

THE JAMMU AND KASHMIR SCHOOL EDUCATION ACT, 2002

[Act No. XXI of 2002]
[As Amended by Act VIII of 2005]

[Received the assent of the Governor on 21st April, 2002 and published in Government Gazette dated 23rd April, 2002]

An Act to provide for achieving the goal of universalisation of elementary education and to provide for better organization and development of school education in the State.

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third 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, 2002.

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

(3) It shall come into force on such date¹ 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 recognized by and is, or has been, receiving grant-in-aid from the Government;
- (c) "Board" means the State Education Advisory Board constituted under section 22 of this Act;
- (d) "child" means a boy or a girl who is in such age group not being less than 6 years and not more than 14 years at the beginning of the academic year;
- (e) "competent authority" means any officer not below the rank of a District Education Officer appointed by the Government for carrying out the purposes of this Act and different authorities may be appointed for different areas;

¹ Enforced from 17.5.2004 vide SRO 138, dt. 17.5.2004.

- (f) "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;
- (g) "existing school" means any Government school or Government aided or recognized 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 any other 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 any educational agency and recognized by the Government;
- (m) "recognized school" means a school recognized under this Act;
- (n) "school" means an educational institution primarily meant for imparting education up to, and including, the higher secondary level and includes-
 - (i) such institutions as are meant for providing instructions and training for teachers;
 - (ii) lands, buildings, playgrounds, hostels and movable properties such as furniture, books, apparatus, map 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 up to class eight

The Government shall provide for free and compulsory education for children up to the level of class eight 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; and

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

6. Manner for establishing and running Government schools

The Government shall, by notification in the Government Gazette, stipulate the manner in which Government schools shall be established and run.

7. Local Area Education Committee and its functions

(1) The Government shall, in such manner and for such period, as may be prescribed, constitute a Committee, to be called the Local Area Establishment Committee, for each Panchayat Halqa, Town Area, Notified Area and Municipal ward for implementation of the provisions of this Act regarding compulsory education up to the level of class eight.

(2) The functions of the Local Area Education Committee, shall be:-

- (a) to cause to be prepared a list of children in the concerned Panchayat Halqa, Town Area, Notified Area or Municipal Ward, as the case may be, and have the list 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 his child at a school on and from the date specified in the notice; and
- (d) to carry out such other functions as may be prescribed.

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 up to class eight, unless there be a reasonable cause for his non-attendance within the meaning of section 10.

9. Warning for failure to discharge obligation and for interference

(1) When the Local Area 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 utilizing 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 to refrain from utilizing the time or services of the child as aforesaid and direct to ensure the attendance of such child at a school within one week from the receipt of warning.

(2) When a Local Area 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), such a Local Area Education Committee or any member authorised by it shall lodge a complaint against such parent or other person with the Judicial Magistrate having territorial jurisdiction over the area.

(3) If the Judicial Magistrate is satisfied that the complaint is well founded, he shall pass an order directing the parent or other person to cause the child to attend school regularly and to refrain from interfering with the attendance of the child, 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 ¹[one thousand] rupees for the first offence and ²[two thousand] rupees for every subsequent offence.

10. Exemption from 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 permission, in writing, of the Government or the Competent Authority.

(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 recognized shall be permitted to function.

(2) 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 carrying out the purposes of this Act.

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

(4) The Government shall prescribe norms and conditions for the functioning of recognized school.

1 Substituted for words "two hundred" and "five hundred" by Act VIII of 2005, dated 09.05.2005, w.e.f. 10.05.2005.

2 Substituted for words "two hundred" and "five hundred" by Act VIII of 2005, dated 09.05.2005, w.e.f. 10.05.2005.

(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 recognized under this Act together with such particulars, if any, as it may consider necessary.

13. Management of private schools

(1) No private school shall be managed and run by any person other than an educational agency. The Government shall prescribe the procedure for registration of educational agencies.

(2) Every educational agency shall appoint a Manager to look after day-to-day running an administration of the school managed and run by such educational agency.

14. Duties of Manager

The duties of 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; and
- (iv) he shall be bound to render assistance and facilities as are necessary for proper management of the schools.

15. Permission for starting new classes and their recognition

Every private school 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 require recognition by the Government. The Government shall, by notification in the Government Gazette, prescribe the procedure for the grant of such permission and recognition.

16. De-recognition of schools

(1) The Government may de-recognize any private school, if in its opinion, the functioning of such a school is not in accordance with the provisions of this Act and the rules made thereunder:

Provided that no such order of de-recognition shall be passed by the Government unless reasonable opportunity is provided to the educational agency in this regard. The orders passed by the Government shall be final and binding.

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 authority as may be authorised by the Government in this behalf. No such permission shall be granted, if in the opinion of such authority, 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 property of the educational agency notwithstanding that such property stands in the name of any individual.

19. Teaching and non-teaching staff in private schools

The academic and other qualifications of the teaching and non-teaching staff in the private schools shall not be lower than those prescribed for corresponding posts in Government.

20. Conditions of service of staff in private schools

All the private schools shall frame and notify their own terms and conditions of service of teaching and non-teaching staff including conditions relating to pay, gratuity, provident fund and age of retirement.

¹[21. [***]

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 eleven members including the Chairman who shall be Education Minister of the State, Secretary to Government, Education Department, Chairman of the State Board of School Education and Director/s of School Education shall be ex officio members of the Committee. The Government shall nominate the other members from among the eminent educationists, academicians, administrators and planners. The term of office of the non-official members of the Board shall be three years.

¹ Section 21 omitted by Act VIII of 2005, dated 09.05.2005, w.e.f. 10.05.2005. Before omission it stood as :
21. Grant-in-aid — The Government may give grant-in-aid to private schools. The Government shall frame rules prescribing manner in which grant-in-aid is to be given and the conditions to be fulfilled by the schools for the receipt of such grant-in-aid.

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

23. 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 or office shall be construed as reference to the altered designation or, as the case may be, to such corresponding office as the Government may direct.

24. Indemnity

No suit, prosecution or other legal proceeding shall lie against the Government or any authority or 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.

25. Courts not to grant injunction

Notwithstanding anything to the contrary 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 is about to be taken under this Act.

26. Delegation of powers

The Government may, by notification in the Government Gazette and subject to such conditions as it may specify, authorize any officer or authority subordinate to it to exercise any of the powers, except the power to make rules, exercisable by the Government under this Act.

27. Penalties

Whoever contravenes any of the provisions of this Act or rules thereunder shall on conviction before the Judicial Magistrate be liable to a fine not less than rupees ¹[fifteen thousand] for the first offence and rupees [twenty-five thousand] for every subsequent offence.

28. Power to remove difficulties

If any difficulty arises 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:

¹ Substituted for words "ten thousand" and "twenty thousand" by Act VIII of 2005, dated 09.05.2005, w.e.f. 10.05.2005.

Provided that no such order shall be framed after the expiry of two years from the commencement of this Act.

29. 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 provision, such rules may provide for all or any of the following matters, namely:-

- (a) the provision 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 and functioning of the Local Area Education Committees;
- (k) the standards of education and courses of study;
- (l) the procedure for admission of students in schools; and
- (m) any other matter, which is or may be required to be prescribed under this Act.

30. Repeal and saving

(1) The Primary Education Act, Samvat 1986, the Jammu and Kashmir Private Educational Institutions (Regulation and Control) Act, 1967 and the Jammu and Kashmir Education Act, 1984 are repealed.

(2) Subject to the provisions of sub-section (5) of section 12, the aforesaid repeal shall not affect the previous operation of the Acts so repealed.
