

published on 27.11.2015-

Thirteenth Kerala Legislative Assembly

Bill No. 370

**THE KERALA PUBLIC SERVICE COMMISSION
(ADDITIONAL FUNCTIONS AS RESPECTS
THE UNIVERSITIES) BILL, 2015**

©

Kerala Legislature Secretariat
2015

KERALA NIYAMASABHA PRINTING PRESS.

Thirteenth Kerala Legislative Assembly

Bill No. 370

**THE KERALA PUBLIC SERVICE COMMISSION
(ADDITIONAL FUNCTIONS AS RESPECTS
THE UNIVERSITIES) BILL, 2015**

Thirteenth Kerala Legislative Assembly

Bill No. 370

[Translation in English of “2015-ലെ കേരള പബ്ലിക് സർവ്വീസ് കമ്മീഷൻ (സർവ്വകലാശാലകളെ സംബന്ധിച്ച കൂടുതൽ ചുമതലകൾ) ആക്റ്റ്” published under the authority of the Governor.]

THE KERALA PUBLIC SERVICE COMMISSION
(ADDITIONAL FUNCTIONS AS RESPECTS
THE UNIVERSITIES)

BILL, 2015

A

BILL

to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Universities.

Preamble.—WHEREAS, it is expedient to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Universities;

BE it enacted in the Sixty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Public Service Commission (Additional Functions as respects the Universities) Act, 2015.

(2) It shall be deemed to have come into force on the 29th day of September, 2015.

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

(a) “University” means,—

(i) the Kerala Agricultural University established under section 3 of the Kerala Agricultural University Act, 1971 (33 of 1971); or

(ii) the University of Kerala established under section 3 of the Kerala University Act, 1974 (17 of 1974); or

(iii) the University of Calicut established under section 3 of the Calicut University Act, 1975 (5 of 1975); or

(iv) the Mahatma Gandhi University established under section 3 of the Mahatma Gandhi University Act, 1985 (12 of 1985); or

(v) the Cochin University of Science and Technology established under section 4 of the Cochin University of Science and Technology Act, 1986 (31 of 1986) ; or

(vi) the Sree Sankaracharya University of Sanskrit established under section 3 of the Sree Sankaracharya University of Sanskrit Act, 1994 (5 of 1994) ; or

(vii) the Kannur University established under section 3 of the Kannur University Act, 1996 (22 of 1996); or

(viii) the National University of Advanced Legal Studies established under section 3 of the National University of Advanced Legal Studies Act, 2005 (27 of 2005) ; or

(ix) the Kerala University of Fisheries and Ocean Studies established under section 3 of the Kerala University of Fisheries and Ocean Studies Act, 2010 (5 of 2011) ; or

(x) the Kerala University of Health Sciences established under section 3 of the Kerala University of Health Sciences Act, 2010 (4 of 2011) ; or

(xi) the Kerala Veterinary and Animal Sciences University established under section 3 of the Kerala Veterinary and Animal Sciences University Act, 2011 (3 of 2011) ; or

(xii) the Thunchath Ezhuthachan Malayala University established under section 3 of the Thunchath Ezhuthachan Malayala University Act, 2013 (24 of 2013); or

(xiii) the A.P.J. Abdul Kalam Technological University established under section 3 of the A.P.J. Abdul Kalam Technological University Act, 2015 (17 of 2015).

(b) "Public Service Commission" means the Kerala Public Service Commission;

(c) "non-teaching post" means the non-teaching post as per the University statutes concerned.

3. *Functions of the Public Service Commission.*—(1) Notwithstanding anything contained in the University Acts specified in clause (a) of section 2 and the statutes, ordinances, regulations and rules made thereunder, it shall be the duty of the Public Service Commission to prepare select list, for appointment by direct recruitment, of employees to the non-teaching post of a University.

(2) A University shall consult the Public Service Commission,—

(a) on all matters relating to the method of recruitment of the non-teaching staff of the University; and

(b) on the principles to be followed in making appointments by direct recruitment to the non-teaching posts in the University and the suitability of candidates for such appointments.

(3) Where the Public Service Commission is consulted on a matter under sub-section (2), the Commission shall advise the University on that matter.

(4) In the case of any difference of opinion between the Public Service Commission and the University on a matter under sub-section (2), the University shall refer the matter to the Government and the decision of the Government thereon shall be final:

Provided that the Government shall; before taking a decision against the advice of the Public Service Commission, refer the matter to the Public Service Commission.

4. *Power to make rules.*—(1) The Government may, in consultation with the Public Service Commission and the University, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the procedure to be followed by the University for consultation with the Public Service Commission;

(b) any matter which is incidental to, or necessary for, the purpose of consultation with the Public Service Commission;

(c) any matter in which it shall not be necessary to consult the Public Service Commission.

(3) 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.

5. *Repeal and saving.*—(1) The Kerala Public Service Commission (Additional Functions as respects the Universities) Ordinance, 2015 (14 of 2015) is hereby repealed.

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

STATEMENT OF OBJECTS AND REASONS

The appointment of the teaching and non-teaching staff of the Universities in Kerala are being made by the Universities as per the provisions of the respective University Statutes. Appointment of teachers are made by the Selection Committees as per the norms suggested by the U.G.C. But, appointments to the non-teaching posts are being made as per the norms fixed by the Universities themselves.

2. The fact that the Administrative machinery of the Universities, which is expected to give emphasis for the academic excellence and effective administration of a University, has to give more attention to the matters of appointment of non-teaching staff makes hindrance to the efficient management of the Universities. Moreover, the Government have received various complaints that widespread irregularities are going on in the appointments to the non-teaching posts in the Universities. The Government have examined the matter and accordingly issued orders as G.O. (Ms.) No. 399/2010/H.Edn. dated 18th December, 2010 and G.O.(Ms.) No. 11/2011/H.Edn. dated 4th February, 2011 entrusting the appointments to the non-teaching posts in the Universities in Kerala with the Kerala Public Service Commission.

3. As per Article 321 of the Constitution of India, a legislation is necessary to authorise the State Public Service Commission for the exercise of additional functions as respects the Universities. After making such a legislation, the Government may, in consultation with the Commission, make rules in respect of appointment and other conditions of service of non-teaching staff in the Universities and the Universities may make appointments from the rank list prepared by the Public Service Commission in accordance with the provisions of the Act and the Rules made thereunder. Therefore, the Government have decided to bring in a separate legislation for the said purpose.

4. In order to make a legislation as provided by Article 321 of the Constitution to achieve the above object, the Kerala Public Service Commission (Additional Functions as respects the Universities) Bill, 2014 was published as Bill No. 283 of the Thirteenth Kerala Legislative Assembly. But, the said Bill could not be introduced in the session of the Legislative Assembly which commenced on the 8th day of June, 2015.

5. As the State Legislative Assembly was not in session and the above proposals had to be given effect to immediately, the Kerala Public Service Commission (Additional Functions as respects the Universities) Ordinance, 2015 was promulgated by the Governor of Kerala on the 29th day of September, 2015 and the same was published as Ordinance No. 14 of 2015 in the Kerala Gazette Extraordinary No. 2196 dated the 29th day of September, 2015.

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

FINANCIAL MEMORANDUM

The expenses that may incur to the Kerala Public Service Commission for the exercise of additional functions for selection of candidates for appointments to the non-teaching posts in the Universities in Kerala will be met by the University concerned. Therefore, the Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to empower the Government to make rules, by notification in the Gazette, in consultation with the Public Service Commission and the University, for carrying out the purposes of the Act.

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

P. K. ABDU RABB.