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PUBLIC NOTICE

**Subject:- Right of children to Free and compulsory
Education upto Class 8th**

The School Education (Amendment) Act-2013 is hereby notified for opinion of the public at large, in particular from the student and teacher community, legal fraternity, educationists, public representatives, educational planners/administrators, RTE activists and media persons. The draft Amendment Act seeks to incorporate the essential features of the Central legislation viz. Right of Children to Free and Compulsory Education Act-2009 in respect of the subject-matter.

The comments, views, ideas, inputs in reference to the said draft (Amendment act) thus solicited may be shared with this Department on the following address upto 1st October 2013:-

Secretary to Government,
School Education Department,
Room No. 164 (1st Floor).
Civil Secretariat, Srinagar-190011.

Sd/
Secretary to Government
School Education Department

**Government of Jammu and Kashmir,
Civil Secretariat, Education Department.**

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The Jammu and Kashmir School Education Amendment Bill 2013
A Bill to amend the Jammu and Kashmir School Education Act 2002

Be it enacted by the Jammu and Kashmir State Legislature in the 66th year of the Republic of India as follows:-

**Chapter –I
Preliminary**

1. Short title, Extent and Commencement:-

- 1).This Act may be called the Jammu and Kashmir School Education (Amendment)Act, 2013.
- 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 Govt. 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. “Government” means the Government of Jammu and Kashmir;
- c. "capitation fee" means any kind of donation or contribution or payment other than the admission fee, where applicable, and tuition fee notified by the school;
- d. "child" means a male or female child upto fourteen years of age
- e. "child belonging to disadvantaged group" means a child belonging to the scheduled caste, the scheduled tribe, the socially and educationally backward class, children with special needs or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the Government, by notification;
- f. "child belonging to weaker section" means a child belonging to such parent or guardian whose annual income is lower than the minimum limit as may be specified by the Government, by notification;
- g. "elementary education" means the education from 1st to eighth class;
- h. "guardian", in relation to a child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or a statute;
- i. "local authority" means a Municipal Corporation or Municipal Council or Zila Parishad / Council /Block Parishad/Council or Nagar Panchayat or Halqa Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village;
- j. "State Commission for Protection of Child Rights" means the State Commission for Protection of Child Rights constituted under law.
- k. "notification" means a notification published in the Official Gazette;
- l. "parent" means either the natural or step or adoptive father or mother of a child;
- m. "prescribed" means prescribed by rules made under this Act or by virtue of an Order, Circular,notification or any other instruction issued by the Government;
- n. "Schedule" means the Schedule annexed to this Act;
- o. "School" means any recognised school imparting education upto class 12th ,alongwith land, buildings, playgrounds, hostels and movable properties such as furniture, books, apparatus ,maps and equipment ,owned by and used for the activities of such institution and includes—
 - i. a school established, owned or controlled by the Government or a local authority;
 - ii. an aided school receiving aid or grants to meet whole or part of its expenses from the Government or the local authority;
 - iii. a school belonging to specified category; and
 - iv. an unaided school not receiving any kind of aid or grants to meet its expenses from the Government or the local authority;

- p. "screening procedure" means the method of selection for admission of a child, in preference over another, other than a random method, and includes interview or interaction of child, parent/s or guardian for the purpose of such selection;
- q. "specified category", in relation to a school, means a school known as Kendriya vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be so specified, by notification, by the Government;
- r. **Board** means the State School Education Advisory Board constituted under Section 34 of this Act;
- s. **"Competent authority"** means any officer not below the rank of a Chief Education Officer appointed by the Government for carrying out the purpose of this Act and different authorities may be appointed for different areas;
- t. **"Educational Agency"** means an educated individual or any Society, Trust or body of educated persons registered with the Government and permitted to establish, run or maintain any private school under this Act;
- u. **"Educated"** means having attained such minimum level of education as may be prescribed
- v. **"Existing School"** means any Government School or Government Aided or Recognized Private School established before the commencement of this Act and continuing as such at the time of such commencement;
- w. **"Government School"** means a school run by the Education Department of the Government;
- x. "Private School" means a school established, run or maintained by any educational agency and recognized by the Government;
- y. **"State"** means the State of Jammu and Kashmir;
- z. **"Managing Committee"** means a body of educated persons who are entrusted with the management of the recognized private school/s
- aa. **"Private Tuition"** means imparting of education, coaching or teaching in any manner to the students of any level upto Class 12th, in consideration of payment of fee or any other charges, at places other than Government Schools or recognized Private Schools, by any Teacher or Head Teacher / Headmaster/Principal (by whatever name called) of any such School ;
- bb. **"Teacher training institution"** means any institution giving pre-service and/or in-service teacher training of any duration (by whatever name known)
- cc. **"Act"** means the J&K School Education Act -2002 and the J&K School Education (Amendment) Act -2013.

CHAPTER II

RIGHT TO FREE AND COMPULSORY EDUCATION

3. (1) Every child of the age of six to fourteen years shall have a right to free and compulsory education in a nearby school till completion of elementary education Provided that every child of the age of below six years shall have a right to seek admission to Kindergarten (K.G.) in a nearby school where such a facility may be provided for.

Right of child to free and compulsory education

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education or from seeking admission to Kindergarten:

Provided that a child suffering from disability, as defined in clause (i) of section 2 of the J&K Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1998, shall have the right to pursue free and compulsory education upto Class 8th in accordance with the provisions of Chapter V of the said Act.

4. Where a child above Five years of age has not been admitted in any school or, though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age:

Special provision for children not admitted to, or who have not completed elementary education

Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed:

Provided further that a child so admitted to a School shall be entitled to free education till completion of elementary education even after fourteen years.

5. (1) Where in a school, there is no provision for completion of elementary education, a child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education.

Right of transfer to other school

(2) Where a child is required to move from one school to another, either within a State or outside, for any reason whatsoever, such child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education.

(3) For seeking admission in such other school, the Head teacher or in-charge of the school where such child was last admitted, shall immediately issue the transfer certificate:

Provided that delay in producing transfer certificate shall not be a ground for either delaying or denying admission in such other school:

Provided further that the Head teacher or in-charge of the school delaying issue of transfer certificate shall be liable for disciplinary action under the service rules applicable to him or her.

CHAPTER III DUTIES OF GOVERNMENT, LOCAL AUTHORITY AND PARENTS

6. (1) The Government shall provide for free and compulsory elementary education of every child.

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on education of the child (upto Class 8th) in such other school.

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.

Explanation.—The term "compulsory education" means obligation of the Government to:—

- a) provide free elementary education to every child of the age of six to fourteen years; and
- b) ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years;
- c) ensure availability of a school within the prescribed limits ;
- d) ensure that children belonging to weaker sections and disadvantaged groups are not discriminated against and prevented from pursuing and completing elementary education on any grounds;
- e) provide infrastructure including school building, teaching staff and learning equipment;
- f) provide special training facility specified in section 4;
- g) ensure and monitor admission, attendance and completion of elementary education by every child;
- h) ensure good quality elementary education conforming to the standards and norms prescribed;
- i) ensure timely prescribing of curriculum and courses of study for elementary education;
- j. provide training facility for teachers
- k. ensure admission of children of migrant families ,if any;
- l. decide the academic calendar.
- m. monitor functioning of schools within its jurisdiction;

7. (1) For carrying out the provisions of this Act relating to free and compulsory education, the Government shall establish, within such area or local limits , as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act, and maintain the schools so established.

Duty to establish school

(2) provided that the Government may also permit any educational agency to establish and maintain private schools.

8. The Government shall, taking into consideration the sums provided by the Central Government under sub section 3 of Section 7 of the Right of Children to Free and Compulsory Education Act,2009(Central Act No.35 of 2009) and other resources available to it, be responsible to provide funds for implementation of the provisions of the Act.

Financial responsibility

9. (1) The Government shall—

- (a) develop a framework of State curriculum with the help of academic authority specified under section 30 and / or with the support of such other experts, academics and officers as it may deem appropriate.;
- (b) provide resources and other support as may be necessary for promoting innovation, research, planning and capacity building in the school system;
- (c) cause to develop and enforce standards for training of teachers, including in the Private Schools; Provided that:—

1. The Private Schools shall, jointly or severally, undertake appropriate orientation, training, continuing education and professional development programmes of their teaching staff and make a specific provision in their annual budget for such in-service training.

Provided further that the “competent authority” shall have the power to cause periodical assessment of training and professional development needs of teachers of Private Schools in a manner as may be prescribed and to suggest improvement/appropriate interventions wherever indicated

Provided also that the Government may, subject to such terms and conditions as may be specified, allow such in-service training and professional development of the teachers of Private Schools being provided at the District Institutes of Education and Training and the State Institutes of Education and Training or any other Institution under its control

10. VILLAGE/ 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 **Village Education Committee or Local Area Education Committee or by a different name/s for different area/s** as may be so specified , for each **Village**, Panchayat Halqa, Town Area, Notified Area and Municipal Ward **towards furtherance** of the provisions of this Act.
2. The functions of the **Village Education Committee/ Local Area Education Committee** shall be:-
 - a) **to work out a village education plan, or an education plan for other local area as the case may be, taking on board the educational profile, potential and needs of such village /local area. The plan so drawn will form the basis of bottom-up paradigm of decentralized planning.**
 - b) **to secure community mobilization in furtherance of access to education and to quality outcomes.**
 - c) **to cause to prepare a list of children in the concerned Village, Panchayat Halqa Town Area, Notified Area, or the Municipal Ward, as the case may be, and have the list revised each year before commencement of academic session;**
 - d) **to take such measures as may be necessary to ensure the attendance of children in the school;**
 - e) **to notify the parents/guardian of each child that he is under an obligation to ensure the attendance of his/her child/ward at the school on and from the date specified in the notice; and**
 - f) **to carry out such other functions as may be prescribed;**

Village
Education
Plan

11. OBLIGATION OF PARENT TO SEND CHILDREN TO SCHOOL:-

a).The parents/**guardian** of every child shall cause the child to attend a school, whether private or Government, and also ensure that such child completes the full course of elementary education upto Class 8th, unless there be a reasonable cause for his/her non attendance within the meaning of Section 12.

Duty of
Parent
and
Guardian

12. PUNISHMENT FOR INTERFERING WITH RIGHT OF CHILDREN TO FREE AND COMPULSORY ELEMENTARY EDUCATION,

- 1). When a **Village Education Committee/ 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 11 to cause the child to attend a school, has failed to do so or that any other 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 service 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 **Village Education Committee/ Local Area Education Committee**(**by whatever name called**) is satisfied that the parent/**guardian** 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 **Village/Local Area Education Committee**, or any member authorized 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 the school regularly and to refrain from interfering with the her right to free and compulsory elementary education, after a specified date. If the parent or any other person fails to comply with such order, he shall, on conviction, be liable to a fine not exceeding one thousand rupees for first offence and two thousand rupees for every subsequent offence;

13. EXEMPTION FROM ATTENDANCE:-

The Government may prescribe ground on which a child may be exempted from attending school

- 14. With a view to preparing children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the Government shall take appropriate measures to provide for free pre-school education for such children under the Act.**

Early
Childhood
Care and
Education

CHAPTER IV

RESPONSIBILITIES OF SCHOOLS AND TEACHERS

15. (1) For the purposes of this Act, a school,—
- (a) specified in sub-clause (i) of clause (o) of section 2 shall provide free and compulsory elementary education to all children admitted therein;
- (b) specified in sub-clause (ii) of clause (o) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent.;
- (c) specified in sub-clauses (iii) and (iv) of clause (o) of section 2 shall admit in class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker sections and disadvantaged groups in the neighborhood and provide free and compulsory elementary education till its completion:
- Provided further that where a school specified in clause (o) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.
- (2) The school specified in sub-clause (iv) of clause (o) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:
- Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (o) of section 2:
- Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.
- (3) Every school shall provide such information as may be required by the Government or the local authority, as the case may be.
16. (1) No school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure.
- (2) Any school or person, if in contravention of the provisions of sub-section (1),—
- (a) receives capitation fee, shall be punishable with fine which may extend to ten times the capitation fee charged;
- (b) Subjects a child to screening procedure, shall be punishable with fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention .
17. (1) For the purpose of admission to elementary education, or to a pre-school level where such entry is provided for, the age of a child shall be determined on the basis of the birth certificate issued in accordance with law/rules and procedure for the time being in force or on the basis of such other document, as may be prescribed.
- (2) No child shall be denied admission in a school for lack of age proof., nor shall delay or dithering ,in any manner, be caused in the admission process.
18. A child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed:
- Provided that no child shall be denied admission if such admission is sought any time subsequent to such commencement during the course of the academic year.
- Provided further that any child admitted at a later point in time after the commencement of the academic year shall complete his studies in such manner as may be prescribed by the Government.
19. No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.

Extent of schools responsibility for free and compulsory education

No Capitation fee and screening /interview for selection

Age of Proof for Admission

No denial or delay in admission

Prohibition of holding back &expulsion

20. (1) No child shall be subjected to physical punishment or mental or emotional harassment.
- (2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the relevant law and/or service rules applicable to such person.
21. (1) No school, other than a school established, owned or controlled by the Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining an order/ certificate of recognition from the competent authority, by making an application in such form and manner, as may be prescribed.
- (2) The authority prescribed under sub-section (1) may issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed:
- Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 22 of this Act and/or rules thereunder.
- (3) On the contravention of the any condition/s of recognition, the prescribed authority shall, by an order in writing, withdraw recognition:
- Provided that such order shall contain a direction as to in which of the nearby schools, the children studying in the derecognised school, shall be admitted:
- Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed.
- (4) With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function.

Prohibition of corporal punishment & mental harassment to child

No School to be established without prior permission

- (5) Any person who establishes or runs a school without obtaining an order or certificate of recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.
22. (1) No school shall be established or recognised under section 21, unless it fulfils the norms and standards specified under this Act and/ or rules thereunder.
- (2) Where a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expenses, within such period, and in such manner, as may be prescribed.
- (3) Where a school fails to fulfil the norms and standards within the period specified under sub-section (2), the authority prescribed under sub-section (1) of section 21 shall withdraw recognition granted to such school in the manner specified under sub-section(3) thereof.
- (4) With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.
- (5) Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.
- (6) Every School seeking addition of any higher class/es shall for that purpose seek prior permission of the competent authority. Any higher class so added in a school shall require permission recognition by the Government in accordance with the prescribed procedure for grant of such permission and recognition.
- (7) No School shall be managed and run by any person other than an educational agency.
- (8) Every educational agency shall appoint a Manager (by whatever name called) to look after the day-to-day running and administration of the school managed and run by such educational agency. The duties of the Manager shall include the following:-
- he shall be responsible for the administration of the school in accordance with the provisions of this Act;
 - all property, both movable and immovable, shall be in the possession of the Manager who shall be responsible for maintaining it in proper condition;
 - he shall maintain the records and the accounts of the school in such a manner as may be prescribed; and
 - he shall be bound to render assistance and facilities as are necessary for proper management of the school.

Norms and standards to establish School and management thereof

23. (1) Every school, shall constitute a School Management Committee(SMC) or School Management and Development Committee(SMDC)(by whatever name called) in such manner as may be prescribed from time to time:

Provided that atleast three-fourth of members of such Committee shall be parents or guardians:

Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged group and weaker section.

Provided also that 50% of members of such committee shall be women

- (2) The School Management Committee shall perform the following functions, namely:—

School Management Committee

- (a) monitor the working of the school;
- (b) prepare and recommend school development plan ,in such manner as may be prescribed, so as to provide basic inputs for the plans and grants to be made by the Government or local authority as the case may be;
- (c) monitor the utilisation of the grants received from the Government or local authority or any other source; and
- (d) perform such other functions as may be prescribed.

24. (1) Any person possessing such minimum qualifications, as laid down by the Government, or an academic authority, as may be so authorized by the Government, by notification, shall be eligible for appointment as a teacher.

Qualification for appointment of a Teacher

Provided that the academic and other qualifications of teaching staff in the Private Schools shall not be lower than those prescribed for the corresponding posts in Government, under Section 24(1).

(2) The Government may, if it deems necessary ,for want of adequate institutions offering courses or training in teacher education, by notification, relax the minimum qualifications required for appointment as a teacher, for such area/s and for such period, not exceeding five years, as may be specified in that notification:

Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within such period as may be prescribed.

(3) The salary and allowances payable to, and the terms and conditions of service of, teacher in Government Schools shall be such as may be prescribed.

- a). Every Private School shall frame and notify the terms and conditions of service of teaching and non-teaching staff, including conditions relating to pay and allowances, gratuity, provident fund, leave and retirement;
- b). No appointment of a teacher or any other staff member in any Private School shall be made except by an order, in writing, from the Manager or any other person so authorized, indicating the pay and allowances and other terms and conditions of such appointment

Provided that no employee of a Private School shall be terminated from service or any other punitive or disciplinary action taken against him/her except by dint of an order passed in writing and only after observing the due process of law.

25. (1) A teacher appointed under sub-section (1) of section 24 shall perform the following duties, namely:—

Duties of teacher & redress of grievances

- (a) maintain his/her regularity and punctuality in attending school;
- (b) conduct and complete the curriculum in accordance with the provisions of sub-section (2) of section 30;
- (c) complete entire curriculum within the specified time;
- (d) assess the learning ability of each child and accordingly supplement additional instructions, if any, as required;
- (e) hold regular meetings with parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other relevant information about the child; and
- (f) perform such other duties as may be prescribed.

(2) A teacher committing default, if any, in performance of duties specified in sub-section (1), shall be liable to disciplinary action under the service rules applicable to him or her:

Provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such teacher.

(3) The grievances, if any, of the teacher shall be redressed in such manner as may be prescribed.

26. (1) the Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.

Pupil Teacher Ratio

(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any office or deployed for any non-educational purpose, other than those specified in section 28.

27. The appointing authority, in relation to a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the Government or by a local authority,

shall,as far as reasonably possible, ensure that vacancy of teacher in a school under its control shall not exceed ten per cent. of the total sanctioned strength.

Prohibition on deployment of teacher for non-educational

28. No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament, as the case may be.

29. No teacher (including Head teacher/Headmaster/Principal) of any Government School shall engage himself or herself in private tuition or private teaching activity.

Prohibition on Private Tuition of Teachers

CHAPTER V

CURRICULUM AND COMPLETION OF SCHOOL EDUCATION

30. (1) The curriculum and the evaluation procedure for school education shall be laid down by an academic authority to be specified by the Government, by notification.

Curriculum and Evaluation Procedure

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:—

(a) conformity with the values enshrined in the Constitution of India and Constitution of J&K;

(b) all round development of the child;

(c) building up child's knowledge, potentiality and talent;

(d) development of physical and mental abilities to the fullest extent;

(e) learning through activities, discovery and exploration in a child friendly and child-centered manner;

(f) medium of instructions shall, as far as practicable, be in child's mother tongue ;

(g) making the child free of fear, trauma and anxiety and helping the child to express views freely;

(h) comprehensive and continuous evaluation of child's understanding of knowledge and his or her ability to apply the same.

31. (1) No child shall be required to pass any Board examination till completion of elementary education.

No Board Examination Till Class 8th

(2) Every child completing his elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed.

CHAPTER VI

PROTECTION OF RIGHT OF CHILDREN

32. (1) The State Commission for Protection of Child Rights, as may be constituted under law, shall, in addition to the functions assigned to it under that law, also perform the following functions, namely:—

Monitoring of Child's rights to Education

(a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;

(b) inquire into complaints relating to child's right to free and compulsory education; and

(c) take necessary steps corresponding to the provisions of Sections 15 and 24 of the National Commissions for Protection of Child Rights Act (Central Act of 2005).

(2) The said Commission shall, while inquiring into any matters relating to child's right to free and compulsory education under clause (c) of sub-section (1), have the same powers as assigned to it under law for protection of other child rights.

(3) Till such time the State Commission for Protection of Child Rights comes into being, the Government may, for the purpose of performing the functions specified in clauses (a) to (c) of sub-section (1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.

Redressal of Grievances

33. (1) notwithstanding anything contained in section 33, any person having any grievance relating to the right of a child under this Act may make a written complaint to the local authority having jurisdiction.

(2) After receiving the complaint under sub-section (1), the local authority shall afford a reasonable opportunity of being heard to the parties concerned and expeditiously decide the matter so that the whole process does not exceed three months .

(3) Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 33, as the case may be.

(4) The appeal preferred under sub-section (3) shall be decided by State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be, as provided under law for the time being in force or in such a manner as may be prescribed.

34. STATE EDUCATION ADVISORY BOARD:-

1. The Government may, by notification in the Government, Gazette, constitute a State School Education Advisory Board for the purpose of obtaining advice on matters pertaining to educational policy and administration
2. The Board shall consist of **not less than** eleven members including the Chairman (who shall be the Education Minister of the State) and **the Vice Chairman (who shall be the Minister of State for Education)**. The Secretary to Government, School Education Department, Chairman, State Board of School Education and Director/s of School Education shall be Ex-officio members of the **Board**. The Government shall nominate 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 **two years, unless the Government may otherwise choose to replace any member before completion of such term.**
3. 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, **including the TA/DA and sitting fees payable to non-official members.**

CHAPTER VII

MISCELLANEOUS

35. 1) **The Government, or any officer/s as may be so authorized by it , may issue such guidelines to the local authority, the Village/Local Area Education Committee or the School Management Committee, as it deems fit, regarding implementation of the provisions of this Act.** Power to issue directions
36. **No prosecution for offences punishable under sub-section (2) of section 16, sub-section (5) of section 21 and sub-section (5) of section 22 shall be instituted except with the previous sanction of an officer authorised in this behalf, by the Government, by notification.** Previous sanction for prosecution
37. **No suit or other legal proceeding shall lie against the Government, , the State Commission for Protection of Child Rights, the local authority, the School Management Committee or any person, in respect of anything which is in good faith done or intended to be done, in pursuance of this Act, or any rules or circular or order made thereunder.** Protection of action taken in good faith
38. 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) 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 fee in private schools;
 - g) the manner in which accounts, registers and records shall be maintained and the auditing of the accounts of the private schools;
 - h) the returns, statements and reports to be submitted by the Schools;
 - i) the inspection of schools;
 - j) the constitution and functioning of the Local Area Education Committee;
 - k) the standards of education and courses of study;
 - l) the procedure for admission of students in schools;
 - m) **the manner of giving special training and the time-limit thereof, under first proviso to section ----;**
 - n) **the manner of maintenance of records of children / students upto class 12th**
 - o) **the manner and extent of reimbursement of expenditure, under sub-section (2) of section 15;**
 - p) **admission of children at later points in time subsequent to commencement of the academic year and the manner of completing study if admitted after such commencement.**
 - q) **the authority, the form and manner of making application for Certificate of Recognition;**
 - r) **the form, the period, the manner and the conditions for issuing Certificate of Recognition;**
 - s) **the duties to be performed by the teacher under clause (f) of sub-section (1) of section 25;**
 - t) **the manner of redressing grievances of teachers under sub-section (3) of section 25**
 - u) **the form and manner of awarding certificate for completion of elementary education;**
 - v) **the authority, the manner of its constitution and the terms and conditions thereto, under sub-section(3) of section 32;**
 - w) any other matter which is, or may be, required to be prescribed under this Act.Power to make rules
39. **RESTRICTION 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 prescribed 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.
40. **PROPERTY TO BE IN THE NAME OF EDUCATIONAL AGENCY:-**
Any property or assets owned, held or acquired by any person for or on behalf of any Private School, shall, for the purpose of this Act, be deemed to be the property of the educational agency not-withstanding that such property stands in the name of any individual.
41. **GRANT-IN-AID:-**
The Government may give grant-in-aid to Private Schools and frame rules prescribing the manner in which the grant-in-aid may be given and the conditions to be fulfilled by the schools for the receipt of such grant-in-aid.
42. **ALTERATION IN THE DESIGNATION OF GOVERNMENT OFFICER:-**
Where any provision of this Act or the rules made there under refers to any officer of the Government by designation, then, if that designation is altered or the office held by such officers 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 or as the Government may direct.
43. **INDEMNITY: -**
No suit, prosecution or other legal proceedings shall lie against the Government or any authority or officer in respect of any thing which is good faith done or intended to be done under any provision of this act or the rules framed there under
44. **COURT 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.
45. **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.
46. **PENALTIES:-**
Save as provided under sub-section (3) of section 12, Sub-section 1(a) & (b) of Section 16 and under sub-section(5) of Section 21 and sub-section(5) of Section 22 of this Act, whoever contravenes any of the provision of this Act or rules thereunder shall on conviction before the Judicial Magistrate be liable to a fine not less than rupees fifteen thousand for first offence and twenty five thousand for every subsequent offence.
47. **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 appears to it to be necessary or expedient for the purpose of removing the difficulty.
Provided that no such order shall be framed after the expiry of two years from the commencement of this act.
48. **REPEAL AND SAVINGS:-**
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&2002 are repealed.
2). Subject to the provisions of the sub-section (5) of Section 14, the aforesaid repeal shall not effect previous operation of the Act so repealed.

RESTRICTION ON ALIENATION OF PROPERTY OF AIDED SCHOOLS

PROPERTY in the name of educational agency

Grant-in-aid

Alteration of Designation of Government Officer

Indemnity

Court not injunction to Grant

Delegation of Powers

Penalties

Power to remove difficulties

Repeal and Saving

The Schedule

(see section -- asnd---)

S.No	Item	Norm and Standard	No of Teachers Required
1	Number of Teachers		
	a. For 1 st Class to 5 th Class	Admitted Children upto 60	02
		Between 61-90	03
		Between 91-120	04
		Between 121-200	05
		Above one hundred and fifty children	05 + one Head Teacher
		Above 200 hundred children	Pupil teacher Ration (Excluding Head Teacher)shal not exceed forty
	b.For 6 th to Class 8 th	1).At least one teacher per cass so that there shall be at east one teacher each for:-	
			i).Science & Mathematics ii). Socia studies. iii).Languages
		2)Atleast one teacher for every thirty five children	
		3)Where admission of childrenis above one hundred	
			i). a full time head teacher. ii).Part time instructor for:- a). Art teacher b). Health & Physical Education c). Work Education.