

Bill No. 42 of 2011

THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011

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THE SCHEDULE

Bill No. 42 of 2011

THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011

A

BILL

to provide for maintenance of national database of academic awards in electronic format in a depository to be known as the National Academic Depository and for verification and authentication of such awards and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 **1.** (1) This Act may be called the National Academic Depository Act, 2011.
 (2) It extends to the whole of India.
 (3) It shall come into force on such date as the Central Government may, by notification, appoint:

Short title,
extent and
commence-
ment.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Application
of Act.

2. This Act shall apply to all academic institutions specified in the Schedule.

Definitions.

3. (1) In this Act, unless the context otherwise requires,— 5

(a) “academic depository agent” means an academic depository agent registered by the National Academic Depository under sub-section (1) of section 8;

(b) “academic award” means any certificate or degree or diploma granted by a Board, Council, School, university or an academic institution or higher educational institution established by or under any law, for the time being in force, to do so; 10

(c) “academic institution” means a higher educational institution or a body in secondary education conducting examinations at the conclusion of class tenth or class twelfth specified in the Schedule;

(d) “certificate” means an award granted by any of the bodies specified in the Schedule, certifying that the recipient has successfully passed an examination 15 conducted at the conclusion of class tenth or class twelfth, as the case may be;

(e) “college” means any institution, whether known as such or by any other name which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students 20 undergoing such course of study for the examination for the award of such qualification;

(f) “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form;

(g) “data centre” means such place where representation of information or records in the national database are stored, or being prepared or have been prepared in a 25 formalised manner and is intended to be, or is being, or has been, processed using a computer source code, in a computer system or computer network;

(h) “degree” means an award, granted by a university or academic institution established by or under any law, for the time being in force, to do so, certifying that the recipient has successfully completed a course of study; 30

(i) “diploma” means such award, not being a degree, granted by a higher educational institution certifying that the recipient has successfully completed a course of study of not less than nine months duration;

(j) “distance education system” means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence 35 course, seminars, contact programmes or the combination of any two or more of such means;

(k) “depository” means a depository which has been granted certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 and includes a fully owned subsidiary of such depository; 40 15 of 1992.

(l) “higher educational institution” means an institution of learning including an university, an institution deemed to be a university, a college, an institution of national importance declared as such by an Act of Parliament, or a constituent unit of such institution, imparting (whether through conduct of regular classes or distance education systems) higher education beyond twelve years of schooling leading to the award of 45 a degree or diploma;

(m) “institution deemed to be university” means an institution declared by the Central Government as deemed to be a university under section 3 of the University Grants Commission Act, 1956; 3 of 1956.

(n) “National Academic Depository” means a depository appointed as the National Academic Depository under sub-section (1) of section 4;

(o) “national database” means the collection, in an electronic format, of awards, by academic institutions, and related data;

5 (p) “notification” means a notification published in the Official Gazette and the expression “notify” with its cognate meanings and grammatical variation shall be construed accordingly;

(q) “prescribed” means prescribed by rules made by the Central Government;

10 (r) “record” means data, image or information concerning the national database generated, received, stored, processed or sent in an electronic form;

(s) “secondary education” means education from ninth class to twelfth class and includes such education imparted by open schools through distance education systems;

15 (t) “university” means a university established or incorporated by or under a Central Act, or a State Act, and includes an institution deemed to be university.

21 of 2000. (2) Words and expressions used and not defined herein but defined in the Information
10 of 1897. Technology Act, 2000 or in the General Clauses Act, 1897, and not inconsistent with this Act shall have the meanings respectively assigned to them in the Information Technology Act, 2000 or in the General Clauses Act, 1897.

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CHAPTER II

NATIONAL ACADEMIC DEPOSITORY

4. (1) The Central Government shall, by notification, appoint, on such terms and conditions as may be prescribed, a depository to act as the “National Academic Depository” to establish and maintain the national database of academic awards in electronic format.

Appointment
of National
Academic
Depository.

25 (2) No depository shall be appointed as the National Academic Depository unless—

15 of 1992. (i) it is a depository having a certificate of registration as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 or is a fully owned subsidiary of such depository;

30 (ii) it has, in its memorandum of association, specified provision of depository services for academic awards as one of its objects; and

(iii) it fulfils such other terms and conditions as may be prescribed.

(3) The National Academic Depository appointed under sub-section (1) shall not commence its operations unless it is so authorised, in writing, by the Central Government.

35 (4) The Central Government shall not authorise commencement of operations under sub-section (3) unless it is satisfied that the National Academic Depository has established,—

(i) adequate systems for storage in, access to, and retrieval of records, from the national database while ensuring its confidentiality, accuracy and authenticity;

40 (ii) adequate systems and safeguards to ensure that its automatic data processing systems are secure by being protected against unauthorised access, alteration, destruction, disclosure or manipulation;

(iii) an adequate network through which the National Academic Depository shall maintain continuous electronic communications with academic institutions, academic depository agents and facilitation centres;

45 (iv) adequate systems and safeguards to secure the network referred to in clause (iii) from unauthorised access, entry or manipulation;

(v) adequate systems and safeguards to prevent destruction, unauthorised disclosure and manipulation of records in the national database;

(vi) adequate number of facilitation centres, established by it or on its behalf, for providing services required to be provided by it under this Act;

(vii) adequate systems for recovery of data in the national database, in case of any loss, destruction or any other contingency;

(viii) arrangements for secured storage and maintenance of back-up data at a location different from the main data centre where the national database has been hosted;

(ix) an operations manual explaining all aspects of its functioning, including the interface and method of transmission of information between academic institutions, academic depository agents and facilitation centres;

(x) adequate safeguards to ensure that physical access to its premises, facilities, data centres (including data back-up locations), automatic data processing systems and electronic data communication network is secure, controlled, monitored and recorded; and

(xi) such other requirements which may be necessary for proper functioning of the National Academic Depository as may be prescribed.

(5) The Central Government, before authorising for commencement of operations, may cause to be undertaken, physical verification of the provision of systems, safeguards, mechanisms, manual and facilities specified in sub-section (4) by the National Academic Depository.

(6) The Central Government shall, on expiry of a period of ten years from the date of notification under sub-section (1), undertake the review of the functioning of the National Academic Depository, and if—

(i) it is satisfied with the functioning of the National Academic Depository, may renew the appointment of such Depository for a further period of ten years; or

(ii) it is not satisfied with the functioning of the National Academic Depository, may revoke the appointment of such Depository and the provisions of sub-sections (2), (3), (4), (5), (6) and (7) of section 6 shall apply accordingly.

Services to be provided by National Academic Depository.

5. (1) It shall be the duty of the National Academic Depository, after it has been authorised to commence operations under sub-section (4) of section 4, to provide or cause to be provided all such services as may be necessary to—

(a) register academic institutions;

(b) provide access to the national database for registered academic institutions;

(c) facilitate academic institutions to efficiently lodge, in the national database, the academic awards of such institutions;

(d) provide adequate training to academic institutions in the process of lodging and retrieval of records of academic awards from the national database;

(e) provide efficient online verification of any specific academic award lodged in the national database;

(f) verify and authenticate any specific academic award in the national database when so requested by any person whose academic awards are maintained in the national database or any other person authorised by him;

(g) provide an authenticated copy of any specific academic award in the national database when so requested by any person whose academic awards are maintained in the national database to him or any other person authorised by him;

(h) maintain the authenticity, integrity and confidentiality of the national database;

(i) ensure that the national database is, at all times, accessible online to authorised persons;

5 (j) ensure that databases and software programmes are developed and designed
of 2011. in such a way as to facilitate online interaction and exchange of information with the
Central Identities Data Repository created by the National Identification Authority of
India, under the National Identification Authority of India Act, 2011, for persons whose
academic awards are maintained in the national database;

10 (k) perform, consistent with the provisions of this Act, such other duties as may
be prescribed.

Explanation.—For the purposes of this sub-section, the expression “authorised
person” means any person authorised by the National Academic Depository and includes
academic depository agents and academic institutions.

15 (2) For the purposes of providing the services under sub-section (1), the National
Academic Depository shall establish such number of facilitation centres at such places as it
may deem fit.

6. (1) The Central Government may, if it is satisfied after making such inquiry as it
deems fit, revoke the appointment of the National Academic Depository on any or all of the
following grounds, namely:—

Revocation of
appointment
of National
Academic
Depository.

20 (a) where the National Academic Depository, in the opinion of the Central
Government, makes wilful or continuous default in any act of commission or omission
as required by or under this Act or the rules made thereunder;

25 (b) where the National Academic Depository commits breach of any of the terms
or conditions of the appointment which is expressly declared by such appointment to
render it liable to revocation;

30 (c) where the National Academic Depository fails, within the period fixed in this
behalf by its appointment, or any longer period which the Central Government may
have granted therefor, to show, to the satisfaction of the Central Government, that
such depository is in a position fully and efficiently to provide the services required of
it and discharge the duties and obligations imposed on it by its appointment;

(d) where in the opinion of the Central Government the financial position of the
National Academic Depository is such that such depository is unable fully and efficiently
to provide the services required of it or discharge the duties and obligations imposed
on it, by its appointment;

35 (e) fails to comply with any other requirement, as may be prescribed.

40 (2) No appointment shall be revoked under sub-section (1) unless the Central
Government has given to the National Academic Depository not less than thirty days notice,
in writing, stating the grounds on which it is proposed to revoke the appointment, and has
considered any cause shown by it within the period of that notice, against the proposed
revocation.

(3) Where the Central Government revokes the appointment under this section, it shall
serve an order of revocation upon the National Academic Depository and fix a date on which
the revocation shall take effect; and such revocation shall be without prejudice to the action
which may be taken against it under this Act or any other law for the time being in force.

45 (4) The Central Government may, instead of revoking an appointment under sub-
section (1), permit such appointment to remain in force subject to such further terms and
conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be
binding upon and be observed by the National Academic Depository and shall be of like
force and effect as if they were contained in the appointment under section 4.

(5) Where the Central Government revokes the appointment under this section, the National Academic Depository shall, not later than the date specified under sub-section (4) as the date on which the revocation shall take effect, provide, in such form and manner as may be prescribed, all the records and data comprised in the national database and the computer source code, to the Central Government or to any other authority, as it may direct. 5

(6) The Central Government shall publish the revocation of the appointment of the National Academic Depository in the Official Gazette, display on its website and also give public notice in respect thereof in such manner as may be prescribed.

(7) The National Academic Depository shall, while providing the national database under sub-section (5), certify that the national database and every record contained in such database is authentic and in accordance with the record of academic awards lodged with it by academic institutions; and no record, or any part of record, has been changed or modified or altered. 10

Segregation of activities and business.

7. Where the National Academic Depository is carrying on any activity or business besides that of acting as depository for the national database, then— 15

(i) the activities relating to the business as National Academic Depository shall be separate and segregated from all other activities; and

(ii) its officers and employees (other than the officers in its Governing Body or Board of Directors or by whatever other equivalent name called) engaged in providing services under this Act shall not be engaged in any other activity or business carried on by it; and 20

(iii) the accounts of incomes and expenditures relating to the national database shall be separate and distinct from accounts relating to other activities or businesses carried on by it.

Registration of academic depository agent.

8. (1) The National Academic Depository shall register, in such manner and on the payment of such charges as it may deem fit, one or more academic depository agents to assist it in the provision of services under this Act on behalf of the National Academic Depository: 25

Provided that no person shall be registered by the National Academic Depository as an academic depository agent, if he— 30

(i) is a minor; or

(ii) is of unsound mind and stands so declared by a court of competent jurisdiction; or

(iii) has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment or attempt to commit any such offence by a court of competent jurisdiction; or 35

(iv) does not possess such qualifications and experience or does not fulfil such criteria relating to capital adequacy requirement and other requirements, terms and conditions as may be prescribed.

(2) No person shall be registered, by the National Academic Depository, as an academic depository agent, if such person holds, directly or otherwise, any equity share capital or any other interest in the National Academic Depository: 40

Provided that no person, being a promoter of the National Academic Depository, shall hold any equity share capital of an academic depository agent or any other interest therein.

(3) The National Academic Depository shall enter into an agreement, in such form and manner as may be prescribed, with the academic depository agents registered by it under sub-section (1). 45

(4) The academic depository agent shall provide, as the National Academic Depository may deem fit, one or more of the services to be provided by the National Academic Depository under section 5 on its behalf.

(5) Any thing done or omitted to be done by a registered academic depository agent in the performance of duties or provision of services by such agent shall be deemed to have been done or omitted to be done with the knowledge and consent of the National Academic Depository and the National Academic Depository shall also be liable as if the things had been done or omitted to have been done by itself.

(6) Every academic depository agent shall follow such code of conduct specified by the National Academic Depository with the prior approval of the Central Government, in the provision of services or discharge of duties and obligations by it.

(7) The National Academic Depository may, without prejudice to any other proceedings under this Act or any other law for the time being in force, revoke, for default or deficiency in provision of services or in discharge of duties and obligations, the registration of any academic depository agent.

CHAPTER III

MANDATORY LODGING OF ACADEMIC AWARDS AND SERVICES PROVIDED

9. (1) Every academic institution shall lodge with the National Academic Depository, in such form and manner as may be prescribed, all academic awards issued by it after the commencement of this Act, to all its students.

Mandatory lodging of academic awards by academic institutions in depository.

(2) Every academic institution shall nominate, within three months of the appointment of the National Academic Depository, such number of its officers or employees as it may deem fit for training in the procedure and process to be provided by the National Academic Depository and thereafter such nomination shall be made by such institution on a regular basis at such intervals as such institution deems fit.

(3) The National Academic Depository shall, immediately after the commencement of this Act, provide adequate training in the procedure and processes involved in lodging academic awards with the National Academic Depository, to such number of persons, being in the employment of every academic institution, and as may be nominated by the academic institution.

(4) Without prejudice to any of the provisions of this Act or duty imposed under any law for the time being in force, it shall be the duty of every academic institution to have in its employment at all times sufficient number of its officers and employees trained under subsection (3).

(5) The National Academic Depository shall be entitled to recover reasonable cost of training from each academic institution:

Provided that in case of any dispute, about the reasonableness of the cost of training, between the National Academic Depository or any academic institution, such dispute shall be referred to the State Educational Tribunal established under the Educational Tribunals Act, 2011, having jurisdiction, for adjudication:

Provided further that the decision of the State Educational Tribunal on the dispute shall be final and binding on all parties.

(6) Any academic institution may, if it thinks proper, lodge academic awards issued by it in any year, prior to the commencement of this Act; and in such case, the National Academic Depository shall inform, through its website, the general public of the availability of information of such academic awards in respect of such institution.

(7) Every academic institution shall appoint an officer to co-ordinate with the National Academic Depository for the purpose of lodging, from time to time, academic awards issued

by it in the national database and on matters connected therewith or incidental thereto; and such officer shall be designated as the “Nodal Officer”.

(8) The National Academic Depository shall provide the contact details of the Nodal Officers appointed by each academic institution under sub-section (4) on its website.

(9) The National Academic Depository shall provide, subject to such safeguards as may be prescribed, to every academic institution, online secure access to the records in the national database relating to the academic awards issued by such institution. 5

Duty of academic institutions.

10. It shall be the duty of every academic institution to verify, on a request made to it by the National Academic Depository, within a period of seven days from the date of receipt of such request, any academic award purported to be, or have been, issued by it and included or proposed to be included in the national database of academic awards. 10

Lodging of academic awards by any person.

11. (1) Any person may request the National Academic Depository, in such form and manner as may be prescribed, to lodge the academic award received, prior to the commencement of this Act, by such person from an academic institution.

(2) The National Academic Depository, on receipt of the request under sub-section (1), shall, after verification and authentication of such academic award from the academic institution which has issued such award, lodge it in the national database. 15

Process of verification and authentication.

12. (1) Any person, whose academic awards are maintained in the national database or any other person authorised by him, requiring verification and authentication of any specific academic award in the national database, may apply to the National Academic Depository or to any registered academic depository agent, in such form and manner and on the payment of such fees as may be prescribed: 20

Provided that the person making an application shall provide such details as the National Academic Depository may require to enable it to retrieve the record from the national database. 25

(2) The National Academic Depository or its registered academic depository agent shall, within a period of three days from the date of receipt of such application, verify and authenticate the specific academic award, if lodged in the national database, or inform the applicant of the non-availability of such academic award with it:

Provided that where the National Academic Depository or its academic depository agent, as the case may be, is unable to verify and authenticate the specific academic award, inform the applicant within the period specified in this sub-section or if the academic award is not lodged in the depository, it shall, immediately but not later than a further period of three days from the expiry of the period specified, refund the charges paid by the applicant. 30

(3) The National Academic Depository or academic depository agent registered with it, as the case may be, while informing the applicant under sub-section (2), shall ensure that verification and authentication is informed to the individual to whom such award relates and who made the request therefor or to any other person authorised by such individual and to no other person. 35

Certain requirements of National Academic Depository.

13. (1) The National Academic Depository shall, while maintaining the national database of academic awards, have adequate mechanisms for the purposes of reviewing, monitoring and evaluating its controls, systems, data recovery mechanisms, procedures and safeguards. 40

(2) The National Academic Depository shall have appropriate safekeeping measures to ensure that records in the national database of academic awards held by it are protected from theft and man made and natural hazard or any such foreseeable contingency. 45

(3) The National Academic Depository shall, in a secure and authentic manner, maintain data back-up of all records of academic awards comprised in the national database at location or locations other than its main data centre.

(4) The National Academic Depository shall ensure that the integrity of the automatic electronic data processing systems or the computer network is maintained at all times.

(5) The National Academic Depository shall take all measures necessary to ensure a secure online connectivity and inter-operability with the database created and maintained
5 by the National Identification Authority of India for the purpose of creating and maintaining an aadhaar number for each person.

(6) The National Academic Depository shall cause to be inspected annually the mechanism referred to in sub-section (1), the measures referred to in sub-section (2) and the security and authenticity of back-up data referred to in sub-section (3), by an expert from a
10 panel prepared in the manner provided in sub-section (7), and forward the inspection report, along with an explanatory memorandum on the action taken thereon, to the Central Government within three months from such inspection.

(7) The Central Government, in consultation with the National Academic Depository, prepare a panel of independent experts having such qualifications and experience as may be
15 prescribed.

(8) The Central Government, on the basis of the inspection report and the explanatory memorandum on the action taken thereon referred to in sub-section (6), if required, direct the National Academic Depository to take such further action, for reasons to be recorded in writing, to promote the objectives of this Act; and the National Academic Depository shall
20 be bound by such directions.

14. (1) The National Academic Depository shall maintain communication, through
electronic mode on a regular basis, with all academic institutions and other persons authorised
under this Act or the rules made thereunder. Connectivity.

(2) Every academic depository agent shall maintain communication, through electronic
25 mode on a regular basis, with the National Academic Depository.

(3) Every academic institution shall maintain communication, through electronic mode on a regular basis, with the National Academic Depository and academic depository agent, where so required.

15. (1) The National Academic Depository shall maintain proper accounts and other
30 relevant records and prepare an annual statement of accounts, relating to its activities under this Act or rules made thereunder, in such form and manner as may be prescribed. Accounts and
Audit of
National
Academic
Depository.

(2) The accounts of the National Academic Depository shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified and any expenditure incurred in connection with such audit shall be payable by the National Academic
35 Depository to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by it in connection with the audit of the accounts of the National Academic Depository shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government
40 accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Academic Depository.

(4) The accounts of the National Academic Depository as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together
45 with the audit report thereon, shall be forwarded annually to the Central Government by the National Academic Depository and the Central Government shall cause the same to be laid before each House of Parliament.

CHAPTER IV

OFFENCES AND PENALTIES

Compensation for damage to computer, computer system, etc.

16. If any person without authorisation of the Central Government or the National Academic Depository, the academic depository agent, or the persons authorised by each academic institution, in respect of any computer, computer system or computer network concerned with the national database— 5

(a) accesses or secures access to such computer, computer system or computer network;

(b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium; 10

(c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;

(d) damages or causes to be damaged any computer, computer system or computer network, data, computer database or any other programme residing in such computer, computer system or computer network; 15

(e) disrupts or causes disruption of any computer, computer system or computer network;

(f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means; 20

(g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act or rules made thereunder,

such person shall be liable to pay damages for each default by way of compensation which may extend to one crore rupees to the Central Government: 25

Provided that such part of the compensation as concerns the damage caused to the computer, computer system, or data residing in such computer system or computer network of the National Academic Depository or its restoration thereof to the condition that existed prior to such damage, shall be apportioned to the National Academic Depository.

Explanation.—For the purposes of this section,— 30

(i) “computer contaminant” means any set of computer instructions that are designed—

(a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or

(b) by any means to usurp or disrupt the normal operation of the computer, computer system, or computer network; 35

(ii) “computer data base” means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network; 40

(iii) “computer virus” means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource; 45

(iv) “damage” means to destroy, alter, delete, add, modify or rearrange any computer resource by any means.

17. If the National Academic Depository or academic depository agent registered by the National Academic Depository fails to discharge the duties or fails to provide the services expected of it under, or contravenes or abets the contravention of, any provision of this Act or the rules made thereunder or contravenes the directions issued by the Central Government under sub-section (1) of section 28, then the National Academic Depository shall, without prejudice to proceedings for prosecution under the provisions of this Act or any other law for the time being in force, be liable to a monetary penalty which may extend to fifty lakh rupees for each failure or contravention.

Penalty for contravention by National Academic Depository or Academic depository agent.

18. Any academic institution which fails to discharge the duties expected of it under this Act or rules made thereunder, or contravenes any provision thereof, shall be liable to a monetary penalty which may extend to five lakh rupees for each such instance of failure or contravention.

Penalty for contravention by academic institution.

19. (1) Save as otherwise provided in this Act, all matters under sections 16, 17 and 18 shall be adjudicated by the National Educational Tribunal established under the Educational Tribunals Act, 2011.

Adjudication of penalties.

1 of 2011.

(2) No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter referred to in sub-section (1), and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20. (1) Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any record in the national database or any computer source code used for a computer, computer programme, computer system or computer network, of the National Academic Depository, shall be proceeded against and punished under the provisions of section 65 of the Information Technology Act, 2000.

Offence of tampering with computer source documents.

21 of 2000.

21. Whoever commits hacking shall be proceeded against and punished under the provisions of section 66 of the Information Technology Act, 2000.

Offence of hacking into national database.

21 of 2000.

22. (1) If the National Academic Depository, on the revocation of its appointment, fails to provide, in the form and manner prescribed under sub-section (6) of section 6, the records comprised in the national database, then the promoter, director, manager, secretary or other officer of the company appointed by the National Academic Depository shall be punishable with imprisonment which may extend to ten years or with fine which may extend to ten crore rupees, or with both.

Offence of not providing data on revocation of appointment or wrong certification.

(2) If the National Academic Depository, on the revocation of its appointment, fails to certify in the manner required under sub-section (7) of section 6, then the promoter, director, manager, secretary or other officer of the company appointed by National Academic Depository shall be punishable with imprisonment which may extend to ten years or with fine which may extend to ten crore rupees, or with both.

23. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

45

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. 5

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm. 10

Offences by societies, trusts, etc.

24. (1) Where an offence under this Act has been committed by a society or trust or agency or institution, every person who at the time the offence was committed was in charge of, and was responsible to, the society or trust or agency or institution for the conduct of the business of the society or trust, as well as the society or trust or agency or institution, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 15

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence. 20

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a society or trust or agency or institution and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any vice-chancellor, directors, committee, trustees, registrar or other officer, such directors, committee, trustees, vice-chancellor, registrar or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. 25

Cognizance of offences.

25. (1) No court shall take cognizance of any offence punishable under this Act or the rules made thereunder, save on a complaint made by the Central Government or a State Government, or the National Academic Depository or any officer or person authorised by the Central Government or a State Government or the National Academic Depository. 30

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

Crediting sums realised by way of compensation or penalty or fine to Consolidated Fund of India.

26. All sums realised by way of compensation or penalty under this Act shall be credited to the Consolidated Fund of India. 35

CHAPTER V

MISCELLANEOUS

Returns and information to be provided by National Academic Depository.

27. The National Academic Depository shall furnish to the Central Government such returns or other information at such intervals, as may be specified by it, with respect to its policies or performance of its functions and provision of services under this Act as the Central Government may, from time to time, require. 40

Power of Central Government to give directions.

28. (1) Without prejudice to the foregoing provisions of this Act, the National Academic Depository shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time. 45

(2) The decision of the Central Government whether a question is one of national policy or not shall be final.

29. (1) Without prejudice to the foregoing provisions of this Act, the Central Government shall, at such interval, as it may deem fit, by giving at least two days notice, cause an inspection of the National Academic Depository or any academic depository agent to be conducted by any authority or its officers for physical verification of the provision of systems, safeguards, mechanisms and facilities concerning the national database:

Power of Central Government to inspect.

Provided that the National Academic Depository shall be associated in case of inspection of the academic depository agent.

30. (1) The Central Government or any person authorised by it in this behalf shall take up for investigation any contravention of the provisions of this Act or rules made thereunder by the National Academic Depository or any academic depository agent.

Power to investigate contraventions.

(2) The Central Government or any person authorised by it in this behalf shall exercise like powers which are conferred under Chapter XIII of the Income Tax Act, 1961 and shall exercise such powers, subject to such limitations laid down under that Act.

(3) If, the Central Government on receipt of the report of investigation, is of the opinion that National Academic Depository or academic depository agent registered by it had failed to comply with provisions of this Act or any other law for the time being in force, it may, without prejudice to the proceedings for prosecution or imposition of monetary penalty or liability of compensation under this Act or any other law for the time being in force, revoke its appointment.

31. (1) The Central Government or any person authorised by it shall, if there is reasonable cause to suspect that any contravention of the provisions of this Act or rules made thereunder has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, of the National Academic Depository or any academic depository agent, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

Access to computers and data.

(2) For the purposes of sub-section (1), the Central Government or any person authorised by it may, by order, direct, the National Academic Depository or any academic depository agent or any person in-charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as may be considered necessary.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

33. No suit, prosecution or other legal proceeding shall lie against the Central Government or its officers and employees or an academic institution for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

Protection of action taken in good faith.

34. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of appointment of the National Academic Depository under sub-section (1) of section 4;

(b) the other terms and condition under clause (iii) of sub-section (2) of section 4;

(c) the other requirements which may be necessary for proper functioning of the National Academic Depository under clause (xi) of sub-section (4) of section 4;

(d) the other duties to be performed by the National Academic Depository under clause (k) of sub-section (1) of section 5;

(e) other requirement under clause (e) of sub-section (1) of section 6;

(f) the form and manner in which the National Academic Depository shall provide all the records and data comprised in the national database to the Central Government under sub-section (6) of section 6;

(g) the manner in which the Central Government shall give public notice of the revocation of the appointment of the National Academic Depository under sub-section (6) of section 6; 5

(h) the qualifications, experience, criteria relating to capital adequacy and other requirement and the terms and conditions for registration of academic depository agent under clause (iv) of the proviso to sub-section (1) of section 8; 10

(i) the form and manner in which the National Academic Depository shall enter into an agreement with the academic depository agent under sub-section (3) of section 8;

(j) the form and manner in which academic institutions shall lodge academic awards issued by it in the national database under sub-section (1) of section 9; 15

(k) the safeguards for providing to the academic institution online secure access to the records in the national database relating to the academic awards issued by such institution under sub-section (7) of section 9;

(l) the form and manner for lodging of academic awards by any person in the national database under sub-section (1) of section 11; 20

(m) the qualifications and experience of the independent experts under sub-section (6) of section 13;

(n) the form and manner in which the National Academic Depository shall maintain its accounts and other related documents, and prepare annual statement of accounts relating to its activities, under sub-section (1) of section 15; 25

(o) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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. 30 35

Power of Central Government to amend schedule.

35. (1) The Central Government may, by notification in the Official Gazette, amend from time to time, the Schedule to this Act.

(2) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

Power to remove difficulties.

36. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: 40

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act. 45

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

THE SCHEDULE

[See section 2 and clause (b) of sub-section (1) of section 3]

1. Andhra Pradesh Board of Secondary Education.
2. Assam Board of Secondary Education.
3. Assam Higher Secondary Education Council.
4. Bihar School Examination Board.
5. Board of Intermediate Education, Andhra Pradesh.
6. Council for the Indian School Certificate Examination.
7. Central Board of Secondary Education.
8. Chhatisgarh Board of Secondary Education.
9. Goa Board of Secondary and Higher Secondary Education.
10. Gujarat Secondary and Higher Secondary Education Board.
11. Haryana Board of School Education.
12. Himachal Pradesh Board of School Education.
13. Jammu and Kashmir Board of School Education.
14. Jharkhand Academic Council.
15. Karnataka Board of Higher Secondary Education.
16. Karnataka Secondary Education Board.
17. Kerala Board of Public Examination.
18. Madhya Pradesh Board of Secondary Education.
19. Madhya Pradesh State Open School.
20. Maharashtra State Board of Secondary and Higher Secondary Education.
21. Manipur Board of Secondary Education.
22. Manipur Higher Secondary Education Council.
23. Meghalaya Board of School Education.
24. Mizoram Board of School Education.
25. Nagaland Board of School Education.
26. National Institute of Open Schooling.
27. Orissa Board of Secondary Education.
28. Orissa Council of Higher Secondary Education.
29. Punjab School Education Board.
30. Rajasthan Board of Secondary Education.
31. Rajasthan State Open School.
32. Tamil Nadu State Board School Examinations.
33. Tripura Board of Secondary Education.
34. Uttar Pradesh Board of High School and Intermediate Education.
35. Uttrakhand Board of School Education.
36. West Bengal Board of Madrasah Education.
37. West Bengal Board of Secondary Education.
38. West Bengal Council of Higher Secondary Education.
39. West Bengal Council of Rabindra Open Schooling.

STATEMENT OF OBJECTS AND REASONS

Educational Institutions, such as universities, colleges and polytechnics and Boards of School Education, issue academic awards to students including degrees, diplomas and certificates along with marks-sheets of the secondary, higher secondary and higher education levels. Those who are entering into employment require a credible, authentic and easily accessible mechanism for access to, and verification of, academic awards granted by various universities, colleges and polytechnics and Boards of School Education.

2. Keeping the academic awards in electronic depository would provide benefits to educational institutions, students and employers by enabling online access of academic awards which shall eliminate the need for any person to approach educational institutions for obtaining transcripts of such awards or marks-sheets for verification. It would also eliminate fraudulent practices such as forging of certificates and marks-sheets, by facilitating online verification thereof. Therefore, a need has been felt for a simplified mechanism to verify academic awards.

3. The proposed legislation provides for maintenance of a national database of such academic awards in electronic format in a depository to be known as the National Academic Depository and for verification and authentication of such awards. The establishment of National Academic Depository analogous to depositories in the financial sector is a technology-based solution to ensure confidentiality, authenticity and fidelity of academic records enabling online verification and easy retrieval of details of academic awards. It would also reduce the need for institutions to preserve physical records related to academic performance of students over a long time.

4. The proposed National Academic Depository Bill, 2011, *inter alia*,—

(a) provides for maintenance of a national database of academic awards in electronic format in a depository to be known as the National Academic Depository, and verification and authentication of such awards;

(b) makes it mandatory for academic institutions including universities and other higher educational institutions as well as the Central and State Boards of Education, to lodge all academic awards issued by them together with all relevant details such as marks-sheets, in the National Academic Depository;

(c) requires the National Academic Depository to establish adequate systems and safeguards for storage, access and retrieval of records while ensuring its confidentiality, fidelity and authenticity and provides for maintenance of backup data at a location different from the main data centre, in case of contingencies;

(d) confers power upon the Central Government to revoke the appointment of a National Academic Depository where it makes wilful or continuous default in any act of commission or omission as required by the proposed legislation or commits breach of any of the terms or conditions of the appointment which render it liable to revocation or the financial position of the National Academic Depository is such that is unable fully and efficiently to provide the services required of it or discharge the duties and obligations imposed on it;

(e) requires the activities relating to its business as National Academic Depository to be kept separate and segregated from all other activities; and the accounts of incomes and expenditures relating to the national database be separate and distinct from accounts relating to other activities or businesses carried on by it;

(f) makes a provision for verification and authentication of academic awards of any specific academic award in the national database, by the National Academic

Depository, within a period of three days from the date of receipt of request from such person;

(g) makes a provision for compensation of damages to computer and computer system, etc;

(h) provides for levy of monetary penalties in the event of certain default or contravention by National Academic Depository or academic depository agent;

(i) makes tampering with computer source documents or hacking into national database as an offence punishable as provided under the Information Technology Act, 2000;

(j) confer powers upon the Central Government to cause inspection or investigation of the National Academic Depository or any academic depository agent, any contravention of the provisions of the proposed legislation or rules made thereunder by such Depository or agent.

5. The Notes on Clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 22nd July, 2011.

KAPIL SIBAL.

Notes on clauses

Clause 2.—This clause makes provision for application of Act. It provides that the proposed legislation shall apply to all academic institutions specified in the Schedule.

Clause 3.—This clause provides for definitions. It, *inter alia*, defines the expressions "academic depository agent", "academic awards", "academic institution", "college", "computer source code", "data centre", "degree", "diploma", "distance education system", "depository", "higher educational institution", "institution deemed to be university", "national database".

It further provides that words and expressions used and not defined in the proposed legislation but defined in the Information Technology Act, 2000 or in the General Clauses Act, 1897 which are not inconsistent with the proposed legislation shall have the meanings respectively assigned to them in the Information Technology Act, 2000 or in the General Clauses Act, 1897.

Clause 4.—This clause provides for appointment of the National Academic Depository. It provides that the Central Government shall, by notification, appoint a depository to act as the "National Academic Depository" on such terms and conditions as may be prescribed for the purpose of establishing and maintaining the national database of academic awards in electronic format.

It further provides that no depository shall be appointed as the National Academic Depository unless (i) it is a depository having a certificate of registration as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 or is a fully owned subsidiary of such depository; (ii) it has, in its memorandum of association, specified provision of depository services for academic awards as one of its objects; and (iii) it fulfils such other terms and conditions as may be prescribed.

It also provides that the National Academic Depository appointed under sub-clause (1) shall not commence its operations unless it is so authorised, in writing, by the Central Government. It also provides that the Central Government shall not authorise commencement of operations unless it is satisfied that the National Academic Depository fulfils the conditions laid down under sub-clause (4) and before authorising for commencement of operations, the Central Government may cause to be undertaken, physical verification of the provision of systems, safeguards, mechanisms, manual and facilities by the National Academic Depository.

It also provides that the Central Government shall undertake the review of the functioning of the National Academic Depository, on expiry of a period of ten years from the date of notification under sub-clause (1), and if (i) it is satisfied with the functioning of the National Academic Depository, may renew the appointment of such Depository for a further period of ten years; or (ii) it is not satisfied with the functioning of the National Academic Depository, may revoke the appointment of such Depository and the provisions of sub-clauses (2), (3), (4), (5), (6) and (7) of clause 6 shall apply accordingly.

Clause 5.—This clause specifies the services to be provided by the National Academic Depository. It provides that it shall be the duty of the National Academic Depository, after it has been authorised to commence operations, to provide or cause to be provided all such services as may be necessary to (a) register academic institutions; (b) provide access to the national database for registered academic institutions; (c) facilitate academic institutions to efficiently lodge, in the national database, the academic awards of such institutions; (d) provide adequate training to academic institutions in the process of lodging and retrieval of records of academic awards from the national database; (e) provide efficient online verification of any specific academic award lodged in the national database;

(f) verify and authenticate any specific academic award in the national database when so requested by any person whose academic awards are maintained in the national database or any other person authorised by him; (g) provide an authenticated copy of any specific academic award in the national database when so requested by any person where academic awards are maintained in the national database to him or any other person authorised by him; (h) maintain the authenticity, integrity and confidentiality of the national database; (i) ensure that the national database is, at all times, accessible online to authorised persons; (j) ensure that databases and software programmes are developed and designed in such a way as to facilitate online interaction and exchange of information with the Central Identities Data Repository created by the National Identification Authority of India, under the National Identification Authority of India Act, 2011, for persons whose academic awards are maintained in the national database; (k) perform, consistent with the provisions of this Act, such other duties as may be prescribed.

It further provides that for the purposes of providing the services under sub-clause (I), the National Academic Depository shall establish such number of facilitation centres at such places as it may deem fit.

Clause 6.—This clause provides for revocation of appointment of the National Academic Depository. It provides that the Central Government may, if it is satisfied after making such inquiry as it deems fit, revoke the appointment of the National Academic Depository on any or all of the following grounds, namely:—

(a) where the National Academic Depository, in the opinion of the Central Government makes wilful or continuous default in any act of commission or omission as required by or under the proposed legislation or the rules made thereunder;

(b) where the National Academic Depository commits breach of any of the terms or conditions of the appointment which is expressly declared by such appointment to render it liable to revocation;

(c) where the National Academic Depository fails, within the period fixed in this behalf by its appointment, or any longer period which the Central Government may have granted therefor, to show, to the satisfaction of the Central Government, that such depository is in a position fully and efficiently to provide the services required of it and discharge its duties and obligations imposed on it by its appointment;

(d) where in the opinion of the Central Government the financial position of the National Academic Depository is such that such depository is unable fully and efficiently to provide the services required of it or discharge the duties and obligations imposed on it, by its appointment;

(e) fails to comply with any other requirement, as may be prescribed.

It further provides that appointment shall not be revoked under sub-clause (I) unless the Central Government has given a notice of not less than thirty days to the National Academic Depository stating the grounds on which it is proposed to revoke the appointment, and has considered any cause shown by it within the period of that notice, against the proposed revocation.

It also provides that where the Central Government revokes the appointment under this clause, it shall serve an order of revocation upon the National Academic Depository and fix a date on which the revocation shall take effect; and such revocation shall be without prejudice to the action which may be taken against it under the proposed legislation or any other law for the time being in force.

It also provides that the Central Government may, instead of revoking appointment under sub-clause (I), permit such appointment to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the National Academic Depository

and shall be of like force and effect as if they were contained in the appointment under clause 4.

It also provides that where the Central Government revokes the appointment under this section, the National Academic Depository shall, not later than the date specified under sub-clause (4) as the date on which the revocation shall take effect, provide to the Central Government or to any other authority, as it may direct, all the records and data comprised in the national database and the computer source code, in such form and manner as may be prescribed.

It also provides that the Central Government shall publish the revocation of the appointment of the National Academic Depository in the Official Gazette, display on its website and also give public notice in respect thereof in such manner as may be prescribed.

It also provides that the National Academic Depository shall, while providing the national database under sub-clause (5), certify that the national database and every record contained in such database is authentic and in accordance with the record of academic awards lodged with it by academic institutions; and no record, or any part of record, has been changed or modified or altered.

Clause 7.—This clause provides for segregation of activities and business. It provides that where the National Academic Depository is carrying on, (i) any activity or business besides that of acting as depository for the national database, then the National Academic Depository shall keep the activities relating to the business of academic depository separate and segregated from all other activities; and (ii) its officers and employees (other than the officers in its Governing Body or Board of Directors or by whatever other equivalent name called) engaged in providing services under the proposed legislation shall not be engaged in any other activity or business carried on by it; and (iii) the accounts of incomes and expenditures relating to the national database shall be separate and distinct from accounts relating to other activities or businesses carried on by it.

Clause 8.—This clause provides for registration of academic depository agent. It provides that the National Academic Depository shall register one or more academic depository agents to assist in the provision of services under the proposed legislation on behalf of the National Academic Depository, in such manner and on the payment of such charges as it may deem fit.

It further provides that no person shall be registered by the National Academic Depository as an academic depository agent, if he (i) is a minor; or (ii) is of unsound mind and stands so declared by a court of competent jurisdiction; or (iii) has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment or attempt to commit any such offence by a court of competent jurisdiction; or (iv) does not possess such qualifications and experience or does not fulfil such criteria relating to capital adequacy requirement and other requirements, terms and conditions as may be prescribed.

It also provides that no person shall be registered, by the National Academic Depository, as an academic depository agent, if such person holds, directly or otherwise, any equity share capital or any other interest in the National Academic Depository and any person, being a promoter of the National Academic Depository, shall not hold any equity share capital of an academic depository agent or any other interest therein.

It also provides that the National Academic Depository shall enter into an agreement with the academic depository agents registered by it under sub-clause (1) in such form and manner as may be prescribed and the academic depository agent shall provide, as the National Academic Depository may deem fit, one or more of the services to be provided by the National Academic Depository under clause 5 on its behalf.

It also provides that any thing done or omitted to be done by a registered academic depository agent in the performance of duties or provision of services by such agent shall

be deemed to have been done or omitted to be done with the knowledge and consent of the National Academic Depository and the National Academic Depository shall also be liable as if the things had been done or omitted to have been done by itself.

It also provides that every academic depository agent shall follow such code of conduct specified by the National Academic Depository with the prior approval of the Central Government, in the provision of services or discharge of duties and obligations by it.

It also provides that the National Academic Depository may, without prejudice to any other proceedings under the proposed legislation or any other law for the time being in force, revoke, for default or deficiency in provision of services or in discharge of duties and obligations, the registration of any academic depository agent.

Clause 9.—This clause provides for mandatory lodging of academic awards by academic institutions in depository. It provides that every academic institution shall lodge with the National Academic Depository all academic awards issued by it to all its students after the commencement of the proposed legislation in such form and manner as may be prescribed.

It further provides that every academic institution shall, within three months of the appointment of the National Academic Depository, nominate such number of its officers or employees as it may deem fit for training in the procedure and process to be provided by the National Academic Depository and thereafter such nomination shall be made by such institution on a regular basis at such intervals as such institution deems fit.

It also provides that the National Academic Depository shall, immediately after the commencement of the proposed legislation, provide adequate training in the procedure and processes involved in lodging academic awards with the National Academic Depository, to such number of persons, being in the employment of every academic institution and as may be nominated by the academic institution.

It also provides that without prejudice to any of the provisions of the proposed legislation or duty imposed under any law for the time being in force, it shall be the duty of every academic institution to have in its employment at all times sufficient number of its officers and employees trained under sub-clause (3).

It also provides that the National Academic Depository shall be entitled to recover reasonable cost of training from each academic institution and in case of any dispute about the reasonableness of the cost of training between the National Academic Depository or any academic institution, such dispute shall be referred to the State Educational Tribunal established under the Educational Tribunals Act, 2011, for adjudication and the decision of the State Educational Tribunal on the dispute shall be final and binding on all parties.

It also provides that any academic institution may, if it thinks proper, lodge academic awards issued by it in any year, prior to the commencement of the proposed legislation; and in such case, the National Academic Depository shall inform, through its website, the general public of the availability of information of such academic awards in respect of such institution.

It also provides that every academic institution shall appoint an officer to co-ordinate with the National Academic Depository for the purpose of lodging, from time to time, academic awards issued by it in the national database and on matters connected therewith or incidental thereto; and such officer shall be designated as the "Nodal Officer" and the National Academic Depository shall provide the contact details of the Nodal Officers appointed by each academic institution on its website.

It provides that the National Academic Depository shall, subject to such safeguards as may be prescribed, provide to every academic institution online secure access to the records in the national database relating to the academic awards issued by such institution.

Clause 10.—This clause provides for the duty of academic institutions. It provides that it shall be the duty of every academic institution to verify any academic award purported to be, or have been, issued by it and included or proposed to be included in the national database of academic awards on a request made to it by the National Academic Depository within a period of seven days from the date of receipt of such request.

Clause 11.—This clause provides for lodging of academic awards by any person. It provides that any person may request the National Academic Depository to lodge the academic award received by such person from an academic institution, prior to the commencement of the proposed legislation, in such form and manner as may be prescribed.

It further provides that the National Academic Depository, on receipt of the request, shall, after verification and authentication of such academic award from the academic institution which has issued such award, lodge it in the national database.

Clause 12.—This clause makes provision for process of verification and authentication. It provides that any person, whose academic awards are maintained in the national database or any other person authorised by him, requiring verification and authentication of any specific academic award in the national database, may apply to the National Academic Depository or to any registered academic depository agent, in such form and manner and on the payment of such fees as may be prescribed and the person making an application shall also provide such details as the National Academic Depository may require to enable it to retrieve the record from the national database.

It further provides that the National Academic Depository or its registered academic depository agent shall verify and authenticate the specific academic award if lodged in the national database within a period of three days from the date of receipt of such application, or inform the applicant of the non-availability of such academic award with it.

It also provides that where the National Academic Depository or its academic depository agent, as the case may be, is unable to verify and authenticate the specific academic award, inform the applicant within the period specified in this sub-section or if the academic award is not lodged in the depository, it shall, immediately but not later than a further period of three days from the expiry of the period specified, refund the charges paid by the applicant.

It also provides that the National Academic Depository or academic depository agent registered with it, as the case may be, while informing the applicant under sub-clause (2), shall ensure that verification and authentication is informed to the individual to whom such award relates and who made the request therefor or to any other person authorised by such individual and to no other person.

Clause 13.—This clause provides for certain requirements of the National Academic Depository. It provides that the National Academic Depository shall have adequate mechanisms for the purposes of reviewing, monitoring and evaluating its controls, systems, data recovery mechanisms, procedures and safeguards, while maintaining the national database of academic awards.

It further provides that the National Academic Depository shall have appropriate safekeeping measures to ensure that records in the national database of academic awards held by it are protected from theft and natural hazard or any such foreseeable contingency.

It also provides that the National Academic Depository shall maintain data backup of all records of academic awards comprised in the national database at location or locations other than its main data centre in a secure and authentic manner and it shall ensure that the integrity of the automatic electronic data processing systems or the computer network is maintained at all times.

It also provides that the National Academic Depository shall take all measures necessary to ensure a secure online connectivity and inter-operability with the database created and maintained by the National Identification Authority of India for the purpose of creating and maintaining an aadhaar number for each person.

It also provides that the National Academic Depository shall cause to be inspected annually the mechanism referred to in sub-clause (1), the measures referred to in sub-clause (2) and the security and authenticity of backup data referred to in sub-clause (3), by an expert from a panel prepared in the manner provided in sub-clause (7), and forward the inspection report, along with an explanatory memorandum on the action taken thereon, to the Central Government within three months from such inspection.

It also provides that the Central Government, in consultation with the National Academic Depository, prepare a panel of independent experts having such qualifications and experience as may be prescribed.

It also provides that the Central Government, on the basis of the inspection report and the explanatory memorandum on the action taken thereon, if required, direct the National Academic Depository to take such further action, for reasons to be recorded in writing, to promote the objectives of the proposed legislation; and the National Academic Depository shall be bound by such directions.

Clause 14.—This clause makes provision for connectivity through electronic mode on a regular basis. It provides that the National Academic Depository shall maintain communication with all academic institutions and other persons authorised under the proposed legislation or the rules made thereunder, and every academic depository agent shall maintain communication with the National Academic Depository, and every academic institution shall maintain communication with the National Academic Depository and academic depository agent, where so required, through electronic mode on a regular basis.

Clause 15.—This clause provides for accounts and Audit of National Academic Depository. It provides that the National Academic Depository shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, relating to its activities under the proposed legislation or rules made thereunder, in such form and manner as may be prescribed.

It further provides that the accounts of the National Academic Depository shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified and any expenditure incurred in connection with such audit shall be payable by the National Academic Depository to the Comptroller and Auditor-General of India.

It also provides that the Comptroller and Auditor-General of India and any other person appointed by in connection with the audit of the accounts of the National Academic Depository shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the National Academic Depository.

It also provides that the accounts of the National Academic Depository as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the National Academic Depository and the Central Government shall cause the same to be laid before each House of Parliament.

Clause 16.—This clause provides for compensation for damage to computer, computer system, etc. It provides that if any person without authorisation of the Central Government or the National Academic Depository, the academic depository agent, or the persons authorised by each academic institution, in respect of any computer, computer system or computer network concerned with the national database (a) accesses or secures access to

such computer, computer system or computer network; (b) downloads, copies or extracts any data, computer database or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium; (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network; (d) damages or causes to be damaged any computer, computer system or computer network, data, computer database or any other programmes residing in such computer, computer system or computer network; (e) disrupts or causes disruption of any computer, computer system or computer network; (f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means; (g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of the proposed legislation or rules made thereunder, such person shall be liable to pay damages for each default by way of compensation which may extend to one crore rupees to the Central Government.

It further provides that such part of the compensation as concerns the damage caused to the computer, computer system, or data residing in such computer system or computer network of the National Academic Depository or its restoration thereof to the condition that existed prior to such damage, shall be apportioned to the National Academic Depository.

Clause 17.—This clause provides for penalty for contravention by the National Academic Depository or academic depository agent. It provides that if the National Academic Depository or academic depository agent registered by the National Academic Depository fails to discharge the duties or provide the services expected of it under, or contravenes or abets the contravention of, any provision of the proposed legislation or the rules made thereunder or contravenes the directions issued by the Central Government under sub-clause (1) of clause 28, then the National Academic Depository shall, without prejudice to proceedings for prosecution under the provisions of the proposed legislation or any other law for the time being in force, be liable to a monetary penalty which may extend to fifty lakh rupees for each failure or contravention.

Clause 18.—This clause provides for penalty for contravention by academic institution. It provides that any academic institution which fails to discharge the duties expected of it under the proposed legislation or rules made thereunder, or contravenes any provision thereof, shall be liable to a monetary penalty which may extend to five lakh rupees for each such instance of failure or contravention.

Clause 19.—This clause makes provision for adjudication of penalties. It provides that save as otherwise provided in the proposed legislation, all matters under clauses 16, 17 and 18 shall be adjudicated by the National Educational Tribunal Established under the Educational Tribunals Act, 2011.

Clause 20.—This clause provides for offence of tampering with computer source documents. It provided that whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any record in the national database or any computer source code used for a computer, computer programme, computer system or computer network, of the National Academic Depository, shall be proceeded against and punished under the provisions of section 65 of the Information Technology Act, 2000.

Clause 21.—This clause provides for offence of hacking into national database. It provides that whoever commits hacking shall be proceeded against and punished under the provisions of section 66 of the Information Technology Act, 2000.

Clause 22.—This clause provides for offence of not providing data on revocation of appointment or wrong certification. It provides that if the National Academic Depository, on the revocation of its appointment, fails to provide, in the form and manner prescribed under sub-clause (6) of clause 6, the records comprised in the national database, then the promoter, director, manager, secretary or other officer of the company appointed as the National Academic Depository shall be punishable with imprisonment which may extend to ten years or with fine which may extend to ten crore rupees, or with both.

It further provides that if the National Academic Depository, on the revocation of its appointment, fails to certify in the manner required under sub-clause (7) of clause 6, then the promoter, director, manager, secretary or other officer of the company appointed as National Academic Depository shall be punishable with imprisonment which may extend to ten years or with fine which may extend to ten crore rupees, or with both.

Clause 23.—This clause provides for offences by companies. It provides that where an offence under the proposed legislation has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that nothing contained in this sub-clause shall render any such person liable to any punishment provided in the proposed legislation, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

It also provides that notwithstanding anything contained in sub-clause (1), where an offence under the proposed legislation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It also clarifies for the purposes of this clause that the expressions "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

Clause 24.—This clause provides for offences by societies, trusts, etc. It provides that where an offence under the proposed legislation has been committed by a society or trust or agency or institution, every person who at the time the offence was committed was in charge of, and was responsible to, the society or trust or agency or institution for the conduct of the business of the society or trust, as well as the society or trust or agency or institution, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that nothing contained in this sub-clause shall render any such person liable to any punishment provided in the proposed legislation, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

It also provides that notwithstanding anything contained in sub-clause (1), where an offence under the proposed legislation has been committed by a society or trust or agency or institution and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any governors, vice-chancellor, directors, committee, trustees, registrar or other officer, such governors, directors, committee, trustees, vice-chancellor, registrar or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Clause 25.—This clause provides for cognizance of offences. It provides that no court shall take cognizance of any offence punishable under the proposed legislation or the rules made thereunder, save on a complaint made by the Central Government or a State Government, or the National Academic Depository or any officer or person authorised by the Central Government or a State Government or the National Academic Depository.

It further provides that no court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under the proposed legislation.

Clause 26.—This clause provides for crediting sums realised by way of compensation or penalty or fine to the Consolidated Fund of India. It provides that all sums realised by way of compensation or penalty under the proposed legislation shall be credited to the Consolidated Fund of India.

Clause 27.—This clause provides for returns and information to be provided by National Academic Depository. It provides that the National Academic Depository shall furnish to the Central Government such returns or other information at such intervals, as may be specified by it, with respect to its policies or performance of its functions and provision of services under the proposed legislation as the Central Government may, from time to time, require.

Clause 28.—This clause provides for power of Central Government to give directions. It provides that without prejudice to the foregoing provisions of the proposed legislation, the National Academic Depository shall, in exercise of its powers or the performance of its functions under the proposed legislation, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time.

It further provides that the decision of the Central Government whether a question is one of national policy or not shall be final.

Clause 29.—This clause provides for power of Central Government to inspect. It provides that without prejudice to the foregoing provisions of the proposed legislation, the Central Government shall, at such interval, as it may deem fit, by giving at least two days notice, cause an inspection of the National Academic Depository or any academic depository agency to be conducted by any authority or its officers for physical verification of the provision of systems, safeguards, mechanisms and facilities concerning the national database.

It further provides that the National Academic Depository shall be associated in case of inspection of the academic depository agent.

Clause 30.—This clause provides for power to investigate contraventions. It provides that the Central Government or any person authorised by it in this behalf shall take up for investigation any contravention of the provisions of the proposed legislation or rules made thereunder by the National Academic Depository or any academic depository agent.

It further provides that the Central Government or any person authorised by it in this behalf shall exercise like powers which are conferred under Chapter XIII of the Income-tax Act, 1961 and shall exercise such powers, subject to such limitations laid down under that Act.

It also provides that if the Central Government on receipt of the report of investigation, is of the opinion that National Academic Depository or academic depository agent registered by it had failed to comply with provisions of the proposed legislation or any other law for the time being in force, it may, without prejudice to the proceedings for prosecution or imposition of monetary penalty or liability of compensation under the proposed legislation or any other law for the time being in force, revoke its appointment.

Clause 31.—This clause makes provision for access to computers and data. It provides that the Central Government or any person authorised by it shall, if there is reasonable cause to suspect that any contravention of the provisions of the proposed legislation or rules made thereunder has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, of the National Academic Depository or any academic depository agent, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

It further provides that for the purposes of this clause, the Central Government or any person authorised by it may, by order, direct, the National Academic Depository or any

academic depository agent or any person in-charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as may be considered necessary.

Clause 32.—This clause provides that the provisions of the proposed legislation shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Clause 33.—This clause provides for protection of action taken in good faith. It provides that no suit, prosecution or other legal proceeding shall lie against the Central Government or its officers and employees or an academic institution for anything which is in good faith done or intended to be done in pursuance of the proposed legislation or any rule made thereunder.

Clause 34.—This clause empowers the Central Government to make rules. It provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the proposed legislation.

It also provides that every rule made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 35.—This clause provides for power of Central Government to amend Schedule. It provides that the Central Government may, by notification in the Official Gazette, amend, from time to time, the Schedule to the proposed legislation.

It further provides that every notification issued under this clause shall, as soon as may be after it is issued, be laid before each House of Parliament.

Clause 36.—This clause provides for power to remove difficulties. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the proposed legislation as appear to it to be necessary or expedite for removing the difficulty.

It further provides that no order shall be made under this clause after the expiry of two years from the date of commencement of the proposed legislation.

It also provides that every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 34 empowers the Central Government to make, by notification, rules for the purpose of carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, are (a) the terms and conditions of appointment of the National Academic Depository under sub-clause (1) of clause 4; (b) the other terms and conditions under clause (iii) of sub-clause (2) of clause 4; (c) the other requirements which may be necessary for proper functioning of the National Academic Depository under items (xi) of sub-clause (4) of clause 4; (d) the other duties to be performed by the National Academic Depository under item (k) of sub-clause (1) of clause 5; (e) other requirement under clause (e) of sub-clause (1) of clause 6; (f) the form and manner in which the National Academic Depository shall provide all the records and data comprised in the national database to the Central Government under sub-clause (6) of clause 6; (g) the manner in which the Central Government shall give public notice of the revocation of the appointment of the National Academic Depository under sub-clause (6) of clause 6; (h) the qualifications, experience, criteria relating to capital adequacy and other requirement and the terms and conditions for registration of academic depository agent under item (iv) of the proviso to sub-clause (1) of clause 8; (i) the form and manner in which the National Academic Depository shall enter into an agreement with the academic depository agent under sub-clause (3) of clause 8; (j) the form and manner in which academic institutions shall lodge academic awards issued by it in the national database under sub-clause (1) of clause 9; (k) the safeguards for providing to the academic institution online secure access to the records in the national database relating to the academic awards issued by such institution under sub-clause (7) of clause 9; (l) the form and manner for lodging of academic awards by any person in the national database under sub-clause (1) of clause 11; (m) the qualifications and experience of the independent experts under sub-clause (6) of clause 13; (n) the form and manner in which the National Academic Depository shall maintain its accounts and other related documents, and prepare annual statement of accounts relating to its activities, under sub-clause (1) of clause 15; (o) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

2. The rules made under this clause are required to be laid before each House of Parliament.

3. The matters in respect of which rules may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

A
BILL

to provide for maintenance of national database of academic awards in electronic format in a depository to be known as the National Academic Depository and for verification and authentication of such awards and for matters connected therewith or incidental thereto.

(Shri Kapil Sibal, Minister of Human Resource Development)

LOK SABHA

CORRIGENDA

to

THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011

[To be/As introduced in Lok Sabha]

1. Page (ii), in the arrangement of clauses, above clause No. 26-
insert "CLAUSES"
2. Page (ii), in the arrangement of clauses, below clause No.26,-
omit "CLAUSES"
3. Page 2, line 41,-
for "including an"
read "including a"
4. Page 5, against line 7,-
omit the marginal citation "of 2011."
5. Page 7, against line 40,-
omit the marginal citation "1 of 2011."
6. Page 8, line 4,-
for "sub-section (4)"
read "sub-section (7)"
7. Page 11, against line 17,-
omit the marginal citation "1 of 2011."

P.T.O.

8. Page 11, line 19,-
for “injunction”
read “injunction”
9. Page 12, line 14,-
for “trust as well as”
read “trust or agency or institution, as well as”
10. Page 13, line 14,-
for “Income Tax”
read “Income-tax”
11. Page 14, line 4,-
for “sub-section (6)”
read “sub-section (5)”
12. Page 15, line 2,-
for “[See section 2 and clause (b) of sub-section (1) of section 3]”
read “[See sections 2 and 3 (b)]”
13. Page 16, line 9 from the bottom,-
for “that is”
read “that it is”
14. Page 22, line 6 from the bottom,-
for “and natural”
read “and manmade and natural”

15. Page 23, line 32,-
for "Auditory-General"
read "Auditor-General"
16. Page 24, line 32,-
for "penaly"
read "penalty"
17. Page 25, line 23,-
for "expressions"
read "expressions (a)"
18. Page 25, line 30,-
for "or trust as well as"
read "or trust or agency or institution, as well as"
19. Page 25, line 40,-
for "any governors,"
read "any"
20. Page 25, line 41,-
for "such governors,"
read "such"
21. Page 26, line 1 from the bottom,-
for "Natinal"
read "National"

22. Page 28, line 13,-

for “sub-clause (6)”

read “sub-clause (5)”

NEW DELHI;

August 8, 2011
Sravana 17, 1933 (Saka)