

**University Matters**  
**Statutes can be made by Executive Council u/s 50(2)**  
**retrospectively :**

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"Whether the Executive Council of Deen Dayal Upadhyay Gorakhpur University, Gorakhpur can make statutes by giving them retrospective operation ?" :

- (a) First Statutes of every State University governed by the provisions of the UP State Universities Act, 1973 are made by the State Govt. as provided by Section 50 of the said Act and, subject to the other provisions of Section 50 and subject to assent of the Chancellor u/s 50(4), the Executive Council of any State University has powers u/s 50(2) to make any new or additional statutes.
- (b) Deen Dayal Upadhyay Gorakhpur University, Gorakhpur is governed by the provisions of the said Act i.e. the UP State Universities Act, 1973.
- (c) As regards the question of powers of any law making body or legislature to make law by giving it retrospective effect & operation, in the cases noted below, the Hon'ble Supreme Court has ruled thus :
  - (i) "If the legislature has the power over the subject-matter and competence to make a valid law, it can at any time make such a valid law and make it retrospectively so as to bind even past transactions." Kindly see : **Indian Aluminium Company Vs. State of Kerala, AIR 1996 SC 1431.**
  - (ii) "It is well settled that the legislature is supreme in its own sphere under the Constitution subject to the limitations provided for in the Constitution itself. It is for the legislature to decide as to when and in what respect and on what subject matter the laws are to be made. It is for the legislature to decide as to the nature of operation of the statutes." Kindly see : **Municipal Committee, Patiala Vs. Model Town Residents Association, (2007) 8 SCC 669.**
  - (iii) "A Section may be prospective in some parts and retrospective in other parts. While it is the ordinary rule that substantive right should not be held to be taken away except by express provision or clear implication, many Acts though prospective in form, have been given retrospective operation, if the intention of the legislature is apparent. This is more so, when Acts are passed to protect the public against some evil or abuse." Kindly see : **Shah Bhojraj**

**Kuverji Oil Mills & Ginning Factory Vs. Subhash Chandra Yograj Sinha, AIR 1961 SC 1596 (Five-Judge Bench).**

- (iv) "There is no fixed formula for the expression of legislative intent to give retrospectivity to an enactment. Sometimes this is done by providing for jurisdiction where jurisdiction had not been properly invested before. Sometimes this is done by re-enacting retrospectively a valid and legal taxing provision and then by fiction making the tax already collected to stand under the re-enacted law. Sometimes the legislature gives its own meaning and interpretation of the law under which tax was collected and by legislative act makes the new meaning binding upon Courts. The legislature may follow any one method or all of them. A validating clause coupled with a substantive statutory change is therefore only one of the methods of leave actions unsustainable under the unamended statute, undisturbed. Consequently, the absence of a validating clause would not by itself affect the retrospective operation of the statutory provision if such retrospectivity is otherwise apparent." Kindly see : **National Agricultural Co-operative Marketing Federation of India Ltd. Vs. Union of India, AIR 2003 SC 1329.**
- (d) As is clear from the law as above, the Executive Council of the said University, being the law (statute) maker and with a view to validate any act or transaction done by the University in the past, is legally competent to make new or additional Statutes u/s 50(2) of the said Act by giving it retrospective effect and operation.