

TO BE INTRODUCED IN LOK SABHA

Bill No. 54 of 2010**THE NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR
HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010**

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Bill No. 54 of 2010**THE NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR
HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010**

A

BILL

to make provisions for assessment of academic quality of higher educational institutions, programmes conducted therein and their infrastructure through mandatory accreditation by independent accreditation agencies and to establish a statutory Authority for the said purpose and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

**CHAPTER I
PRELIMINARY**

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| <p>1. (1) This Act may be called the National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010.</p> <p>(2) It extends to the whole of India except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> | <p>Short title, extent and commencement.</p> |
| <p>2. This Act shall apply to all higher educational institutions other than the higher educational institutions engaged mainly in agricultural education and research and the programmes of study conducted therein.</p> | <p>Application of Act.</p> |
| <p>3. (1) In this Act, unless the context otherwise requires,—</p> <p>(a) “academic quality” means the quality of teaching, learning and research and consequently their contribution to enhancement of knowledge and includes physical</p> | <p>Definitions.</p> |

infrastructure, human resources (including faculty), administration, course curricula, admission and assessment procedures, governance structures, of the higher educational institution;

(b) “accreditation” with its grammatical variations means the process of quality control in higher education, whereby, as a result of evaluation or assessment or by any other scientific method followed by accreditation agencies, a higher educational institution or any programme conducted therein is recognised by it as conforming to parameters of academic quality and benchmarking of such academic quality determined by the appropriate statutory regulatory authority;

(c) “accreditation agency” means an agency registered under section 23;

(d) “appropriate statutory regulatory authority” means any regulatory authority established under any law for the time being in force, for co-ordinating or determining or maintaining the standards of higher education;

(e) “Authority” means the National Accreditation Regulatory Authority for Higher Educational Institutions established under section 5;

(f) “certificate of registration” means the certificate of registration of an accreditation agency granted under section 23;

(g) “Chairperson” means the Chairperson of the Authority appointed under section 6 of this Act;

(h) “code of ethics” includes integrity, objectivity, professional competence, professional conduct, avoidance of conflict of interest, transparency and information disclosure and such other ethical principles as may be specified by regulations;

(i) “college” means any institution, whether known as such or by any other name which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification;

(j) “degree” means any such degree, as may, with the previous approval of the Central Government, be specified in this behalf by the University Grants Commission, by notification in the Official Gazette, under section 22 of the University Grants Commission Act, 1956;

3 of 1956.

(k) “diploma” means such award, not being a degree, granted by a higher educational institution certifying that the recipient has successfully completed a course of study of not less than nine months duration;

(l) “distance education system” means the distance education system as defined in clause (e) of section (2) of the Indira Gandhi National Open University Act, 1985;

50 of 1985.

(m) “higher educational institution” means an institution of learning including a university, an institution deemed to be university, a college, an institute, an institution of national importance declared as such by an Act of Parliament, or a constituent unit of such institution, which is imparting (whether through conduct of regular classes or distance education system) higher education beyond twelve years of schooling leading to the award of a degree or diploma;

(n) “institution deemed to be University” means an institution declared by the Central Government as deemed to be a university under section 3 of the University Grants Commission Act, 1956;

3 of 1956.

(o) “Member” means Member of the Authority appointed under of section 6 and includes the Chairperson;

1 of 1956.
21 of 1860.

(p) “memorandum of association” means, in case of a company, such memorandum as defined under sub-section (28) of section 2 of the Companies Act, 1956, or in case of a society, such memorandum as specified under section 2 of the Societies Registration Act, 1860;

(q) “National Educational Tribunal” means the National Educational Tribunal established under the Educational Tribunals Act, 2010;

1 of 1956.
21 of 1860.
2 of 1882.

(r) “non profit organisation” means an organisation being a company registered under section 25 of the Companies Act, 1956 or a society formed and registered under the Societies Registration Act, 1860 or a trust formed under the Indian Trusts Act, 1882 or any other law for the time being in force, which—

(i) undertakes any venture, profession, vocation or business without profit motive or gainful objective;

(ii) applies its surplus or other income in promoting its objects;

(iii) prohibits payment of any of its surplus or other income to its members, except by way of salaries or allowances payable for services rendered for carrying out such venture, profession, vocation or business;

(s) “notification” means a notification published in the Official Gazette and the expression “notify” with its cognate meanings and grammatical variation shall be construed accordingly;

(t) “programme” means a course or programme of study leading to the award of a degree or a diploma in a higher educational institution;

(u) “prescribed” means prescribed by rules made by the Central Government under this Act;

(v) “regulations” means regulations made by the Authority under this Act;

(w) “State Educational Tribunal” means a State Educational Tribunal established under the Educational Tribunals Act, 2010;

(x) “university” means a university established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes an institution deemed to be university;

(y) “Vice Chancellor” means the chief executive of a university, by whatever name called, and includes a Head of an institutions of national importance declared as such by an Act of Parliament.

3 of 1956.

(2) Words and expressions used and not defined in this Act but defined in the University Grants Commission Act, 1956 and not inconsistent with this Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

OBLIGATION FOR ACCREDITATION OF HIGHER EDUCATIONAL INSTITUTIONS AND PROGRAMMES CONDUCTED THEREIN

4. Every higher educational institution and every programme conducted therein shall be accredited in accordance with the provisions of this Act and the rules and regulations made thereunder and assessment of such accreditation shall be made before such institution starts the process of admission to such programme:

Accreditation to be mandatory.

Provided that a higher educational institution, (other than a higher educational institution engaged mainly in medical education) existing before the commencement of this Act, shall, within a period of three years from the date of such commencement, make an application to an accreditation agency for accreditation of such institution or programme conducted therein under this Act:

Provided further that a higher educational institution engaged mainly in medical education and existing before the commencement of this Act, shall, within a period of five years from the date of such commencement, make an application to an accreditation agency for accreditation of such institution or programme conducted therein under this Act:

Provided also that the accreditation agency, to whom such application for accreditation has been made by such higher educational institution, shall, within a period of one hundred and eighty days from the date of such application, undertake and complete accreditation under this Act:

Provided also that the higher educational institution which has been accredited before the commencement of this Act by an agency setup by or under any law for the time being in force, shall be deemed to be accredited under this Act for the period of accreditation by such agency:

Provided also that in case the higher educational institutions referred to in the first or second proviso fails, to, make an application for accreditation or obtain accreditation of such institution or programme conducted therein, within the specified period, such institution shall, without prejudice to any action that may be initiated by the appropriate statutory regulatory authority or proceedings under any law for the time being in force be liable for penalty under section 41 of this Act.

CHAPTER III

NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR HIGHER EDUCATIONAL INSTITUTIONS

Establishment of National Accreditation Regulatory Authority for Higher Educational Institutions.

5. (1) The Central Government shall, by notification, establish, for the purposes of this Act, an Authority to be known as “the National Accreditation Regulatory Authority for Higher Educational Institutions”.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at New Delhi.

Composition of Authority.

6. The Authority shall consist of a Chairperson and four other Members, of whom at least one shall be woman, to be appointed by the Central Government.

Qualification for appointment as Chairperson or other Member.

7. (1) A person shall be qualified to be appointed as the Chairperson, if such person—

(a) is not less than fifty-five years of age;

(b) is of ability, integrity and standing, and has adequate knowledge and experience of at least twenty-five years in dealing with matters relating to higher education and research;

(c) is, or has been, a Vice Chancellor of any University, or a Head of an institution of national importance.

(2) A person shall be qualified to be appointed as a Member, if such person—

(a) is not less than fifty-five years of age;

(b) is of ability, integrity and standing, and has adequate knowledge and experience of at least twenty-five years in higher education and research or legal matters.

(3) Out of the four members referred to in section 6, one each shall be chosen from amongst—

(a) Professors in the field of medical education in any University or an institution of national importance;

(b) Professors in the field of science or technology in any University or an institution of national importance;

(c) Professors in the field of social sciences or humanities in any University or an institution of national importance;

(d) persons having knowledge and experience in legal matters.

8. (1) The Chairperson and other Members of the Authority shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of—

Selection Committee.

(a) Cabinet SecretaryChairperson;

(b) Secretary in charge of higher education in the Ministry of Human Resource Development of the Government of India.....Member;

(c) an expert in the field of medical educationMember;

(d) an expert in the field of agricultural education and researchMember;

(e) an expert in the field of legal educationMember;

(f) Chairman, University Grants Commission..... Member.

(2) The Secretary to the Government of India dealing with the higher education shall be the convenor of the meetings of the Selection Committee.

(3) The experts in the fields specified in clauses (c) to (e) of sub-section (1) shall be nominated, in such manner as may be prescribed, by the Central Government.

(4) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.

(5) No appointment of the Chairperson or Member of the Authority shall be invalid merely by reason of any vacancy in the Selection Committee.

(6) Subject to the provisions of sub-sections (1) to (5), the Selection Committee may regulate its own procedure.

9. (1) The Chairperson and the other Members of the Authority shall hold office as such for a term of five years from the date on which he enters upon his office and shall not be eligible for re-appointment:

Term of office, salaries and allowances of Chairperson and other Members.

Provided that the Chairperson or the Member shall not hold office as such after he has attained the age of seventy years.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

10. (1) The Central Government may remove from office the Chairperson or any Member, who—

Removal and suspension of Chairperson and other Members.

(a) has been adjudged an insolvent; or

(b) has engaged at any time, during his term of office, in any paid employment; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has become physically or mentally incapable of acting as such Chairperson or other Member; or

(e) is of unsound mind and stands so declared by a competent court; or

(f) has acquired such financial or other interest as is likely to affect prejudicially the exercise of his functions as such Chairperson or other Member; or

(g) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(h) has been guilty of proved misbehaviour; or

(i) has such other disqualifications as may be prescribed.

(2) Notwithstanding anything in sub-section (1), the Chairperson or a Member shall not be removed from his office on the grounds specified in clause (f) or clause (g) or clause (h) of sub-section (1), except by an order made by the Central Government after an inquiry made in this behalf in which such Chairperson or such Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) In the event of inquiry instituted under sub-section (2), the Central Government may suspend such Chairperson or other Member against whom inquiry has been instituted for a period not exceeding six months if it consider necessary in public interest.

(4) The Central Government may, by rules, regulate the procedure for the inquiry referred to in sub-section (2).

Prohibition as to holding of office by Chairperson or other Member on ceasing to be such Chairperson or Members.

11. On ceasing to hold office, the Chairperson or other Member, as the case may be, subject to the provisions of this Act, shall be ineligible, for a period of five years from the date on which they cease to hold office, for further employment (including as consultant or expert or otherwise) in any higher educational institution under the Central Government or a State Government or any private higher educational institution or in any institution whose matters had been before such Chairperson or Member.

Member not to participate in meetings in certain cases.

12. Any Member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take any part in any deliberation or decision of the Authority with respect to that matter.

Vacancies, etc., not to invalidate proceedings of Authority.

13. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Resignation.

14. The Chairperson or a Member of the Authority may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or a Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is the earliest.

Staff of Authority.

15. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and other employees as it may think fit.

(2) The officers and other employees of the Authority shall discharge their functions under the general superintendence of the Chairperson.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Authority shall be such as may be prescribed.

CHAPTER IV

POWERS AND FUNCTIONS OF AUTHORITY

16. (1) The Authority shall, subject to the provisions of this Act and rules and regulations made thereunder and regulations made under any law for the time being in force by the appropriate statutory regulatory authority, take measures to develop and to regulate the process of accreditation of higher educational institutions and programmes conducted therein, and to monitor the functioning of accreditation agencies.

Powers and functions of Authority.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1), may, *inter alia*, provide for all or any of the following matters, namely:—

- (a) regulate accreditation agencies (registration of the accreditation agencies);
- (b) lay down norms and policies for assessment of academic quality in higher educational institutions or of any programme conducted therein, by accreditation agencies;
- (c) undertake periodical review of norms and policies referred to in clause (b);
- (d) undertake audit and cause to be audited the adherence to code of ethics including policies on obviating conflict of interest, disclosure of information, evolving transparency in processes and procedures of accreditation;
- (e) lay down policies for providing information to the public in regard to all aspects of quality and performance of higher educational institutions and programmes conducted therein (including student achievement, faculty availability and qualifications and research);
- (f) specify and monitor standards on selection and training of experts for the purposes of accreditation by any accreditation agency;
- (g) levy of fees or other charges under this Act;
- (h) recommend for improvement of academic quality while respecting the higher educational institution's responsibility to set its priorities;
- (i) advise the Central Government or any State Government or the appropriate statutory regulatory authority on any policy matter concerning accreditation which may be referred to it;
- (j) take measures for development of methodologies of accreditation in collaboration with accreditation agencies or universities;
- (k) promote research and innovation in assessment and accreditation;
- (l) collect, compile and disseminate information regarding accreditation of higher educational institutions and programmes conducted therein to the public including stakeholders;
- (m) monitor adherence to such norms, guidelines and standards of academic quality, as may be specified under any law for the time being in force by the appropriate statutory regulatory authority, in higher educational institutions;
- (n) perform such other functions as may be prescribed.

17. The Authority may engage, on such fee and remuneration and for such period as may be prescribed, for discharging its functions under this Act, such experts having such qualifications and experience, as may be prescribed.

Power of Authority to engage experts.

Power of audit and inspection by Authority.

18. (1) The Authority may, at any time, by order in writing, direct any person (hereinafter referred to in this section as “Accreditation Audit Committee”) specified in the order to audit or inspect or inquire into the affairs of any accreditation agency or any higher educational institution in matters of accreditation and to report to the Authority on any audit or inspection made by such Accreditation Audit Committee.

Explanation.— For the purposes of this section, “person” shall include such experts engaged in the manner provided in section 17.

(2) It shall be the duty of every chief executive or officer or other employee of the accreditation agency and every chief executive or teacher or officer or other employee of the higher educational institution, as the case may be, to produce before the Accreditation Audit Committee directed under sub-section (1), all such papers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the accreditation agency or higher educational institution, as the case may be, as the said Accreditation Audit Committee may require of him within such time as the said Accreditation Audit Committee may specify.

(3) The Accreditation Audit Committee, directed to audit or inspect or inquire under sub-section (1), may examine on oath, any chief executive or officer or other employee of the accreditation agency in relation to accreditation of any higher educational institution or programme conducted therein, and may administer oaths accordingly.

(4) On receipt of any report under sub-section (1), the Authority may, after giving such opportunity to the accreditation agency to make a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing,—

(a) require the accreditation agency, to take such action in respect of any matter arising out of the report as the Authority may think fit; or

(b) modify terms and conditions of certificate of registration as it thinks fit, and terms or conditions so modified shall be binding upon and be observed by the accreditation agency and shall be of like force and effect as if they were contained in the certificate of registration; or

(c) revoke the certificate of registration of the accreditation agency.

(5) The Authority shall, place the report submitted by the Accreditation Audit Committee under sub-section (1) and the action taken thereon by the Authority on its website.

CHAPTER V

REGISTRATION OF ACCREDITATION AGENCIES

Registration of accreditation agency.

19. No accreditation agency shall, except under, and in accordance with the conditions of a certificate of registration obtained from the Authority under this Act, and in accordance with rules and regulations made thereunder, undertake accreditation of any higher educational institution or any programme conducted therein:

Provided that any agency set up by or under any law for the time being in force, which is carrying out the work of accreditation of higher educational institutions or programmes conducted therein, on or before the date of commencement of this Act, may continue to do so until the certificate of registration is granted to it by the Authority under this Act:

Provided further that such agency shall, within a period of one hundred and eighty days from the date of establishment of the Authority under this Act, make an application under sub-section (1) of section 20 for registration as an accreditation agency under this Act:

Provided also that the Authority shall, within a period of one hundred and twenty days from the date of such application, either issue the certificate of registration or reject the application under section 23.

20. (1) Every application for registration as an accreditation agency shall be made to the Authority in such form and manner and accompanied by such other documents and on payment of such fees as may be specified by regulations.

Application for registration.

(2) Every application under sub-section (1) shall be accompanied by the following, namely:—

(a) a detailed mechanism for detecting any potential conflict of interest between the applicant or its employees or experts and a higher educational institution;

(b) a credible mechanism for transparency in respect of the financial status and financial dealings of the applicant;

(c) a reliable public information disclosure policy for accreditation of any higher educational institution or any programme conducted therein;

(d) complete process and procedure to be followed by the applicant in the accreditation of any higher educational institution or any programme conducted therein;

(e) such other documents as may be specified by regulations.

21. No application for grant of a certificate of registration under section 20 shall be considered by the Authority, unless the applicant satisfies the following conditions, namely:—

Eligibility for registration as an accreditation agency.

(a) the applicant is—

(i) a company registered under section 25 of the Companies Act, 1956 or a society formed and registered under the Societies Registration Act, 1860 or a trust formed under the Indian Trusts Act, 1882 or any other law for the time being in force;

(ii) such company, society or trust is formed or controlled by the Central Government or a State Government or any authority or board or institution established under any Central or State Act;

(b) the applicant is a non-profit organisation;

(c) the applicant has, in its memorandum of association or in the trust deed, specified accreditation of higher educational institutions as one of its main objects;

(d) the applicant has adequate infrastructure, to enable it to provide accreditation services in accordance with the provisions of this Act or such infrastructure as may be specified by regulations;

(e) the applicant and the promoters of the applicant, have professional competence, financial soundness and general reputation of fairness and integrity to the satisfaction of the Authority;

(f) the applicant, or its promoters, or any member of the governing body of the applicant or its promoter, is not involved in any legal proceeding connected with any higher educational institution except in course of any accreditation proceedings carried out in pursuance of the provisions of this Act and regulations made thereunder;

(g) the applicant, or its promoters, or any director, or member, or trustee has, at any time in the past, not been convicted of any offence involving moral turpitude or any economic offence;

(h) the applicant has, in its employment, persons having adequate professional and other relevant experience to the satisfaction of the Authority;

(i) the applicant, or any person directly or indirectly connected with the applicant, has in the past not been—

(i) refused by the Authority a certificate of registration under this Act; or

1 of 1956.
21 of 1860.
2 of 1882.

(ii) subjected to any proceedings for contravention of this Act or of rules or regulations made thereunder or any other law for the time being in force;

(j) the applicant, in all other respects, is a fit and proper person for the grant of a certificate;

(k) the applicant conforms to such other conditions as may be specified by regulations.

Procedure for grant of certificate.

22. (1) The Authority shall, on receipt of the application under section 20 for grant of certificate of registration, issue a public notice, in such form and manner as may be specified by regulations, and place the application together with all documents received with the application, for a period of sixty days from the date of issue of such public notice, on the website of the Authority.

(2) Any person may, within a period of said sixty days referred to in sub-section (1), submit his comments or objections, if any, on the application or part thereof, to the Authority.

(3) The Authority may, within the period of sixty days referred to in sub-section (1), require the applicant to furnish such other information or clarification as it may consider necessary.

(4) The Authority may obtain the advice of such experts, as it deems fit, for the specific purpose of evaluating the competency of the applicant.

(5) The applicant shall, within a period of seven days after making the application under sub-section (1), forward a copy of such application with other documents to all State Governments.

(6) The State Governments shall, within a period of forty-five days after the receipt of the copy of the application referred to in sub-section (5), send its recommendations, if any, to the Authority.

(7) The applicant shall be afforded an opportunity to submit his response on the comments or objections received under sub-section (2) or clarifications sought under sub-section (3) or recommendations made by the State Government, if any, under sub-section (6):

Provided that such response shall be submitted within a period of thirty days from the expiry of the period of sixty days referred to in sub-section (2).

(8) The Authority shall, before granting a certificate of registration under section 23, conduct a public hearing, in such manner as may be specified by regulations, to consider all comments or objections or clarifications or recommendations, if any, and the response of the applicant thereto, including any other matter as the Authority may deem fit for such consideration.

Grant of certificate of registration.

23. (1) The Authority shall, as far as practicable within a period of six months from the receipt of such application, after considering the comments or objections or clarifications or recommendations under sub-section (8) of section 22, —

(a) issue a certificate of registration as an accreditation agency, on such terms and conditions as may be specified in such certificate, subject to the provisions of this Act and rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or rules or regulations made thereunder or the provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(2) The Authority shall, while issuing a certificate of registration, approve the documents referred to in clauses (a) to (e) of sub-section (2) of section 20 as such or with such modifications, as it may deem fit, and thereupon the accreditation agency shall follow the procedures and conditions so approved in the process of accreditation.

(3) The documents approved under sub-section (2) shall be considered as an integral part of the certificate of registration which shall not be modified or altered without the approval of the Authority.

(4) The Authority may, if it so deems fit, in the certificate of registration granted to an accreditation agency, limit the area or programme for which such accreditation agency may exercise its duties and responsibilities of accreditation.

(5) A certificate of registration shall be valid for a period of ten years unless such certificate is revoked earlier in accordance with the provisions of this Act.

24. (1) A certificate of registration granted under section 23 may, on an application made by the accreditation agency, be renewed by the Authority for such period and on payment of such fees as may be specified by regulations. Renewal of certificate of registration.

(2) No application for renewal of the certificate of registration made under sub-section (1) shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

25. No accreditation agency shall, without the prior approval of the Authority effect any change in its ownership, or governing body or board of trustees, or the memorandum of association or articles of association or the trust deed. Accreditation agency not to do certain things.

26. The Authority may, in the public interest or for ensuring advancement of academic quality, on an application of the accreditation agency or otherwise, make such alterations and amendments in the terms and conditions of the certificate of registration as it thinks fit, in accordance with such procedure as may be specified by regulations. Amendment to certificate of registration.

27. (1) If the Authority, on a complaint or otherwise, and after making such enquiry as it deems fit, is satisfied that public interest so requires, it may revoke the certificate of registration in any of the following cases, namely:— Suspension or revocation of certificate of registration.

(a) where the accreditation agency, in the opinion of the Authority, makes wilful or continuous default in any act of commission or omission as required by or under this Act or the rules or regulations made thereunder;

(b) where the accreditation agency commits breach of any of the terms or conditions of the certificate of registration which is expressly declared by such certificate of registration to render it liable to revocation;

(c) where the accreditation agency fails, within the period fixed in this behalf by his certificate of registration, or any longer period which the Authority may have granted therefor, to show, to the satisfaction of the Authority, that such agency is in a position fully and efficiently to discharge the duties and obligations imposed on it by its certificate of registration;

(d) where in the opinion of the Authority the financial position of the Accreditation Agency is such that such agency is unable fully and efficiently to discharge the duties and obligations imposed on it by its certificate of registration;

(e) the accreditation agency has ceased to exist.

(2) No certificate of registration shall be revoked under sub-section (1) unless the Authority has given to the accreditation agency not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the certificate of registration, and has considered any cause shown by the accreditation agency within the period of that notice, against the proposed revocation.

(3) Where in its opinion the public interest so requires or for ensuring the advancement of academic quality, the Authority may, on conclusion of the enquiry under sub-section (1), suspend the certificate of registration granted to the accreditation agency till such time as a decision on the revocation of such certificate of registration or otherwise, is taken by the Authority.

(4) Where the Authority revokes a certificate of registration under this section, it shall serve an order of revocation upon the accreditation agency and fix a date on which the

revocation shall take effect; and such revocation shall be without prejudice to the action which may be taken against it under any other law for the time being in force.

(5) The Authority may, instead of revoking a certificate of registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the accreditation agency and shall be of like force and effect as if they were contained in the certificate of registration.

(6) The Authority shall publish on its website any action initiated under this section and the final decision on the revocation of the certificate of registration or otherwise together with all documents and reasons for such decision.

(7) Where the certification of any accreditation agency has been revoked under sub-section (4) on grounds referred to in sub-section (1), the Authority shall, within a period of sixty days from the date of such revocation, conduct an audit of all the higher educational institutions accredited by such agency within a period of one year before the date of such revocation.

(8) The Authority shall, while suspending or revoking a certificate of registration, take, or cause to be taken, such measures which may be necessary to protect the interests of students.

Appeal against any order of Authority.

28. Any person, aggrieved by an order or decision of the Authority under this Chapter or section 31, may prefer an appeal, against such order to the National Educational Tribunal within a period of sixty days from the date of the order, in such form and manner and accompanied with such documents and such fees as may be prescribed:

Provided that the National Educational Tribunal may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the period of sixty days.

CHAPTER VI

DUTIES AND OBLIGATIONS OF ACCREDITATION AGENCIES

Duties and obligations of accreditation agencies.

29. (1) While undertaking accreditation of a higher educational institution or programme conducted therein, the accreditation agency shall have regard to following principles in discharging its obligations for the advancement of knowledge, namely:—

(a) advancement of academic quality;

(b) enabling uniform reference of standards of academic quality in any class or classes of higher educational institutions or any one or more programmes conducted therein;

(c) informing stakeholders (including students and employers) about the quality of the higher educational institution or any programme conducted therein;

(d) rendering assistance to higher educational institutions in managing and enhancing their academic quality working towards the development of explicit intended learning outcomes;

(e) adherence to such other principles for advancement of knowledge which may evolve from time to time.

(2) The accreditation agency shall, while undertaking accreditation of higher educational institutions or any programme conducted therein, follow the standards in respect of academic quality specified by the appropriate statutory regulatory authority.

(3) Every accreditation agency shall abide by the code of ethics.

30. (1) Every accreditation agency shall accredit a higher educational institution or a programme conducted therein on an application made to it by such institution in such form and manner, and on payment of such fees, as may be specified by regulations.

Procedure of accreditation by accreditation agency.

(2) The process and procedure for accreditation of a higher educational institution or a programme in such institution shall be such as may be specified by regulations.

(3) The accreditation of a higher educational institution or a programme in such institution shall be done at such intervals and after such periods as may be specified by the appropriate statutory regulatory authority.

(4) The accreditation agency shall, while undertaking accreditation of a higher educational institution or a programme in such institution, provide an opportunity to the stakeholders in the higher educational institution, including students and employees, to submit their views on matters of academic quality.

(5) The accreditation agency shall give a reasonable opportunity to the higher educational institution to file suggestions or objections, if any, on the draft accreditation prepared by it and shall take note of such suggestions or objections, if any, while finalising the accreditation of such institution or any programme conducted therein.

(6) The accreditation agency shall publish on its website the accreditation together with all documents and reasons for such accreditation.

31. (1) Any person, aggrieved by the accreditation decided by any accreditation agency under this Chapter, may apply to the Authority for withdrawal of such accreditation or its modification.

Application to Authority on accreditation by accreditation agency.

(2) The Authority shall take a decision on an application made under sub-section (1) within ninety days.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

32. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants by Central Government.

33. (1) There shall be constituted a Fund to be called the National Accreditation Regulatory Authority for Higher Educational Institutions Fund and there shall be credited thereto—

National Accreditation Regulatory Authority for Higher Educational Institutions Fund.

(i) any grants and loans made to the Authority by the Central Government;

(ii) all fees and charges received by the Authority under this Act; and

(iii) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund referred to in sub-section (1) shall be applied for meeting—

(i) the salary, allowances and other remuneration of the Chairperson, other Members, officers and other employees of the Authority; and

(ii) the expenses of the Authority incurred in the discharge of its functions and for purposes of this Act.

34. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government, in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of Authority.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Authority and the Government shall cause the same to be laid before each House of Parliament.

Annual report of Authority.

35. (1) The Authority shall prepare in every year, in such form and at such time as may be prescribed, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the Central Government and the Government shall cause the same to be laid before each House of Parliament.

(2) The Authority shall also forward a copy of the annual report so prepared under sub-section (1) to all appropriate statutory regulatory authorities.

CHAPTER VIII

OFFENCES AND PENALTIES

Compensation to affected higher educational institution.

36. If an accreditation agency fails to comply with the obligations referred to in sub-section (1) of section 29 and the adherence to the code of ethics referred to in sub-section (3) of that section, without prejudice to any penalty which may be imposed under this Act, it shall be liable to pay such compensation, to the higher educational institution for any loss or damages suffered by such institution, as may be determined by the State Educational Tribunal:

Provided that before determination of any compensation under this section, the accreditation agency shall be given a reasonable opportunity of being heard by the State Educational Tribunal.

Penalty in case of contravention.

37. Any accreditation agency, which contravenes—

(a) any provision of this Act or rules or regulations made thereunder; or

(b) the standards specified under any law for the time being in force by the appropriate statutory regulatory authority; or

(c) the terms and conditions specified in the certificate of registration,

shall, without prejudice to proceeding for prosecution under the provisions of this Act or any other law for the time being in force, be liable to a penalty which may extend to five lakh rupees.

Penalty for obstructing or impersonating an officer of Authority.

38. If a person, without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault an officer of the Authority or any person assigned to discharge any function under this Act, or in exercising his functions under this Act, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

39. Whoever contravenes the provisions of section 19 shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to five lakh rupees or with both.

Punishment for contravening the provision of section 19.

40. If any person provides any information or produces any document under this Act or under any rule or regulation made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

Punishment for false information.

41. If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten lakh rupees or with both.

General provisions relating to offences and fine.

42. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

43. (1) Where an offence under this Act has been committed by a society or trust or agency or institution, every person who at the time the offence was committed was in charge of, and was responsible to, the society or trust or agency or institution for the conduct of the business of the society or trust or university, as well as the society or trust or agency or institution, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by society, trust and institutions.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a society or trust or agency or institution and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any governors, vice-chancellor, directors, committee, trustees, registrar or other officer, such governors, directors, committee, trustees, registrar or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Cognizance of offences. **44.** (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

Adjudication of penalty. **45.** (1) Save as otherwise provided in this Act, all matters under section 36 (including determination of compensation thereunder) shall be adjudicated by the State Educational Tribunal having jurisdiction.

(2) Save as otherwise provided in this Act, all matters under section 37 (including the penalties leviable thereunder) shall be adjudicated by the National Educational Tribunal.

CHAPTER IX

MISCELLANEOUS

Power to call for information. **46.** (1) The Central Government may, by a general or special order, call upon the Authority to furnish, periodically or as and when required any information concerning the activities carried on by the Authority or any accreditation agency or higher educational institution in matters concerning accreditation, in such form as may be prescribed, to enable that Government, to carry out the purposes of this Act.

(2) The Authority may, by a general or special order, call upon any accreditation agency or higher educational institution to furnish, periodically or as and when required any information concerning the activities carried on by such accreditation agency or institution, in such form as may be specified by regulations, to enable the Authority, to carry out the purposes of this Act.

Returns and reports by accreditation agencies. **47.** (1) The accreditation agency shall furnish to the Authority at such time and in such form and manner as may be specified by regulations or as the Authority may direct, such returns and statements and such particulars in regard to accreditation of higher educational institutions by such agency, as the Authority may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the accreditation agency shall, within a period of ninety days after the end of each financial year, submit to the Authority a report along with audited statement of accounts in such form, as may be specified by regulations, giving a true and full account of its activities, policy and programmes in regard to accreditation of higher educational institutions by such agency during the previous financial year.

Power of Central Government to issue directions. **48.** (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power to exempt. **49.** If the Central Government is of the opinion that it is necessary or expedient in the interests of the general public so to do, or for advancement of knowledge, it may, by notification and subject to such conditions as may be specified in the notification, exempt any class or classes of higher educational institutions from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such notification.

50. (1) If at anytime the Central Government is of the opinion—

Power of Central Government to supersede Authority.

(a) that on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the Central Government or such authority as the Central Government may specify in this behalf;

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

51. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or a State Educational Tribunal or the National Educational Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of Jurisdiction.

52. The Chairperson and other Members and the officers and other employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and staff of Authority to be public servants.

53. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson or any other Member, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made thereunder in the discharge of official duties.

Protection of action taken in good faith.

Act to have overriding effect.	<p>54. Subject to the provisions of the University Grants Commission Act, 1956, the provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>	3 of 1956.
Application of other laws not barred.	<p>55. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.</p>	
Power of Central Government to make rules.	<p>56. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—</p> <p>(a) the manner of nomination of experts in the concerned field of knowledge to the Selection Committee under sub-section (3) of section 8;</p> <p>(b) the term of Selection Committee and the manner of selection of panel of names under sub-section (4) of section 8;</p> <p>(c) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Authority under sub-section (2) of section 9;</p> <p>(d) the other disqualifications for removal of the Chairperson or other Members under clause (i) of sub-section (1) of section 10;</p> <p>(e) the procedure for the inquiry under sub-section (4) of section 10;</p> <p>(f) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the Authority under sub-section (3) of section 15;</p> <p>(g) the other functions which the Authority may perform under clause (n) of sub-section (2) of section 16;</p> <p>(h) the fees and remuneration payable to, the period, qualifications and experience of, and the manner in which the Authority may engage experts under section 17;</p> <p>(i) the form and manner in which an appeal may be preferred and the documents to be accompanied with it and the fees payable therewith under section 28;</p> <p>(j) the form for maintaining proper accounts and other relevant records and the annual statement of accounts of the Authority under sub-section (1) of section 34;</p> <p>(k) the form in which, and the time at which, the annual report of the Authority shall be prepared under section 35;</p> <p>(l) the information concerning the activities carried on by the Authority or any accreditation agency or higher educational institution in matters concerning accreditation to be furnished to the Central Government under sub-section (1) of section 46;</p> <p>(m) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.</p>	
Power of Authority to make regulations.	<p>57. (1) The Authority may, by notification in the Official Gazette, make regulations, consistent with the provision of the Act and the rules made thereunder, to carry out the purposes of this Act.</p> <p>(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:—</p> <p>(a) the code of ethics and such other ethical principles to be adhered to by an accreditation agency under clause (h) of sub-section (1) of section 3;</p>	

(b) the form and manner in which an application may be made and the documents to be accompanied with it and the fee payable therewith under sub-section (1) of section 20;

(c) such other documents that an applicant has to submit along with his application for grant of certificate of registration as may be specified under clause (e) of sub-section (2) of section 20;

(d) the infrastructure that an applicant shall possess for providing accreditation services under clause (d) of section 21;

(e) the other conditions of eligibility for grant of certificate of registration under clause (k) of section 21;

(f) the form and manner in which the public notice may be issued under sub-section (1) of section 22;

(g) the manner of conducting public hearing by the Authority under sub-section (8) of section 22;

(h) the fees payable and the period for which the certificate of registration granted to an accreditation agency may be renewed under sub-section (1) of section 24;

(i) the procedure for grant of approval in respect of any change in the ownership structure or the memorandum of association of an accreditation agency under section 25;

(j) the procedure for making amendment or alteration in the terms and conditions of the certificate of registration under section 26;

(k) the form and manner in which an application may be made for accreditation of any higher education institution or any programme therein and the documents to be accompanied with it and the fee payable therewith under sub-section (1) of section 30;

(l) the procedure and process to be followed by the accreditation agency for accreditation of any higher educational institution or any programme conducted therein under sub-section (2) of section 30;

(m) the information concerning the activities carried on by the accreditation agency or the higher educational institutions to be furnished to the Authority under sub-section (2) of section 46;

(n) the time at which and the form and manner in which the returns and statements and particulars in regard to accreditation of higher educational institutions by the accreditation agency under sub-section (1) of section 47;

(o) the form and manner in which the report, along with audited statement of accounts, giving a true and full account of activities, policy and programme in regard to accreditation of higher educational institutions by the accreditation agency under sub-section (2) of section 47;

(p) any other matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulations.

58. Every rule and every regulation made under this Act and every notification issued under section 49 shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification, as the case may be, or both Houses agree that the rule or regulation or notification, as the case may be,

Laying of
rules,
regulations
and
notification.

should not be made or issued, the rule or regulation or notification, as the case may be, 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 under that rule or regulation or notification, as the case may be.

Power to
remove
difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Assessment and accreditation in the higher education, through transparent and informed external review process, are the effective means of quality assurance in higher education to provide a common frame of reference for students and others to obtain credible information on academic quality across institutions thereby assisting student mobility across institutions, domestic as well as international. Presently, accreditation is voluntary as a result of which less than one-fifth of the colleges and less than one-third of all universities have obtained accreditation. Mandatory accreditation in the higher education would enable the higher education system in the country to become a part of the global quality assurance system.

2. Mandatory accreditation in the higher education would require a large number of competent and reliable accrediting agencies to be recognised, monitored and audited for academic competence through an independent but accountable institutional mechanism. Such a mechanism would find acceptability among peer group of international accreditation bodies, necessary for student and teacher mobility and institutional collaborations, within and across borders. Consequently, there is a need for an autonomous institutional structure with statutory backing to recognise and regulate competent professional agencies charged with the task of accreditation.

3. The process of assessment and accreditation in the higher education is required to be performed by recognised agencies on the basis of norms and standards of academic quality specified by the concerned appropriate statutory regulatory authority in the field of knowledge in higher learning. Registered agencies would accredit higher educational institutions through transparent processes and assessment of academic quality in teaching, learning and research and their contribution to enhancement of knowledge. The assessment would include physical infrastructure, human resources (including faculty), administration, course curricula, admission and assessment procedures, governance structures including infrastructure and governance structures of the institution.

4. In view of the above, it is proposed to establish a regulatory authority to register, monitor and audit the functioning of accreditation agencies which would be invested with the responsibility of accrediting higher educational institutions including universities, colleges, institutes, institutions of national importance and programmes conducted therein. Institutions imparting higher education beyond twelve years of schooling would be mandatorily accredited. Higher educational institutions engaged mainly in agricultural education and research have been kept out of the purview of the proposed legislation.

5. The proposed National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010, *inter alia*, provides that—

(a) every higher educational institution and every programme conducted therein shall require accreditation in the manner provided in the proposed legislation;

(b) the National Accreditation Regulatory Authority for Higher Educational Institutions shall be established by the Central Government for regulating the process of accreditation which shall consist of a Chairperson and four other Members, (at least one of whom shall be a woman), to be appointed by the Central Government on the recommendation of a Selection Committee;

(c) the functions of the Authority, *inter alia*, shall be to promote the development and regulate the process of accreditation of higher educational institutions and to register and regulate the working of accreditation agencies; lay down norms and policies for assessment of academic quality in higher educational institution or any programme conducted therein and its periodical review; undertake audit and monitor

the adherence to a Code of Ethics to be observed by accreditation agencies; lay down norms, standards and policies requiring higher educational institution to provide information to the public on their performance in regard to all aspects of academic quality; recommend for improvement of academic quality in higher educational institutions; advise the Central Government or any State Government or the statutory regulatory authorities on any policy matter concerning accreditation which may be referred to it; initiate measures for development of methodologies of accreditation in collaboration; promote research and innovation in assessment and accreditation; collect, compile and disseminate information regarding accreditation of higher educational institutions for public information including stakeholders and perform such other functions as may be prescribed;

(d) the Authority may call for any information and record from, or undertake audit or inspection of or inquiry into, any higher educational institution to verify the credibility of accreditation done by an accreditation agency;

(e) only the registered accreditation agencies shall undertake accreditation of any higher educational institution or any programme conducted therein and the accreditation agencies established under any law for the time being in force continue to function as such till they are registered by the Authority under the proposed legislation;

(f) the accreditation agency shall have, while undertaking accreditation of a higher educational institution or programme, regard to its obligations for advancement of academic quality and inform all stakeholders including students and employers about the quality of the higher educational institution or any programme conducted therein;

(g) any person aggrieved by accreditation of higher educational institutions may apply to Authority for withdrawal or modification;

(h) in case, an accreditation agency fails to abide by the Code of Ethics or other obligations, it shall be liable to pay compensation for damages to the higher educational institution as may be determined by the State Educational Tribunal (proposed to be established under the proposed Educational Tribunals Act, 2010);

(i) if any accreditation agency contravenes any provisions of the proposed legislation or rules or regulations made thereunder or standards specified under any law for the time being in force by the appropriate statutory regulatory authority or the terms and conditions specified in the certificate of registration shall, without prejudice to proceedings for prosecution, be liable to a penalty which may extend to five lakh rupees.

6. The notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 19th April, 2010.

KAPIL SIBAL

Notes on clauses

Clause 2.—This clause provides that the proposed legislation shall apply to all higher educational institutions other than the higher educational institutions engaged mainly in agricultural education and research and the programmes of study conducted therein.

Clause 3.—This clause defines certain words and expressions used in the proposed legislation.

Clause 4.—This clause provides for mandatory accreditation of higher educational institutions and programmes conducted therein. It provides that every higher educational institution and every programme conducted therein shall be accredited in accordance with the provisions of the proposed legislation and the rules and regulations made thereunder and assessment of such accreditation shall be made before such institution starts the process of admission to such programme. It further provides that a higher educational institution, other than an institution engaged mainly in medical education, existing before the commencement of proposed legislation, shall make an application to an accreditation agency for accreditation of such institution or programme conducted therein, within a period of three years from the date of commencement of the proposed legislation whereas a higher educational institution engaged mainly in medical education and existing before the commencement of the proposed legislation shall make such application to an accreditation agency within a period of five years from the date of such commencement.

It also provides that the accreditation agency to whom an application for accreditation has been made by a higher educational institution, shall undertake and complete accreditation within a period of one hundred and eighty days from the date of such application. It also specifies that a higher educational institution which has been accredited before the commencement of the proposed legislation by an agency set up by or under any law for the time being in force, shall be deemed to be accredited under of the proposed legislation for the period of accreditation by such agency.

It also provides that in case a higher educational institutions existing at the time of commencement of the proposed legislation fails to make an application for accreditation or obtain accreditation of the institution or programme conducted therein within the specified period, the institution shall, without prejudice to any action that may be initiated by the appropriate statutory regulatory authority or proceedings under any law for the time being in force, be liable for penalty specified under clause 41 of the proposed legislation.

Clause 5.—This clause empowers the Central Government to establish a National Accreditation Regulatory Authority for Higher Educational Institutions (hereinafter referred to as the "Authority") to exercise the powers conferred upon it under the proposed legislation. It further provides that the Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued and that its head office shall be at New Delhi.

Clause 6.—This clause provides that the Authority shall consist of a Chairperson and four other Members, of whom at least one shall be woman, to be appointed by the Central Government.

Clause 7.—This clause specifies the qualifications for appointment as Chairperson or Members of the Authority. Sub-clause (1) provides that a person shall be qualified to be appointed as the Chairperson of the Authority, if such person is not less than fifty-five years of age and is of ability, integrity and standing, and has adequate knowledge

and experience of at least twenty five years in dealing with matters relating to higher education and research and is, or has been, a Vice Chancellor of any University, or a Head of an institution of national importance. Sub-clause (2) provides that a person shall be qualified to be appointed as a Member of the Authority, if such person is not less than fifty-five years of age and is of ability, integrity and standing, and has adequate knowledge and experience of at least twenty-five years in higher education and research or legal matters. Sub-clause (3) provides that out of the four other members, one shall be chosen from amongst Professors in the field of medical education in any University or an institution of national importance; one from amongst Professors in the field of science or technology in any University or an institution of national importance; one from amongst Professors in the field of social sciences or humanities in any University or an institution of national importance and one from amongst persons having knowledge and experience in legal matters.

Clause 8.—This clause provides for selection of the Chairperson and other Members of the Authority. Sub-clause (1) provides that the Selection Committee shall comprise the Cabinet Secretary as its Chairperson, the Secretary in charge of higher education in the Ministry of Human Resource Development, the Chairman, University Grants Commission and three experts, with one each from the fields of medical education, agricultural education and research and legal education respectively as its Members. The Selection Committee shall recommend a panel of names to the Central Government for appointment. Sub-clause (2) provides that the Secretary in charge of higher education in the Ministry of Human Resource Development shall be the convenor of the meetings of the Selection Committee. Sub-clause (3) provides that the three experts in the fields of education specified in sub-clause (1) shall be nominated in a manner to be prescribed by rules made by the Central Government. Sub-clause (4) provides that the term of the Selection Committee and the manner of selection of panel of names shall be prescribed by rules by the Central Government. Sub-clause (5) states that no appointment of the Chairperson or Member of the Authority shall be invalid merely by reason of any vacancy in the Selection Committee. Sub-clause (6) provides that the Selection Committee may regulate its own procedure in its deliberations.

Clause 9.—This clause provides that the Chairperson and Member of the Authority shall hold office for a term of five years from the date on which they enter upon office and shall be eligible for reappointment, but shall not hold office after they have attained the age of seventy years. Sub-clause (2) provides that the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be prescribed by rules by the Central Government.

Clause 10.—This clause provides the manner of removal of the Chairperson or a Member of the Authority. The grounds for removal include where the Chairperson or a Member has been is an adjudged an insolvent, has engaged at any time during his term of office in any paid employment, has been convicted of an offence which in the opinion of the Central Government involves moral turpitude, has become physically or mentally incapable, is of unsound mind and stands so declared by a competent court, has acquired such financial or other interest as is likely to affect prejudicially the exercise of his functions, has so abused his position as to render his continuance in office prejudicial to the public interest, has been guilty of proved misbehavior or has such other disqualifications as may be prescribed under rules made by the Central Government. Sub-clause (2) provides that no Chairperson or a Member of the Authority shall be removed from his office on the grounds specified in clause (f) or clause (g) or clause (h) of sub-clause (1) in this clause, except by an order made by the Central Government after an inquiry made in this behalf in which the Chairperson or Member has been informed of the charges against him and given a reasonable opportunity of being heard. Sub-clause (3) provides that in the event of inquiry instituted against the Chairperson or Member, the Central Government may suspend such Chairperson or Member against whom inquiry has been instituted for a period not exceeding six months if it considers

necessary in public interest. Sub-clause (4) empowers the Central Government to regulate the procedure for the inquiry.

Clause 11.—This clause provides for the prohibitions as to holding of offices by Chairperson or Member on ceasing to be such Chairperson or Member of Authority. The clause specifies that the Chairperson or Member shall be ineligible for a period of five years from the date on which they cease to hold office, for further employment, including as consultant or expert or otherwise, in any higher educational institution under the Central Government or a State Government or any private higher educational institution or in any institution whose matters had been before such Chairperson or Member.

Clause 12.— This clause provides that any Member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take any part in any deliberation or decision of the Authority with respect to that matter. This clause is intended to provide for self-disclosure of issues in which conflict of interest in respect of the Chairperson or any Member that may arise in the course of performance of duties by the Authority.

Clause 13.—This clause provides that no act or proceeding of the Authority shall be invalid merely by reason of any vacancy or any defect in the constitution of the Authority or any defect in the appointment of a person acting as a Member of the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 14.—This clause provides the manner in which the Chairperson or a Member of the Authority shall resign office. It provides that the Chairperson or Member may, by notice in writing under his hand addressed to the Central Government, resign his office and shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is the earliest.

Clause 15.—This clause empowers the Central Government to determine the nature and categories of the officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and other employees as it may think fit. Sub-clause (2) provides that the officers and other employees of the Authority shall discharge their functions under the general superintendence of the Chairperson of the Tribunal. Sub-clause (3) empowers the Central Government to make rules to provide for the salaries and allowances payable and the other terms and conditions of service of the officers and other employees of the Authority.

Clause 16.—This clause provides for the powers and functions of the Authority. It specifies that the Authority shall, subject to the provisions of the proposed legislation and rules and regulations made thereunder and regulations made under any law for the time being in force by the appropriate statutory regulatory authority, take measures to develop and to regulate the process of accreditation of higher educational institutions and programmes conducted therein and monitor the functioning of accreditation agencies. The measures may provide for all or any of the following matters, namely regulate accreditation agencies including the registration of the accreditation agencies; lay down norms and policies for assessment of academic quality in higher educational institutions or of any programme conducted therein by accreditation agencies; undertake periodical review of norms and policies; undertake audit and cause to be audited the adherence to code of ethics including policies on obviating conflict of interest, disclosure of information, evolving transparency in processes and procedures of accreditation;

lay down policies for providing information to the public in regard to all aspects of quality and performance of higher educational institutions and programmes conducted therein including student achievement, faculty availability and qualifications and research; specify and monitor standards on selection and training of experts for the purposes of accreditation by any accreditation agency; levy of fees or other charges; recommend for improvement of academic quality while respecting the higher educational institution's responsibility to set its priorities; advise the Central Government or any State Government or the appropriate statutory regulatory authority on any policy matter concerning accreditation which may be referred to it; take measures for development of methodologies of accreditation in collaboration with accreditation agencies or universities; promote research and innovation in assessment and accreditation; collect, compile and disseminate information regarding accreditation of higher educational institutions and programmes conducted therein to the public including stakeholders; monitor adherence to norms, guidelines and standards of academic quality in higher educational institutions, as may be specified under any law for the time being in force by the appropriate statutory regulatory authority and perform such other functions as may be prescribed by rules by the Central Government.

Clause 17.—This clause provides that the Authority may engage, on such fee and remuneration and for such period, such experts having such qualifications and experience, as may be prescribed by rules by the Central Government, for discharging its functions under the legislation.

Clause 18.—This clause provides for powers of audit and inspection by Authority. It provides that the Authority may, at any time, by order in writing, direct any person (hereinafter referred to as "Accreditation Audit Committee") specified in the order, to audit or inspect or inquire into the affairs of any accreditation agency or any higher educational institution in matters of accreditation and to report to the Authority on any audit or inspection made by the Accreditation Audit Committee. Sub-clause (2) provides that it shall be the duty of every chief executive or officer or other employee of the accreditation agency and every chief executive or teacher or officer or other employee of the higher educational institution, as the case may be, to produce before the Accreditation Audit Committee, all such papers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the accreditation agency or higher educational institution, as the case may be, as the Accreditation Audit Committee may require of him within such time as the Accreditation Audit Committee may specify. Sub-clause (3) provides that the Accreditation Audit Committee, directed to audit or inspect or inquire, may examine on oath any chief executive or officer or other employee of the accreditation agency in relation to accreditation of any higher educational institution or programme conducted therein, and may administer oaths accordingly. Sub-clause (4) provides that on receipt of any report by the Accreditation Audit Committee, the Authority may, after giving such opportunity to the accreditation agency to make a representation in connection with the report as in the opinion of the Authority seems reasonable, by order in writing, require the accreditation agency to take such action in respect of any matter arising out of the report as the Authority may think fit; or modify terms and conditions of certificate of registration as it thinks fit and the terms or conditions so modified shall be binding upon and be observed by the accreditation agency and shall be of like force and effect as if they were contained in the certificate of registration; or revoke the certificate of registration of the accreditation agency. Sub-clause (5) provides that the Authority shall, place the report submitted by the Accreditation Audit Committee and the action taken thereon by the Authority on its website to ensure transparency in the process.

Clause 19.—This clause provides that no accreditation agency shall, except under, and in accordance with the conditions of a certificate of registration obtained from the Authority under the proposed legislation and in accordance with rules and regulations made thereunder, undertake accreditation of any higher educational institution or any

programme conducted therein. It further provides that any agency set up by or under any law for the time being in force, which is carrying out the work of accreditation of higher educational institutions or programmes conducted therein, on or before the date of commencement of this Act, may continue to do so until the certificate of registration is granted to it by the Authority. It also provides that existing agency carrying out the work of accreditation shall make an application for registration as an accreditation agency under this legislation within a period of one hundred and eighty days from the date of establishment of the Authority. It also provides that the Authority shall either issue the certificate of registration or reject the application within a period of one hundred and twenty days from the date of such application.

Clause 20.— This clause provides that every application for registration as an accreditation agency shall be made to the Authority in such form and manner and accompanied by such other documents and on payment of such fees as may be specified by regulations. Sub-clause (2) provides that every application shall be accompanied with a detailed mechanism for detecting any potential conflict of interest between the applicant or its employees or experts and a higher educational institution, a credible mechanism for transparency in respect of the financial status and financial dealings of the applicant, a reliable public information disclosure policy for accreditation of any higher educational institution or any programme conducted therein, complete processes and procedures to be followed by the applicant in the accreditation of any higher educational institution or any programme conducted therein and such other documents as may be specified by regulations by the Authority.

Clause 21.—This clause provides for the eligibility criteria and conditions for an applicant to be registered as an accreditation agency. It provides that no application for grant of a certificate of registration shall be considered by the Authority, unless the applicant is a non-profit organization being a company registered under section 25 of the Companies Act, 1956 or a society formed and registered under the Societies Registration Act, 1860 or a trust formed under the Indian Trusts Act, 1882 or any other law for the time being in force and such company, society or trust is formed or controlled by the Central Government or a State Government or any authority or board or institution established under any Central or State Act. It further provides the applicant must satisfy the following other conditions, namely; that the applicant has, in its memorandum of association or in the trust deed, specified accreditation of higher educational institutions as one of its main objects; the applicant has adequate infrastructure to enable it to provide accreditation services in accordance with the provisions of the proposed legislation or such infrastructure as may be specified by regulations by the Authority; the applicant and the promoters of the applicant have professional competence, financial soundness and general reputation of fairness and integrity to the satisfaction of the Authority; the applicant or its promoters or any member of the governing body of the applicant or its promoter is not involved in any legal proceeding connected with any higher educational institution except in course of any accreditation proceedings carried out in pursuance of the provisions of the proposed legislation and regulations made thereunder; the applicant or its promoters, or any director, or member, or trustee has, at any time in the past, not been convicted of any offence involving moral turpitude or any economic offence; the applicant has, in its employment, persons having adequate professional and other relevant experience to the satisfaction of the Authority; the applicant or any person directly or indirectly connected with the applicant has in the past not been refused by the Authority a certificate of registration or subjected to any proceedings for contravention of the proposed legislation or of rules or regulations made thereunder or any other law for the time being in force; the applicant in all other respects, is a fit and proper person for the grant of a certificate and the applicant conforms to such other conditions as may be specified by regulations.

Clause 22.—This clause provides that the Authority shall, on receipt of the application for grant of certificate of registration, issue a public notice in a form and

manner as may be specified by regulations by the Authority, and place the application together with all documents received with the application on the website of the Authority for a period of sixty days from the date of issue of the public notice. Sub-clause (2) provides that any person may, submit his comments or objections, if any, on the application or part thereof, to the Authority within a period of sixty days from the date of issue of the public notice. Sub-clause (3) provides that the Authority may require the applicant to furnish such other information or clarification as it may consider necessary within the period of sixty days from the date of issue of the public notice. Sub-clause (4) provides that the Authority may obtain the advice of such experts, as it deems fit, for the specific purpose of evaluating the competency of the applicant. Sub-clause (5) mandates that the applicant shall, within a period of seven days after making the application, forward a copy of the application with other documents to all State Governments and sub-clause (6) requires that the State Governments shall send its recommendations, if any, to the Authority within a period of forty-five days after the receipt of the copy of the application. Sub-clause (7) provides that the applicant shall be afforded an opportunity to submit his response on the comments or objections received or clarifications sought or recommendations made by the State Government, if any. It also provides that the response shall be submitted by the applicant within a period of thirty days from the expiry of the period of sixty days from the date of issue of the public notice. Sub-clause (8) provides that the Authority shall, before granting a certificate of registration, conduct a public hearing, in a manner as may specified by regulations, to consider all comments or objections or clarifications or recommendations, if any, and the response of the applicant, including any other matter as the Authority may deem fit for such consideration.

Clause 23.—This clause provides that the Authority shall, as far as practicable within a period of six months from the receipt of such application, and after considering the comments or objections or clarifications or recommendations, issue a certificate of registration as an accreditation agency on such terms and conditions as may be specified in such certificate; or reject the application for reasons to be recorded in writing if such application does not conform to the provisions of the proposed legislation or rules or regulations made thereunder or the provisions of any other law for the time being in force. It further provides that no application shall be rejected unless the applicant has been given an opportunity of being heard. Sub-clause (2) provides that the Authority shall, while issuing a certificate of registration, approve the documents submitted by the applicant under clause 19 as such or with such modifications as it may deem fit, and thereupon the accreditation agency shall follow the procedures and conditions so approved in its process of accreditation. Sub-clause (3) provides that the documents so approved shall be considered as an integral part of the certificate of registration which shall not be modified or altered without the approval of the Authority. Sub-clause (4) provides that the Authority may, if it so deems fit, in the certificate of registration granted to an accreditation agency, limit the area or programme for which such accreditation agency may exercise its duties and responsibilities of accreditation. Sub-clause (5) provides that a certificate of registration shall be valid for a period of ten years unless such certificate is revoked earlier in accordance with the provisions of the proposed legislation.

Clause 24.—This clause provides that a certificate of registration may, on an application made by the accreditation agency, be renewed by the Authority for such period and on payment of such fees as may be specified by regulations but no application for renewal of the certificate of registration shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Clause 25.—This clause provides that no accreditation agency shall, without the prior approval of the Authority effect any change in its ownership, or governing body or board of trustees, or the memorandum of association or articles of association or the trust deed.

Clause 26.—This clause provides that the Authority, may, in the public interest or for ensuring advancement of academic quality, on an application of the accreditation agency or otherwise, make such alterations and amendments in the terms and conditions of the certificate of registration as it thinks fit, in accordance with the procedure as may be specified by regulations by the Authority.

Clause 27.—This clause provides for suspension or revocation of certificate of registration. It provides that if the Authority, on a complaint or otherwise, and after making such enquiry as it deems fit, is satisfied that public interest so requires, it may revoke the certificate of registration where the accreditation agency, in the opinion of the Authority, makes wilful or continuous default in any act of commission or omission as required by or under the proposed legislation or the rules or regulations made thereunder; or where the accreditation agency commits breach of any of the terms or conditions of the certificate of registration which is expressly declared by such certificate of registration to render it liable to revocation or where the accreditation agency fails, within the period fixed in this behalf by its certificate of registration or any longer period which the Authority may have granted for the purpose, to show to the satisfaction of the Authority, that such agency is in a position fully and efficiently to discharge the duties and obligations imposed on it by its certificate of registration or where in the opinion of the Authority the financial position of the accreditation agency is such that such agency is unable fully and efficiently to discharge the duties and obligations imposed on it by its certificate of registration or if the accreditation agency has ceased to exist. Sub-clause (2) provides that no certificate of registration shall be revoked unless the Authority has given to the accreditation agency not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the certificate of registration, and has considered any cause shown by the accreditation agency against the proposed revocation. Sub-clause (3) requires that where the Authority is of the opinion that the public interest so requires or for ensuring the advancement of academic quality, it may, on conclusion of the enquiry under sub-clause (1), suspend the certificate of registration granted to the accreditation agency till such time as a decision on the revocation of such certificate of registration or otherwise, is taken by the Authority. Sub-clause (4) provides that where the Authority revokes a certificate of registration, it shall serve an order of revocation upon the accreditation agency and fix a date on which the revocation shall take effect and the revocation shall be without prejudice to the action which may be taken against it in under any other law for the time being in force. Sub-clause (5) provides that the Authority may, instead of revoking a certificate of registration, permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the accreditation agency and shall be of like force and effect as if they were contained in the certificate of registration. Sub-clause (6) requires the Authority to publish on its website any action initiated against any accreditation agency and the final decision on the revocation of the certificate of registration or otherwise together with all documents and reasons for its decision. Sub-clause (7) provides that where the certification of any accreditation agency has been revoked, the Authority shall conduct an audit of all the higher educational institutions accredited by such agency within a period of one year before the date of the revocation within a period of sixty days. Sub-clause (8) requires the Authority to take or cause to be taken measures which may be necessary to protect the interests of students while suspending or revoking a certificate of registration.

Clause 28.—This clause provides that any person aggrieved by an order made by the Authority in respect of an accreditation agency or in respect of a matter under clause 31 may prefer an appeal against the order to the National Educational Tribunal both on facts and law, within a period of sixty days from the date of the order. It further provides that the National Educational Tribunal may entertain an appeal after the expiry of the period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within this period.

Clause 29.—This clause specifies the duties and obligations of an accreditation agency while undertaking accreditation of a higher educational institution. It provides that the accreditation agency, while undertaking accreditation of a higher educational institution or programme conducted therein, shall have regard to following principles in discharging its obligations for the advancement of knowledge, namely; advancement of academic quality; enabling uniform reference of standards of academic quality in any class or classes of higher educational institutions or any one or more programmes conducted therein; informing stakeholders including students and employers about the quality of the higher educational institution or any programme conducted therein; rendering assistance to higher educational institutions in managing and enhancing their academic quality working towards the development of explicit intended learning outcomes and adherence to such other principles for advancement of knowledge which may evolve from time to time. Sub-clause (2) requires the accreditation agency to follow the standards in respect of academic quality specified by the appropriate statutory regulatory authority while undertaking accreditation of higher educational institutions or any programme conducted therein. Sub-clause (3) requires every accreditation agency to abide by the code of ethics.

Clause 30.—This clause provides that every accreditation agency shall accredit a higher educational institution or a programme conducted therein on an application made to it by the institution in a form and manner, and on payment of such fees, as may be specified by regulations by the Authority. Sub-clause (2) provides that the processes and procedures for accreditation of a higher educational institution or a programme shall be specified by regulations by the Authority. Sub-clause (3) provides that the accreditation of a higher educational institution or a programme in such institution shall be done at such intervals and after such periods as may be specified by the appropriate statutory regulatory authority. Sub-clause (4) provides that the accreditation agency shall, while undertaking accreditation of a higher educational institution or a programme, provide an opportunity to the stakeholders in the higher educational institution, including students and employees, to submit their views on matters of academic quality. Sub-clause (5) requires the accreditation agency to give a reasonable opportunity to the higher educational institution to file suggestions or objections, if any, on the draft accreditation prepared by it and it shall take note of suggestions or objections received, if any, while finalising the accreditation. Sub-clause (6) provides that the accreditation agency shall publish on its website the accreditation together with all documents and reasons for such accreditation.

Clause 31.—This clause provides that by any person aggrieved by the accreditation decided by any accreditation agency may apply to the Authority for withdrawal of such accreditation or its modification and the Authority shall take a decision on an application within ninety days.

Clause 32.—This clause provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of the proposed legislation.

Clause 33.—This clause provides for constitution of a Fund to be called the "National Accreditation Regulatory Authority for Higher Educational Institutions Fund". It further provides that all grants and loans made to the Authority by the Central Government; all fees and charges received by the Authority; and all sums received by the Authority from such other sources as may be decided upon by the Central Government, shall be credited into the Fund. Sub-clause (2) provides that the Fund shall be applied for meeting the salary, allowances and other remuneration of the Chairperson, other Members, officers and other employees of the Authority and the expenses of the Authority incurred in the discharge of its functions and for purposes of the proposed legislation.

Clause 34.—This clause provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in a form as may be prescribed by the Central Government, in consultation with the Comptroller and Auditor-General of India. The accounts of the Authority shall be audited at specified intervals by the Comptroller and Auditor-General of India and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India. The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any office of the Authority. The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Authority and the Government shall cause the same to be laid before each House of Parliament.

Clause 35.—This clause provides that the Authority shall prepare every year in a prescribed form and times, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament. Sub-clause (2) provides that the Authority shall also forward a copy of the annual report so prepared to all appropriate statutory regulatory authorities.

Clause 36.—This clause provides that if an accreditation agency fails to comply with the obligations referred to sub-clause (1) of clause 29 and the adherence to the code of ethics referred to sub-clause (3) of clause 29, it shall be liable to pay such compensation, to the higher educational institution for any loss or damages suffered by such institution, as may be determined by the State Educational Tribunal without prejudice to any penalty which may be imposed under the proposed legislation. It further provides that before determination of any compensation, the accreditation agency shall be given a reasonable opportunity of being heard by the State Educational Tribunal having jurisdiction over the institution.

Clause 37.—This clause provides for punishment to an accreditation agency for contravention of the provisions of the proposed legislation. It provides that an accreditation agency which contravenes any provision of this Act or rules or regulations made thereunder, or the standards specified under any law for the time being in force by the appropriate statutory regulatory authority, or the terms and conditions specified in the certificate of registration, shall be liable to a penalty which may extend to five lakh rupees without prejudice to proceeding for prosecution under the provisions of this Act or any other law for the time being in force.

Clause 38.—This clause provides that if a person, without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault an officer of the Authority or any person assigned to discharge any function, or in exercising his functions under the proposed legislation, such person shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

Clause 39.—This clause provides that that whoever contravenes the provisions of clause 19 shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to five lakh rupees or with both.

Clause 40.—This clause provides for punishment for knowingly providing false information. It provides that if any person provides any information or produces any document under the proposed legislation or under any rule or regulation made thereunder, or delivers an account or statement which is false, and which he either

knows or believes to be false, or does not believe to be true, such person shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

Clause 41.—This clause provides that if any person contravenes or attempts to contravene or abets the contravention of the provisions of the proposed legislation or of any rules or regulations made thereunder, for which no punishment is provided elsewhere in the proposed legislation, such person shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten lakh rupees or with both.

Clause 42.—This clause provides that where an offence under the proposed legislation has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence, then such person shall not be liable to the punishment. It also provides that notwithstanding anything contained in sub-clause (1), where any offence under the proposed legislation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. It also explains the expressions "company" and "director" used in this clause.

Clause 43.—This clause provides that where an offence under the proposed legislation has been committed by a society or trust or agency or institution, every person who at the time the offence was committed was in charge of, and was responsible to, the society or trust or agency or institution for the conduct of the business of the society or trust or university, as well as the society or trust or agency or institution, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence, then such person shall not be liable to the punishment. It also provides that notwithstanding anything contained in sub-clause (1), where any offence under the proposed legislation has been committed by a society or trust or agency or institution and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any governors, vice-chancellor, directors, committee, trustees, registrar or other officer, such governors, directors, committee, trustees, registrar or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Clause 44.—This clause provides that no court shall take cognizance of any offence under the proposed legislation, except on the complaint in writing of the person authorised by the Authority and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under the proposed legislation.

Clause 45.—This clause provides for adjudication of certain matters by the State Educational Tribunals and the National Educational Tribunal. It provides that except as otherwise provided in the proposed legislation, all matters under clause 36, including determination of compensation thereunder shall be adjudicated by the State Educational Tribunal having jurisdiction. Sub-clause (2) provides that except as otherwise provided in the proposed legislation, all matters under clause 37, including the penalties leviable thereunder shall be adjudicated by the National Educational Tribunal.

Clause 46.—This clause empowers the Central Government to call upon the Authority, by a general or special order, to furnish, periodically or as and when required any information concerning the activities carried on by the Authority or any accreditation agency or higher educational institution in matters concerning accreditation, in a prescribed form, to enable that Government, to carry out the purposes of the proposed legislation. Sub-clause (2) similarly empowers the Authority to call upon any accreditation agency or higher educational institution, by a general or special order, to furnish, periodically or as and when required any information concerning the activities carried on by such accreditation agency or institution, in such form as may be specified by regulations, to enable the Authority, to carry out the purposes of the proposed legislation.

Clause 47.—This clause provides that the accreditation agency shall furnish to the Authority at specified times and in specified form and manner or as the Authority may direct, its returns, statements and particulars in regard to accreditation of higher educational institutions, as the Authority may, from time to time, require. Sub-clause (2) states that without prejudice to the provisions of sub-clause (1), the accreditation agency shall submit to the Authority a report along with audited statement of accounts in a form specified by regulations, within a period of ninety days after the end of each financial year, giving a true and full account of its activities, policy and programmes in regard to accreditation of higher educational institutions by the agency during the previous financial year.

Clause 48.—This clause empowers the Central Government to issue directions on questions of policy. It provides that without prejudice to the foregoing provisions of the proposed legislation, the Authority shall be bound by such directions on questions of policy, other than those relating to technical and administrative matters, in exercise of its powers or the performance of its functions under the proposed legislation, as the Central Government may give in writing to it from time to time. It further provides that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given to it. Sub-clause (2) provides that the decision of the Central Government on whether a question is one of policy or not shall be final.

Clause 49.—This clause empowers the Central Government to exempt any class or classes of higher educational institutions from the provisions of the proposed legislation. It provides that if the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, or for advancement of knowledge, it may, by notification and subject to such conditions as may be specified in the notification, exempt any class or classes of higher educational institutions from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such notification.

Clause 50.—This clause empowers the Central Government to supersede the Authority for specified reasons. It provides that if at anytime the Central Government is of the opinion that on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of the proposed legislation or that the Authority has persistently made default in complying with any direction given by the Central Government under the proposed legislation or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of the proposed legislation or that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification. It also provides that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representation against the proposed supersession and shall consider representations, if any, of the Authority. Sub-clause (2) provides that upon the publication of a notification superseding the Authority, the Chairperson and other Members shall, as from the date

of supersession, vacate their offices as such and all the powers, functions and duties which may, by or under the provisions of the proposed legislation, be exercised or discharged by or on behalf of the Authority shall be exercised and discharged by the Central Government or such authority as the Central Government may specify in this behalf until the Authority is reconstituted under sub-clause (3), and all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-clause (3), vest in the Central Government. Sub-clause (3) provides for the reconstitution of the Authority and states that on or before the expiration of the period of supersession specified in the notification, the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office at the time of its supersession shall not be deemed to be disqualified for re-appointment. Sub-clause (4) requires the Central Government to cause the notification issued for supersession of the Authority accompanied with a full report of any action taken under this clause and the circumstances leading to the action, to be laid before each House of Parliament at the earliest.

Clause 51.—This clause provides bar of jurisdiction of civil court. It provides that no court shall have jurisdiction to entertain any dispute or proceeding in respect of any matter which the Authority or the National Educational Tribunal is empowered by or under the proposed legislation to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the proposed legislation.

Clause 52. —This clause provided that the Chairperson, other Members and the officers and other employees of the Authority shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

Clause 53. —This clause seeks to provide protection to the Central Government, the Chairperson and other Members of the Authority for anything which is in good faith done or intended to be done in pursuance of the proposed legislation or any rule or regulation made thereunder in the discharge of official duties.

Clause 54.—This clause provides that subject to the provisions of the University Grants Commission Act, 1956, the provisions of the proposed legislation shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the proposed legislation.

Clause 55.—This clause provides that the provisions of the proposed legislation shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Clause 56.—This clause empowers the Central Government to make rules, by notification in the Official Gazette, for carrying out the provisions of the proposed legislation. It further specifies the matter for which the Central Government may make rules.

Clause 57.—This clause empowers the Authority to make regulations, by notification in the Official Gazette, for carrying out the provisions of the proposed legislation. It further specifies the matter for which the Authority may make regulations.

Clause 58.—This clause provides that the every rule made by the Central Government, every regulation made by the Authority and every notification issued under clause 49 for supersession of the Authority shall be laid before each House of Parliament.

Clause 59.—This clause provides for provisions for removal of difficulties. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the proposed legislation

as may appear to it to be necessary for removing the difficulty. It further provides that such order shall be made within a period of two years from the date of commencement of the proposed legislation. It also provides that every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the establishment of the National Accreditation Regulatory Authority for Higher Educational Institution to exercise the powers conferred on it by or under the proposed legislation. Clause 6 of the Bill provides that the said Authority shall consist of a Chairperson and four other Members. Sub-clause (2) of clause 9 of the Bill provides that the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members shall be determined by the Central Government by rules made by it. Sub-clause (1) of clause 15 of the Bill empowers the Central Government to determine the nature and categories of officers and other employees required to assist the said Authority. Sub-clause (3) of said clause provides that the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the said Authority shall be such as may be prescribed.

2. On a representation basis, the recurring annual expenditure on salary of the Chairperson, Members and officers and other employees of the Authority and other administrative expenses is estimated to be ten crore rupees and one-time capital investment is estimated to be about one crore fifty lakh rupees. The manpower requirement and the total financial implication in terms of recurring and non-recurring expenditure would however, be determined after the appointment of the Chairperson and Members of the proposed Authority. Hence, it would be difficult to work out the exact expenditure, both recurring and non-recurring at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 56 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include—(a) the manner of nomination of experts in the concerned field of knowledge to the Selection Committee under sub-section (3) of section 8; (b) the term of Selection Committee and the manner of selection of panel of names under sub-section (4) of section 8; (c) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Authority under sub-section (2) of section 9; (d) the other disqualifications for removal of the Chairperson or other Members under clause (i) of sub-section (1) of section 10; (e) the procedure for the inquiry under sub-section (4) of section 10; (f) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the Authority under sub-section (3) of section 15; (g) the other functions which the Authority may perform under clause (n) of sub-section (2) of section 16; (h) the fees and remuneration payable to, the period, qualifications and experience of, and the manner in which the Authority may engage experts under section 17; (i) the form and manner in which an appeal may be preferred and the documents to be accompanied with it and the fees payable therewith under section 28; (j) the form for maintaining proper accounts and other relevant records and the annual statement of accounts of the Authority under sub-section (1) of section 34; (k) the form in which, and the time at which, the annual report of the Authority shall be prepared under section 35; (l) the information concerning the activities carried on by the Authority or any accreditation agency or higher educational institution in matters concerning accreditation to be furnished to the Central Government under sub-section (1) of section 46; and (m) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

2. Clause 57 of the Bill empowers the National Accreditation Regulatory Authority for Higher Educational Institutions to make, by notification in the Official Gazette, regulations for carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such regulations may be made. These matters, *inter alia*, include—(a) the code of ethics and such other ethical principles to be adhered to by an accreditation agency under clause (h) of sub-section (1) of section 3; (b) the form and manner in which an application may be made and the documents to be accompanied with it and the fee payable therewith under sub-section (1) of section 20; (c) such other documents that an applicant has to submit along with his application for grant of certificate of registration as may be specified under clause (e) of sub-section (2) of section 20; (d) the infrastructure that an applicant shall possess for providing accreditation services under clause (d) of section 21; (e) the other conditions of eligibility for grant of certificate of registration under clause (k) of section 21; (f) the form and manner in which the public notice may be issued under sub-section (1) of section 22; (g) the manner of conducting public hearing by the Authority under sub-section (8) of section 22; (h) the fees payable and the period for which the certificate of registration granted to an accreditation agency may be renewed under sub-section (1) of section 24; (i) the procedure for grant of approval in respect of any change in the ownership structure or the memorandum of association of an accreditation agency under section 25; (j) the procedure for making amendment or alteration in the terms and conditions of the certificate of registration under section 26; (k) the form and manner in which an application may be made for accreditation of any higher education institution or any programme therein and the documents to be accompanied with it and the fee payable therewith under sub-section (1) of section 30; (l) the procedure and process to be followed by the accreditation agency for accreditation of any higher educational institution or any programme conducted therein under sub-section (2) of section 30;

(m) the information concerning the activities carried on by the accreditation agency or the higher educational institutions to be furnished to the Authority under sub-section (2) of section 46; (n) the time at which and the form and manner in which the returns and statements and particulars in regard to accreditation of higher educational institutions by the accreditation agency under sub-section (1) of section 47; (o) the form and manner in which the report, along with audited statement of accounts, giving a true and full account of activities, policy and programme in regard to accreditation of higher educational institutions by the accreditation agency under sub-section (2) of section 47; and (p) any other matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulations.

3. The rules made by the Central Government under clause 56 and regulations made by the Authority under clause 57 of the Bill, shall be laid, as soon as they are made, before both the House of Parliament under clause 58 of the Bill.

4. The matters in respect of which rules and regulations may be made are matter of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers, therefore, of a normal character.

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to make provisions for assessment of academic quality of higher educational institutions, programmes conducted therein and their infrastructure through mandatory accreditation by independent accreditation agencies and to establish a statutory Authority for the said purpose and to provide for matters connected therewith or incidental thereto.

(Shri Kapil Sibal, Minister of Human Resource Development.)

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