

**THE JAMMU & KASHMIR
SCHOOL EDUCATION ACT. 1984**

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THE JAMMU AND KASHMIR EDUCATION BILL, 1984.

BILL NO. _____ OF 1984.

Whereas it is expedient to achieve the goal of universalisation of elementary education and to provide for better organisation and development of school education in the state.

Be it enacted by the Jammu and Kashmir State Legislature in the Thirty-fifth Year of the Republic of India as follows:-

1. Short title, extent and commencement: (1) This Act may be CALLED THE Jammu and Kashmir School Education Act, 1984.

(2) It shall extend to the whole of the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. Definitions:- In this Act, unless the context otherwise requires,-

(a) "academic year" means the year beginning on such date as the Government may specify with respect to any area or school;

(b) "aided school" means a private school which is recognised by and is or has been receiving grant-in-aid from the Government;

(c) "child" means a boy or a girl within such age-group not being less than 6 or more than 14 years at the beginning of the academic year.

(d) "competent authority" means any person appointed by Government for carrying out the purposes of this Act;

(e) "Educational Agency" means any individual, Society, Trust or body of persons registered with the Government and permitted to establish, run or maintain any private school under this Act;

(f) "Educational Block" means such area as may be notified by the Government to be an Educational Block for the purposes of this Act;

(g) "existing school" means any Government school or Government aided or recognised school established before the commencement of this Act and continuing as such at the time of such commencement;

(h) "Government" means the Government of Jammu and Kashmir;

(i) "Government school" means a school run by the Education Department of the Government;

(j) "Parent" in relation to any child includes a guardian and every person who has the actual custody of the child;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Private school" means a school established, run or maintained by an Educational agency and recognised by the Government;

- (m) "recognised school" means a school recognised under this Act;
- (n) "school" means an educational institution primarily meant for imparting education upto and including the higher secondary level and includes-
- (i) such institutions as are meant for providing instructions and training for teachers;
 - (ii) lands, buildings, play grounds, hostels and movable properties such as furniture, books, apparatus, maps and equipment, owned by and used for the activities of the educational institution;
- (o) "State" means the State of Jammu and Kashmir.

3. Application of the Act.- The provisions of this Act shall apply to all schools in the state.

4. Compulsory education upto class eighth.- The Government shall provide for free and compulsory education for children upto the level of class eighth throughout the State within a period of ten years from the commencement of this Act and for this purpose it shall take appropriate steps to provide the necessary facilities.

5. Establishment of Schools.- The Government may, for the purpose of providing adequate facilities for school education,-

- (a) establish and maintain schools;
- (b) ~~permit any educational agency to establish and maintain~~ private schools.

6. Government to prescribe manner in which Government Schools to be established and run.- The Government shall, by notification in the Government Gazette, stipulate the manner in which Government Schools shall be established and run. (4)

7. Block Education Committee and its functions.- The Government shall, in such manner and for such period, as may be prescribed, constitute a committee for each education block in the State (hereinafter called 'the Block Education Committee') for the implementation of the provisions of this Act regarding compulsory education upto the level of class eighth.

(2) The functions of the Block Education Committee shall be-

- (a) to cause to be prepared a list of children in the education block and to cause the list to be revised at such intervals as may be prescribed;
- (b) to take such measures as may be necessary to ensure the attendance of children in schools;
- (c) to notify the parent of each child that he is under an obligation to ensure the attendance of such child at a school on and from the date specified in the notice;
- (d) to ensure that the employment, if any, of children does not interfere with their attendance in school;
- (e) to carry out ~~such other~~ functions as may be prescribed.

(3)

8. Obligation of guardian to send children to school.-

The parent of every child shall cause the child to attend a school, whether Government or private, and also ensure that such child completes the full course of elementary education upto class eighth, unless there be a reasonable excuse for his non-attendance within the meaning of section 10.

9. Warning for failure to discharge obligations and for interferences:-

(1) When the Block Education Committee has reason to believe that the parent of any child to whom this Act applies and who is bound under section 8 to cause the child to attend a school, has failed to do so or that any person other than the parent is utilising the time or services of a child in connection with any employment, whether for remuneration or not, in such a manner as to interfere with the attendance of the child at a school, it shall warn him in writing that within one week of the receipt of the warning he shall cause the child to attend a school and shall refrain from utilising the services of the child as aforesaid.

(2) When a Block Education Committee is satisfied that the parent has failed to cause his child to attend school or that any person is interfering with such attendance of a child even after the warning mentioned in sub-section (1), the Block Education Committee or any member authorised by the Committee shall lodge a complaint against such parent or other person with the Magistrate having local jurisdiction.

(3) If the Magistrate is satisfied that the complaint is well founded, he shall pass an order directing the parent or other person to cause the child concerned to attend school regularly or to refrain from interfering with the attendance of the child, as the case may be, after a specified date. If the parent or other person fails to comply with such order, he shall, on conviction, be liable to a fine not exceeding four hundred rupees for the first offence and five hundred rupees for every subsequent offence.

10. Exemption for attendance.-The Government may prescribe the grounds on which a child may be exempted from attending school.

11. No Private school to be established or run without permission.-(1) No Private school shall be established, run or maintained without the previous permission, in writing, of the Government.

(2) The Government shall prescribe the procedure to be followed for the grant of permission to establish, run or maintain private schools.

12. Recognition of private schools.-(1) Only such Private Schools as are recognised shall be permitted to function. Notwithstanding anything contained in the Jammu and Kashmir Board of School Education Act, 1975, the Government shall, by notification in the Government Gazette, appoint the competent authorities for the accord of such recognition.

(2) The Government shall prescribe the procedure to be followed for the grant of such recognition.

(3) The Government shall prescribe norms and the minimum necessary conditions for the functioning of recognised schools.

(4) Existing Schools shall be deemed to be recognised for a period of one year from the commencement of this Act. After this period they shall have to follow the prescribed procedure for recognition.

(5) The Government shall, on or before the first day of May every year, by notification in the Government Gazette, publish a list of such private schools as are recognised under this Act together with such particulars, if any, as it may consider necessary.

13. Management of Private Schools.- (1) All Private Schools shall be managed and run by the Educational Agencies which shall be duly registered with the Government. The procedure for such registration shall be prescribed by the Government.

(2) The Educational agency shall appoint a Manager to look after the day to day running and administration of the school subject to the approval of the competent authority.

14. Duties of Manager.- The duties of the Manager shall include the following,-

- (i) he shall be responsible for the administration of the school in accordance with the provisions of this Act;
- (ii) all the property both movable and immovable shall be in the possession of the Manager who shall be responsible for maintaining them in proper condition;
- (iii) he shall maintain the records and the accounts of the school in such manner as may be prescribed;
- (iv) he shall be bound to render all assistance and such facilities as are necessary or required for the inspection of the records of the school by any authorised officer of the government.

15. Permission for starting new classes and their recognition.- All Private Schools shall have to seek the prior permission of the competent authority before adding any higher classes. Any higher classes so added in a school shall have to be recognised by the Government. The procedure for the grant of such permission and recognition shall be prescribed by the Government, by notification in the Government Gazette.

16. De-recognition of schools.-(1) The Government may de-recognise any Private School, if in its opinion the functioning of the school is not in the public interest and that the school is violating any of the provisions of this Act and the rules made thereunder.

(2) Before any such order of de-recognition is passed, the competent authority shall give due notice to the Manager and the Educational agency concerned to show cause against the proposed de-recognition.

(17). Restrictions on alienation of property of aided schools.- (1) Notwithstanding anything contained in any law for the time being in-force, no sale, mortgage, pledge or transfer of possession in respect of any property of an aided school shall be made or created except with the prior permission of such officer as may be authorised by the Government in this behalf. No such permission shall be granted, if, in the opinion of the officer, such permission will adversely affect the working of the school.

(2) Any transaction made in contravention of sub-section (1) shall be null and void.

18. Property to be in the name of the Educational agency.- Any property or assets owned, held or acquired by any person for or on behalf of any private school, shall, for the purposes of this Act, be deemed to be the property of the Educational agency

notwithstanding that such property stands in the name of any individual.

19. Selection and appointment of teaching and non-teaching staff in aided schools.- (1) All selections and appointments of teaching staff in aided schools shall be made by an appointment committee which shall be constituted by the Government. The Government shall also frame rules providing the manner in which such selections/appointments are to be made.

(2) The appointment of non-teaching staff shall be made by the Manager in such manner as may be prescribed.

(3) The academic and other qualifications required for teaching and non-teaching posts shall not be lower than those prescribed for corresponding posts in Government services.

20. Conditions of service of staff in aided schools.- The conditions of service of teaching and non-teaching staff in aided schools including conditions relating to pay, gratuity, provident fund and age of retirement shall be such as may be prescribed by the Government.

21. Grant-in-aid.- The Government may at its discretion give grant-in-aid to private schools upto the level of class eighth. The number in which the grant-in-aid is to be given and the conditions to be fulfilled by the schools for the receipt of such grant-in-aid shall be prescribed by the Government.

22. State Education Advisory Board.- (1) The Government may, by notification in the Government Gazette, constitute a State School Education Advisory Board for the purposes of obtaining advice on matters pertaining to educational policy and administration.

(2) The Board shall consist of 11 ~~xxxxxx~~ members including the Chairman who shall be the Education Minister. The Secretary to Government, Education Department, the Chairman of the Board of School Education and the Director/s of School Education shall be Ex-officio Members of the Committee. The other members of the Board shall be nominated by the Government from among those who are Educationists and who have rendered eminent services to Education or who have experience in the Administration of Education.

(3) The term of office of the non-official members of the Board shall be three years.

(4) The Government shall prescribe the procedure to be followed at the meetings of the Board and all other matters pertinent to the functioning of the Board.

23. Taking over of aided schools.- (1) The Government may in the public interest take over the management of an aided school for a period not exceeding five years whenever it is convinced that the Manager of any aided school has neglected to perform any of the duties imposed by or under this Act or the rules made thereunder or where it appears that the school is not being run in a satisfactory manner. Before taking over any school under this provision, the Government shall give due notice to the Manager and the Educational agency concerned to show cause against the proposed take over.

(2) In cases of emergency, where the Government is satisfied that such a course is necessary in the interests of the pupils of the school, they may, without any notice under sub-section

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(1) to the Manager or the Educational agency, take-over the management of any such school after the publication of a notification to that effect in the Government Gazette.

(3) Where any school has been taken over under sub-section (2), the Educational agency or the Manager of the aided school may subsequently apply to the Government for the restoration of the school. The school may be restored when the Government is satisfied that the Educational agency and the Manager are in a position to run the school satisfactorily.

(4) The Government may also make such further orders as may appear to them to be necessary or expedient in connection with the taking over of the management of any aided school under this section.

(5) Where any school is taken over under this section, the Government shall pay to the person or persons interested such rent as may be fixed by the Collector having regard to the rates of rent prevailing in the locality for similar properties:

Provided that where any property has been acquired, constructed, improved or maintained for the purposes of the school with the aid given by the Government, the rent shall be fixed by the Collector after taking into account the amount of such aid or grant.

(6) Where any school is taken over under this section, the Government may run the school in any manner it consider fit.

24. Alteration in the designation of a Government Officer.- Where any provision of this Act or the rules made thereunder refers to any officer of the Government by designation then, if that designation is altered or the office held by such officer ceases to exist, the reference to that designation shall be construed as reference to the altered designation or, as the case may be, to such corresponding officer as the Government may direct.

25. Indemnity.- No suit, prosecution or other legal proceeding shall lie against the Government or any authority or any officer in respect of anything which is in good faith done or intended to be done under any provision of this Act or the rules framed thereunder.

26. Courts not to grant injunction.- Notwithstanding anything contained in the Code of Civil Procedure, Samvat 1977 or in any other law for the time being in force, no court shall grant any injunction or make any interim order restraining any proceeding which is being or about to be taken under this Act.

27. Delegation of Powers.- The Government may, by notification in the Government Gazette and subject to such conditions, if any, as may be specified in the notification authorise any officer or authority subordinate to it to exercise any or all of the powers except the power to make rules, exercisable by the Government under this Act.

28. Penalties.- Whoever, contravenes any of the provisions of this Act or rules framed thereunder shall on conviction before the First Class Magistrate be liable to a fine of five Thousand rupees and a simple imprisonment for a period not exceeding six months.

29. Power to remove difficulties.- If any difficulty arise in giving effect to the provisions of this Act, the Government may by order, do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purpose of removing the difficulty.

30. Power to make rules.— (1) The Government may make rules for the purpose of carrying into effect the provisions of the Act.

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

- (a) the provisions of compulsory education;
- (b) the establishment and maintenance of schools;
- (c) the grant of permission to set up private schools;
- (d) the recognition of private schools;
- (e) the giving of grant-in-aid to schools;
- (f) the levy and collection of fees in private schools;
- (g) the manner in which accounts, registers and records shall be maintained and the auditing of the accounts of private schools;
- (h) the returns, statements and reports to be submitted by schools;
- (i) the inspection of schools;
- (j) the constitution/functioning of the Block Education Committees;
- (k) the conditions of service of staff in aided schools;
- (l) the standards of education and courses of study;
- (m) the procedure for admission of students in schools;
- (n) any other matter which is or may be prescribed under this Act.

31. Repeal and saving.—(1) From and on the date of commencement of this Act, the Primary Education Act, Samvat 1986 and the Jammu and Kashmir Private Educational Institutions (Regulation and Control) Act, 1967 shall stand repealed.

(2) Subject to the provisions of sub-section (4) of section 12, the aforesaid repeal shall not affect the previous operation of the Acts so repealed.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 30 of the Bill seeks to empower the Government to make rules for carrying out the purposes of the Act. In particular such rules may provide for all or any of the following matters:—

- (a) the provisions of compulsory education;
- (b) the establishment and maintenance of schools;
- (c) the grant of permission to set up private schools;
- (d) the recognition of private schools;
- (e) the giving of grant-in-aid to schools;
- (f) the levy and collection of fees in private schools;
- (g) the manner in which accounts, registers and records shall be maintained and the auditing of the accounts of private schools;

(8)

- (h) the returns, statements and reports to be submitted by schools;
- (i) the Inspection of schools;
- (j) the constitution/functioning of the Block Education Committees;
- (k) the conditions of service of staff in aided schools;
- (l) the standards of education and courses of study;
- (m) the procedure for admission of students in schools;
- (n) any other matter which is or may be prescribed under this Act.

The delegation of powers in respect of aforesaid matters is necessary for smooth and day to day administration of the Act. The delegation is of normal character.

EDUCATION MINISTER

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to achieve the goal of universalisation of elementary education in the State by providing free and compulsory elementary education for all children through Government and Private Schools within a period of ten years from the enforcement of the proposed law. It also aims at better organisation and Development of School Education in the state.

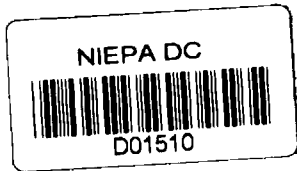
Hence the Bill.

EDUCATION MINISTER

FINANCIAL MEMORANDUM.

The bill provides for the payment of grant-in-aid by the Government to the private schools which are recognised as such in accordance with the provisions of the bill. The Government have been paying grant-in-aid and, therefore, no new financial implications are involved.

EDUCATION MINISTER



b. National Systems Unit,
ational Institute of Educational
anning and Administration
-B, Sri Aurobindo Marg, New Delhi-110016
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