

Bill No. 63 of 2007

THE ALL-INDIA INSTITUTE OF MEDICAL SCIENCES AND THE POST-
GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH
(AMENDMENT) BILL, 2007

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further to amend the All-India Institute of Medical Sciences Act, 1956 and the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966.

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

1. This Act may be called the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007. Short title.
- 5 2. In the All-India Institute of Medical Sciences Act, 1956, in section 11, after sub-section (1), the following sub-sections shall be inserted, namely:— Amendment of section 11 of Act 25 of 1956.

“(1A) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier:

Provided that any person holding office as a Director immediately before the commencement of the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007, shall in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Director and shall be entitled to claim compensation not exceeding three months pay and allowances for the premature termination of his office or of any contract of service.

(1B) Notwithstanding anything contained in sub-section (1A), the Central Government shall, if it is of the opinion that it is in the public interest so to do, have the right to terminate the term of office of the Director at any time before the expiry of his term by giving him a notice of not less than three months in writing or three months' salary and allowances in lieu thereof.”.

Amendment
of section 11
of Act 50 of
1966.

3. In the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966, in section 11, after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years which-ever is earlier:

Provided that any person holding office as a Director immediately before the commencement of the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007, shall in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Director and shall be entitled to claim compensation not exceeding three months pay and allowances for the premature termination of his office or of any contract of service.

(1B) Notwithstanding anything contained in sub-section (1A), the Central Government shall, if it is of the opinion that it is in the public interest so to do, have the right to terminate the term of office of the Director at any time before the expiry of his term by giving him a notice of not less than three months in writing or three months' salary and allowances in lieu thereof.”.

STATEMENT OF OBJECTS AND REASONS

Presently, the appointment, terms and conditions of service of the Directors of the All-India Institute of Medical Sciences, Delhi and the Post-Graduate Institute of Medical Education and Research, Chandigarh have been regulated under the All-India Institute of Medical Sciences Act, 1956, Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 and the rules framed thereunder. However, in a recent order in WP(C) 8485/2007(PIL), LPA No. 2045/2006 and LPA No. 2046/2006 announced on 29.3.2007, the Delhi High Court held that the Director is an employee of the Institute but that the provisions of regulation 30, which prescribe the age of superannuation for non-teaching employees as sixty years and for teaching faculty as sixty-two years, does not apply for the post of Director. The court held that the appointment to the Director's post is a "tenure appointment" and is incapable of being curtailed except for justifiable reason and with notice to the Director, and that too in accordance with law.

2. The court has also directed the Government of India and the Institute's Governing Body to formulate a policy covering the various facets and conditions of service of its employees including the Director of the Institute in accordance with law and to uniformly apply such policy in the times to come.

3. The litigation over the tenure of the post of Director at All-India Institute of Medical Sciences has highlighted the deficiencies in the existing rules and regulations pertaining to the tenure of the Directors of All-India Institute of Medical Sciences, Delhi and Post-Graduate Institute of Medical Education and Research, Chandigarh. It is imperative that the deficiencies in the existing Acts, rules and regulations as have been highlighted by the order dated 29.3.2007 of the Delhi High Court are rectified immediately to stem the deterioration in governance in the Institute, to comply with the directions of the Hon'ble High Court of Delhi. It is, therefore, considered desirable that the tenure of office of the Directors should not be left for determination through the mechanism of subordinate legislation. Rather it should be made a part of the All-India Institute of Medical Sciences Act, 1956 and the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966. This would ensure that any modification in the tenure of the Director in future would require the approval of Parliament. This will also strengthen the autonomous status of the Institutes.

4. The Bill seeks to achieve the above objective.

NEW DELHI;

The 7th August, 2007.

ANBUMANIRAMADOSS.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. V.16020/8/2003-ME.I DESK (Pt.) dated the 14th August, 2007 from Dr. Anbumani Ramadoss, Minister of Health and Family Welfare to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Bill, 2007, recommends to Lok Sabha the consideration of the Bill under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 2 of the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Bill, 2007 provides for amendment of section 11 of the All-India Institute of Medical Sciences Act, 1956 to provide for term of office of five years from the date on which the Director enters upon his office or until he attains the age of sixty-five years whichever is earlier. The proviso to the proposed sub-section (1A) further provides that any Director appointed immediately before the commencement of the Act, if his appointment is inconsistent with the provision of sub-section (1A) shall cease to hold office on such commencement. The proposed sub-section (1B) provides that the Central Government shall, if it is of the opinion that in the public interest, so to do, have the right to terminate the term of office of Director at any time before the expiry of his term by giving him a notice of not less than three months in writing or three months' salary and allowances in lieu thereof.

2. Clause 3 of the Bill seeks to amend section 11 of the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 with the same effect as aforesaid. The Bill enacted will involve expenditure from the Consolidated Fund of India not exceeding four lakh rupees.

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further to amend the All-India Institute of Medical Sciences Act, 1956 and the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966.

(Dr. Anbumani Ramadoss, Minister of Health and Family Welfare)