

THE KERALA EDUCATION ACT, 1958

An Act to provide for the better organization and development of educational institutions in the State.

Preamble-Whereas it is deemed necessary to provide for the better organization and development of educational institutions in the State providing a varied and comprehensive educational service throughout the State;

Be it enacted in the Ninth Year of the Republic of India as follows:-

PART 1

GENERAL

1. *Short title, extent and commencement.*-(1) This Act may be called the Kerala Education Act, 1958
2. It extends to the whole of the State of Kerala
3. It shall come into force on such date as the Government may, by notification in the Gazette, appoint and different dates may be appointed for different provisions of this Act.
2. *Definitions:* In this Act, unless the context otherwise requires,
 1. “aided school” means a private school which is recognized by and is receiving aid from the Government, but shall not include educational institutions entitled to receive grants under Article 337 of the Constitution of India, except in so far as they are receiving aid in excess of the grants to which they are so entitled;
 2. “Educational agency” means any person or body of persons permitted to establish and maintain any private school under this Act;
 3. “existing school” means any aided, recognized or Government school established before the commencement of this Act and continuing as such at such commencement;
 4. “Local Educational Authority” means the authority constituted by the Government under section 17;
 5. “minority schools” means schools of their choice established and administered, or administered, by such minorities as have the right to do so

under clause (1) of Article 30 of the Constitution;

6. “prescribed” means prescribed by rules made under this Act;
 7. “private school” means an aided or recognized school;
 8. “recognised school” means a private school recognised by the Government under this Act;
 9. “school” includes the land, buildings, playgrounds and hostels of the school and the movable properties such as furniture, books, apparatus, maps and equipments pertaining to the school;
 10. “State” means the State of Kerala.
3. *Establishment and recognition of Schools*-(1) The Government may regulate the primary and other stages of education and courses of instructions in Government and private schools.
2. The Government shall take, from time to time, such steps, as they may consider necessary or expedient, for the purpose of providing facilities for general education, special education and for the training of teachers.
 3. The government may, for the purpose of providing such facilities,
 - a. establish and maintain schools; or
 - b. permit any person or body of persons to establish and maintain aided schools; or
 - c. recognize any school established and maintained by any person or body of persons.
 4. All existing schools shall be deemed to have been established in accordance with this Act:

Provided that the educational agency of an aided school existing at the commencement of this section may at any time within one month of such commencement, after giving notice to the Government of its intention so to do, opt to run the schools as a recognised school, subject to the condition that the services of the teachers and other members of the staff of the school shall not be dispensed with or their conditions of service under the management varied to their disadvantage on account of the exercise of this option.
 5. After the commencement of this Act, the establishment of a new school or

the opening of a higher class in any private school shall be subject to the provisions of this Act and the rules made there under and any school or higher class established or opened otherwise that in accordance with such provisions shall not be entitled to be recognised by the Government.

4. *State Education Advisory Board-* (1) For the purpose of advising the Government on matters pertaining to educational policy and administration of the Department of Education, the Government may, by notification in the Gazette, constitute a State Education Advisory Board, consisting of officials and non-officials.
2. The Board shall consist of a Chairman and not more than fifteen members including the Chairman. The Vice Chancellor of the University of Kerala, the Director of Public Instruction, the Director of Technical Education and the Director of Health Services shall be ex officio members of the Board. The other members of the Board shall be appointed by the Government. Appointment of non-official members shall be from persons who are distinguished educationists or who have rendered eminent service to education, or who have had experience in the administration of education.
3. The Government shall appoint one of the members to be the Chairman of the Board.
4. The term of office of the members of the Board, other than the ex officio members, shall be three years.
5. The Government may prescribe the procedure to be followed at the meetings of the Board, and all incidental and ancillary matters for the proper working of the Board.
6. The Board shall present annually to the Government a report as to the advice tendered to the Government on matters coming before them and the Government shall, on receipt of such report, cause a copy thereof, together with a memorandum explaining as respects the matters, if any, where the advice of the Board was not accepted, the reasons for such non-acceptance, to be laid before the Legislative Assembly.
5. *Manager to send list of properties-*(1) On the first day of April each year, the manager of every aided school shall furnish to such officer as may be authorized by the Government in this behalf a statement containing a list of all movable and

- immovable properties of the schools with such particulars as may be prescribed.
- (2) If the manager commits default in furnishing the statement under sub-section (1) or furnishes as statement which is false or incorrect in any material particular, the Government may withhold maintenance grant.
6. *Restriction on alienation of property of aided school-*
- (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no sale, mortgage, lease, pledge, charge or transfer of possession in respect of any property of an aided school shall be created or made except with the previous permission in writing of such officer not below the rank of a District Educational Officer, as may be authorized by the Government in this behalf. The officer shall grant such permission applied for unless the grant of such permission will, in his opinion, adversely affect the working of the school.
- (2) Any person aggrieved by an order of the officer refusing or granting permission under sub-section (1) may in such manner and within such time as may be prescribed appeal to the Government.
- (3) Any transaction made in contravention of sub section (1) or sub-section (2) shall be null and void.
- (4) If any educational agency or the manager of any school acts in contravention of sub-section (1) or of an order passed under sub-section (2), the Government may withhold any grant to the school.
7. *Managers of schools-*(1) Any educational agency may appoint any person to be the manager of an aided school under this Act, subject to the approval of such officer as may be authorized by the Government in this behalf.
- Explanation- All the existing managers of aided schools shall be deemed to have been appointed under this Act.
- (2) The manager shall be responsible for the conduct of the school in accordance with the provisions of this Act and the rules thereunder.
- (3) The properties of the school shall be in the possession and control of the manager who shall be responsible to maintain them in proper and good condition.
- (4) It shall be the duty of the manager to maintain such records and accounts of the school and in such manner as may be prescribed.

(5) The manager shall be bound to afford all assistance and facilities as may be necessary or reasonably required for the inspection of the school and its records and accounts by such officer as may be authorized by the Government in this behalf.

(6) No manager shall close down any school unless one year's notice, expiring with the 31st May of any year, of his intention so to do, has been given to the officer authorized by the Government in this behalf.

(7) In the event of the school being closed down or discontinued or its recognition being withdrawn the manager shall make over to the officer authorized by the Government in this behalf all the records and accounts of the school maintained under sub-section (4)

(8) If any manager contravenes the provisions of Sub-section (6) or wilfully contravenes the provisions of subsection (7), he shall, on conviction, be liable to fine which may extend to two hundred rupees.

(9) No court shall take cognizance of an offence punishable under sub-section (8) except with the previous sanction of the Government.

8. *Recovery of amounts due from the manager*-(1) Any amount due at the commencement of this section to the Government from the manager of an aided school pursuant to any agreement, scheme or other arrangement pertaining to any agreement, scheme or other arrangement pertaining to any aid given or grant paid by the Government may be recovered also as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

(2) Where, at the commencement of this section, pursuant to any agreement, scheme or other arrangement referred to in sub-section (1), any salary or arrears of salary is payable by the manager to a teacher of the concerned aided school according to the scale prescribed by such agreement or scheme or arrangement, the District Educational Officer may by order, direct the manager to deposit with him the amount so payable. Before passing such order the District Educational Officer shall conduct an enquiry as to the amount payable to the teacher in such manner as may be prescribed. From the order of the District Educational Officer an appeal shall lie to such officer as may be empowered by the Government in this behalf within such time and in such manner as may be prescribed. Any amount due from the manager under

the orders of the District Educational Officer or, where there has been an appeal from the orders of the District Educational Officer, under the orders of the officer passing the order in appeal, shall be recoverable as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force. The officer may also recover such amount by setting it off against any sum due to the manager by the Government. Any amount deposited or recovered under this sub-section shall be paid to the concerned teacher.

(3) All fees and other dues, other than special fees, collected from the students in an aided school after the commencement of this section shall, notwithstanding anything contained in any agreement, scheme or arrangement, be made over to the Government in such manner as may be prescribed.

9. *Salary of teachers etc., and grants to aided schools*-(1) The Government shall pay the Salary of all teachers in aided schools direct or through the headmaster of the school.

(2) The Government shall pay the salary of the non-teaching staff of the aided schools appointed before the 31st May 1957 and continuing in office at the commencement of this section on the scales applicable to them immediately before the 31st May 1957. It shall be competent for the Government to prescribe the number of persons to be appointed in the non-teaching establishment of aided schools, their salaries, qualifications and other conditions of service. The salary of the persons appointed in the non-teaching establishment in accordance with the rules so prescribed shall be paid by the Government.

(3) The Government may pay to the manager a maintenance grant at such rates as may be prescribed.

(4) The Government may make grants-in-aid for the purchase, improvement and repairs of any land, building or equipment of an aided school.

10. *Qualifications for appointment as teachers*-The Government shall prescribe the qualifications to be possessed by persons for appointment as teachers in Government and private schools.

11. *Appointment of teachers in Government and aided schools*-(1) The public Service Commission shall, as empowered by this Act, select candidates for appointment as

teachers in Government and aided schools. Before the 31st May of each year, the Public Service Commission shall select candidates with due regard to the probable number of vacancies of teachers that may arise in the course of the year. The candidates shall be selected for each district separately and the list of candidates so selected shall be published in the Gazette. Teachers of aided schools shall be appointed by the manager only from the candidates so selected for the district in which the school is located, provided that the manager may, for sufficient reason, with the permission of the Public Service Commission, appoint teachers selected for any other district. Appointment of teachers in Government schools shall also be made from the list of candidates so published.

(2) In selecting candidates under sub-section (1), the Public Service Commission shall have regard to the provisions made by the Government under clause (4) of Article 16 of the Constitution.

12. *Conditions of service of aided school teachers*-(1) The conditions of service relating to scales of pay applicable to teachers of Government schools shall apply to all teachers of aided schools whether appointed before or after the commencement of this Section.

(2) The conditions of service relating to pension, Provident fund, insurance and age of retirement applicable to teachers of Government schools shall apply to teachers of aided schools-

(i) who are appointed under section 11 after the commencement of this section; and
(ii) who have been appointed before the commencement of this section, but who have expressed in writing their willingness to be governed by such conditions, within one year from such commencement.

(3) The Government shall extend to the teachers of aided schools who have been appointed before the commencement of this section and who have not expressed their willingness under clause (ii) of sub-section (2) within the time specified there for the conditions of service relating to pension, provident fund, insurance and age of retirement applicable to teachers of Government schools with such modifications as the Government may deem fit.

(4) (4) No teacher of an aided school shall be dismissed, removed, reduced in rank or

suspended by the manager without the previous sanction of the officer authorized by the Government in this behalf.

(5) Subject to the provisions of sub-sections(1), (2), (3) and (4), the conditions of service of teachers of aided schools shall be such as may be prescribed.

13. *Absorption of teachers on retrenchment*-Where any retrenchment of teachers in any aided school is rendered necessary consequent on orders of the Government relating to the course of studies or scheme of teaching or of such other matters, it shall be competent for the Government or the manager of an aided school to appoint such teachers in any Government school or aided school, as the case may be, notwithstanding the fact that they are not included in the list of candidates selected by the Public Service Commission under section 11.

14. *Taking over management of schools*-(1) Whenever it appears to the Government 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, and that in the public interest it is necessary to take over the management of the school for a period not exceeding five years, they may after giving the manager and the educational agency, if any a reasonable opportunity for showing cause against the proposed action and after considering the cause, if any, shown, do so, if satisfied that such taking over for the period is necessary in the public interest.

(2) In cases of emergency, where the Government are satisfied that such a course is necessary in the interests of the pupils of the school, they may, without any notice under sub-section (1) to the manager or the educational agency, take over the management of any school after the publication of a notification to that effect in the Gazette.

(3) Where any school has been taken over under sub-section (2), the educational agency or the manager of the school, within three months of the publication of the notification under the said sub-section, may apply to the Government for the restoration of the school showing the cause therefore and where the government are satisfied of the cause so shown, they shall restore the school.

(4) 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 or by appropriation or diversion of any grant made 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 affording any special educational facilities which the school was affording immediately before such taking over.
- (7) Any person aggrieved by an order of the Collector fixing the rent under sub-section (5) may, in the prescribed manner, appeal to the District Court within whose jurisdiction the School is situated within sixty days from the date of the order and the decision of the Judge shall be final.
- (8) It shall also be lawful for the Government to acquire the school taken over under this section, if they are satisfied that it is necessary so to do in the public interest, in which case compensation shall be payable in accordance with the principles laid down in section 15 for payment of compensation.
- (9) Nothing in this section shall apply to minority schools.

15. Power to acquire any category of schools-(1) If the Government are satisfied that for standardizing general education in the State or for improving the level of literacy in any area or for more effectively managing the aided educational institutions in any area or for bringing education of any category under their direct control, in the public interest it is necessary to do so, they may, by notification in the Gazette, take over with effect from any day specified therein any category of aided schools in any specified area or areas; and such schools shall vest in the Government absolutely with effect from the day specified in such notification:

Provided that no notification under this sub-section shall be issued unless the proposal for the taking over is supported by a resolution of the Legislative Assembly.

(2) Where any school has vested in the Government under sub-section (1), Compensation shall be paid to the persons entitled thereto on the basis of the market value thereof as on the date of the notification:

Provided that where any property, movable or immovable, has been acquired,

constructed or improved for the purposes of the school with the aid or grant given by the Government for such acquisition, construction or improvement, compensation payable shall be fixed after deducting from the market value the amounts of such aids or grants.

Provided further that in the case of movable properties the compensation payable shall be the market value thereof on the date of the notification or the actual cost thereof less the depreciation, whichever is lower.

(3) In determining the amount of compensation and its apportionment among the persons entitled thereto the Collector shall follow such procedure as may be prescribed.

(4) Any person aggrieved by an order of the Collector may, in the prescribed manner, appeal to the District Court within whose jurisdiction the school is situated within sixty days of the date of such award and the decision of the Judge shall be final.

(5) Nothing in this section shall apply to minority schools.

*16. Power of Government to exempt immovable property from being taken over or acquired-*The Government shall while taking over the management of any school or acquiring the properties of any school under section 14 or section 15 exempt any immovable property from being so taken over or acquired, if such property is intended and it being used for any religious purpose or, if the Government are satisfied that such property, on account of its proximity to any place of religious worship, should be exempted, and thereupon no rent or compensation, as the case may be, shall be payable in respect of such property.

17. Establishment of Local Educational Authorities – (1) For the purpose of associating people with the administration of education and to preserve and stimulate local interest in educational affairs, the Government may, by notification in the Gazette, establish Local Educational Authorities to exercise jurisdiction in any local area specified in such notification.

(2) Each Local Educational Authority shall consist of the Following seven members:-

(a) The district Educational Officer having jurisdiction in the local area-ex officio member;

(b) one member elected by the managers of aided schools in the local area from among

themselves;

(c) one member elected by the graduate teachers of Government and aided schools in the local area from among themselves.

(d) one member elected by the non-graduate teachers of Government and aided schools in the local area from among themselves;

(e) one member elected by the Panchayats and Municipal Councils or Corporation in the local area; and

(f) two members, being persons who have experience in education, nominated by the Government.

(3) The Government shall nominate one of the members to be the president of the Local Educational Authority.

(4) The term of office of the members other than the ex officio member shall be three years commencing from the date on which the first meeting of the Local Educational Authority is held.

(5) An outgoing member shall continue in office until the election or nomination, as the case may be, of his successor.

(6) The election of members to the Local Educational Authority shall be conducted in such manner as may be prescribed.

(7) Any person elected or nominated to fill a vacancy occurring in the office of a member previous to the expiry of his term of office shall hold office only so long as the member in whose vacancy he is elected or nominated would have held office if the vacancy had not occurred.

(8) It shall be lawful for the Local Educational Authority to exercise its powers under this Act notwithstanding any vacancy in the Authority.

18. *Functions of the Local Educational Authority*-The Local Educational Authority shall-

(i) assess the educational needs of the local area and prepare each year schemes for the development of education and submit the same to the Government;

(ii) supervise the implementation of the scheme of noon-day feeding of school children;

(iii) promote conferences, exhibitions or other measures calculated to create among

the public an interest in education; and

(iv) carry out such other functions as may be prescribed.

19. *Recognised schools*- The provisions of sub-sections (2) (4), (5), (6), (7), (8) and (9) of section 7 shall apply to recognised schools to the same extent and in the same manner as they apply to aided schools.

20. *No fee to be charged from pupils of primary classes*- NO fee shall be payable by any pupil for any tuition in the primary classes in any Government or aided schools.

PART II

COMPULSORY EDUCATION

21. *Application of the Part*-This Part shall apply to-

(i) the areas to which the provisions of the Travancore Primary Education Act, 1121, the Cochin Free Compulsory Primary Education Act, XI of 1123 or the Madras Elementary Education Act, 1920, have been brought into force; and

(ii) any other area to which it may be extended by the Government by notification in the Gazette.

22. *Definitions*- In this Part, unless the context otherwise requires,-

(i) “area of compulsion” means an area to which this Part applies;

(ii) “child” means a boy or girl between the ages of six and fourteen at the beginning of the academic year;

(iii) “guardian” includes a parent and any person who has the actual custody of the child;

(iv) “to attend a school” means to be regularly present for instruction at such school, on such days, at such time or times and for such period or periods on each day as may be prescribed by the Local Education Committee for that area with the approval of the Education Department;

(v) “Local Education Committee” means the Committee constituted under section 24.

23. *State to provide free compulsory education of children* – The Government shall provide for free and compulsory education of children throughout the State within a period of ten years from the commencement of this Act.

24. *Local Education Committee*-(1) The Government shall appoint for each area of compulsion or for any portion of the area of compulsion a Local Education Committee.

(2) The Committee shall be constituted in such manner and for such period as may be prescribed.

25. *Functions of Local Education Committee*- It shall be the duty of the Local Education Committee to implement the provisions of this Act in regard to attendance at schools and to ensure that the employment, if any, of children does not interfere with their attendance in Government or private schools.

(2) The Local Education Committee may, from time to time, delegate any of its powers and duties to any sub-committee or member. Such Committee or member shall conform to any instruction that may, from time to time, be given by the Local Education Committee. The committee may at any time discontinue or later the constitution of any sub-committee so formed or withdraw any of the powers or duties so delegated.

26. *Obligation on guardian to send children to school*-In any area of compulsion, the guardian of every child shall, if such guardian ordinarily resides in such area, cause such child to attend a Government or private school and once a child has been so caused to attend school under this Act the child shall be compelled to complete the full course of primary education or the child shall be compelled to attend school till it reaches the age of fourteen.

Explanation;- A guardian of a child, sending the child to a minority school, shall be deemed to have complied with the requirements of this section.

27. *Exemption from attendance*-A child may be exempted for a specified period or periods from compulsory attendance at school under this Act-

(1) by the Government on religious grounds or on account of social customs; and

(2) by the Local Education Committee-

(a) when it is receiving otherwise than in a Government or private school, instruction in an educational institution approved by the Local Education Committee; or

(b) when it is otherwise receiving education which in the opinion of the Local Education Committee is efficient or has received from the Local Education

Committee a certificate of having already completed its primary education; or
(c) where it is impracticable or inexpedient that it should attend school on account of illness, disease, injury, affliction, infirmity or of any other cause regarded as sufficient by the Local Education Committee, subject to such rules as may be prescribed in this behalf; or

(d) where there is no Government or private school within a distance of one mile measured along the nearest road from the residence of the child which the child can attend.

28. *Warning for failure to discharge obligation and for interference* –(1) when the Local Education Committee has reason to believe that a guardian of any child to whom this Act applies and who is bound under section 26 to cause such child to attend a Government or private school has failed to do so or that any person other than the guardian 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 Government or private school, it shall warn him in writing that within one week of the receipt of the warning he shall cause the child to attend school or shall refrain from utilizing the services of the child as aforesaid.

(2) When a Local Education Committee is satisfied that a 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), the Local Education Committee or any member authorized by the Committee shall lodge a complaint against such guardian 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 guardian 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 guardian or other person fails to comply with such order, he shall, on conviction, be liable to fine not exceeding five rupees for the first offence and twenty rupees for every subsequent offence.

29. *Penalty for employment of children or interference with their attendance at school*- Any person other than the guardian who shall utilize 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 Government or private school in spite of a warning given under section 28, shall be liable to fine not exceeding fifteen rupees for the first offence and not exceeding thirty rupees for each subsequent offence.

30. *Noon-day meals, clothing, etc., to poor pupils*- It shall be the duty of the Government to see noon-day meals, clothing, books and writing materials are provided for poor pupils free of cost.

31. *Inspection of offices, books and accounts of Local Education Committees* – (1) The Local Education Committee shall maintain such books, accounts and registers as may be prescribed.

(2) The office, books and accounts of every Local Education Committee shall be open to inspection by the Government.

PART III

MISCELLANEOUS

32. *Indemnity*- No suit, prosecution or other legal proceedings shall lie against the Government or any authority of any officer for anything done under this Act in good faith or for any damage caused by any action taken in good faith in carrying out the provisions of this Act or the rules thereunder.

33. *Courts not to grant injunction*- Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, no court shall grant any temporary injunction or make any interim order restraining any proceedings which is being or about to be taken under this Act.

34. *Delegation of powers*- It shall be lawful for the Government by notification in the Gazette, to delegate to any officer of the Education Department all or any of the powers vested in them by this Act, except the powers under sections 14, 15 and 36 and to withdraw any power so delegated.

35. *Removal of 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 them to be necessary or expedient for the purpose of removing the difficulty.

36. *Power to make rules* – (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) The establishment and maintenance of schools;
- (b) The giving of grants and aid to private schools;
- (c) The grant of recognition to private schools;
- (d) The levy and collection of fees in aided schools;
- (e) Regulating the rates of fees in recognised schools;
- (f) The manner in which accounts, registers and records shall be maintained in schools, and the authority responsible for such maintenance;
- (g) The submission of returns, statements, reports and accounts by managers of schools;
- (h) The inspection of schools and the officers by whom inspection shall be made;
- (i) The mode of keeping and the auditing of accounts of schools;
- (j) The mode of ascertaining the value of the schools for payment of compensation in cases of taking over or acquisition;
- (k) The standards of Education and courses of study;
- (l) The working of Local Educational Authorities; and
- (m) all matters expressly required or allowed by this Act to be prescribed.

37. *Rules to be laid before the Legislative Assembly*-All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.

38. *Saving*-Nothing in this Act shall apply to any school which is not a Government school or a private school.

39. *Repeal*-The Travancore Primary Education Act, 1121, the Cochin Free Compulsory Primary Education Act, XI of 1123 and the Madras Elementary Education Act, 1920 as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed..

