

Fifteenth Kerala Legislative Assembly
Bill No. 45

**THE KERALA SELF FINANCING COLLEGE TEACHING
AND NON-TEACHING EMPLOYEES (APPOINTMENT
AND CONDITIONS OF SERVICE) BILL, 2021**

©
Kerala Legislature Secretariat
2021

KERALA NIYAMASABHA PRINTING PRESS.

Fifteenth Kerala Legislative Assembly
Bill No. 45

**THE KERALA SELF FINANCING COLLEGE TEACHING
AND NON-TEACHING EMPLOYEES (APPOINTMENT
AND CONDITIONS OF SERVICE) BILL, 2021**

Fifteenth Kerala Legislative Assembly

Bill No. 45

[Translation in English of “2021-ലെ കേരള സ്വാശ്രയ കോളേജ് അധ്യാപക-അനധ്യാപക ജീവനക്കാർ (നിയമനവും സേവനവ്യവസ്ഥകളും) ബിൽ” published under the authority of the Governor.]

**THE KERALA SELF FINANCING COLLEGE TEACHING AND
NON-TEACHING EMPLOYEES (APPOINTMENT AND
CONDITIONS OF SERVICE) BILL, 2021**

A

BILL

to provide for the method of appointment and conditions of service of teaching and non-teaching employees of self financing colleges affiliated to various Universities established by State law in the State and for matters connected therewith and incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the method of appointment and conditions of service of teaching and non-teaching employees of self financing colleges affiliated to various Universities established by State law in the State and for matters connected therewith and incidental thereto;

BE it enacted in the Seventy-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Self Financing College Teaching and Non-Teaching Employees (Appointment and Conditions of Service) Act, 2021.

(2) It shall be deemed to have come into force on the 20th day of February, 2021.

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

(a) “agreement” means an agreement entered into with the educational agency to be appointed as teaching or non-teaching employee in a self financing college;

(b) “educational agency” means a person or a body which establishes, controls or runs a self financing college and approved by the University;

(c) “Government” means the Government of Kerala;

(d) “non-teaching employee” means a person appointed in a self financing college under an agreement with the educational agency and registered as non-teaching employee in the affiliated University;

(e) “notification” means a notification published in the Official Gazette;

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

(g) “regulatory body” means the University Grants Commission, All India Council for Technical Education, National Council for Teacher Education, Bar Council of India and Council of Architecture and it includes University also;

(h) “required post” means the teaching and non-teaching post determined by the regulatory body for various courses affiliated to the University in a self financing college;

(i) “self financing college” means an educational institution established, controlled or run by an educational agency and conducting courses affiliated to and approved by the University but it does not include the Government College and private college entered into direct payment agreement with the Government;

(j) “State” means the State of Kerala;

(k) “student” means a person admitted to a course of study conducted by a self financing college and duly registered in the affiliated University;

(l) “teacher” means a person appointed in self financing college under an agreement with the educational agency and registered as teacher in the affiliated University;

(m) “University” means the Kerala University, the Calicut University, the Mahatma Gandhi University, the Cochin University of Science and Technology, the Kannur University and the A.P.J.Abdul Kalam Technological University established under the provisions of the Kerala University Act, 1974 (17 of 1974),

the Calicut University Act, 1975 (5 of 1975), the Mahatma Gandhi University Act, 1985 (12 of 1985), the Cochin University of Science and Technology Act, 1986 (31 of 1986), the Kannur University Act, 1996 (22 of 1996) and the A.P.J. Abdul Kalam Technological University Act, 2015 (17 of 2015) respectively.

3. *Appointment of teaching and non-teaching employees of self financing college.*—(1) The educational agency shall invite application by notification in such manner as may be prescribed for the appointment of teaching and non-teaching posts determined by the regulatory body for the courses affiliated to the University in the self financing college.

(2) There shall have such qualifications as determined by the regulatory body to the required posts under sub-section (1):

Provided that, on the date of commencement of this Act, where an employee holding such post in a self financing college does not have any of the qualification determined by the regulatory body, shall obtain such qualification within such date as the Government may notify.

(3) The educational agency shall after examining the application received under the provisions of sub-section (1), prepare a rank list and appointment shall be made by an order in writing of an authority determined by the educational agency for this purpose.

4. *Agreement with the educational agency and other conditions of service.*—(1) Any person appointed to teaching and non-teaching post in a self financing college, shall enter into an agreement with the educational agency regarding such post, scale of pay, increment, grade, promotion, period of appointment, salary, allowance and overtime duty:

Provided that, it shall not prevent the power of the educational agency to make provision for providing more benefits to the teaching or non-teaching employee in a self financing college than that referred in such provisions regarding any matter provided in this Act.

(2) Working days and working hours of teaching and non-teaching employees of self financing college shall be same as that is applicable to the teaching and non-teaching employees of Government college or aided college affiliated to the University:

Provided that, under the provisions of the agreement referred in sub-section (1), the teaching and non-teaching employees shall perform overtime duty in urgent situations.

(3) The public holiday, casual leave and maternity leave eligible for the teaching and non-teaching employees of Government college or aided college shall be applicable to the teaching and non-teaching employees of self financing college.

(4) The educational agency, shall take measures for making any person appointed to required post of a self financing college as a member to the Employees' Provident Fund under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952):

Provided that, measures shall be taken to make any person appointed to the required post in self financing college prior to the date of commencement of this Act as member to the Employees' Provident Fund within six months from the date of commencement of this Act.

(5) The educational agency shall take measures to make any person appointed to required post in a self financing college as member in the insurance scheme of an insurance company approved by the Central Government, within six months from the date of commencement of this Act.

(6) The age limit for appointment to the required post in a self financing college and the age of retirement shall be as may be determined by the regulatory body from time to time.

(7) The educational agency shall be the disciplinary authority of any person appointed to the required post in a self financing college. The educational agency shall take disciplinary proceedings in such manner as may be prescribed.

5. *Appeal.*—Any person aggrieved by the disciplinary action of the educational agency under sub-section (7) of section 4, shall file appeal before the University in which such self financing college is affiliated to, in such manner as may be prescribed. The Syndicate of such University shall dispose of the appeal and any decision thereon shall be final.

6. *Maintenance of records and registers.*—The educational agency shall maintain records and registers regarding details of teaching and non-teaching employees appointed to required posts in the self financing college.

7. *Registration.*—(1) The educational agency shall register the details of teaching and non-teaching employees, appointed to required posts in a self financing college, with the University in which such self financing college is affiliated to, within three months from the date of appointment.

(2) The educational agency shall register the details of teaching and non-teaching employees appointed to required posts in self financing college prior to the date of commencement of this Act, with the University in which such self financing college is affiliated to, within three months from the date of commencement of this Act.

(3) The procedures for registration under sub-sections (1) and (2) shall be as determined by the University.

(4) The duties and responsibilities of the teaching and non-teaching employees registered with the University in which self financing college is affiliated to under sub-sections (1) and (2) shall be as determined by the University. The teaching and non-teaching employees shall function to achieve the objects of the University. The educational agency shall implement any decision of the University in this matter.

8. *Various bodies to be constituted in the self financing college.*—(1) The educational agency shall, after duly informing the University, constitute the following bodies, as soon as possible, from the date of commencement of this Act, namely:—

- (i) Internal Quality Assurance Cell;
- (ii) Parent-Teacher Association;
- (iii) Students Grievance Redressal Cell;
- (iv) College Council;

(v) Internal Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Central Act 14 of 2013).

(2) The constitution, powers, duties and responsibilities of the bodies except under item (v) of sub-section (1) shall be as determined by the regulatory body.

9. *Act not in derogation to any other laws.*—The provisions of this Act shall be in addition to and not in derogation to any other law for the time being in force.

10. *Protection of acts done in good faith.*—No suit or other legal proceedings shall lie against the Vice-Chancellor, authority or officer of the University for anything which is done in good faith or intended to be done under the provisions of this Act or rules or regulations made thereunder.

11. *Bar of jurisdiction of Civil Court.*— No Civil Court shall have jurisdiction to settle, deal with or decide such matters regarding complaint that may arise on matters referred in section 7 of this Act, until disposed by the Syndicate of the University in which the self financing college is affiliated to.

12. *Power to remove difficulties.*— Where any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, do anything which it may consider necessary or deems fit and not inconsistent with the provisions of this Act for the purpose of removing such difficulty:

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

13. *Power to make regulations.*—The University in which self financing college is affiliated to, shall have the power to make regulations related to the functioning of a self financing college in accordance with the provisions of this Act.

14. *Power to make rules.*—(1) The Government may, by notification, make rules to carry out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session, in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides 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.

15. *Repeal and saving.*—(1) The Kerala Self Financing College Teaching and Non-Teaching Employees (Appointment and Conditions of Service) Ordinance, 2021 (95 of 2021) 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 said Ordinance, shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The Kerala State Higher Education Council had recommended to make a law for the method of appointment and conditions of service of teaching and non-teaching employees of the self financing colleges affiliated to various Universities in the State. The Government have examined the recommendation of the Council in detail and decided to enact a law for the said purpose.

2. The Bill provides for the manner to be followed in making appointment of teaching and non-teaching employees of self financing colleges, agreement with the educational agency, the registration of teaching and non-teaching employees to the University in which self financing college is affiliated to by the educational agency, various bodies to be constituted in the self financing college and other provisions connected therewith.

3. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Self Financing College Teaching and Non-Teaching Employees (Appointment and Conditions of Service) Ordinance, 2021 was promulgated by the Governor of Kerala on the 19th day of February, 2021 and the same was published in the Kerala Gazette Extraordinary No. 862 dated 20th day of February, 2021 as Ordinance No. 38 of 2021.

4. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Fifteenth Kerala Legislative Assembly during its session which commenced on the 24th day of May, 2021 and ended on the 10th day of June, 2021.

5. In order to keep alive the provisions of the said Ordinance, the Kerala Self Financing College Teaching and Non-Teaching Employees (Appointment and Conditions of Service) Ordinance, 2021 was promulgated by the Governor of Kerala on the 1st day of July, 2021 and the same was published in the Kerala Gazette Extraordinary No. 1918 dated 2nd day of July, 2021 as Ordinance No. 51 of 2021.

6. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 22nd day of July, 2021 and ended on the 13th day of August, 2021.

7. In order to keep alive the provisions of the said Ordinance, the Kerala Self Financing College Teaching and Non-Teaching Employees (Appointment and Conditions of Service) Ordinance, 2021 was promulgated by the Governor of Kerala on the 23rd day of August, 2021 and the same was published in the Kerala Gazette Extraordinary No. 2456 dated 24th day of August, 2021 as Ordinance No. 95 of 2021.

8. The Bill seeks to replace Ordinance No. 95 of 2021 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 3 of the Bill empowers the Government to make rules prescribing the manner of inviting application by the educational agency.

2. Sub-clause (2) of clause 3 of the Bill empowers the Government to notify the time limit for acquiring the qualification.

3. Sub-clause (7) of clause 4 of the Bill empowers the Government to make rules prescribing the manner of disciplinary proceedings.

4. Clause 5 of the Bill empowers the Government to make rules prescribing the manner of filing appeal before the University.

5. Clause 13 of the Bill empowers the University to make regulations related to the functioning of self financing college.

6. Clause 14 of the Bill empowers the Government to make rules to carry out the provisions of the Act by notification.

7. The matters in respect of which rules and regulations may be made or notifications may be issued, are matters of procedure and are of routine or administrative in nature. Further, the rules so made and the notifications issued are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

DR. R. BINDU.