

Twelfth Kerala Legislative Assembly
Bill No. 232

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THE NATIONAL UNIVERSITY OF ADVANCE LEGAL STUDIES
(AMENDMENT) BILL, 2008

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THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES
(AMENDMENT) BILL, 2008

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to amend the National University of Advanced Legal Studies Act, 2005.

Preamble.—WHEREAS, it is expedient to amend the National University of Advanced Legal Studies Act, 2005 for the purposes hereinafter appearing ;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the National University of Advanced Legal Studies (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 9th day of June, 2008.

2. *Amendment of preamble.*— In the preamble of the National University of Advanced Legal Studies Act, 2005 (27 of 2005) (hereinafter referred to as the principal Act), the words “on self finance basis” in the last paragraph shall be omitted.

3. *Amendment of section 3.*— In sub-section (1) of section 3 of the principal Act, the words “Self Financing” shall be omitted.

4. *Amendment of section 12.*— In section 12 of the principal Act after item (xi), the following items shall be inserted, namely:—

“(xia) The Principal Secretary, Finance Department, Government of Kerala;

(xib) A member nominated by the Executive Council of the Higher Education Council from among its members;”.

5. *Amendment of section 17.*— In sub-section (2) of section 17 of the principal Act,—

(i) in item (vi), after the existing words, the following words shall be added, namely :—

“or an officer of the Higher Education Department not below the rank of Joint Secretary to Government nominated by him;”;

(ii) in item (vii), after the existing words, the following words shall be added, namely:—

“or an officer of the Law Department not below the rank of Joint Secretary to Government nominated by him ;”;

(iii) after item (xii), the following items shall be added, namely:—

“(xiii) The Principal Secretary to Government, Finance Department or an officer of the Finance Department not below the rank of Joint Secretary to Government nominated by him;

(xiv) A member nominated by the Executive Council of the Higher Education Council from among its members;

(xv) Two legal experts nominated by the Government, of which one shall be a woman.”.

6. *Amendment of section 27.*— In sub-section (1) of section 27 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

“(a) One nominee of the Bar Council of Kerala.”.

7. *Insertion of section 46A.*— After section 46 of the principal Act, the following section shall be inserted, namely:—

“46A. *Power of the Government to give direction.*— The Government shall have the power to direct the University to consider the instructions of the Government made from time to time in respect of the determination of the fee and admission of the students to the University:

Provided that on such direction the decision of the Executive Council shall be final.”.

8. *Repeal and Saving.*—(1) The National University of Advanced Legal Studies (Amendment) Ordinance, 2008 (21 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

As per the existing provisions of the National University of Advanced Legal Studies Act, 2005 (27 of 2005), the University has the status of Self Financing University and as such, the University is not in a position to obtain

grants from the University Grants Commission and other agencies. To facilitate the University to obtain such grants, the Government have decided to change the status of the University by omitting the words, “self financing”, wherever they occur, from the Act. It is further decided to change the structure of the General Council of the University by including the Secretary to Government, Finance Department, and a member nominated by the Executive Council of the Higher Education Council. It is also decided to change the structure of the Executive Council of the University by nominating the Principal Secretary to Government, Finance Department or an officer of the Finance Department not below the rank of Joint Secretary to Government nominated by him, a member nominated by the Executive Council of the Higher Education Council from among its members and two legal experts nominated by the Government. The representative of the Bar Council of India in Search Committee is also proposed to be substituted with a representative of the Bar Council of Kerala. It is further proposed to give power to the Government to give directions to the University to consider such instructions issued by the Government in respect of determination of the fee and admission of students to the University.

2. As the Legislative Assembly was not in session and the above proposals had to be given effect to immediately the National University of Advanced Legal Studies (Amendment) Ordinance, 2008 was promulgated by the Governor on the 9th day of June, 2008 and the same was published in the Kerala Gazette Extraordinary No.1161 dated the 9th June 2008 as Ordinance No.15 of 2008.

3. A Bill to replace the said Ordinance was published as Bill No. 206 of the XII Kerala Legislative Assembly but it could not be introduced in and passed during its eighth session, which commenced on the 23rd day of June 2008 and ended on the 24th day of July 2008.

4. In order to keep alive the provisions of Ordinance No.15 of 2008, the National University of Advanced Legal Studies (Amendment) Ordinance, 2008 was promulgated by the Governor on the 1st day of August 2008 as Ordinance No. 21 of 2008 and was published in the Kerala Gazette Extraordinary No.1674 dated 2nd August 2008.

3. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-section (2) of section 17 of the principal Act proposed to be amended by sub-clause (i) of clause 5 of the Bill seeks to empower the Principal Secretary, Higher Education Department to nominate an officer of the Higher Education Department not below the rank of Joint Secretary to Government to the Executive Council.

2. Sub-section (2) of section 17 of the principal Act proposed to be amended by sub-clause (ii) of clause 5 of the Bill seeks to empower the Law Secretary, Government of Kerala to nominate an officer of the Law Department not below the rank of Joint Secretary to Government to the Executive Council.

3. Sub-section (2) of section 17 of the principal Act proposed to be amended by sub-clause (iii) of clause 5 of the Bill seeks to empower the Secretary, Finance Department to nominate an officer of the Finance Department not below the rank of Joint Secretary to the Executive Council of the University and the Government to nominate two legal experts to the Executive Council of the University.

4. Section 46A proposed to be inserted in the principal Act by clause 7 of the Bill seeks to empower the Government to give direction to the University to consider the instructions of the Government made from time to time in respect of the determination of the fee and admission of the students to the University.

5. The above are matters of routine or administrative in nature. The delegation of legislative power is, therefore, of a normal character.

M. A. BABY

EXTRACT FROM THE NATIONAL UNIVERSITY OF ADVANCED
LEGAL STUDIES ACT, 2005 (27 OF 2005)

** ** ** **

Preamble.— WHEREAS, the committee appointed by the chief Justices, Conference on Legal Education and Training, 1993 has recommended the establishment in each State of an Institution on the model of the National Law School of India University at Bangalore ;

** ** ** **

AND WHEREAS, the Bar Council of Kerala, Bar Council of Kerala Trust and National Institute for Advanced Legal Studies have requested the State Government to establish the National Institute of Advanced Legal Studies as a Self Financing University to enable it to carry out its objects and functions efficiently ;

AND WHEREAS, it is considered necessary to encourage the establishment of such a national level institution of excellence in higher learning of law in the State of Kerala ;

AND WHEREAS, it is deemed expedient to establish the National University of Advanced Legal Studies on self finance basis for the purposes hereinafter appearing ;

** ** ** **

3. *Establishment and incorporation of the National University of Advanced Legal Studies.*—(1) With effect on and from the date of commencement of this Act, there shall be established a Self Financing University by name “The National University of Advanced Legal Studies”.

** ** ** **

12. *The General Council.*— The General Council shall be the plenary authority of the University and shall consist of the following members, namely:—

** ** ** **

(xi) The Law Secretary, Government of Kerala ;

** ** ** **

17. *The Executive Council.*—(1) * * ** **

(2) The Executive Council shall consist of the following members, namely:—

** ** ** **

(vi) The Principal Secretary to Government, Higher Education Department;

(vii) The Law Secretary, Government of Kerala;

** ** ** **

(xii) One member each from the following categories co-opted by the Chancellor,—

(a) an expert in industrial infrastructure management ;

(b) a law teacher of national eminence ;

(c) a student member of the General council.

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27. *Appointment and powers of the Vice-Chancellor.*—(1) The Vice-Chancellor shall be appointed by the Chancellor on the unanimous recommendation of the Search Committee appointed by him, consisting of the following members, namely:—

(a) One nominee of the Bar Council of India;

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46. *Power of Government to cause inspection of the University.*—(1)

** ** ** **

(2) The Government shall communicate to the Executive Council the result of any inspection or inquiry made under sub-section (1) and advise the University upon the action to be taken in the matter.

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