

Bill No. 23 of 2017

THE HIGHER EDUCATIONAL INSTITUTIONS
(REGULATION OF FEE) BILL, 2017

By

SHRIMATI SUPRIYA SULE, M.P.

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BILL

to provide for regulation of fee in higher educational institutions with a view to make higher education accessible to all and for matters connected therewith.

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

1. (1) This Act may be called the Higher Educational Institutions (Regulation of Fee) Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) “appropriate Government” means in the case of a State and Union territory with Legislative Assembly, the State Government and the Government of the Union territory, respectively, and in all other cases, the Central Government;

(b) “capitation fee” means any amount demanded or charged or collected, directly or indirectly, for, or, on behalf of any institution, or paid by any person in consideration of admitting any person as student in an institution over and above the course fee; 5

(c) “higher education” means education after senior secondary education;

(d) “Higher Educational Institution” means a technical educational institution or a medical educational institution, whether unaided or aided by the appropriate Government, or any such institution registered under the Societies Registration Act, 1860 and recognized as such by the appropriate statutory authority or a university as defined in section 2 of the University Grants Commission Act, 1956 and includes an institution deemed to be a university under section 3 of that Act or under any other law for the time being in force but does not include an unaided minority educational institution; 10 15

(e) “National Committee” means the National Committee for Regulation of Fee in Higher Educational Institutions constituted under section 4;

(f) “parent” means biological or adoptive mother or father of a child;

(g) “prescribed” means prescribed by rules made under this Act; 20

(h) “senior secondary education” means education upto class twelfth; and

(i) “State Committee” means the State Committee for Regulation of Fee in Higher Educational Institutions constituted under section 6.

21 of 1860.
3 of 1956.

Prohibition on charging capitation fee.

3. Notwithstanding anything contained in any other law for the time being in force, no Higher Educational Institution shall charge capitation fee in any form for admission in such institution. 25

Constitution of the National Committee for Regulation of Fee in Higher Educational Institutions.

4. (1) **The Central Government shall, by notification in the Official Gazette, constitute a National Committee to be known as the National Committee for Regulation of Fee in Higher Educational Institutions for carrying out the purposes of this Act.**

(2) The National Committee shall consist of— 30

(a) a representative from the University Grants Commission, who shall be Chairperson of the National Committee;

(b) a representative each from the All India Council of Technical Education (AICTE), the Medical Council of India (MCI), the Indian Council for Agricultural Research (ICAR), the National Council for Teacher Education (NCTE), the Dental Council of India (DCI), the Pharmacy Council of India (PCI), the Indian Nursing Council (INC), the Bar Council of India (BCI), the Central Council of Homoeopathy (CCH), the Central Council for Indian Medicine (CCIM), the Council of Architecture, the Distance Education Council (DEC), the Rehabilitation Council of India for Rural Institutes (NCRI) and the State Councils of Higher Education (SCHE) as members; and 35 40

(c) **an eminent economist and a statistician as member,**

to be appointed by the Central Government in such manner as may be prescribed.

(3) The term of office of the members of the National Committee shall be five years and they shall not be eligible for re-appointment.

(4) **The salary and allowances payable to and other terms and conditions of service of eminent economist and statistician shall be such as may be prescribed.** 45

	5. The National Committee shall,—	Functions of the National Committee.
	(a) prescribe the fee to be charged for each of the courses run by a higher educational institution;	
5	(b) define the principle of 'reasonable surplus' and 'non-profiteering' on the basis of cost-fee analysis for courses run by higher educational institution; and	
	(c) undertake such other function as may be assigned to it by the Central Government, from time to time.	
10	6. (1) Every State Government shall, within three months from the date of coming into force of this Act and in consultation with the respective State Higher Education Boards, by notification in the Official Gazette, constitute a State Committee to be known as the State Committee for Regulation of Fee in Higher Educational Institutions.	Constitution of State Committee.
	(2) The State Committee shall consist of such number of members representing the State Higher Education Boards, teachers, parents and students to be appointed by the State Government concerned in such manner as may be prescribed.	
15	7. The State Committee shall,—	
	(a) ensure that the fee structure submitted by the higher educational institutions within the State conforms to the principles of, 'reasonable surplus' and 'non-profiteering' defined by the National Committee under section 5; and	
20	(b) undertake such other function as may be assigned to it by the Central Government, from time to time.	
	8. Every Higher Educational Institution shall formulate its fee structure for the courses run by it in consonance with the principles of 'reasonable surplus' and 'non-profiteering' as defined by the National Committee under section 5.	Higher Educational Institutions to formulate the fee structure.
25	9. The provisions of this Act shall not apply to unaided minority higher educational institutions.	Act not to apply to unaided minority institutions.
	10. Any Higher Educational Institution which demands or accepts any fee or donation, in any form or manner whatsoever, in violation of the provisions of this Act shall be liable to fine which shall not be less than rupees ten lakh but which may extend upto rupees twenty lakh.	Penalty.
30	11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the State Governments for carrying out the purposes of this Act.	Central Government to provide necessary funds.
	12. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.	Overriding effect of the Act.
35	13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.	Act to supplement other laws.
	14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.	Power to make rules.
40	(2) Every rule made under this Act shall be laid, as soon as may be after it is made, 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 the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule 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.

STATEMENT OF OBJECTS AND REASONS

India is one of the few countries to have relatively younger workforce. To benefit from this demographic dividend, it is important to invest in its youth and to make them more productive. Imparting of higher education and the skills acquired through it are quintessential for progress of a developing nation. Thus, commercialisation of higher education with the motive of profiteering must be checked.

The Supreme Court of India in its various judgments has ruled in favour of regulation of fee in Higher Educational Institutions. Any move to regulate the fee in Educational Institutions will promote the access to higher education to all.

In *TMA Pai Foundation v/s State of Karnataka (2002)*, the Supreme Court ruled that the fee charged by private unaided institutions can be limited by the State to prevent profiteering, while allowing for 'reasonable surplus'.

In 2003 in *Islamic Academy of Education v/s State of Karnataka (2003)*, the Supreme Court observed that the Educational Institutions can form their own fee structures, and the funds must be used to provide facilities to students and to further the growth of the educational institutions.

In line with the Supreme Court's judgment, some States did set up Committees to monitor the fee structure of Higher Educational Institutions. But, there is no framework at the national level prescribing the criteria for limits on fee and the definition of terms 'reasonable surplus' and 'profiteering'. The proposed Bill aims to provide a broad framework for regulation of fee in Higher Educational Institutions.

Hence this Bill.

NEW DELHI;
January 2, 2017.

SUPRIYA SULE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of National Committee for Regulation of Fee in Higher Educational Institutions. It also provides for appointment of an economist and statistician to the National Committee. Clause 6 provides for constitution of State Committee by the State Government concerned. Clause 11 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty-five crores would be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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(Shrimati Supriya Sule, M.P.)