

Karnataka Act No. 8 of 2006

**THE KARNATAKA PROFESSIONAL EDUCATIONAL INSTITUTIONS (REGULATION OF
ADMISSION AND DETERMINATION OF FEE) ACT, 2006**

Arrangement Sections

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STATEMENT OF OBJECTS AND REASONS

I

Act 8 of 2006.- It is considered necessary to provide for regulation of admission and determination of fee in professional educational institutions in the State of Karnataka and to provide for reservation of seats to persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes in professional educational institutions.

The Hon'ble Supreme Court in its judgement in Islamic Academy of Education and others Vs State of Karnataka, reported in (2003) 6 SCC 697, sought to regulate admissions to professional courses through two committees, one for overseeing admissions and the other for approving the fee structure in professional educational institutions, pending enactment of appropriate law by the Parliament.

The Supreme Court in P.A.Inamdar and Others Vs State of Maharashtra reported in (2005) 6 SCC 537 has held that where there is more than one minority or non minority institution or similarly situated institution in the State imparting education in any one discipline then a single common entrance test followed by centralised counseling, or in other words, single window system of admission is necessary in order to achieve the twin objectives of transparency and merit. All institutions of the same or similar type, whether minority or non minority institutions will therefore be required to fill their seats through a single common entrance test followed by centralised counseling.

Further the Apex Court in the same judgement has held that the State can regulate admission by providing a centralized and single window procedure which will ensure fair and merit based admissions and prevent maladministration. If the admission procedure followed by the private institutions fails to satisfy all or any of the triple tests prescribed by the Court, the admission procedure can be taken over by the State substituting its own procedure. It is also pointed out that minority institutions will lose their minority character if there is more than a "sprinkling" of students from non-minority communities in these institutions. The Apex Court has also clarified that the minority students should be from within the State. Taking this into consideration the Bill provides for sixty six percent of reservation in minority institutions for students from that community within the State.

Whereas the population of the Scheduled Castes, Scheduled Tribes and Other Backward Classes exceeds fifty percent of the total population in the State. The Hon'ble Supreme Court in Indirasawhany Vs. Union of India reported in AIR 1993 SC 477 has held that the reservations made for all categories shall not exceed fifty percent. Keeping this in mind the State Government has issued orders providing reservation for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes to the extent of fifty percent under article 15(4) of the Constitution.

Article 15 (5) of the Constitution (as inserted by the Constitution (Ninety-third Amendment) Act, 2005 provided for making any special provision by law by the State Government for advancement of any socially and educationally backward classes of citizen or for the Scheduled Castes or the Scheduled Tribes in relation to admission to education institution including private educational institutions whether aided or unaided, other than minority educational institutions notwithstanding anything contained in article 15 and sub-clause (g) of article 19 of the Constitution.

Based on the above policy it is considered necessary to provide for reservation for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes who are socially and educationally backward to the extent of fifty percent in Government, aided and unaided non-minority professional educational institutions.

Hence the Bill.

[L.A. Bill No. 1 of 2006]

II

Amending Act 39 of 2015.- It is considered necessary to amend the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act, 2006, to provide for,-

- (1) a legal frame work which is acceptable by majority of the Professional Educational Institutions and to empower the state Government to enter into consensual agreement with association of non-minority or minority private unaided professional educational institutions; to protect the interest of merit students of the State and the institutions through consensual agreement by providing a quota of Government seats in Private Educational Institutions to be filled by the Common Entrance Test Committee constituted by the State; and to see that no student selected through Common Entrance Test Committee is over charged or the interest of the Karnataka

Student is protected by providing concessions and scholarship while entering into consensual agreement with private educational institutions;

- (2) to save the action taken by the Government in entering in to consensual agreement with the Association of private professional educational institutions and notifications issued and consequential action taken by the State Government in this regard for the Academic year 2015-16;
- (3) guidelines to the Fee Regulatory Committee to fix the fee appropriately at affordable rate as mandated by the Supreme Court, so that viability of situation is maintained and no student is over charged; and
- (4) certain consequential amendments are also made.

Hence, the Bill.

[L.A. Bill No.22 of 2015, File No. Samvyashae 28 Shasana 2015]

[entry 25 of List III of the Seventh Schedule to the Constitution of India.]

Karnataka Act No. 8 of 2006

(First published in the Karnataka Gazette Extra-ordinary on the twenty fifth day of April, 2006)

THE KARNATAKA PROFESSIONAL EDUCATIONAL INSTITUTIONS (REGULATION OF ADMISSION AND DETERMINATION OF FEE) ACT, 2006

(as Amended by Karnataka Act 39 of 2015.)

(Received the assent of the Governor on the twenty fourth day of April, 2006)

An Act to provide for regulation of admission and determination of fee in professional educational institutions in the State of Karnataka and to provide for reservation of seats to persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes in the seats in professional educational institutions.

Whereas the Hon'ble Supreme Court in its judgement in Islamic Academy of Education and others Vs State of Karnataka, reported in (2003) 6 SCC 697, sought to regulate admissions to professional courses through two committees, one for overseeing admissions and the other for approving the fee structure in professional educational institutions, pending enactment of appropriate law by the Parliament.

And whereas the Supreme Court in P.A. Inamdar and Others Vs State of Maharashtra reported in (2005) 6 SCC 537 has held that where there is more than one minority or non minority institution or similarly situated institution in the State imparting education in any one discipline then a single common entrance test followed by centralised counseling, or in other words, single window system of admission is necessary in order to achieve the twin objectives of transparency and merit. All institutions of the same or similar type, whether minority or non minority institutions will therefore be required to fill their seats through a single common entrance test followed by centralised counseling.

Further the Apex Court in the same judgement has held that the State can regulate admission by providing a centralized and single window procedure which will ensure fair and merit based admissions and prevent maladministration. If the admission procedure followed by the private institutions fails to satisfy all or any of the triple tests prescribed by the Court, the admission procedure can be taken over by the State substituting its own procedure.

And whereas, in the Constitution (Ninety-third Amendment) Act, 2005, a provision has been made under article 15(5) as follows:-

"(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30."

In order to achieve the above object and for the purposes hereinafter appearing it is considered necessary and expedient to provide for the following:

Be it enacted by the Karnataka State Legislature in the fifty-seventh year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act, 2006.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

1. ಈ ಅಧಿನಿಯಮವು ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಇಡಿ 26 ಟಿಇಸಿ 2006(ಭಾಗ-2), ಬೆಂಗಳೂರು, ದಿನಾಂಕ:25.04.2006ರ ಮೂಲಕ ದಿನಾಂಕ: 25.04.2006 ರಿಂದ ಜಾರಿಗೆ ಬಂದಿದೆ. (ಈ ಅಧಿಸೂಚನೆಯನ್ನು ಅಧಿನಿಯಮದ ಕೊನೆಯಲ್ಲಿ ನೋಡಬಹುದು)

2. The Act was kept in to abeyance from 2006-07 to 2013-14 and vide notification no No.ED 162 TEC 2013 at 18.11.2013. was brought in to force (See the text of the notification at the end of the Act).

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

¹[(a) "Admission" means admission made to Professional Educational Courses at Admission Centre through Common Entrance Test based on merit.]¹

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

(b) "Admission Centre" means the centre at which selection and allotment of seats to the candidates to various courses in professional institutions are made through the Common Entrance Test based on merit.

(c) "Admission Overseeing Committee" means the committee constituted by the State Government under section 5 for regulating the admissions in private ¹[aided or]¹ unaided professional educational institutions;

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(d) "Aided institution" means a private professional educational institution receiving financial aid or grant-in-aid from the State Government and includes minority and non-minority educational institutions receiving such financial aid or grant;

(e) "Common Entrance Test" means the entrance test conducted for determination of merit of the candidates followed by centralized counseling for the purpose of admission to professional educational courses through a single window procedure;

¹[(f) "Common Entrance Test Cell or Committee" means the agency of the State Government constituted under section 3 which conducts the Common Entrance Test.]¹

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

¹[(ff) "deemed University institutions" means the institutions of Professional Educational courses established or maintained by deemed Universities located in the State of Karnataka.]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(g) "Fee Regulatory Committee" means the Committee constituted under section 6 for determination and regulation of fee for admission to private unaided professional educational institutions;

(h) "Government" means the State Government;

¹[(i) "Government seats" means all the seats in Government colleges, university constituent colleges, such number of the seats in Private Aided Professional Educational Institutions as may be notified by the State Government and such number of the seats in unaided minority and non-minority professional educational institutions and seats in private universities and deemed universities as may be notified by the State Government in accordance with the consensus arrived at between the private professional educational institutions, private universities, deemed universities and the State Government;]¹

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

(j) "General Category Seats" means the seats other than the reserved seats;

¹[(jj) "Institutional seats" means the seats other than Government seats filled by Private unaided Professional Educational Institutions through common entrance test conducted by association of non-minority or minority Private unaided Professional Educational Institutions.]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(k) "Intake" means and implies the total number of seats sanctioned by the competent authority for admitting students in each course of study in a professional educational institution;

¹[(kk) "Karnataka Student" means persons who have studied in such educational institutions in the State of Karnataka run or recognized by the Government and for such number of years as may be prescribed.]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(l) "Minority" means and includes religious and linguistic minority as may be notified by the State Government;

(m) "Minority educational institution" means the education institutions recognized or notified as such by the State Government subject to such conditions as may be prescribed;

(n) "Non-resident Indian" means a candidate born to a parent of Indian origin and residing outside the country and who has passed the qualifying equivalent examination outside India;

(o) "Other Backward Classes" means class or classes of citizens who are socially and educationally backward as may be notified by the State Government;

(p) "Professional Educational Courses" means,-

(I) In Medical and Dental Institutions, the first year of,-

(i) Bachelor of Medicine and Bachelor of Surgery and

(ii) Bachelor of Dental Surgery

(II) In the Indian Systems of Medicine and Homoeopathy Institutions, the first year of,-

(i) Bachelor of Ayurvedic Medicine and Surgery

(ii) Bachelor of Unani Medicine and Surgery

(iii) Bachelor of Naturopathy and Yoga and

(iv) Bachelor of Homoeopathic Medicine and Surgery

(III) In Engineering Institutions, the first year, first semester and in respect of diploma holders, the second year, third semester (in the case of Architecture course first year, first Semester) of both full-time and part-time courses in,-

(i) Bachelor of Engineering

(ii) Bachelor of Technology; and

(iii) Bachelor of Architecture

and includes any other professional educational courses at undergraduate and postgraduate levels as well as super speciality courses as may be notified by the State Government in this behalf;

(q) "Professional Educational Institution" means college or school or an institute by whatever name called imparting professional education or conducting professional educational courses leading to the award of a degree, diploma or a certificate by whatever name called, approved or recognized by the competent statutory body and affiliated to an university;

(r) "Qualifying examination" means the examination as may be prescribed;

(s) "Reserved seats" means the seats reserved in Government colleges, constituent colleges of universities, private aided and unaided professional educational institutions in favour of persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes as may be notified by the State Government;

(t) "State Common Entrance Test Committee" means the Committee constituted under section 3 which conducts the common entrance test and makes admissions to the Government seats in professional colleges; and

(u) "Unaided institution" means any privately managed professional educational institution, which is not receiving aid or grant-in-aid from the State Government.

(2) The words and expressions used but not defined shall have the same meaning assigned to them as in the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 (Karnataka Act 37 of 1984) and in any other law for the time being in force.

3. State Common Entrance Test Committee.- (1) There shall be a State Common Entrance Test Committee consisting of,-

- ¹[(a) The Principal Secretary to Government, - Chairperson
Department of Higher Education
(a1) The Secretary to Government, Department of - Co-Chairperson
Medical Education
(a2) Vice Chancellor of either Rajiv Gandhi University of - Member]¹
Health Sciences or Vishveshwaraiah Technological
University, nominated by the State Government.

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

- (b) Director of Medical Education : Member
(c) Director of Technical Education : Member
(d) Director of Indian Systems of Medicine
and Homoeopathy : Member
(e) Three persons to be nominated by the
¹[State Government]¹ from among the Principals
of aided or unaided colleges: : Members
(i) One from medical colleges
(ii) One from dental colleges
(iii) One from engineering colleges

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

- (f) Special Officer, Common Entrance Test Cell : Member-Secretary

Provided that, in case all private unaided Professional Educational Institutions agree and opt to fill all of their seats except the seats reserved for non-resident Indian students through State Common Entrance Test Cell, then the State Government may, by notification, re-constitute the State Common Entrance Test Committee consisting of such number of members, as it deems fit, including representatives from the management of private unaided Professional Educational institutions imparting education in Medical, Dental, Engineering and other faculties.

(2) The Committee shall conduct a Common Entrance Test for admission of students to the Government seats in professional educational institutions. For the purpose of ensuring this the State Government shall provide such number of officers and officials to the State Common Entrance Test Committee as may be required.

(3) The Chairperson shall preside over the meeting and the committee shall adopt such procedure as it deem fit.

(4) The Committee shall have such powers and shall discharge such functions and conduct the examination in such manner as may be prescribed.

(5) Subject to the pleasure of the authority competent to nominate, the nominated members of the Committee shall hold office for the period of two years from the date of their nomination. In case of any vacancy arising earlier for any reason, such vacancy shall be filled in the manner specified above for the remainder of the term. The non-official members shall be eligible to draw such rate of sitting fee and Traveling Allowance as may be prescribed.

¹[(5A) Any vacancy in the Constitution of the Committee shall not invalidate the proceedings of the Committee.]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(6) Admission to every Government seat shall be made on the basis of merit secured in the Common Entrance Test conducted by the State Common Entrance Test Committee followed by centralised counseling subject to the reservation policy of the State.

¹[**4. Method of Admission in unaided professional educational institutions.-** Association of all unaided professional educational institutions whether minority or non-minority imparting professional education in any one discipline shall make admission through Common Entrance Test:

Provided that any unaided professional educational institution or deemed university institutions, which would like to make admission for seats other than Government seats through Common Entrance Test Committee, may also exercise their option to join and to make admission through Common Entrance Test Committee in the order of merit and through counseling.]¹

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

¹[**4A. Method of admission in case of consensual agreement.-** (1) Notwithstanding anything contained in this Act, in case if the State Government and the association of unaided professional educational institutions whether minority or non-minority agree to enter into a consensual arrangement or agreement with regard to sharing of seats and fixation of fee in respect of such seats in said unaided professional educational institutions, in such year, the admission to such number of seats as agreed upon by the State Government and the private professional educational institutions, shall be done by the common entrance test committee as Government seats in accordance with such rules as may be prescribed by the Government regarding selection of candidates for admission to Government seats in Professional Educational institutions and reservation policy of the State including reservation under Article 371J. The remaining seats shall be filled through the Common Entrance Test conducted by the association of private professional educational institutions or association of religious and linguistic minority institutions on the basis of merit followed by centralised counselling, in a fair, transparent and non-exploitative manner as per the consensual agreement subject to such rules as may be prescribed. Subject to the consensual arrangement or agreement the State Government may, by notification, publish the seat matrix to be filled by the State common entrance test committee and the association of private unaided professional educational institutions in the manner as specified below, namely:-

- (A) Out of the total intake of Under-graduate Medical or Dental seats, in an unaided non-minority professional educational institutions:-
- (i) not less than forty percent of the seats in case of Medical seats and not less than thirty five percent of the seats in case of Dental seats shall be filled up through Common Entrance Test conducted by State Common Entrance Test Committee;
 - (ii) not more than forty percent of the seats in case of Medical seats and not more than Forty five percent of the seats in case of Dental seats shall be filled up by the merit list of Common Entrance Test conducted by the Association of non-minority unaided Professional Educational Institutions;
 - (iii) not more than twenty percent of the seats shall be filled up by Non-Resident Indians/Management quota candidates;
- (B) Out of the total intake of Post-graduate Medical/Dental seats, in an unaided non-minority professional educational institutions, across the pre-clinical, para-clinical and clinical disciplines which shall be done by rotation of disciplines every year in the following manner, namely:-
- (i) not less than thirty-three percent of the seats shall be filled up through Common Entrance Test conducted by State Common Entrance Test Committee;
 - (ii) not more than forty-two percent of the seats shall be filled up by the merit list of Common Entrance Test conducted by the

- Association of non-minority unaided Professional Educational Institutions; and
- (iii) not more than twenty-five percent of the seats shall be filled up by Non-Resident Indians/Management quota candidates.
- (C) Out of the total intake of Under-graduate Medical/Dental seats, in an unaided minority educational institutions:-
- (i) not less than twenty-five percent of the seats shall be filled up through Common Entrance Test conducted by State Common Entrance Test Committee;
 - (ii) not more than fifty-five percent of the seats shall be filled up by the merit list of Common Entrance Test conducted by the Association of minority unaided Professional Educational Institutions; and
 - (iii) not more than twenty percent of the seats shall be filled up by Non-Resident Indians/Management quota candidates.
- (D) Out of the total intake of Post-graduate Medical/Dental seats, in an unaided minority educational institutions, across the pre-clinical, para-clinical and clinical disciplines which shall be by rotation of disciplines every year:-
- (i) not less than twenty percent of the seats shall be filled up through Common Entrance Test conducted by State Common Entrance Test Committee;
 - (ii) not more than sixty percent of the seats shall be filled up by the merit list of Common Entrance Test conducted by the Association of minority unaided Professional Educational Institutions; and
 - (iii) not more than twenty percent of the seats shall be filled up by Non-Resident Indians/Management quota candidates.
- (E) Out of the total intake of under-graduate engineering in unaided non-minority professional educational institutions,-
- (i) not less than forty-five percent of the seats shall be filled up through Common Entrance Test conducted by State Common Entrance Test Committee;
 - (ii) not more than thirty percent of the seats shall be filled up by the merit list of Common Entrance Test conducted by the Association of non-minority unaided Professional Educational Institutions; and
 - (iii) not more than twenty-five percent of the seats shall be filled up by Non-Resident Indians/Management quota candidates.
- (F) Out of the total intake of under-graduate engineering in unaided minority professional educational institutions,-
- (i) Not less than forty percent of the seats shall be filled up through Common Entrance Test conducted by the State Government;
 - (ii) not more than thirty percent of the seats shall be filled up by the merit list of Common Entrance Test conducted by the Association of minority unaided Professional Educational Institutions; and
 - (iii) not more than thirty percent of the seats shall be filled up by Non-Resident Indians/Management quota candidates.

Provided that, in case of minority unaided professional educational institutions while filling institutional seats under clause (C), (D) and (F) not less than sixty-six percent of the seats shall be filled by minority students within the State belonging to minority to which the institution belong of the interse merit in the merit list of common entrance test.

(2) Notwithstanding anything contained in this Act, in case of the State Government entering into consensual agreement under sub-section (2), the fee for admission to Government seats and in private unaided professional educational institutional seats shall be at such rate with such concessions or Scholarship by the Institutions as agreed upon by such institutions and the Government in the Consensual Agreement.

Provided that the State Government and individual institution can also enter into consensual agreement with mutually acceptable conditions.

Provided further that any consensual agreement that has entered into between the State Government and the Association of private professional educational institutions and any notification issued or any consequential action taken by the State Government for the Academic Year 2015-16 before the commencement of the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) (Amendment) Act, 2015 shall be deemed to be valid and effective as if they have been done or taken by the State Government in accordance with this Act.

4B. Method of Admission in Deemed University Institutions.- (1) In case Deemed University institution fails to follow UGC Regulations in making admission to Professional Education Courses, the Deemed University institutions shall constitute an association for conduct of Common Entrance Test for admission to their seats and such Deemed University Institutions shall make admission through Common Entrance Test for their Professional Educational Courses:

Provided that when there is no association of Deemed University Institutions, the deemed university institutions may opt to fill up other than Government seats, if any, through Common Entrance Test Committee or through association of un-aided Professional Educational Institutions. In case deemed university institution is a minority institution, it may opt to join the association of minority educational institutions or it may opt to fill up seats through Common Entrance Test Committee.

(2) The deemed university non-minority or minority Institutions, as the case may be, which do not follow UGC guidelines shall fill up such number of seats in their institution through Common Entrance Test Committee and Common Entrance Test conducted by association as may be notified by the State Government.

(3) If Deemed University Institutions follow the UGC Regulations but agrees to consensual agreement with the State Government subject to such consensual agreement the seat sharing formula shall be not less than 25 percent of the total intake both in Undergraduate and Post-graduate Medical Course to be filled up through Common Entrance Test Committee conducted by the State Government at such rate of fee with such concession and scholarship by such Institutions as may be agreed upon in the Consensual Agreement and not more than 25 percent of the total intake to be filled up by Non-Resident Indians/Management Quota by following merit by the institutions concerned. The remaining 50% shall be the Institutional seats to be filled up through Entrance Examination conducted by the Deemed University Institutions (as currently followed).]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

5. Admission Overseeing Committee.- (1) There shall be a Admission Overseeing Committee consisting of,-

- (a) a retired Judge of High Court of Karnataka
nominated by the Chief Justice of the
High Court of Karnataka - Chairperson
- (b) Vice-Chancellor of either the Rajiv Gandhi
University of Health Sciences or the Vishveshwaraiah
Technological University, as the case may be
depending on the course of study - Member
- (c) a person of repute in the concerned field of education
nominated by the Chairperson - Member
- (d) a person nominated by the Chairperson who
shall be a Doctor or Engineer of eminence
as the case may be
(depending on the course of study) - Member
- (e) the Secretary to Government in charge of
Medical or Higher Education as the case may be

(depending on the course of study)

- Member Secretary

(2) No person who is associated with any private aided or unaided professional educational institution shall be eligible for being a member of the Admission Overseeing Committee.

(3) Subject to the pleasure of the authority competent to nominate, the term of the office of the nominated members shall be for the period of two years from the date of their nomination and in the case of vacancy arising earlier, for any reason, such vacancy shall be filled in the same manner specified above for the remainder of the term. The non-official members shall be eligible to draw such rate of sitting fee and Traveling Allowance as may be prescribed.

(4) No act or proceeding of the Admission Overseeing Committee shall be deemed to be invalid by the reason merely of any vacancy in, or any defect in the constitution of the committee.

(5) A member of the Admission Overseeing Committee shall cease to be so, if he performs any act which in the opinion of the State Government is unbecoming of a member of the committee:

Provided that no such member shall be removed from the committee without giving him an opportunity of being heard.

(6) The Chairman shall preside over the meeting of the Admission Overseeing Committee and the Committee may adopt its own procedure as it deems fit.

(7) The Admission Overseeing Committee shall specify the standards and procedure to be followed by the Association of unaided Private Professional Educational Institutions ¹[non-minority or minority as the case may be]¹ while conducting the common entrance test and shall oversee and supervise the common entrance test. The Admission Overseeing Committee shall also supervise and oversee the centralised counseling and the admissions made by the Association of unaided Private Professional Educational Institutions ¹[non-minority or minority as the case may be]¹ in order to ensure that it is conducted in a fair, transparent and non-exploitative manner. For the purpose of ensuring this the State Government shall provide such number of officers and officials to the Admission Overseeing Committee as may be required.

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(8) The Admission Overseeing Committee may also hear complaints with regard to admission in contravention of the procedure laid down by the Admission Overseeing Committee. If the Admission Overseeing Committee after obtaining the evidence and explanation from the management concerned comes to the conclusion that there have been contraventions of the procedure prescribed for admission or lapses on the part of the unaided colleges, it shall make appropriate recommendation to the State Government and the State Government may direct the concerned university to levy and collect a fine of up to Rs.10 lakhs in case of each contravention or any other course of action as it may deems fit. It shall be lawful for the university to levy such fine. The Admission Overseeing Committee may also declare admissions to be de-hors merit and therefore invalid and in such case the concerned university shall not permit such candidates to appear for the examination. The university shall not approve all or any of the admissions made to such institutions in contravention of the provisions of this Act.

(9) The Admission Overseeing Committee shall have the power to regulate its own procedure in all matters arising out of the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all the powers of a civil Court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document;
- (c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witness.

(10) The Admission Overseeing Committee may, if it is satisfied that any institution has violated any of the provisions of this Act, recommend to the appropriate university or statutory body for withdrawal of the affiliation or recognition of such institution or for any other course of action as it deems fit.

(11) The Admission Overseeing Committee or any officer authorised by it shall have power to inspect at any stage of the process of admission conducted by the Association of unaided Private Professional Educational Institutions. ¹[non-minority or minority as the case may be]¹ Whenever on such inspection, the Admission Overseeing Committee arrives at the opinion that the admission process conducted by the Association of unaided Private Professional Educational Institutions ¹[non-minority or minority as the case may be]¹ is unfair, non-transparent and exploitative or contravening of the procedure specified by the Admission Overseeing Committee, it may after giving an opportunity of hearing declare such process as unfair or non-transparent or exploitative and therefore invalid.

¹[Provided that Government, on receiving complaints or on investigation by any other agency, if it is of the opinion that association of private professional educational Institutions or any individual Institution is making admissions in violation of triple test of fairness Transparency and non-exploitation and it appears prima facie to be true, may by notification, declare that the procedure followed by association of private Educational Institutions or such individual institution is unfair, non-transparent or exploitative and therefore invalid and may direct that all seats of such association or individual institution shall be filled through Common Entrance Test Committee in a transparent manner, under close supervision having representatives of the association of the private professional educational institutions, private universities, or deemed universities, as the case may be:

Provided further that no such declaration shall be made without giving prior notice to such association or institution.]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

(12) On such declaration under sub-section (11), the admission process for private unaided institutions shall be conducted by the State Common Entrance Test Committee for the same applicants. The expenditure incurred by the State Common Entrance Test Committee in this regard shall be recovered from the Association during the allotment of seats through counseling or as an arrears of land revenue.

6. Fee Regulatory Committee.- (1) There shall be a Committee called the Fee Regulatory Committee for determination of the fee for admission to the professional educational courses in private unaided institutions consisting of,-

- | | |
|--|---------------|
| (a) a retired Judge of High Court of Karnataka
nominated by the Chief Justice of the
High Court of Karnataka | - Chairperson |
| (b) a representative of either the Medical Council
of India or the All India Council for Technical
Education, as the case may be depending on the
course of study | - Member |
| (c) a person of repute nominated
by the Chairperson | - Member |
| (d) a Chartered Accountant of repute
nominated by the Chairperson | - Member |
| (e) the Secretaries to Government in charge of | |

Medical or Higher Education, as the case may be
depending on the course of study

- Member Secretary

(2) The Fee Regulatory Committee shall have power to,-

(i) require each professional educational institution to place before the Committee the proposed fee structure of such institution with all relevant documents and books of accounts for scrutiny well in advance of the commencement of the academic year i.e., not later than 31st December of the previous academic year;

(ii) verify whether the fee proposed by each institution is justified and it does not amount to profiteering or charging of capitation fee;

(iii) approve the fee structure or determine some other fee which can be charged by the institution.

(3) The Fee Regulatory Committee shall have the power to regulate its own procedure in all matters arising out of the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witness.

(4) The fee determined by the Committee shall be binding on the professional educational institution for a period of three years. At the end of the said period the institution would be at liberty to apply for revision. The fee so determined shall be applicable to a candidate who is admitted to an institution in that academic year and shall not be revised till the completion of his course in the said college. No professional educational institution shall collect a fee amounting to more than one year's fee from a candidate. Collecting of more than one year's fee shall be construed as collecting of capitation fee and shall be liable for penalty under the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 (Karnataka Act 37 of 1984).

(5) No person who is associated with any private aided or unaided professional educational institution shall be eligible for being a member of the Fee Regulatory Committee.

(6) Subject to the pleasure of the authority competent to nominate, the term of the office of the nominated members shall be for the period of two years from the date of their nomination and in the case of vacancy arising earlier, for any reason, such vacancy shall be filled for the remainder of the term. The non-official members shall be eligible to draw such rate of sitting fee and Traveling Allowance as may be prescribed.

(7) No act or proceeding of the Fee Regulatory Committee shall be deemed to be invalid by the reason merely of any vacancy in, or any defect in the constitution of the committee.

(8) A member of the Fee Regulatory Committee shall cease to be so if he performs any act which in the opinion of the State Government is unbecoming of a member of the committee:

Provided that no such member shall be removed from the committee without giving him an opportunity of being heard.

(9) The Chairman shall preside over the meeting of the Fee Regulatory Committee and the Committee may adopt its own procedure as it deems fit.

7. Factors for Determination of Fee.- (1) The Fee Regulatory Committee shall determine the fee or fees to be charged by a private aided or unaided professional educational institution affiliated to an University taking into consideration the factors, such as,-

- (a) the location of the professional educational institution;
- (b) the nature of professional course;
- (c) the available infrastructure;
- (d) the expenditure on administration and maintenance;
- (e) a reasonable surplus required for the growth and development of the institution ¹[not more than eight percent]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

- (f) any other factors as the Committee may deem fit.

(2) No professional educational institution shall collect any fee by whatever name or form called from the candidate for admission to professional educational courses over and above the fee determined by the Fee Regulatory Committee and the fee prescribed by the university concerned.

(3) The Fee Regulatory Committee may determine different fees in respect of different courses of professional education being offered at different institutions depending upon the facilities available and for this purpose it may place similarly placed institutions in broad groups:

Provided that the Fee Regulatory Committee may allow a professional educational institution to collect a higher rate of fee from the Non-Resident Indian student for admission. The State Government may prescribe the minimum fee to be collected from the non-resident Indian student and the higher fee so collected over and above the fee determined for other students in that institution shall be utilized for providing concession in fee to candidates belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes.

(4) Any complaint of collecting of capitation fee or fee in excess of the fee determined or profiteering by any institution shall be inquired into by the Fee Regulatory Committee which shall, after obtaining the evidence and the explanation of the management concerned, forward appropriate recommendations to the concerned university or the State Government for necessary action. On such recommendation, the State Government may direct the concerned university to levy and collect a fine upto rupees ten lakhs ¹[or the double the amount collected over and above the fee fixed by the Government whichever is higher]¹ on the management of such professional educational institution and it shall be lawful for the university to levy such fine. The university shall not approve all or any of the admissions made to such institutions in contravention of the provisions of this Act or may withdraw recognition or affiliation to such institution under intimation to the State Government:

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

¹[(5) No private unaided educational institution shall,-

- (a) transfer funds accumulated out of the fee so collected, to its sister institutions;
- (b) transfer immovable property constructed out of the fee so collected without prior permission of the State Government.

(6) Every professional private educational institution shall submit its annual statement of accounts and statement of assets and liabilities to the prescribed authority duly audited by the chartered accountant every year.]¹

1. Inserted by Act 39 of 2015 w.e.f 11.09.2015.

8. Eligibility.- No candidate shall be admitted to a professional educational institution unless the candidate possesses such educational or equivalent qualification as may be prescribed.

9. Allocation and reservation of seats.- Out of the total intake of seats in a professional educational institution,-

- (i) (a) in an aided institution, all Government seats shall be filled through the State Common Entrance Test Committee in accordance with section 3(6) subject to the reservation policy of the State Government; and

(b) the remaining seats shall be general seats.

(ii) (a) in an unaided non-minority institution fifty percent of the seats shall be reserved for candidates belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes from the State as notified by the State Government; and

(b) the remaining seats shall be general category seats. Out of the general category seats upto fifteen percent may be filled by candidates belonging to the Non-Resident Indian quota:

Provided that where the seats reserved for the Scheduled Castes, Scheduled Tribes and Other Backward Classes in an unaided non minority institution are left unfilled due to non-availability of the candidates, or where students of reserved categories leave after they select the seats, the same shall be filled by the candidates belonging to the same category out of the merit list of the Common Entrance Test conducted by the State Common Entrance Test Committee:

Provided further that if seats are remain unfilled even thereafter, such unfilled seats shall be filled from the student belonging to general merit on the basis of merit through the Common Entrance Test conducted by the association of Unaided Private Professional Educational Institutions.

(iii) (a) In an unaided minority professional educational institution, not less than sixty six percent of the seats shall be filled by minority students from within the State belonging to the minority community to which the institution belongs on the basis of interse merit in the merit list of the Common Entrance Test of the Association of Private Professional educational institutions; and

(b) the remaining seats shall be the general category seats. Out of the general category seats, upto fifteen percent may be filled by candidates belonging to the Non Resident Indian quota:

Provided that if any seats earmarked for the minority category in unaided institutions remain unfilled or where the students leave after selection of seat the same shall be filled by minority students of the same categories out of the merit list of the Common Entrance Test conducted by the State Common Entrance Test Committee:

Provided further that if seats are remain unfilled even thereafter, such unfilled seats shall be filled from the student belonging to general merit on the basis of merit through the Common Entrance Test conducted by the association of Unaided Private Professional Educational Institutions.

(iv) Admission to all seats in a private unaided professional educational institutions including reserved or general category seats but excluding the seats which may be filled by Non-resident Indian candidates, shall be made on the basis of merit by following the procedure of Common Entrance test followed by centralized counseling conducted in the manner as specified by the Admission Overseeing Committee.

10. Invalidation of admissions made in violation of the Act.- Any admission made in violation of the provisions of this Act or the rules made there under shall be invalid.

11. Fund of the State Common Entrance Test Committee.- (1) There shall be a fund of the State Common Entrance Test Committee (hereinafter referred to as the Committee) called the Committee fund.

(2) The following shall form part or be paid into the Committee fund, namely:-

(i) fee collected by the Committee for the purpose of conducting Common Entrance Test;

(ii) grants made by the State Government;

(iii) amount ¹[borrowed]¹ by the Committee;

(iv) all other sums received by or on behalf of the Committee from any source whatsoever.

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

(3) Except or otherwise as directed by the State Government all money credited to the fund shall be invested in any Scheduled Bank.

12. Grants by the State Government.- The State Government may make grants to the Committee equivalent to such sums as it deem fit.

13. Power to borrow.- The committee may from time to time with the previous sanction of the State Government and subject to such conditions as may be prescribed in this behalf borrow any sum required for the purpose of this Act.

14. Accounts and audit.- (1) Accounts of the income and expenditure of the Committee fund shall be kept in accordance with such rules as may be prescribed.

(2) The Committee shall prepare an annual statement of accounts in such form as may be prescribed.

(3) The accounts of the Committee shall be audited annually by such Auditor as the State Government may appoint.

(4) The Auditor shall for the purpose of the audit have access to all the accounts and other records of the Committee.

(5) The Committee shall pay from its fund such charges for the audit as may be prescribed.

(6) As soon as may be after the receipt of report of the auditor the Committee shall send a copy of the annual statement of accounts together with a copy of the report of the Auditor to the State Government and shall cause to be published the Annual Statement of Accounts in such manner as may be prescribed.

(7) The State Government may after perusal of the report of the Auditor give such directions as it thinks fit to the Committee and the Committee shall comply with such directions.

15. Budget of the Committee.- The Committee shall prepare every year before such date and in such form as may be prescribed a Budget estimate of its income and expenditure for the financial year to commence on the 1st day of April next following year and shall forward it to the State Government.

16. Report.- The Committee shall before such date, in such form and at such interval as may be prescribed submit the prescribed report to the State Government and the State Government shall cause a copy of such report to be laid before both Houses of the State Legislature.

17. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything done in good faith or intended to be done under this Act.

18. Power of State Government to issue directions.- (1) The State Government may give such directions to any professional educational institution as in its opinion are necessary or expedient for carrying out the purposes of this Act or to give effect to any of the provisions contained therein or of any rules or orders made thereunder and the Governing Council or the management, as the case may be, of such institution shall comply with every such direction.

(2) The State Government may also give such directions to the officers or authorities under its control as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of such officer or authority to comply with such directions.

19. Penalties.- (1) Whoever contravenes the provisions of this Act or the rules made thereunder shall on conviction be punishable with fine which may extend to ten lakhs rupees.

(2) A penalty ¹[under this Act]¹ may be imposed without prejudice to the penalty specified in any other Act.

1. Substituted by Act 39 of 2015 w.e.f 11.09.2015.

20. Power to enter and inspect.- Any officer not below the rank of Group 'B' officer authorized by the State Government in this behalf, shall, subject to such conditions as may be specified therein under the Karnataka Educational institutions (Prohibition of Capitation Fee) Act, 1984 (Karnataka Act 37 of 1984) shall be deemed to be the Officer authorized to exercise the same powers and discharge the same functions as provided under section 9 of that Act for the purpose of this Act.

21. Act to override other laws.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

22. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the official Gazette make provisions not inconsistent with the provisions of this Act as appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

23. Power to make rules.- (1) The Government may, after previous publication, by notification, in the official Gazette make rules prospectively or retrospectively for carrying out the purposes of this Act.

(2) Rules made under sub-section (1) may also provide for a fine which may extend to rupees ten lakhs as penalty for any of the contraventions made thereof. Every rule made under this Act shall have effect as if enacted in this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature 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 both 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.

24. Transitory provisions.- Any rule, notification or appointment, made or issued under the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 (Karnataka Act 37 of 1984) providing for or relating to any of the matters for the furtherance of which this Act is enacted, before the commencement of this Act and in force on the date of commencement of this Act to the extent they are not inconsistent with the provisions of this Act, shall continue to be in force and effective as if they are made or issued or appointed under the corresponding provisions of this Act unless and until superseded by anything done or any action taken or any rule, notification or appointment made under this Act.

The above translation of ಕರ್ನಾಟಕ ವೃತ್ತಿ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಗಳ (ಪ್ರವೇಶ ನಿಯಂತ್ರಣ ಮತ್ತು ಶುಲ್ಕ ನಿಗದಿ) ಅಧಿನಿಯಮ, 2006 (2006 ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 8) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

	<p style="text-align: center;">T.N. Chaturvedi Governor of Karnataka By Order and in the name of the Governor of Karnataka G.K. Boregowda Secretary to Government, Department of Parliamentary Affairs and Legislation</p>
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ಶಿಕ್ಷಣ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಇಡಿ 26 ಟಿಇಸಿ 2006(ಭಾಗ-2), ಬೆಂಗಳೂರು, ದಿನಾಂಕ:25.04.2006

ಕರ್ನಾಟಕ ವೃತ್ತಿ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಗಳ (ಪ್ರವೇಶ ನಿಯಂತ್ರಣ ಮತ್ತು ಶುಲ್ಕ ನಿಗದಿ) ಅಧಿನಿಯಮ, 2006 (2006ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 8)ರ ಪ್ರಕರಣ (1)ರ (2)ನೇ ಉಪ-ಪ್ರಕರಣದಲ್ಲಿನ

ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ರಾಜ್ಯ ಸರ್ಕಾರವು ದಿ:25.04.2006ರಿಂದ ಸದರಿ ಅಧಿನಿಯಮದ ಎಲ್ಲಾ ಉಪಬಂಧಗಳು ಜಾರಿಗೆ ಬರತಕ್ಕದ್ದು ಎಂದು ಗೊತ್ತುಪಡಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

ಶೋಭ ನಂಬೀಶನ್

ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ
ಶಿಕ್ಷಣ ಇಲಾಖೆ (ಉನ್ನತ ಶಿಕ್ಷಣ)

GOVERNMENT OF KARNATAKA**No. ED 162 TEC 2013****Karnataka Government Secretariat
M.S.Buildings, Bangalore
Dt. 18.11.2013.****NOTIFICATION**

The Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act 2006 (Act No 8 of 2006) was Brought in to force w.e.f. 25.04.2006 vide Notification No. ED 26 TEC 2006 (Part-2).

The Above mentioned Act was kept in abeyance by Act No. 13 of 2006 for the year 2006-07 and Subsequently the Act No. 8 of 2006 was kept in Abeyance every year till 2013-14 by Act No. 28 of 2007 Act No. 23 of 2011, Act No.23 of 2012 and Act No. 50 of 2013 and admissions to Professionals courses were made in terms of consensual agreements entered into every year between the private managements and the Government from 2006-07 to 2013-14.

Government has decided to implement the karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act 2006 (Act No. 8 of 2006) from year 2014-15 Onwards. Hence the Admission and fee of Professional Educational Institutions in the State of Karnataka Shall be regulated as per the provisions of the Act, No.8of 2006 from the year 2014-15. Accordingly further necessary actions Shall be taken for implemanation of the provisions of the said Act immediately

By Order and in the name of
The Governor of Karnataka

(B.NAGABHUSHAN)
Under Secretary to Government
Education Deptment
(Technical Education)

KARNATAKA ACT NO. 39 OF 2015

(First Published in the Karnataka Gazette Extra-ordinary on the Eleventh day of September, 2015)

THE KARNATAKA PROFESSIONAL EDUCATIONAL INSTITUTIONS (REGULATION OF ADMISSION AND DETERMINATION OF FEE) (AMENDMENT) ACT, 2015

(Received the assent of the Governor on the Fifth day of September, 2015)

An Act to amend the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act, 2006.

Whereas, it is expedient to amend the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act, 2006 (Karnataka Act 8 of 2006), to provide for,-

- (1) a legal frame work which is acceptable by majority of the Professional Educational Institutions and to empower the State Government to enter into consensual agreement with association of non-minority or minority private unaided professional educational institutions; to protect the interest of merit students of the State and the institutions through consensual agreement by providing a quota of Government seats in Private Educational Institutions to be filled by Common Entrance Test Committee constituted by the State; and to see that no student selected through Common Entrance Test Committee is over charged or the interest of Karnataka Student is protected by providing concessions and scholarship while entering into consensual agreement with private educational institutions; and
- (2) Guidelines to the Fee Regulatory Committee to fix the fee appropriately at affordable rate as mandated by Supreme Court, so that viability of situation is maintained and no student is over charged.

Now therefore, be it enacted by the Karnataka State Legislature in the sixty-sixth year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) (Amendment) Act, 2015.

(2) It shall come into force at once.

Sections 2, 3, 4, 4A, 4B, 5, 7, 11, 19 are Incorporated in the Principal Act