

Bill No. LVI of 2013

THE NALANDA UNIVERSITY (AMENDMENT) BILL, 2013

A

BILL

to amend the Nalanda University Act, 2010.

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

1. (1) This Act may be called the Nalanda University (Amendment) Act, 2013.

Short title
and
commencement.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

39 of 2010. 5 2. In the Nalanda University Act, 2010 (hereinafter referred to as the principal Act), in the preamble,—

Amendment
of preamble.

(a) in paragraph 3, after the words, "State of Bihar", the words "as a contemporary University inspired by the academic excellence and global vision of the historic Nalanda" shall be inserted;

10 (b) after paragraph 3, the following paragraph shall be inserted, namely:—

“AND WHEREAS, as the University progresses, it is intended to conclude an inter-governmental agreement, and encourage Member States of the East Asia Summit to become parties to the said agreement.”.

Amendment
of section 7.

3. In section 7 of the principal Act,—

(a) in sub-section (1)—

(i) for clause (c), the following clause shall be substituted, namely:—

"(c) five members, one each to be nominated by five Member States of the East Asia Summit, invited by the Government of India with the concurrence of the Visitor;" 5

(ii) in clause (d), for the words "rank of Secretary", the words "rank of Secretary dealing with East Asia Summit Member States" shall be substituted;

(iii) for clause (g), the following clause shall be substituted, namely:—

"(g) five persons of eminence to be recommended by the Governing Board and nominated with the approval of the Visitor;" 10

(iv) after clause (g), the following clause shall be inserted, namely:—

"(h) two members of the academic faculty of the University nominated by the Vice-Chancellor.";

(b) in sub-section (2), for the words, brackets and letters "clauses (c) to (g)", the words, brackets and letters "clauses (c), (e), (g) and (h)" shall substituted; 15

(c) in sub-section (3), for the words "The Chancellor", the words "The Chancellor or in his absence, any member nominated by him from the Governing Board" shall be substituted;

(d) for sub-section (4), the following sub-section shall be substituted, namely:— 20

"(4) The Registrar of the University shall be the Secretary of the Governing Board.".

Amendment
of section 8.

4. In section 8 of the principal Act, in the proviso to sub-section (2), for the words, brackets and letters "clauses (c) to (g)", the words, brackets and letters "clauses (c) to (h)" shall be substituted. 25

Amendment
of section 9.

5. In section 9 of the principal Act,—

(i) in sub-section (1),—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) to meet and set global standards of academic excellence and research and enable capacity building in the domain of philosophy, language, history and other areas of higher learning;" 30

(b) in clause (b), for the words "promotion of", the words "promotion of global inclusiveness" shall be substituted;

(c) clause (c) shall be omitted;

(d) after clause (i), the following clause shall be inserted, namely:— 35

"(j) to encourage other interested countries, who are not members of the East Asia Summit, to collaborate in developing the Nalanda University as an international centre of excellence.";

(ii) in sub-section (2), for the words "from each of the Member States", the words "from the Member States, Institutions and Organisations" shall be substituted; 40

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in sub-section (2), the Government of India may meet both capital and recurring expenditure of the University to the extent required.".

	6. In section 10 of the principal Act,—	Amendment of section 10.
	(a) for clause (ii), the following clause shall be substituted, namely:—	
	“(ii) to set up a consortium of international partners in furtherance of the objectives of the University;”;	
5	(b) in clause (ix), for the words “Readerships and Lecturerships”, at both the places where they occur, the words “Associate Professorships and Assistant Professorships” shall be substituted;	
	(c) in clause (xxiii), for the word “Ordinances”, the word “Statutes” shall be substituted;	
10	(d) in clause (xxiv), for the words “to borrow”, the words “to borrow funds” shall be substituted;	
	(e) after clause (xxviii), the following clause shall be inserted, namely:—	
15	“(xxix) to appoint persons working in any other University or academic institution, including those located outside the country, as faculty of the university for a specified period.”.	
	7. In section 11 of the principal Act, for the words “irrespective of gender”, the words “irrespective of nationality, gender” shall be substituted.	Amendment of section 11.
	8. In section 12 of the principal Act, in sub-section (1), the proviso shall be omitted.	Amendment of section 12.
20	9. In section 13 of the principal Act, after clause (2), the following clauses shall be inserted, namely:—	Amendment of section 13.
	“(2A) the Deans;	
	(2B) the Provosts;”.	
	10. After section 15 of the principal Act, the following sections shall be inserted, namely:—	Insertion of new sections 15A and 15B.
25	“15A. The Deans shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes.	Deans.
	15B. The Provosts shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes.”.	Provosts.
30	11. For section 21 of the principal Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 25th November, 2010, namely:—	Substitution of new section for section 21.
35	“21. The University, members of the academic staff and, where applicable, their dependents or members of the family shall enjoy such privileges and immunities as the Central Government may, after entering into an agreement with the University from a date not earlier than the date of the commencement of this Act, notify under section 3 of the United Nations (Privileges and Immunities) Act, 1947.”.	Privileges and immunities of University, academic staff, etc.
46 of 1947.		
	12. In section 22 of the principal Act, for clause (3), the following clause shall be substituted, namely:—	Amendment of section 22.
40	“(3) the Councils of Schools of Studies;”.	
	13. In section 24 of the principal Act,—	Amendment of section 24.
	(a) in sub-section (2)—	

(i) for clause (iv), the following clause shall be substituted, namely:—

“(iv) Economics and Management;”;

(ii) in clause (v), for the word "Langauges", the word “Linguistics” shall be substituted;

(iii) after clause (vi), the following clause shall be inserted, namely:— 5

“(via) Information Sciences and Technology;”;

(b) in sub-section (3), for the word “Board”, the word “Council” shall be substituted;

(c) in sub-section (4), for the words “Boards of School”, the words “Councils of Schools” shall be substituted. 10

Amendment
of
section 27.

14. In section 27 of the principal Act, for clause (k), the following clause shall be substituted, namely:—

“(k) Schools of Studies, members of their Councils and the powers and functions of such Councils;”.

Amendment
of
section 31.

15. In section 31 of the principal Act, in sub-section (3), for the words “shall also be submitted”, the words “shall be sent” shall be substituted. 15

Amendment
of
section 32.

16. In section 32 of the principal Act, sub-section (6) shall be omitted.

Amendment
of
section 42.

17. In section 42 of the principal Act, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 25th November, 2010, namely:— 20

“(3) The power to make Statutes, Ordinances and Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances, Regulations or any of them but no such retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulations may be applicable.”. 25

Amendment
of
section 43.

18. In section 43 of the principal Act,—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) the first Registrar, the first Finance Officer, the first Deans and the first Provosts shall be appointed by the Governing Board, as it may deem fit, and each of the said officers shall hold office for a term of three years;”;

(ii) clause (b) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Nalanda University Act, 2010 (the Act) was enacted to implement the decisions arrived at the Second East Asia Summit held on the 15th January, 2007, in the Philippines and subsequently at the Fourth East Asia Summit held on the 25th October, 2009 in Thailand for the establishment of the Nalanda University in the State of Bihar as an international institution for the pursuit of intellectual, philosophical, historical and spiritual studies and for matters connected therewith or incidental thereto.

2. The Act came into force on the 25th November, 2010. The President of India is the Visitor of the University and Professor Amartya Sen is the Chancellor and Chairman of the Governing Board. The University has commenced its operations from its office in New Delhi. The construction of the buildings that will come up in Phase I is expected to begin in the last quarter of 2013-14. Teaching in the Schools of Ecology and Environment Studies and Historical Studies is expected to begin from leased premises in September, 2014. Teaching in all the seven schools will commence in the academic year 2017-18.

3. It has become necessary to amend certain provisions of the Act in order to create an even better governance structure for the University than exists presently, and help speed up the project. At present, there is no provision in the Act to extend privileges and immunities provided under the Act to the University, in addition to its academic staff so as to enable from the date of the commencement of the Act. A provision is required the Government of India to meet not only the University's capital expenditure but its recurring expenditure as well. The Act does not provide for retrospective operation of the Statutes, Ordinances and Regulations from the date of commencement of the Act, which will provide the University a legal basis for appointments, and for financial decisions made before the Statutes, Ordinances and Regulations came into force.

4. In view of the above, it becomes necessary to amend the Nalanda University Act, 2010 by the Nalanda University (Amendment) Bill, 2013, which, *inter alia*, provides for the following, namely:—

(a) to encourage Member States of the East Asia Summit to conclude an inter-governmental agreement with a view to providing further substantive basis for the University to be treated as an international organisation;

(b) to amend section 7 of the Act relating to the "Governing Board" so as to increase the number of persons of eminence and to include two members from the academic faculty of the University on the Governing Board;

(c) to insert a new sub-section (3) to section 9 of the Act so as to enable the Government of India to meet the University's capital and recurring expenditure to the extent required;

(d) to insert new sections 15A and 15B so as to make a provision for the appointment of Deans and Provosts;

(e) to substitute section 21 of the Act relating to "privileges and immunities" so as to extend the said privileges and immunities to the University, in addition to the members of the academic staff, under the Headquarters Agreement, applicable from the date of commencement of the Act; and

(f) to insert a new sub-section (3) to section 42 so as to empower the University to bring its Statutes, Ordinances and Regulations in to force with retrospective effect from the date of commencement of the Act.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 13th August, 2013.

SALMAN KHURSHID

FINANCIAL MEMORANDUM

Clause 5 of the Bill seeks to amend sub-section (2) of section 9 to provide that the Nalanda University shall be a non-profit public-private partnership, which shall seek support from each of the member States and from other sources but shall be autonomous and accountable to the Governing Board. Accordingly, the University's funding is based on the contributions from the Government of India, and from amongst the Member States of the East Asia Summit, in addition to benefactions, donations and gifts received in accordance with the regulations made by the Governing Board. Private donations, international contributions from other foreign governments and member countries of the East Asia Summit are expected on a voluntary basis.

2. Clause 5 of the Bill further seeks to insert new sub-section (3) to said section so as to provide that the Government of India may meet both capital and recurring expenditure of the University to the extent required. To minimise the burden of recurring expenditure on the Government, the University will take steps to reduce recurring expenditure, and create a revenue model whereby it is able to meet recurring expenditure to the maximum extent possible.

3. Educational Consultants India Ltd. had prepared a detailed Project Report, under which the capital expenditure projected between 2010-2011 and 2021-2022 is Rs. 2154.35 crores, and the recurring expenditure which begins from 2014-2015 is Rs. 1,378.27 crores. On the basis of the said Report, the Ministry of External Affairs had submitted the Expenditure Finance Committee Memorandum for the consideration of the Expenditure Finance Committee (EFC). Based on the observations of the EFC, efforts are being made to significantly reduce both capital and recurring expenditure. Taking into account the inputs, the University is working on a revenue model to deal with recurring expenditure. In parallel, it has constituted an External Endowment Committee to raise funds through Public-Private Partnership, and is also preparing estimates of capital and recurring expenditure beyond 2021-2022. Taking into account the inputs due to be received from the University, the EFC proposal will be further refined and a revised proposal for continuous budgetary support until 2021-2022 will be sent to the EFC. Thereafter, the proposal will be brought before the Cabinet separately.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to insert a new section 15A which provides that the Deans shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the statutes. The said clause of the Bill further seeks to insert a new section 15B which provides that the Provosts shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes.

2. The matters in respect of which the Statutes or Ordinances or Regulations may be made are matters of procedure and administrative detail. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE NALANDA UNIVERSITY ACT, 2010

(39 OF 2010)

* * * * *

AND WHEREAS, it is considered expedient to make provision for implementing the decisions arrived at in the aforesaid East Asia Summits for establishment of the Nalanda University in the State of Bihar and declare it to be an institution of national importance.

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Governing Board.

7. (1) There shall be a Governing Board of the University consisting of the following persons as its members, namely:—

* * * * *

(c) five members from amongst the Member States which provide maximum financial assistance during a period of three years to be nominated by the Member States;

(d) one member, not below the rank of Secretary in the Ministry of External Affairs, to be nominated by the Central Government;

* * * * *

(g) three members from amongst the persons being renowned academician or educationist, to be nominated by the Central Government.

(2) Each member of the Governing Board referred to in clauses (c) to (g) of sub-section (1), shall hold office for a fixed term of three years.

(3) The Chancellor shall be the Chairperson of the Governing Board.

(4) The member, being the Secretary in the Ministry of External Affairs, nominated under clause (d) of sub-section (1), shall be the Member-Secretary of the Governing Board.

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Powers and functions of Governing Board.

8. (1) * * * * *

(2) The Governing Board shall exercise such powers as may be prescribed by the Statutes:

Provided that the Nalanda Mentor Group shall exercise the powers and discharge the functions of the Governing Board for a period of one year or till such time the members referred to in clauses (c) to (g) of sub-section (1) of section 7 are nominated, whichever is earlier.

Objectives of University.

9. (1) The objectives of the University shall be—

(a) to impart education and to enable research towards capacity building of the Member States in the domain of ancient science (in particular, practised in the Nalanda several centuries ago), philosophy, language, history and other areas of higher learning vital for improving the quality of life;

(b) to contribute to the promotion of regional peace and vision by bringing together the future leaders of the East Asia, who by relating to their past history can enhance their understanding of each others' perspectives and to share that understanding globally;

(c) to harmonise the academic standards and accreditation norms in teaching, research and curriculum that are acceptable to all Member States;

* * * * *

(2) The University shall be non-profit public-private partnership, which shall seek support from each of the Member States and from other sources but shall be autonomous and accountable to the Governing Board.

10. The University shall have the following powers, namely:—

Powers of University.

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(ii) to set up a consortium of international partners and friendly countries in furtherance of the objects of the University;

* * * * *

(ix) to institute Professorships, Readerships and Lecturerships and other teaching and academic positions, required by the University and to appoint persons to such Chairs, Professorships, Readerships and Lecturerships and other teaching and academic positions;

* * * * *

(xxiii) to receive benefactions, donations and gifts in accordance with the Ordinances and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties, for the purposes or objects of the University and to invest funds in such manner as it deems fit;

(xxiv) to borrow, with the approval of the Governing Board.

* * * * *

11. The University shall be open to all persons irrespective of gender, caste, creed, disability, ethnicity or socio-economic background.

University open to all persons.

12. (1) The President of India shall be the Visitor of the University:

Visitor.

Provided that the President may, by order, nominate any person to be the Visitor and such person so nominated shall hold office for such term, not exceeding five years as may be specified in the order and the person so nominated shall exercise the powers and discharge duties of the Visitor.

* * * * *

13. The following shall be the officers of the University:—

Officers of University.

* * * * *

21. The members of the academic staff and, where applicable, their dependents or members of the family, shall enjoy such privileges and immunities as the Central Government may, after entering into an agreement with the University, notify under section 3 of the United Nations (Privileges and Immunities) Act, 1947.

Privileges and immunities of academic staff, etc.

46 of 1947.

22. The following shall be the authorities of the University:—

Authorities of the University.

* * * * *

(3) the Boards of Schools of Studies;

24. (1) * * * * *

The School of Studies.

* * * * *

(2) Without prejudice to the generality of the foregoing provision contained in sub-section (1), the University shall have the following Schools, namely:—

* * * * *

(iv) Business Management in relation to Public Policy and Development Studies;

(v) Language and Literature;

* * * * *

(3) Every School of Studies shall have a Board comprising of such members as may be prescribed by the Statutes.

(4) The powers and functions of the Boards of School of Studies shall be prescribed by the Statutes.

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Statutes.

27. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

* * * * *

(k) Schools of Studies, members of its Board and the power and functions of such Board;

* * * * *

Annual report.

31. (1)* * * * *

(3) A copy of the annual report so prepared shall also be submitted to the Member States and exhibited on the website of the University.

Annual accounts, etc.

32. (1)* * * * *

(6) A copy of the audited annual accounts shall also be submitted to the Member States.

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Transitional provisions.

43. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Registrar and the first Finance Officer shall be appointed by the Governing Board and each of the said officers shall hold office for a term of three years;

(b) the first Board of School of Studies shall consist of not more than eleven members, who shall be nominated by the Governing Board and they shall hold office for a term of three years;

* * * * *

RAJYA SABHA

A
BILL

to amend the Nalanda University Act, 2010.

(Shri Salman Khurshid, Minister of External Affairs)