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ORDINANCE NO. LIV OF 2009

AN

ORDINANCE

*to provide for the registration, regulation, promotion and
functioning of private educational institutions in Islamabad
Capital Territory*

WHEREAS it is expedient to regulate and promote the functioning of private educational institutions in the Islamabad Capital Territory and to provide for the registration of such institutions ensuring adequate transparency and proper discipline and for matters connected therewith or incidental thereto;

AND WHEREAS, the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Islamabad Capital Territory Private Educational Institutions (Regulation and Promotion) Ordinance, 2009.

(2) It extends to the whole of the Islamabad Capital Territory.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 3rd October, 2007.

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

(a) “Board” means the Federal Board of Intermediate and Secondary Education, Islamabad;

(b) “Chairman” means the Chairman of the Regulatory Authority;

(c) “college” means a privately managed college imparting education for intermediate or higher secondary education;

(d) “Government” means the Federal Government;

(e) “institution” means a privately managed school, college or an institution imparting education up to intermediate or higher secondary School level;

(f) “Member” means the member of the Regulatory Authority;

(g) “prescribed” means prescribed by rules made under this Ordinance;

(h) “privately managed” means an institution which is not owned or managed by a Government, a local body or a body set up or controlled by the Government;

(i) “Regulatory Authority” means the Islamabad Capital Territory Private Educational Institutions (Regulation and Promotion) Regulatory Authority established under section 3;

- (j) "rules" mean the rules made under this Ordinance; and
- (k) "school" means a privately managed school imparting education from pre-primary to secondary education.

3. **Establishment of the Regulatory Authority.**—(1) There shall be established a regulatory authority to be known as the Islamabad Capital Territory Private Educational Institutions (Regulation and Promotion) Regulatory Authority.

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

4. **Aims and objectives of Regulatory Authority.**—The aims and objectives of the Regulatory Authority shall be to register, regulate and promote privately managed educational institutions in the Islamabad Capital Territory to ensure that such institutions follow a uniform policy regarding,—

- (a) curricula;
- (b) duration of academic session and holidays or vacations;
- (c) qualifications of teaching staff and their terms and conditions of service;
- (d) promotion of curricular and co-curricular activities on inter-institutional basis;
- (e) achievement of fair measure of uniformity of academic standards and evaluation among the institutions;
- (f) provision of professional guidance to the institutions on related matters; and
- (g) performance of such other functions as may be incidental or conducive to the attainment of the aforementioned objectives.

5. **Functions and powers of Regulatory Authority.**—(1) The functions and powers of the Regulatory Authority shall be,—

- (a) to regulate, determine and administer all matters and do all such acts and things as are necessary for the achieving of aims and objectives of this Ordinance;

- (b) to register, regulate and promote private educational institutions in Islamabad Capital Territory;
 - (c) to cause inspections, to be made by such persons as the Regulatory Authority may nominate, of institutions applying for registration or of registered institutions;
 - (d) to withdraw registration if it is satisfied after the inspection that the management and instructions in an institution are not of prescribed standard and are in violation of the provisions of this Ordinance;
 - (e) to check qualifications of teaching staff and their terms and conditions of service;
 - (f) to fix, demand and receive such fees for registration and inspection of the institution as may be prescribed;
 - (g) to adopt measures to promote physical and moral well-being of students including sports facilities;
 - (h) to see that the services and quality of education being provided is commensurate with the fees being charged;
 - (i) to ensure that the building of the institution is adequate and its structure sound to house the students;
 - (j) to arrange for the annual audit of the accounts of the Regulatory Authority;
 - (k) to execute any other important matter concerning its functions as may be incidental or conducive to the exercise of aforesaid powers and performance of functions; and
 - (l) to make rules, policy and to execute the same.
- (2) In discharge of its functions the Regulatory Authority shall be guided on questions of policy given to it from time to time by the Government.

6. Composition of the Regulatory Authority.—The Regulatory Authority shall consist of a Chairman, two Members possessing qualifications and experience as may be prescribed:

Provided that the Government may at any time increase or decrease the number of members and, by notification in the official Gazette, prescribe the qualifications and mode of their appointment.

7. **Appointment, functions and powers of Chairman.**—(1) The Chairman and the Members shall be appointed by the Government on such terms and conditions as it may determine.

(2) The Chairman shall be the chief executive officer of the Authority, who shall exercise the powers under this Ordinance and ensure that the rules made by the Regulatory Authority are strictly observed.

(3) The Chairman shall perform such other functions as may be assigned to him by the Government including the appointment of staff and determination of their terms and conditions of service, etc., for proper execution of the functions assigned to the Regulatory Authority under this Ordinance.

(4) The Chairman shall take all possible steps to ensure that the funds of the Regulatory Authority are spent judiciously and properly.

8. **Maintenance of accounts and audit.**—The Regulatory Authority shall maintain complete accounts of income and expenditure in such manner and form as the Government, in consultation with the Controller General of Accounts, determines. The accounts shall be audited by the Auditor General of Pakistan annually.

9. **Funds.**—(1) The Regulatory Authority shall be a self-financing body.

(2) The Regulatory Authority shall have a fund to which shall be credited all income including income from inspection fee, registration fee, other sources, etc., and account shall be maintained in a scheduled commercial bank of Pakistan approved by the Government.

10. **Staff pay and allowances.**—(1) The pay and allowances of the staff shall be such as are in force in the Board or other similar Regulatory Authorities of the Federal Government.

(2) The Regulatory Authority may appoint such staff as it may deem appropriate for carrying out its functions.

11. **Direction from Government.**—The general direction and administration of affairs of the Regulatory Authority shall vest in the Chairman but the Government which shall be the sole judge as to whether a question is a question of policy may, as and when it considers necessary, issue directives to the Regulatory Authority on matters of policy and the same shall be binding on the Regulatory Authority.

12. **Establishment or continuance of an institution.**—No institution shall be established or continued except in accordance with the provisions of this Ordinance.

13. Application for registration of an institution.—(1) Any person intending to establish or continue any existing institution shall make an application to the Regulatory Authority in the prescribed form accompanied by such documents and fee as may be prescribed.

(2) An existing institution may continue to function for a period not exceeding ninety days from the commencement of this Ordinance and where an application is made under sub-section (1) until the application is rejected or if any appeal is preferred until the decision of the appeal.

(3) Every institution or its branches running under the same management or name at different premises shall be registered separately.

14. Enquiry and recommendation about the application.—(1) The Regulatory Authority may, on the receipt of an application, under section 13 constitute an Inspection Committee to make enquiry about such matters as may be prescribed.

(2) The Inspection Committee shall submit its recommendations to the Regulatory Authority within thirty days of the receipt by it of the application under sub-section (1).

(3) The Regulatory Authority shall after considering the report of the Inspection Committee and after making such further enquiry, as it considers necessary, either grant or reject the application.

(4) The Regulatory Authority shall record reasons for granting or rejecting the application:

Provided that no order of refusal shall be made without giving the person concerned an opportunity of being heard.

15. Monitoring, inspection, etc.—(1) An institution shall be subject to monitoring by the Regulatory Authority and for the purpose the Government or any officer or authority authorized by it may inspect any institution with a view to ensuring that such an institution is maintained in accordance with the provisions of this Ordinance, rules and the terms and conditions of the certificate of registration, and the management of the institution shall afford all facilities for carrying out a proper inspection.

16. Cancellation or suspension of certificate of registration.—(1) Where the Regulatory Authority, on receipt of a complaint or otherwise, after making such enquiry or inspection as deemed fit, is satisfied that there is a contravention of any of the provisions of this Ordinance rules or term or condition of the certificate of registration or any order passed or instruction issued by the Regulatory Authority,

it may after giving an opportunity to the person concerned of being heard, suspend or cancel the certificate of registration:

Provided that where the default is capable of being remedied no order shall be made unless an opportunity is provided to the person concerned to rectify such default within the specified period.

(2) On the cancellation or suspension of the certificate of registration, the Regulatory Authority, may, make such orders and take such action with respect to the completion of the current education term as may be considered necessary.

17. **Appeal.**—Where the Regulatory Authority rejects an application for registration or suspends or cancels the certificate of registration the aggrieved person may, within thirty days from the date of the order of the Regulatory Authority; prefer an appeal to the Secretary, Ministry of Education and the order passed by him shall be final and given effect to by the Regulatory Authority.

18. **Annual reports.**—(1) The institutions shall furnish to the Government each year a report on annual audit accounts, report on the activity of the institution during the preceding year and such information relating to its activities as may be required by the Government.

(2) The Regulatory Authority may from time to time give such instructions as it considers necessary for compliance by the institutions.

(3) The Regulatory Authority shall submit to the Federal Government, as soon as possible' after the end of every financial year but before the 30th September, a report on the conduct of its affairs for the year.

19. **Penalty.**—Subject to the provisions of section 13, whoever runs an institution in contravention of the provisions of this Ordinance or rules shall be punished with imprisonment which may extend to one year or with fine which may extend to five hundred rupees for each day during the period offence continues or with both.

20. **Cognizance of offence.**—No court shall take cognizance of an offence under this Ordinance except upon a complaint in writing made by the Regulatory Authority or any other authorized by it in this behalf, and no court inferior to that of a Magistrate of the First Class shall try any such offence.

21. **Indemnity.**—No suit or legal proceedings shall lie against the Government, the Regulatory Authority or any person acting under this Ordinance for anything which is in good faith, done, or intended to be done under this Ordinance.

22. **Power to make rules.**—Subject to the approval of the Government, the Regulatory Authority may make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

23. **Removal of difficulties.**—If any difficulty arises in giving effect to any provisions of this Ordinance, the Government may make such order, not inconsistent with the express provisions of this Ordinance as may appear to it necessary or expedient for the purpose of removal of the difficulty.

STATEMENT OF OBJECTS AND REASONS

There are some 660 Private Educational Institutions (PEIs) functioning within the Islamabad Capital Territory (ICT). These institutions impart education from Nursery to Secondary and Higher Secondary Levels. A few of the institutions are pursuing 'O' and 'A' Levels of the curriculum of the Universities of London and Cambridge, while all others are pursuing the National Scheme of Studies. The credentials of some of the PEIs are fairly genuine as well as effective in their output, but some are with weak set ups and deplorable performance.

2. PEIs in ICT were functioning until year 2006 without any Federal Government policy paradigm, while all Provincial Governments had made laws to regulate the functioning of PEIs within their respective jurisdiction. There was no federal law under which the Federal Government could take corrective action against any Private Educational Institution found indulging in unhealthy practices. The general public had been feeling dissatisfied on this score and there were complaints galore against PEIs. Besides, there was no platform which could provide credible intelligence with regard to the character / level of PEIs, number of students receiving education there, requirements of textbooks, future admissions and related matters, etc for the purpose of planning.

3. It was, therefore, considered necessary to make and promulgate a law to establish a regulatory system for PEIs in ICT. A complainant had even filed a writ petition in the Lahore High Court, Rawalpindi Bench, against PEIs and sought judicial directive to the Federal Government to legislate for provision of proper checks over PEIs in ICT. Further, the Supreme Court of Pakistan also desired a report regarding the rules, regulations and law for regulating the affairs of PEIs.

4. With a view to addressing the above issues and filling the vacuum, the Ordinance titled, "The Islamabad Capital Territory Private Educational Institutions (Regulation and Promotion) Ordinance, 2006" was promulgated to provide for proper checks over the PEIs of ICT. The Law, Justice and Human Rights Division notified the Ordinance in the Gazette of Pakistan Extra-Ordinary dated 21st September, 2006. Following the promulgation of the Ordinance, a Regulatory Authority for PEIs in ICT, imparting education up to HSSC level and equivalent, was established as a self-financing body, comprising a Chairman and two Members. The Authority is in place and functioning since 5th December, 2006 and so far, has registered 652 PEIs functioning within territorial jurisdiction of ICT.

5. The Bill seeks to achieve the aforesaid objectives.

SARDAR ASEFF AHMAD ALI
Minister for Education
Member-in-Charge