsound mind and stands so declared by a competent Court; or

(e) is acting in a way detrimental to the aims and objects of the State Council or a Regional Council:

Provided that, no such recommendation shall be made by the State Council or the Regional Council or no order shall be made under clause (e), unless he has been given reasonable opportunity of

showing cause why such recommendation or order should not be made.

(2) The State Government may suo motu by order remove any member of the State Council or any Regional Council or any Committee thereof, appointed or nominated, whose activities are, in the opinion of the Government, detrimental to, or obstruct, the proper functioning of the State Council or any Regional Council or any Committee thereof:

Provided that, no member shall be removed from office unless he has been given reasonable opportunity of showing cause why such order should not be made against such person.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the nominated members of the State Council and Regional Council shall hold office during the pleasure of Government and may be removed at any time before the expiry of their term of office.

#### **16. Meeting of Council :-**

(1) The State Council and each Regional Council shall meet not less than twice in every year, and six months shall not intervene between two successive meetings.

(2) The Chairperson of the State Council or a Regional Council may at any time if the exigencies so demand or upon written request of not less than one-third of the total number of members of the Council (excluding the ex-officio members) call a special meeting of the Council on a date not later than twenty-one days after the receipt of such request by the Chairperson.

#### **17. Power to invite experts and officers at meeting :-**

A Chairperson of the Council may invite any person who in its opinion is an expert in the field of education or any officer of the Government, to attend its meeting or of its committees, if a subject with which the expert or officer is concerned is likely to come up or comes up for discussion or consideration at such meeting.

#### **18. Constitution of Committees :-**

(1) The State Council shall constitute the following Committee, namely:- (a) Academic Committee. (b) Executive Committee. (c) Finance Committee. (d) Examination Committee.

(2) The State Council shall constitute such other Committees as it thinks necessary for the efficient performance of its functions.

(3) Each Regional Council shall appoint Committees designated as follows:-

(a) Standing committee.

(b) Examination Committee

(4) A Regional Council may appoint such other Committees as may be prescribed for the efficient performance of its functions.

(5) The constitution of every committee appointed by the Council, the term of office of its members and the duties and functions to be discharged by it shall be such as may be prescribed.

**19. State Council to absorb certain staff and to assume obligations of Government in respect of matters to which this Act applies :-**

(1) On the date of establishment of the State Council, that State Council, shall take over and employ such of the existing staff of the Maharashtra State Bureau of Examinations (hereinafter in this Act, referred to as "the Bureau") except the officers belonging to the Maharashtra Educational Service, Group-A and Group-B (Administrative Branch), serving for the purposes, of the Bureau, as the Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and regulations made thereunder:

Provided that, the conditions of service applicable immediately before the coming into force of this Act in the case of any such employee shall not be varied to his disadvantage, except with the previous approval of the Government:

Provided further that, any service rendered by such employee under the Government shall be deemed to be in service under the State Council.

(2) Nothing in the sub-section (1) shall apply to any existing staff of the Bureau who by notice in writing given to the Government on the date of coming into force of this Act or such later date as may be determined by the Government, intimates his option not to become or continue as an employee of the State Council; and thereupon he shall be permitted to retire from the Government,

service and shall be entitled to all such terminal benefits as compensation, pension, gratuity and like, as may be determined by the Government (such terminal benefits shall not be less favourable than the benefits he would have been entitled to had his service under the Government ceased on the coming into force of this Act):

Provided that, any service rendered by such employee under Bureau shall be deemed to be the service under the State Council.

(3) All expenditure which the Bureau may have incurred before the appointed day, in connection with any of the purposes of this Act shall be deemed to have been advanced towards capital expenditure by the Government to the State Council on that day under Section 27 , and all assets acquired by such expenditure shall vest into the State Council.

(4) All property, movable and immovable, and all rights and interest of whatsoever kind, and privileges and present activities of the Bureau shall stand transferred and shall vest in the State Council and be applied to the objects and purposes for which the State Council is constituted.

(5) All obligations incurred, all contracts entered into and all matters and things engaged to be done, before the first constitution of the State Council by, with or for the State Government or the Bureau for any of the purposes of this Act, in respect of any scheme shall be deemed to have been incurred, entered into, or engaged to be done, by, with or for the State Council and accordingly all suits and legal proceedings instituted or which might have been instituted by or against the Government or the Bureau, as the case may be, continued or instituted by or against the State Council.

## **20. Appointment, powers and duties of Commissioner of Council :-**

(1) The State Council shall have a Commissioner appointed by the Government from amongst person holding post of a Joint Director of Education from the Maharashtra Educational Service, Group-A (Administrative Branch).

(2) The Commissioner shall be wholly responsible for design, organisation and conduct of examinations to be conducted by the State Council.

(3) The Commissioner shall be the ex-officio Chairperson of the Examination Committee of the State Council.

(4) The Commissioner shall be entitled to attend the meetings of all other statutory bodies of the State Council.

(5) The Commissioner shall, subject to the control of the Chairperson of the State Council, be the Executive Officer of the State Council.

(6) The Commissioner shall exercise such other powers and perform such other duties, as may be prescribed.

**21. Appointment, powers and duties of Deputy Commissioners, Assistant Commissioners and Evaluation Officers of State Council :-**

(1) The Government may appoint two or more Deputy Commissioners from the cadre of Deputy Director of Education from the Maharashtra Educational Service, Group-A (Administrative Branch), in the State Council.

(2) The State Council shall have an Assistant Commissioner appointed by the Government from the cadre of Assistant Director of Education from the Maharashtra Educational Service, Group-A (Administrative Branch), Evaluation Officers from the Maharashtra Educational Service, Group-B (Administrative Branch), and other Officers whose strength shall be decided by the Government as per recommendations of the Chairperson.

(3) The Deputy Commissioners, Assistant Commissioners and Evaluation Officers and other Officers shall perform such duties and shall exercise power and authority as directed by the Commissioner.

**22. Other officers and employees of Council :-**

(1) The State Council may, with the approval of the Government appoint such other officers and employees, as it considers necessary for the efficient performance of its function and the functions of the Regional Councils under this Act.

(2) The salaries, allowances and other conditions of service of officers and employees appointed under sub-section (1) shall be such as may be determined by it by regulations.

**23. Powers and duties of the State Council :-**

(1) Subject to the provisions of this Act, the powers and duties of the State Council shall be as follows, :-

(a) to advise the State Government on matters of policy relating to scholastic, professional examinations or certain other examinations entrusted to it, from time to time;

(b) to lay down guiding principles for determining curricula and syllabi and also to prepare the detailed syllabi for all areas in which examinations are conducted by the State Council;

(c) to prescribe standard requirements in respect of staff, buildings, furniture, equipment, stationary and other things required for proper imparting of education and training in the institutes where the course content is designated and prescribed by the State Council;

(d) to prescribe, if necessary, any books as text-books, or cause to be prepared any books and prescribe them as text-books, for all concerned courses;

(e) to prescribe the general conditions governing admission of candidates for various examinations, and to specify the conditions regarding attendance and character on the fulfillment of which a candidate shall have a right to be admitted to and to appear at any such examinations;

(f) to conduct examinations and to award certificates to candidates passing the various examinations;

(g) to institute and award scholarships, stipends, medals, prizes and other rewards, and to prescribe conditions therefor;

(h) to receive bequests, donations, endowments, trusts and other transfers of any property or interest therein, or right thereto;

(i) to hold any property, interest or right referred to in clause(h) above, and to manage and deal with the same;

(j) to prescribe, demand and receive fees from institution, individuals recognised or allowed to appear for examinations by the State Council;

(k) to call for special reports and information from the Director of

Education or his office or other offices of Education Department, and any information from institutes, affiliated to the Council to ensure maintenance of academic standards in these institutions;

(i) to appoint officers and employees of the State Council [other than the Maharashtra Educational Service, Group-A (Administrative Branch)] in its office and in the offices of the Regional Council;

(m) to constitute provident fund for the benefit of staff of the Council;

(n) to approve the annual financial statements pertaining to the State Council and the Regional Council, and to forward the same to the Government for information;

(o) to conduct statistical and other research for the purpose of evaluation and reform of the curricula, instruction and examination system;

(p) to appoint such Committees as it may think necessary for the efficient discharge of its functions under this Act;

(q) to make regulations for the purpose of carrying into effect the provisions of this Act;

(r) to make bye-laws relating to matters such as procedure to be followed by the State Council, Regional Councils, their Committees and any other matter solely concerning the State Council and the Regional Councils and their committees;

(s) to exercise such other powers and perform such other duties as may be conferred or imposed in it by or under this Act;

(t) to do all such acts and things as may be necessary to carry out the purposes of this Act.

(u) to accord affiliation to the institutions desirous of sending students to one or more examinations conducted by the Council, provided the institutions comply with "condition for according affiliation" prescribed by regulations.

(2) It shall be lawful for the Council to conduct the examinations on the request of any authority on contract basis on the terms and approved conditions by the Council.

(3) The services of the Regional deputy Directors of Education, officer or educational inspectors, block education officers, other

concerned officers of the Government and their employees shall be available to the Council to assist the Council for conducting the examinations and other ancillary work connected with such examinations.

#### **24. Powers and duties of Chairperson of Councils :-**

(1) It shall be the duty of the Chairperson of the State Council and each of Regional Council to ensure that the provisions of this Act and the regulations and bye-laws made thereunder are faithfully observed, and he shall have all powers necessary for this purpose.

(2) It shall be the duty of the Chairperson of the Council to preside over the meetings of the Council and its Statutory Committees (excluding the Examinations Committee).

(3) In an emergency which, in the opinion of the Chairperson of the Council or a Regional Council, requires that immediate action should be taken, the Chairperson shall take such action as he deems necessary and shall thereafter report his action to the Council at its next meeting.

(4) Each Chairperson shall exercise such other powers and perform such other duties as may be prescribed.

#### **25. Powers and duties of Regional Councils :-**

Subject to the provisions of this Act, the powers and duties of the State Council shall be as follows,:-

(a) to advise the State Council on matters of regional importance either referred to it or on its own initiative, for the purpose of implementation of recommendations of the State Council regarding standard requirements in the recognised and affiliated institution;

(b) to demand and receive such fees as may be prescribed, for candidates admitted to the examination;

(c) to conduct in the area of jurisdiction the final examination on behalf of the State Council;

(d) to appoint examiners, moderators, supervisors and other necessary personnel for conducting the examination in the area of its jurisdiction, for evaluation of candidate's performance and for compiling and release of results in accordance with such instructions as the State Board may from time to time issue;

(e) to admit candidates for the examination according to the



regulations made by the State Council in this behalf;

(f) to open centers within its jurisdiction for the examination conducted by it;

(g) to declare results of the candidates appearing at the examination conducted by it as directed by the State Council in this regard;

(h) to forward list of candidates according to merit to the State Council for the purpose of award of scholarships, stipends, medals, prizes and other rewards;

(i) to deal with cases of use of unfair means according to the procedure laid down by the State Council;

(j) to generally evaluate the performance of the candidates appearing for the examinations and to make necessary recommendations to the State Council in this regard;

(k) to grant recognition to the institution under its jurisdiction and to withdraw the same in the prescribed manner;

(l) to call for any information from any affiliated and recognised institution to maintain the academic standards and call for special information or report on being referred to by the State Council or on its own initiative, from the Regional Deputy Director of Education or any other Educational Functionaries in cases of poor academic fairing or with intentions to improve the same;

(m) to forward with the remarks, the recommendations of its Committees to the State Council for necessary action;

(n) to require institutions recognised by it or the Education Department to extend their co- operation in the conduct of the examinations and to withdraw and cause to privileges of the Council or the Education Department from any institution which does not co-operate without any acceptable and tenable reasons after giving such institution a reasonable opportunity of showing cause why such order should not be made;

(o) to conduct such correspondence and other non-formal courses leading to the examination as the State Council may specify from time to time;

(p) to exercise such other powers as may be delegated to it by the State Council.

## **26. Powers of Government to issue directions :-**

(1) The Government shall have the power, after considering the advise, if any tendered by the State Council, to issue to that Council or a Regional Council such directions as it may consider necessary in regard to all or any of the matters specified in clause (a) of sub-section (1) of Section 23 . The Council concerned shall comply with such directions.

.

(2) The Government shall have also the right to address the State Council or any Regional Council with reference to anything it has conducted or done, or is conducting or doing, or intends to conduct or do, and to communicate to the Council concerned its views in the matter.

(3) The Council concerned shall report to the Government such action, if any, as it proposes to take or has taken upon receipt of the communication, under sub-section (2), and shall furnish an explanation if it fails to take action.

(4) If such Council fails, within a reasonable time take action to the satisfaction of the Government, the Government after considering the representation or explanation furnished, issue directions which should be complied by the Council.

(5) In an emergency which, in the opinion of the Government, requires that immediate action should be taken, the Government may take such action consistent with this Act as it deems necessary without, previous consultation with the Council concerned and shall forthwith inform it of the action taken.

(6) The Government may, by order in writing, specifying the reason thereof, suspend the execution of any resolution or order of any Council prohibit the doing if the action ordered to be or purporting to be ordered to be done by such Council if the Government is of the opinion that such resolution, order or act is in excess of the powers conferred by or under this Act upon such Council.

### **CHAPTER 4**

Fund, Finance, Account and Audit

## **27. State Councils fund, its custody and investment :-**

(1) The State Council shall have its own Fund, and the following receipts be credited thereto:-

- (a) fees, royalties and charges including prescribed penalties levied and collected by the Council;
- (b) grants, assignments, contributions and loans, if any, made to it by the Government;
- (c) bequests, donations, endowments, and other contributions, if any;
- (d) interest on, sale proceeds of, any securities vested in it;
- (e) all rents and profits from the property vested in it;
- (f) other money received by or on behalf of State Council.

(2) The State Council may keep in current or saving deposit account with the State Bank of India or with any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (II of 1934). BANKING REGULATION ACT, 1949 (X of 1949) or with any other bank approved by the Government in this behalf, such sum of money out of its Funds as may be prescribed and any money in excess of the said sum shall be invested in such a manner as may be approved by the State Council.

(3) Such accounts shall be operated upon by such officers of the Council as may be authorised by it by regulations made in this behalf.

**28. State Council to pay costs from fund on account of salary, pension, etc. of Chairperson, Commissioner, Deputy Commissioner, Assistant Commissioner, Evaluation Officers and other officers :-**

The State Council shall pay every year out of its Fund to the Government such amount as the Government may determine on account of the salary, pension, leave and other allowances of the Chairperson and other officers posted in the State Council and Regional Councils by the Government.

**29. General application of fund :-**

Subject to the provisions of this Act, the Fund of the State Council shall be applicable only to the payment of charges and expenses incidental to the matters specified in this Act and for any other purpose for which by or under this Act powers are conferred or duties are imposed upon the State Council and the Regional Council established under this Act.

**30. How fund shall be drawn against :-**

No payment shall be made by a Bank out of the State Council's Fund except upon a cheque or letter or credit signed by an officer serving under the State Council or a Regional Council duly authorised by the State Council in this behalf.

**31. Allotment of Regional Council :-**

The State Council shall pay from time to time, to each Regional Council such sums as the State Council may determine for enabling the Regional Council to discharge the duties and functions imposed on them by the State Council for conduct of examinations assigned to it within its jurisdiction.

**32. Preparation of annual budget estimate :-**

(1) The State Council shall prepare, before such date and in such manner as may be prescribed, the budget estimates of the income and expenditure of that Council incorporating therein the income and expenditure of the Regional Councils, for the next financial year.

(2) The State Council shall, on or after the date referred to in sub-section (1) consider the budget estimates prepared by it and submit them as approved by it to the State Government for its sanction. The State Government may pass such orders with reference to the budget estimates as it thinks fit, and communicate the same to the State Council. The State Council shall give effect to such orders.

**33. Annual accounts and audit :-**

(1) The State Council shall keep its accounts in such form and in such manner as prescribed.

(2) The accounts of the State Council and a Regional Council shall be audited by Auditor appointed by the State Council with the previous approval of the Government.

(3) The Government may, if it thinks necessary, appoint a Special Auditor to audit the accounts of the Council.

(4) The Auditor or the Special Auditor, as the case may be, shall submit his report to the State Council and shall forward a copy thereof to the Government.

(5) The cost of the audit under sub-section (2) or (3), if any, shall

be borne by the State Council.

**34. Inspection and inquiry :-**

(1) The Government shall have the right to cause an inspection to be made, by such person or persons as it may direct, of the State Council or a Regional Council of the buildings, hostels, laboratories, libraries and equipment of any institution recognised by or affiliated to the State Council; and to cause an inquiry to be made in like manner in respect of any matter connected with any Council. The Government shall, in every case, give due notice to the Council concerned of its intention to cause an inspection or inquiry to be made, and the Council shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(2) The Government shall communicate to the Council its views with reference to the results of the inspection or inquiry and may, after ascertaining the opinion of the Council thereon, advise it on the action to be taken, and fix a time limit for taking such action.

(3) The Council shall report to the Government such action, if any, as it has taken or proposes to take upon the results of the inspection or inquiry. Such report shall be submitted, with the opinion of the Council thereon, within such time as the Government may direct.

(4) Where the Council does not within the time fixed take action to the satisfaction of the Government, the Government may, after considering any explanation furnished or representation made by the Council, issue such directions as it may think fit, and the Council shall comply with such directions.

**35. Information, returns, etc., to be furnished by Councils :-**

(1) The State Council and each Regional Council shall furnish to the State Government such reports, returns and statements as may be required by the Government and such further information relating to any matter connected with its work as the Government may call for.

(2) The Government may, after considering such reports, returns and statements or information furnished, give such directions consistent with this Act as may be necessary and the State Council or the Regional Council, as the case may be, shall comply with such

directions.

## CHAPTER 5

### Miscellaneous Provisions

#### **36. Manner of exercise of powers delegated to Council or Committee :-**

All matters relating to the exercise by the Government of powers conferred upon it by this Act, which have by regulation been delegated by that Council to a Regional Council or a Committee, shall stand receive and consider the report of the body with respect to the matter in question.

#### **37. Power of State Government to make regulations :-**

(1) The State Council may make regulations with the previous sanction of the Government for the purpose of carrying into effect the provisions of this Act.

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

(a) the constitution, powers and duties of the Committees appointed under Section 18 ;

(b) the subjects and curricula for the examinations;

(c) the general conditions governing admission of regular and private candidates for the examinations, and any particular conditions regarding attendance and character, on the fulfillment of which a candidate shall have a right to be admitted to and to appear at any such examination;

(d) the marks required for passing in any subject and the final examination as a whole, and for exemption, credit and distinction in any subject;

(e) the fees for admission to the examinations and other fees and charges payable in respect of other matters connected with those examinations;

(f) the arrangements for the conduct of examinations by the Regional Councils and publication of results;

(g) the appointment of Examiners, Moderators, Chief Moderators, Paper Setters, Translators, Centre Conductors and their powers and duties in relation to the examinations and their remuneration;

- (h) the qualifications and disqualifications of Examiners, Moderators, Chief Moderators, Paper Setters, Translators, Centre Conductors, etc.
- (i) the award of certificates;
- (j) the appointment of officers and employees of the State Council in its own office and in the offices of the Regional Councils and the conditions of their service;
- (k) the constitution of Provident Fund for the benefit of the said officers and employees of the Council;
- (1) the control, administration, safe custody and management in all respects of the finances of the Council;
- (m) the date before which and the manner in which the State Council shall prepare its budget estimates;
- (n) the compensatory allowance which may be drawn by member of the Councils and Committees appointed by them;
- (o) any other matter which is to be or may be prescribed under this Act.

**38. First regulations :-**

(1) Notwithstanding anything contained in Section 37 , the first regulations shall be made by the Government and they shall continue to be in force until new regulations are duly made and sanctioned under the said section.

(2) If it shall at any time appear to the Government that it is expedient to make any new regulations in respect of any of the matters referred to in Section 37 or that any regulations referred to in sub-section (1) or made by the State Council under section 37 need to be modified or repealed, either wholly or in part, the State Government may, after consultation with the State Council and by notification in the Official Gazette, make such regulations and modify or repeal any such regulations, either wholly or in part. The regulations so made, modified or repealed shall take effect from such date as the State Government may in such notification specify or if no such date is specified, from the date of publication of the said notification in the Official Gazette, except as respects anything done or omitted to be done before such date.

**39. Powers of State Council to make bye-laws :-**

The State Council may make bye-laws consistent with this Act and the regulations made thereunder to provide for all or any of the following matters:-

(a) the procedure to be followed at the meetings of the State Council and the Regional Councils and the Committees appointed by them and the number of members required to form a quorum at such meetings;

(b) any other matter solely concerning the Councils and their Committees not provided for by this Act and tile regulations made thereunder.

**40. Interpretation in case of doubt :-**

If any question arises regarding the interpretation of any provisions of this Act or of any regulations or bye-laws made thereunder, the matter may be referred for decision to the Government and shall be so referred to the Government if not less than three members of a Board also require. The decision of the Government shall be final.

**41. Savings :-**

(1) All benefactions accepted or received by the Bureau and held by it immediately before the appointed day shall be deemed to have been accepted or received or held by the State Council under this Act and all conditions on which such benefactions were accepted or received shall be deemed to be valid under this Act, notwithstanding that such conditions are inconsistent with the provisions of this Act;

(2) Any will, deed or other document made before the appointed day which contains any bequest, gift, terms or trust in favour of the Bureau shall, on and from the appointed day, be construed as if the State Council is named therein instead of the Bureau.

(3) All institutions recognised and admitted to the privileges of the dissolved Council immediately before the appointed day shall be deemed to be recognised and admitted to the privileges of the corresponding Regional Council established under this Act, save in so far as such recognition or privilege may be withdrawn, restricted or modified by or under the provisions of this Act;

(4) All debts, liabilities and obligations incurred before the appointed day and lawfully subsisting against the Bureau shall be discharged and satisfied by the State Council;



(5) All reference to the Bureau in any enactment or other instruments issued under an enactment to a dissolved Council shall be construed as reference to the State Council.

(6) Every committee of the Bureau shall be continued, but as soon as practicable within a period of six months from the date of the coming into force of this Act, be reconstituted in accordance with the provisions of this Act and the regulations made thereunder.

(7) The appointments of Examiners, Moderators, Chief Moderators, Paper Setters, Translators, Centre Conductors and other staff connected with the examinations ancillary work validly made and subsisting immediately before the commencement of this Act for the purpose of the Bureau, and such functionaries shall continue to hold office and discharge their duties and functions until fresh appointments are made under this Act for the purposes of the State Council.

(8) All notices, circulars and orders made or issued by the Bureau shall so far as they are not inconsistent with the provisions of this Act, continue to be in force and be deemed to have been made or issued under this Act.

**42. Protection of action taken in good faith :-**

No suit, prosecution or other legal proceedings shall lie against the Government or the Council or the members or any Officer or employees of the Government or of the Councils for anything which is in good faith done or intended to be done under this Act.

**43. Chairperson, members, officers and employees of Council to be public servants :-**

The Chairperson, all members, officers and employees of the Council shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .

**44. Power to remove difficulties :-**

If any difficulty arises in giving effect to any of the provisions of this Act, the Government may as occasion requires, but not later than two years from the coming into force of this Act, by order, do anything, not inconsistent with the objects and purposes of this Act which appears to it to be necessary or expedient for removing the difficulty.