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THE HIGHER EDUCATION COMMISSION ORDINANCE, 2002

ORDINANCE NO. LIII OF 2002

[11th September, 2002]

An Ordinance to provide for the establishment of the Higher Education Commission

WHEREAS in the interest of improvement and promotion of higher education, research and

development it is expedient to provide for the establishment of a Higher Education Commission and

for matters connected therewith or incidental thereto;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, THEREFORE, in pursuance of the aforesaid Proclamation of Emergency of the fourteenth day of October, 1999 and the Provisional Constitutional Order No. I of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999 and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.—(1) This Ordinance may be called the Higher Education Commission Ordinance, 2002.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. In this Ordinance unless there is anything repugnant in the subject or context,—

(a) "Chairperson" means the Chairperson of the Commission;

(b) "Commission" means the Higher Education Commission established under section 4;

(c) "Committee" means a committee constituted by the Commission under section 13;

(d) "Controlling Authority" means the Controlling Authority of the Commission specified in section 3;

(e) "degree awarding institutions" means an institution imparting higher education and awarding degree of its own;

(f) "governing body" means the Senate, Syndicate or any other executive or governing body, by whatever name called, of a university or degree awarding institution established by or under any law;

(g) "Higher Education" means education at bachelor's and higher level degree courses including postgraduate certificates, diplomas and research and development activities;

(h) "Institutions" means any university or other degree awarding institutions that offers higher education or is involved in the research and development activities;

(i) "Member" means Member of the Commission;

Gj) "prescribed" means prescribed by rules made under this Ordinance;

(ik) "Public Sector Institution" means the Institution set up by the Federal Government or a Provincial Government;

() "Secretariat" means the Secretariat of the Commission; and

(m) "University" means a university established or incorporated under any law for the time being in force.

CHAPTER II ESTABLISHMENT AND FUNCTIONS OF COMMISSION

3. Controlling Authority. The Controlling Authority of the Commission shall be the Prime Minister or, as the case may be, the Chief Executive of the Islamic Republic of Pakistan who may supervise the affairs of the Commission.

4 Establishment of the Commission.—(1) As soon as may be, the Federal Government shall, by notification in the official Gazette, establish a Commission to be called the Higher Education Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued.

(3) The headquarter of the Commission shall be at Islamabad and it may set up its sub-offices at such place or places it may deem fit.

5. Appointment of Chairperson —(1) The Controlling Authority shall appoint a person of international eminence and proven ability who has made significant contribution to higher education as teacher, researcher or administrator, as Chairperson on such terms and conditions as it may determine.

(2) The Chairperson appointed under sub-section (1) shall have the status of Federal Minister.

6. Composition and constitution of the Commission —(1) The Commission shall consist of following members, namely:—

- (a) the Chairperson;
- (b) the Secretary, Ministry of Education;
- (c) Secretary,
- (i) Information Technology and Telecommunications Division; or
- (ii) Scientific and Technologic Research Division; to be nominated by the Controlling Authority;
- (d) four nominees of the Provincial Governments, one from each of the provinces;
- (e) ten members appointed in the manner specified in sub-sections (3) and (4); and
- (f) Executive Director to the Commission.

(2) The Executive Director of the Commission shall be ex-officio Secretary of the Commission.

(3) The Controlling Authority in the first instance shall appoint '[thirteen] members of the Commission out of whom —

- (a) seven shall be persons of international eminence and proven ability with significant contribution to higher education as teacher, researcher or administrator provided that at least one of the members shall be a woman;
- (b) one member shall be a Rector or Vice-chancellor appointed by the Controlling Authority out of a panel of three persons suggested by a committee consisting of all Vice-chancellors of public sector universities to be set up by the Commission; and
- (c) 'TFive] members shall be persons of eminence from the private sector who have made significant contributions in the field of higher education or research and development.

(4) In all subsequent appointments of the members specified in clause (a) of sub-section (2) the Commission shall suggest a panel of three persons for each seat out of whom one may be appointed by the Controlling Authority not later than one month from the date of receipt of the names proposed by the Commission and the Controlling Authority may not appoint any of the persons proposed by the Commission and may seek a fresh proposal for suitable persons for appointment as members.

?[(5) The Chairperson shall hold office for a period of two years and members shall hold office for period of four years. In no case the Chairperson and members shall be eligible for re-appointment for more than one similar term.]

'Subs. by the Higher Education Commission (Amendment) Act, 2021(XXII of 2021), s. 3

*Subs. by the Higher Education Commission (Amendment) Act, 2021(XXI of 2021), s. 2

11(5A) Notwithstanding anything in any order, notification, contract, agreement or any instrument containing the duration and terms of service, a Chairperson or a member who, on or after commencement of the Higher Education Commission (Amendment) Act, 2021 completes the term or tenure as provided in sub-section (5) shall on such commencement forthwith cease to be the Chairperson or member, as the case may be.

Explanation.—Sub-section (5), as amended, shall have operation despite any vested right or right as a past and closed transaction in any appointment or terms thereof acquired or purported to have been acquired prior to coming into force of the Higher Education Commission (Amendment) Act, 2021]

(6) The Chairperson and the members may not be removed from office before the expiry of their term save on proven charges of corruption, inefficiency, permanent disability or failure to attend two consecutive meetings without intimation in advance.

7. Honorarium and allowances of the members. The members, other than Chairperson and Executive Director, shall not be entitled to any salary or benefits for their services except such honorarium and allowances as may be prescribed.

8. Resignation and filling of vacancies—(1) The Chairperson or any Member may, by writing under his hand addressed to the Controlling Authority, resign from his office.

(2) Any vacancy occurring in the membership of the Commission due to death, removal or resignation shall be filled in accordance with the provisions of this Ordinance. In case the vacancy is not filled within three months, the Commission shall itself appoint person out of the panel referred in sub-section (4) of section 6.

(3) In the case of vacancy occurring in the office of the Chairperson, the Controlling Authority may nominate any Member of the Commission to act as Chairperson for a maximum period of three months during which period the Controlling Authority shall fill in the vacancy by appointing a regular Chairperson.

9. Meetings of the Commission —(1) A meeting of the Commission shall be held at least twice in a financial year on such day, at such time and place as the Chairperson may determine. At least six members may also call a meeting of the Commission in relation to the functions of the Commission only.

(2) For the purposes of a meeting of the Commission, nine members shall constitute a quorum.

(3) The Chairperson or, in his absence, a Member, elected by the members present in the meeting for the purpose, shall preside over a meeting of the Commission.

(4) All decisions of the Commission shall be expressed in terms of the opinion of the majority of its members present and voting. In the event of an equality of votes, the Chairperson or, as the case may be, the Member presiding the meeting shall have a casting vote:

Provided that the Controlling Authority may refer any decision of the Commission to the Commission for reconsideration.

¹Ins. by the Higher Education Commission (Amendment) Act, 2021(XXI of 2021), s. 2

10. Powers and functions of the Commission ——(1) For the evaluation, improvement, and promotion of higher education, research and development, the Commission may—

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- (b)
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formulate policies, guiding principles and priorities for higher education Institutions for promotion of socio-economic development of the country;

cause evaluation of the performance of Institutions;

prepare, through consultation with the Institutions, plans for the development of higher education and express its opinion on all matters relating thereto;

prescribe conditions under which Institutions, including those that are not part of the State educational system, may be opened and operated;

set up national or regional evaluation councils or authorize any existing council or similar body to carry out accreditation of Institutions including their departments, faculties and disciplines by giving them appropriate ratings. The Commission shall help build capacity of existing councils or bodies in order to enhance the reliability of the evaluation carried out by them;

advise the Federal Government and the Provincial Governments on proposals for granting a charter to award degrees in both public and private sector;

submit to the Federal Government the recurring and development budgets for public sector Institutions and allocate funds to public sector Institution out of bulk financial provision received from the government and other resources on performance and need basis;

review and examine the financial requirements of public sector Institutions; approve and provide funds to these Institutions on the basis of annual recurring needs as well as for development projects and research based on specific proposals and performance and while approving funds for a public sector

Institution the Commission shall ensure that a significant proportion of the resources of the Institution are allocated to research support and libraries;

approve projects within the same ceilings as are specified for Department Development Working Party;

advise Institutions in raising funds from sources other than the Government; support the development of linkages between Institutions and industry as well as national and international organizations that fund research and development with a view to enhancing research;

facilitate the introduction of educational programmes that meet the needs of the employment market and promote the study of basic and applied sciences in

every field of national and international importance in the Institutions;

advise Institutions in ensuring a proper balance between teaching and research;

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cause to be setup testing bodies or designate any existing body for the purpose;

determine the equivalence and recognition of degrees, diplomas and certificates awarded by Institutions within the country and aboard;

develop guidelines and facilitate the implementation of a system of evaluation of performance of faculty members and Institutions;

provide guidelines as regards minimum criteria and qualifications for appointment, promotion, salary structure in consultation with the Finance Division and other terms and conditions of service of faculty for adoption by individual Institutions and review its implementation;

take measures, including the allocation of funds, for the establishment of fellowships, scholarships, visiting professorships programmes or any other programme, in addition to assistance of similar programmes of Institutions; and facilitate greater mobility of faculty through national and international contacts;

set up committees comprising national and international experts in various disciplines to advise the Commission on its affairs;

promote formal links between Institutions in the country to make the most effective use of experience and specialized equipment and promote national and international linkages with respect to knowledge sharing, collaborative research, personnel exchange and cost sharing;

encourage, support and facilitate training programs, workshops and symposia;

guide Institutions in designing curricula that provides a proper content of basic sciences, social sciences, humanities, engineering and technology in the curricula of each level and guide and establish minimum standards for good governance and management of Institutions and advise the Chancellor of any institution on its statutes and regulations;

establish an endowment fund for higher education with contributions from governmental as well as non-governmental resources;

collect information and statistics on higher education and Institutions as it may deem fit and may cause it published; and

perform such other functions consistent with the provisions of this Ordinance as may be prescribed or as may be incidental or consequential to the discharging of the aforesaid functions.

(2) The Commission shall perform all its functions efficiently and diligently.

11. Secretariat of Commission.—'[1(1) The Government shall appoint an Executive Director on the recommendations of the Ministry of Federal Education who shall unless earlier removed on any of the grounds specified in sub-section (6) of section 6, shall hold office for a term of four years and shall be responsible for the various activities of the Commission.]

'Subs. by the Higher Education Commission (Amendment) Act, 2021(XXI of 2021), s. 3

(2) The Executive Director shall be the head of the Secretariat. The Secretariat shall act as the executing wing of the Commission and shall be responsible for implementation of all the orders, decisions, directives and policy of the Commission.

12. Recruitment of officers, etc—(1) The Commission may, from time to time, appoint such officers, servants, consultants and advisers as it may consider necessary for the efficient performance of its functions on such terms and conditions as may be prescribed by the Federal Government.

(2) The Commission shall make rules for recruitment of its employees.

13. Committees —(1) The Commission may setup as many committees as may be required to effectively perform its functions.

(2) The composition and functions of a committee shall be such as the Commission may determine.

CHAPTER III ACCOUNTS AND AUDIT

14. Account and reports of the Commission.— (1) The Commission shall have an account to which shall be credited all grants and contributions made by the Federal Government or a Provincial Government or by any person or authority and out of which shall be disbursed the grants and other expenditure to be made and incurred by the Commission.

(2) The Federal Government shall provide funds to the Commission for meeting all expenses required for discharging its functions and for the public sector institutions and shall, subject to availability of funds, provide annual grants regularly.

(3) The accounts of the Commission shall be—

(a) maintained in such form and manner as the Federal Government may, in consultation with the Controller General of Accounts, determine; and

(b) audited by Auditor-General of Pakistan.

(4) The Commission shall, after the end of every financial year, submit to the Controlling Authority the audited annual statement of accounts of the Commission, together with the report of the Auditor-General of Pakistan.

(5) The Commission shall also submit to the Controlling Authority after the end of every year a report on the state of higher education and on its activities during that year.

CHAPTER IV MISCELLANEOUS

15. Authentication of decisions, etc. All decisions of the Commission shall be authenticated by the signature of the Chairperson or of any other member authorized by it in this behalf and all other orders or instruments issued or executed by or on behalf of the Commission shall be authenticated by the signature of an officer of the Commission authorized by it.

16. Representation of Commission. Any law or other instrument providing for the establishment or incorporation of a university or a degree awarding institution shall have effect as if it provided for the governing body of the university or degree awarding institution consisting of a nominee of the Commission in addition to the members of the governing body.

17. Validity of Proceedings. No act, proceedings, decision or order of the Commission shall be invalid by reason only of the existence of vacancy in, or defect in the constitution of, the Commission.

18. Delegation of function. The Commission may, by general or special order and subject to such conditions as it may deem fit to impose, delegate to Chairperson, Executive Director or any of its member any of its functions under this Ordinance.

19. Chairperson, member and officers, etc., to be public servants. The Chairperson, members, officers, servant, consultant and advisers shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

20. Ordinance to override other laws. The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in law for the time being in force.

21. Power to make rules. The Commission may, with the prior approval of the Controlling Authority, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

22. Repeal—(1) The University Grants Commission Act, 1974 (XXIII of 1974) is hereby repealed.

(2) Upon commencement of this Ordinance—

(a) all funds, properties, rights and interests of whatsoever kind issued and used, enjoyed, possessed, owned or vested in the UGC in existence immediately before such commencement and all liabilities, legally subsisting against the said UGC shall pass to the Commission established under this Ordinance; and

(b) everything done, action taken, obligation or liabilities incurred, rights and assets acquired, persons appointed, or authorized jurisdiction or power conferred, endowment, bequests, funds, or trust created, donations or grants made or issued under any provision of the repealed Act, rules, applicable to the said UGC shall remain in force and be, continued and, be deemed to have been respectively done, taken, incurred, acquired, appointed, authorized, conferred, created, made, or issued under this Ordinance and reference in any document, to any provision of the said Act or rules made thereunder shall, so far as may be, be deemed to be reference to the corresponding provisions of this Ordinance or the rules made or deemed to have been made thereunder; and

(c) any rules made under the repealed Act shall, in so far as they are not inconsistent with the provisions of this Ordinance or the rules made there under having recourse to the various matters which by this Ordinance have to be regulated or prescribed by rules shall continue to be in force, until they are repealed, replaced, rescinded or modified in accordance with the provisions of this Ordinance; and

(d) all contracts and working arrangements made and incurred by the UGC in connection with and for the purpose of the UGC, before the establishment of this Commission shall be deemed to have been made or incurred by the Commission and have effect accordingly; and

(e) notwithstanding anything contained in any law, contract or agreement or in the condition of service, every officer, servant or employee of the UGC existing immediately before the establishment of this Commission shall, on such establishment, stand transferred to, and become an employee of the Commission on such terms and conditions as may be prescribed by rules:

Provided that the pay and allowances to which an officer and servant of the Commission shall be entitled shall not be less favourable than those to which he was entitled immediately before such transfer and no person who stands transferred to the Commission shall, notwithstanding anything contained in any law, contract or agreement, be entitled to any compensation because of such transfer.