

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

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The Jammu and Kashmir School Education Act, 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 53rd 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 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) "aided School" means the Private School which is recognized 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 5 years and not more than 14-years at the beginning of 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 purpose of this Act and different authorities may be appointed for different areas;
- f) "Educational Agency" means an educated individual or any 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 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 meant for imparting education upto the higher secondary level and includes :-
 - i. Such institutions as are meant for providing instructions and training for teachers;
 - ii. Land, buildings, playgrounds, 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 8th:-

The Government shall provide for free and compulsory education for children upto the level of Class 8th throughout the State within a period of 10-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 of 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 the 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 Education Committee for each Panchayat Halqa, Town Area, Notified Area and Municipal Ward for implementation of the provisions of this Act, compulsory education upto the level of Class 8th.
2. The functions of the Local Area Education Committee shall be:-
 - a) to cause to prepare a list of children in the concerned Panchayat Halqa Town Area, Notified Area, or the 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 the school;
 - c) to notify the parent of each child that he is under an obligation to ensure the attendance of his child at the 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 PARENT TO SEND CHILDREN TO SCHOOL:-

The parent 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 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 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 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 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 attendance of the child, 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;

10. EXEMPTION FROM ATTENDANCE:-

The Government may prescribe ground 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 state Board of School Education Act 1975, the Government shall, by notification in the Government Gazette, appoint the "Competent Authority" 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 the norms and conditions for the functioning of the recognized schools;
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 Manager to look after the day-today running and administration of the school managed and run by such educational agency.

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 property, both movable and immovable, shall be in the possession of the Manager who shall be responsible for maintaining it in proper condition;
- iii. he shall maintain the records and the accounts of the school in such a manner as may be prescribed; and
- iv. he shall be bound to render assistance and facilities as are necessary for proper management of the school.

15. PERMISSION FOR STARTING NEW CLASSES AND

THEIR RECOGNITION:-

Every Private School shall have to seek prior permission of the Competent Authority before adding any higher classes. Any higher class 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:-

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, 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. 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.

18. 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 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 teaching and non-teaching staff in the Private Schools shall not be lower than those prescribed for the corresponding posts in Government.

20. CONDITIONS OF SERVICE OF STAFF IN PRIVATE SCHOOLS:-

- 1. 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;

21. GRANT-IN-AID:-

The Government may give grant-in-aid to Private Schools. The Government shall frame rules prescribing the manner 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.

22. 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 eleven members including the Chairman (who shall be the Education Minister of the State) and Secretary to Government, Education Department, Chairman, State Board of School Education and Director/s of School Education shall be Ex-officio members of the committee. 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 three years.
- 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.

23. 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.

24. 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.

25. 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.

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 provision of this Act or rules there under shall on conviction before the Judicial Magistrate be liable to a fine not less than rupees ten thousand for first offence and fifteen 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 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.

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 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. any other matter which is, or may be, required to be prescribed under this Act.

30. 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 are repealed.
2. Subject to the provisions of the sub-section (5) of Section 12, the aforesaid repeal shall not effect previous operation of the Act so repealed.