

# RIGHT TO EDUCATION BILL 2005

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## **Right to Education Bill 2005**

*An Act to put into effect the Right to Free and Compulsory Education  
to All Children in the Age Group of Six to Fourteen Years*

### **PREAMBLE**

Whereas the Preamble to the Constitution resolves to secure to all citizens of India JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY, assuring the dignity of the individual and the unity and integrity of the Nation;

And whereas, despite the original Article 45 of Directive Principles of the Constitution having made it the duty of the State to provide free and compulsory education to all children up to age fourteen in ten years (1960), the number of out of school children particularly from the disadvantaged groups and those engaged in labour, and those receiving poor quality education has remained very large;

And whereas, the 86<sup>th</sup> Constitutional Amendment Act 2002 has provided for free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right under Article 21A of the Constitution, in such manner as the State may, by law, determine;

And whereas the above Act also provides under Article 45 that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years;

And whereas the above Act further provides under Article 51-A (k) that it shall be a fundamental duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child/ward between the age of six and fourteen years;

And whereas it is considered important and essential to create a humane and equitable society that incorporates the secular values and the ethnic, religious and cultural diversities of India;

And whereas it is recognized that the objectives of democracy, social justice, and equality can be achieved only through the provision of elementary education of equitable quality to all; and

And whereas it is also imperative to improve the present delivery system of elementary education by, *inter alia*, greater decentralization of its management, and making it sensitive to the needs of children, especially of those belonging to disadvantaged groups.

Be it enacted by Parliament in the fifty-sixth year of the Republic as follows:

## Chapter I

### PRELIMINARY

#### 1. Short Title, Extent and Commencement

- (1) This Act may be called the Right to Education Act, 2005.
- (2) It shall extend to the whole of India except the state of J&K.
- (3) Provisions of this Act shall be subject to the provisions of Articles 29 and 30 of the Constitution.
- (4) It shall come into effect from the date of its notification in the Gazette of India.

#### 2. Definitions

- (1) In this Act, unless the context otherwise requires: -

(a) **“Academic Year”**

means a period of one year (including vacations), notified as an academic year by an appropriate government, or by a local authority or a school management committee empowered by such government in this behalf, for the transaction of the course of study prescribed for any grade of the elementary stage.

(b) **“age-appropriate grade”, in relation to a child,**

means the grade in which the child should currently be studying if she was enrolled in Grade I around the time she completed six years of age, and had thereafter participated in elementary education continuously.

Explanation: Age-appropriate grade for children suffering from mental retardation or mental illness shall be determined keeping in view their mental development also, and not on the basis of their biological age alone.

(c) **“Aided school”**

means a school, which receives aid from a government or from a local authority, or both, to meet the whole or part of its recurring expenses.

(d) **“Appropriate government”**

means:

- i) the state government in the case of territory comprised in a State;
- ii) the Government of a Union Territory, in the case of a Union Territory having its own legislature; and
- iii) the Central Government, in the case of other Union Territories.

Provided that, in relation to schools and institutions run or funded by the Central Government, the appropriate government shall be the Central Government regardless of their location.

**(e) “Capitation fee”**

means any fee, donation or contribution other than a fee or any payment that an aided/unaided school publicly notifies at the time of announcement for admission as being payable by all children in the event of admission to the school.

**(f) “Child”**

means a person who is not less than six years and not more than fourteen years of age.

**(g) “Commission”**

means the National Commission for Elementary Education established under Section 33 of this Act.

**(h) “Competent Authority”**

means an authority designated by the Appropriate Government as a competent authority for the purposes of this Act.

**(i) “Competent Academic Authority”**

means an authority designated by the Appropriate Government as a competent academic authority for the purposes of this Act.

**(j) “Child in need of Care and Protection”**

shall have the meaning assigned to it in clause (d) of section 2 of the Juvenile Justice [Care and Protection of Children] Act, 2000 [56 of 2000].

**(k) “Compulsory Education”**

means an obligation on the State to take all necessary steps in terms of this Act to ensure that:

- (i) every child of the age of six years is enrolled in a school, participates in it, and completes elementary education.
- (ii) every child over six years, but less than 14 years, who was not enrolled in a school at the commencement of this Act, is enrolled in a school, participates in it, and completes elementary education.

**(l) “Disability”**

shall have the meaning assigned to it in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; and shall include such other conditions as may be notified by the competent authority as a disability for the purposes

of this Act.

**(m) “Disadvantaged Group”**

means scheduled castes, scheduled tribes, other socially and educationally backward classes, and such other groups disadvantaged due to economic, social, cultural, linguistic, gender, administrative, locational, disability or other factors, and notified as a disadvantaged group in relation to an area, in such manner as may be prescribed.

**(n) “Elementary Education”**

means education at the elementary stage in a school.

**(o) “Elementary Stage”**

means the stage of school education corresponding to Grades I to VIII as per courses of study prescribed by a competent academic authority.

**(p) “Equitable Quality” in relation to Elementary Education**

means providing all children opportunities of access to, participation in, and completion of elementary education in accordance with the provisions of this Act.

**(q) “Free Education”**

means freedom for the child and her parent/guardian from liability to:

- i) pay any fee or charges to the school where the child/ ward is studying, or to an examining body or any other external body providing any service through the school, and
- ii) incur such other expenses, as may be prescribed, which are likely to prevent the child from participating in and completing elementary education;

Provided that if textbooks and any other teaching learning material are supplied free to a non-disabled child under this clause, they shall be supplied free to a disabled child in such modified form as would meet her learning needs.

**(r) “First Generation Learner”**

means a child, neither of whose parents has completed elementary education.

**(s) “Fully-aided School”**

means a school, which receives grants from a government or local authority to meet its full recurring expenses, or such part, being not less than 90%, of the recurring expenses as may be prescribed.

**(t) “Grade”, in relation to the elementary stage,**

means any of its eight annual sub-stages.

**(u) “Guardian”, in relation to a Child**

means his natural guardian or any other person having the actual charge or control over the child and recognised by the competent authority as a guardian in course of proceedings before that authority.

**(v) “Juvenile in Conflict with Law”**

means a person who has not completed eighteenth year of age and is alleged to have committed an offence.

**(w) “Local area”, in relation to a Local Authority,**

means the area comprised within the territorial jurisdiction of the authority.

**(x) “Local Authority”**

means

- i) a Panchayat in respect of rural areas,
- ii) a Municipality in respect of an urban area, and
- iii) such other authorities as the appropriate government may, by notification, specify for the areas mentioned therein.

*Explanation: In case of rural areas situated within scheduled areas, the Gram Sabha shall also be a local authority to the extent laid down in the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996.*

**(y) “Migrant Family”**

means a family that does not reside at any one location for at least such minimum number of days in a calendar year as may be prescribed.

**(z) “Minor Punishment”, in relation to a teacher,**

means any punishment other than dismissal or removal from service or reduction in rank.

**(aa) “Neighbourhood”**

means such area around the residence of a child as may be prescribed.

**(bb) “Neighbourhood School”, in relation to a Child,**

means any school located within the neighbourhood of the residence of the child.

**(cc) “Non-educational purpose”**

means any purpose not connected with elementary education, or with

children's access to, or participation in such education.

**(dd) “Out-of-School Child”**

means a child who is either not currently enrolled in a school or, though enrolled, is not able to participate therein.

**(ee) “Parent”**

means the father or the mother of a child and includes an adoptive father or mother.

**(ff) “Participation” in Elementary Education, in relation to a Child,**

means her:

- i) regular attendance in school, and
- ii) effective participation in curricular and co-curricular activities of the school throughout the elementary stage.

**(gg) “Pre-primary Section”, in Relation to a School**

means an establishment, which meets the educational needs, with or without other services, of children before the elementary stage of education, either as a part of a school or as an independent entity collaborating with it.

**(hh) “Prescribed”**

means prescribed by rules made under this Act.

**(ii) “Pre-School”**

means a facility provided by a school to meet the educational needs of children at least between the ages of 3 and 6 years.

**(jj) “Recognised”, in relation to a School**

means recognized by a statutorily empowered authority, or an appropriate government, or by an authority empowered by such government, in accordance with a law, rules, or executive instructions governing recognition of schools.

**(kk) “Schedule”**

means the Schedule referred to in Section 18 of this Act.

**(ll) “School”**

means an institution or part of an institution, which imparts education at the elementary stage or any part of such stage, and is recognised as a School by a competent authority.

**(mm) “Screening Procedure” for Admission to a School**

means any procedure that is used to select one child in preference to another, except in a random manner, for admission to an elementary school or its pre-primary section.

**(nn) “Specified Category”, in relation to State Schools**

means the State schools known at the commencement of this Act as Kendriya Vidyalayas, Navodaya Vidyalayas, and Sainik Schools, and such other categories of State schools having a distinct character as may be specified by notification by the appropriate Government, for the purposes of this Act.

**(oo) “State School “**

means a school run by an appropriate government or a local authority.

**(pp) “Teacher”**

means a person who teaches full time in a school and includes the head teacher of such school.

**(qq) “Unaided School”**

means a school which is neither a state school nor an aided school

**(rr) “Ward”, in relation to a Child,**

means a child who is under the guardianship of someone other than a parent.

**(ss) “Weaker Section”, in relation to a Child,**

means a child in need of care and protection, or a child, the annual income of whose parents or guardians is less than such minimum limit as may be notified by the appropriate government in this behalf from time to time.

**(tt) “Working Child”**

means a child who:

- i) works for wages, whether in cash or in kind, or
- ii) works for her own family in a manner which prevents her from participation in elementary education.

- (2) The female gender, wherever used in pronouns in relation to a child or young person, includes the male.
- (3) Words and expressions used but not defined in this Act, and defined in the Constitution, shall have the meaning assigned to them in the Constitution.

## Chapter II

### CHILD'S RIGHT TO FREE AND COMPULSORY EDUCATION OF EQUITABLE QUALITY

#### 3. **Child's Right to Free and Compulsory Education of Equitable Quality**

- (1) Every child who has attained the age of 6 years shall have the right to participate in full time elementary education and to complete it, and towards that end shall have the right, subject to the provisions of this Act, to:
- i) be admitted to a neighbourhood school in accordance with the provisions of Section 14, and
  - ii) be provided free and compulsory education in such school, in the manner provided in this Act

Provided that a child who, due to her severe or profound disability, cannot be provided elementary education in a neighbourhood school, shall have the right to be provided education in an appropriate alternative environment as may be prescribed.

(Explanation: For the purposes of this Section, neighbourhood shall be determined in relation to the residence of the child on the basis of proof of residence provided in such manner as may be prescribed, including but not limited to, ration card or voters identification card of the parent/guardian.)

- (2) A non-enrolled child who is in the age group 7-9 years, at the commencement of this Act, shall, in addition to the right specified in sub-clause (1), have the right to be admitted to an age appropriate grade in a neighbourhood school within one year from the commencement of this Act.
- (3) A non-enrolled child who is in the age group 9-14 years, at the commencement of this Act, shall in addition to the right specified in sub-clause (1), have the right to be provided special programmes within the neighbourhood school to enable her to join, as early as possible, but in any case within three years from the commencement of this Act, the age appropriate grade.
- (4) A child who, though enrolled, is not able to participate in elementary education, shall, in addition to the right specified in sub clause (1), have the right to be provided with suitable conditions, as may be decided by the appropriate government, to enable her participation.

- (5) No child shall be held back in any grade or expelled from a school until she completes elementary education, except through an Order of the School Management Committee (SMC).

Provided that an Order under sub-section (5) expelling a child from school shall be passed by the SMC only in the case of a delinquent child for whom all other corrective measures have been exhausted, and only after such child and her parents/guardians have been afforded an opportunity of being heard in such manner as may be prescribed.

Provided further that in the event of an SMC passing an Order under sub-section (5), it shall also be required to bring such Order to the notice of the Appropriate Government or local authority as the case may be, which will then give directions regarding other neighbourhood schools to which the expelled child shall be admitted for purposes of her further education

#### **4. Right Of Transition Till Completion Of Elementary Education**

- (1) For every child studying in a school which provides education up to a level less than class VIII, the Local Authority shall specify a school, subject to the provisions of Section 14, where such child shall have the right of admission for free education till she completes elementary education
- (2) Any child moving from one school to another, including outside the state shall, for the purposes of seeking admission to another school, be entitled to receive a transfer certificate issued by the Headmaster of the school in which she was last enrolled;

Provided that the absence of such a transfer certificate shall not constitute grounds for delaying or denying her admission to an appropriate grade in the new school; nor shall such child be subjected to any test whatsoever to determine whether she is to be admitted to the school.

## **Chapter III**

### **RESPONSIBILITY OF THE STATE**

#### **5. General Responsibility of the State**

It shall be the responsibility of the State:-

- (i) To ensure the availability of a neighbourhood school for every child within a period of three years from commencement of this Act;

Provided that in case of non-availability of a neighbourhood school, the State shall provide free transportation arrangements to the nearest school or provide free residential schools/ facilities,

- (ii) To ensure that every child is provided free education in the school mentioned in sub-clause (i);

Provided that Parents/guardians who choose to admit their children to the non-free quota in a school shall not have any claim on the State for providing free education to their children,

- (iii) To institute and implement a mechanism for regular monitoring of enrolment, participation and attainment status of every child, and taking corrective steps wherever necessary, so that every child completes elementary education, and to make information in this regard available in the public domain, including on an on-line basis,

- (iv) To ensure that children in schools receive education (a) of equitable quality, and (b) conforming to values enshrined in the Constitution, and,

- (v) To ensure that economic social, cultural, linguistic, gender, administrative, locational, disability or other barriers do not prevent children from participating in, and completing elementary education.

#### **6. Responsibility of the State Towards the Non-enrolled Child**

The appropriate government shall take necessary steps to ensure that: -

- i) All non-enrolled children who are in the 7-9 years' age group at the commencement of this Act, are enrolled in a neighbourhood school within one year of the commencement of this Act.

- ii) All non-enrolled children who are in the 9-14 years' age group at the commencement of this Act are enrolled in special programmes in a neighbourhood school, if available, and failing that, in another school to enable them to be admitted to an age appropriate grade in a neighbourhood school as early as possible, but in any case within three years of the commencement of this Act.

**7. Provision Of Facilities For Pre-School Education**

The appropriate government shall endeavour to provide facilities for pre-school education in State and fully-aided schools for children between the ages of 3 and 6 years, if such facilities are not already being provided, through Integrated Child Development Services (ICDS) or other government programmes, in proximity to such schools.

**8. Provision of Facilities to Young Persons to Complete Elementary Education**

If a young person has, for whatever reason, been unable to complete elementary education by the age of fourteen years but is continuing her education in a school at that age, she shall continue to be provided free education in such school till she completes elementary education or attains the age of eighteen years, whichever is earlier.

**9. Responsibility of the Central Government**

Provision of Free and Compulsory education shall be the concurrent responsibility of the Central and appropriate governments, with the Central Government's responsibility consisting of the following:

- i) Provision of financial assistance to State Governments in accordance with such formula regarding sharing of costs of implementation of this Act, as the Central Government may determine from time to time in consultation with State Governments.
- ii) Taking action through appropriate bodies to develop a national curriculum framework, and to develop and enforce standards for training and qualification of teachers for elementary education in a participatory and consultative manner
- iii) Provision of technical resource support to the state governments, through appropriate institutions, for promotion of innovations and dissemination of best practices in the field of elementary education and for related research, planning and capacity building
- iv) Monitoring progress of implementation of various interventions, schemes and programmes for achieving the objectives of this Act, and taking appropriate steps in case of default.
- v) Taking such other steps as the President may, by Order, specify.

## **10. Responsibility of the Appropriate Government**

- (1) Responsibilities in connection with provision of free and compulsory education, except those of the Central Government as defined in Section 9, shall be that of the appropriate Government.
- (2) Without prejudice to the generality of sub-section (1), the appropriate government shall ensure:
  - i) Provision of financial assistance to Local Authorities for implementation of this Act in accordance with such formula regarding sharing of costs of such implementation, as the appropriate government may determine from time to time.
  - ii) Carrying out of an exercise every year to determine the requirement of schools, facilities and their appropriate locations for the implementation of this Act.
  - iii) Establishment of additional schools as required and making them functional.
  - iv) Deployment of teachers in schools in accordance with the provisions of this Act.
  - v) Prescription and periodic revision by the Competent Academic Authority of the curriculum for elementary education and courses of study for each grade thereof.
  - vi) Provision of a building, teaching aids and learning material of the prescribed specifications in accordance with the Schedule to every State school and fully aided school,
  - vii) Timely provision of “elements of free entitlement” as prescribed under section 2(1)(q), to eligible children.
  - viii) Development and maintenance of a comprehensive database to facilitate implementation of this Act.
  - ix) Creation of adequate facilities for training of teachers and other personnel to meet the human resource requirement for the implementation of this Act.

## **11. Responsibility of the Appropriate Government to Augment Teacher Training Capacity Wherever Necessary**

Every appropriate Government shall, within six months of the commencement of this Act, assess the State’s requirement of professionally trained teachers as prescribed under this Act, vis-à-vis the capacity of existing training institutions, and shall in the event of a deficit, take steps to augment such capacity so as to match the requirement within such period not exceeding five years from the commencement of this Act, as the Central Government may notify.

## **12. Responsibility of Local Authorities**

- (1) Subject to the responsibility of the appropriate Government as laid down in Section 10, the Local Authority shall, if empowered by a law enacted in pursuance of Article 243G or Article 243W of the Constitution, perform the following functions:-
  - i) Maintain the record of all children in its area, who are in the age group of 0-14 years, with special reference to children belonging to each disadvantaged group, and to weaker sections, in such manner as may be prescribed,
  - ii) Ensure that every child in the age group of 6-14 years residing within its jurisdiction is enrolled in an elementary school, participates in it, and is enabled to complete elementary education,
  - iii) Plan, budget and provide for additional schools, teachers, and other facilities that may be required as a result of the gaps identified through the school mapping exercise for ensuring free and compulsory elementary education,
  - iv) Monitor the provisioning of prescribed infrastructure, teachers and supporting facilities for free and compulsory education in all schools in its area imparting elementary education,
  - v) Ensure sustained education of children of migrant families through special steps, including bridge courses, remedial teaching, and such other interventions as may be required.
- (2) To the extent the above functions have not been devolved upon local authorities by law, the appropriate government will by rules determine the authorities at various levels, which will perform the above functions till such time as such functions are assigned by law.

## **13. Planning For Provision of Free and Compulsory Education**

- (1) Every School Management Committee as constituted under Section 22 shall prepare School Development Plan to cater to the needs of the children residing in its neighbourhood in respect of their education of equitable quality, in such manner as may be prescribed.
- (2) School Development Plans, referred to in sub-section (1), shall be the basis for preparation of plans for provision of free and compulsory education for every local area, block, district, and metropolitan area, in such manner as may be prescribed.
- (3) Every appropriate Government and Central Government shall prepare plans for provision of free and compulsory education in the State/UT and the country, taking into consideration the Plans referred to in sub-section (2) above.

- (4) The plans referred to in sub-section (3) shall be taken into consideration while preparing the annual demands for grants for elementary education presented by the appropriate/Central Government to the respective Legislatures/Parliament.
- (5) The plans referred to in sub-section (3) shall also form the basis for monitoring the implementation of this Act, by the National Commission for Elementary Education constituted under section 33 of this Act.

## Chapter IV

### SCHOOLS AND TEACHERS

#### 14. Responsibility of Schools to provide Free and Compulsory Education

- (1) Schools shall provide free and compulsory elementary education to children entitled under Section 3 to the extent and in the manner specified below:
- i) State schools, except schools of specified categories, and fully aided schools - to all admitted children.
  - ii) Aided schools, other than fully aided schools - to at least such proportion of their admitted children as its annual recurring aid bears to its annual recurring expenses subject to a minimum of 25 per cent.
  - iii) State schools of specified categories, and unaided schools, to at least 25% children admitted to class 1 after the commencement of this Act, from among children belonging to weaker sections randomly selected by the school, and for the continued education of such children in the School thereafter till completion of elementary education or till they seek transfer from the school, whichever is earlier.

Provided that if a school belonging to a category mentioned in clauses (ii) and (iii), has a pre-primary section, provisions of sub clauses (ii) and (iii) shall apply to the pre-primary section instead.

Provided further that free seats in any school, shall be offered by the school first to eligible children for whom it is a neighbourhood school, and shall be offered to other eligible children only to the extent of vacancies remaining thereafter.

- (2) For every child admitted and educated in pursuance of (iii) of sub-clause (1), the appropriate government shall reimburse to the school at a rate equal to the per child expenditure in state schools/fully aided schools and state funded preschools, or the actual amount charged per student by such school, whichever is less, in such manner as may be prescribed.

Provided that if a school is already under obligation, at the commencement of this Act, to either the Central Government or an appropriate government or any authority/agency representing or acting on their behalf to provide free education to a specified number of children as a consequence of having received land/building/equipment/other facilities either free of cost or at subsidized rates, such school shall not be entitled to reimbursement under the above provision to the extent of such obligation.

- a) (3) It shall be the duty of every school to supply to the appropriate government or to an authority designated by such government, such information as the appropriate government may direct to be furnished for the purposes of Section 5(3).

**15. Prohibition of Screening Procedures and Capitation Fees**

No child or her family shall be subjected to any screening procedure by a school while deciding about admission to the school at the elementary stage, nor shall the family be required to make any payment in the nature of capitation fee.

**16. Admission to Schools to be Generally done at the Commencement of the Academic Year but not to be Denied at Other Times**

Children shall be admitted to schools as far as possible at the commencement of the academic year, or within such period thereof as may be prescribed:

Provided that a child entitled to be admitted to a neighbourhood school under Section 3 (1), read with Section 14 of this Act, shall not be denied admission to such a school at any time of the academic year;

Provided further that a child admitted under the preceding proviso within four months of the commencement of the academic year shall be enabled to complete the class to which she has been admitted along with the batch of students admitted at the beginning of the session. A child admitted later in the academic year, who has not come on transfer from another school, shall complete the class with the next batch of students, unless the school is of the opinion that the child has made sufficient progress in the remaining part of the academic year to merit promotion to the next class along with the regular batch of students.

**17. Recognition of Schools**

- (1) All schools, other than State schools, recognized at the commencement of this Act, and all State schools, whether established before or after the commencement of this Act, shall be deemed to be recognized schools for the purposes of this Act.
- (2) No institution, other than State schools, which is intended to be run as a School, shall be established or run after the commencement of this Act, except after obtaining a certificate from a Competent Authority indicating that the latter has no objection to the establishment and operation of such an institution, or after obtaining recognition as a School from such Authority.
- (3) Every appropriate government shall, within three months from the commencement of this Act, notify rules governing grant of recognition to Schools other than State schools. Where rules in this behalf already exist, they shall be deemed to have been framed under this Act, but shall be reviewed and revised to the extent necessary, within six months from the commencement of this Act, so as to bring them in conformity with it.

- (4) Every application for recognition shall be made in such form, in such manner and to such competent authority as may be prescribed, and the competent authority shall finally dispose of the application by an Order within a period not exceeding three months from the date of its receipt;

Provided that in the event of rejection of an application, the Order shall state reasons for its rejection.

Recognition of a school other than a State school, may be withdrawn for breach of conditions referred to in sub-section (4), after giving an opportunity to the management of the school of being heard in such manner as may be prescribed, and from a date to be specified in the Order withdrawing recognition, which date shall not be later than 30 days from the date of passing of the Order;

Provided that while passing an Order withdrawing recognition, the competent authority shall also give directions regarding other neighbourhood schools to which children studying in the derecognised school shall be admitted for purposes of their further education.

- (5) No person shall run a school whose recognition has been withdrawn by an Order passed under sub-section (5), after the date specified in the Order.

## **18. Norms and Standards for a School**

- (1) No State school shall be established, and no other school shall be recognized, by any competent authority, after the commencement of this Act, unless such school fulfils the norms prescribed in the Schedule.
- (2) All schools, which are deemed to have been recognised at the commencement of this Act under sub-section (1) of Section 17, but did not fulfil the norms prescribed in the Schedule at such commencement, shall do so within a period of three years, therefrom.
- (3) Responsibility for compliance with the provisions of sub section (2), shall be as follows:
- i) In case of State/fully-aided schools - of the appropriate government/local authority (subject to the provisions of sections 9, 10 &12)
  - ii) In case of other schools - of the management of such schools;

Provided that the appropriate government may provide financial assistance, in such manner as may be prescribed, to managements of schools mentioned in sub-clause (ii) above to enable them to discharge their responsibility under this sub-section.

- (4) If a school other than a State or fully-aided school, fails to comply with the provisions of sub-section (2), within the time limit specified therein, the competent authority shall, after giving the management of such school an opportunity of being heard in such manner as may be prescribed, pass an Order declaring that the school has forfeited its recognition with effect from a date which shall be specified in the Order and shall not be later than 30 days from the date of passing of the Order;

Provided that while passing the above Order, the competent authority shall also give directions regarding other neighbourhood schools to which children studying in the derecognised school shall be admitted for purposes of their further education.

- (5) No person shall run a school after the date specified in an Order passed under sub-section (4).

**19. Power to amend Schedule**

The National Commission for Elementary Education may, in consultation with the Central and appropriate governments, at any time, amend the Schedule to this Act either with respect to the country as a whole or any part thereof.

**20. Prohibition of Deployment of Teachers for Non-educational Purpose**

No teacher of a state or fully-aided school shall be deployed for any non-educational purpose except for decennial population census, election to local authorities, State Legislatures and Parliament, and disaster relief duties.

**21. Prohibition of Private Tuition by Teachers**

No teacher shall engage in any teaching activity for economic gain, other than that assigned by his employer or supervisor.

**22. School Management Committees**

(1) A School Management Committee (SMC) shall be constituted for every State school and aided school, with such representation of parents, teachers, the community and representatives of the local authority, as may be prescribed.

(2) Composition of the School Management Committee shall be so prescribed that:

- i) At least three-fourths of its members are parents/guardians of children studying in the school, with proportionate representation among them of scheduled castes, scheduled tribes and other socially and educationally backward classes;
- ii) The remaining members are drawn from other stakeholder sections of the community including representatives of the local authority, teachers, and persons/bodies working for education.

- (3) Physical assets of every State school, including its building, appurtenant land and fixtures, and all equipment and furniture, etc., shall be transferred by the concerned Government/local authority to the SMC within three months of its constitution under this Act, subject to such terms, conditions and restrictions, and in such manner, as may be prescribed.
- (4) The SMC shall perform the following functions, namely:
- (i) monitor and oversee the working of the school, and plan and facilitate its development;
  - (ii) manage the assets of the school;
  - (iii) ensure that teachers of the school diligently perform the duties prescribed for them under Section 26;
  - (iv) disburse salary to teachers from the grants received for the purpose from the appropriate government/local authority, and to deduct payment of salary for the period of unauthorised absence, if any, in such manner as decided by the SMC;
  - (v) utilise other grants received from the appropriate government, local authority or any other source for the upkeep and development of the school, in accordance with the terms of such grant and the rules made in that behalf; and,
  - iii) (vi) such other functions as may be prescribed by or under this Act.
- (5) All moneys received by a School Management Committee for the discharge of its functions under this Act, shall be kept in a separate account, and shall be utilised in such manner as may be prescribed.
- (6) Accounts of money received and spent by the SMC shall be maintained and audited in such manner as may be prescribed.

**23. Teachers of State Schools to be a School-based Cadre**

- (1) After the commencement of this Act, teachers in State schools, except in State schools of specified categories, shall be appointed for a specific school by such local authority or SMC as may be notified by the appropriate government, and shall not be transferred therefrom;
- (2) Recruitment of teachers shall be carried out in accordance with transparent, merit-based criteria, and information thereof shall be made available in the public domain.
- (3) All teachers already serving at the commencement of this Act, in State schools, except in State schools of specified categories, shall be permanently assigned to a specific State school in accordance with such procedure as may be prescribed, within a period not exceeding two years

from the commencement of this Act, and shall then not be transferred from the school so assigned.

**24. Teacher Vacancies in State Schools and Fully-aided Schools Not To Exceed 10% Of Total Strength**

- (1) It shall be the duty of every appointing authority in relation to every State school and fully-aided school, to ensure that teachers' vacancies in the schools under its control do not at any time exceed 10% of the total sanctioned posts of teachers.
- (2) Appropriate governments and local authorities shall ensure that, in schools run by them, teachers and their sanctioned posts are deployed in accordance with norms specified in the Schedule, and are not over-deployed in urban areas at the cost of rural areas.
- (3) Deputation or temporary deployment of teachers to schools other than those to which they have been appointed shall be prohibited.

**25. Teacher Qualifications and Remuneration**

- (1) After the commencement of this Act, only such persons as possess the qualifications prescribed under the NCTE Act shall be appointed as teachers;

Provided that in States which do not have adequate pre-service training capacity, Central Government/NCTE may grant relaxation in this provision for such period, and to such extent, as may be absolutely necessary.

- (2) Teachers serving at the commencement of this Act who do not possess qualifications prescribed by the NCTE shall be enabled by their employer, to acquire the equivalent of such qualifications within such period not exceeding five years from the commencement of this Act, as may be notified by the appropriate government.

Provided that the fees payable by a teacher for acquiring such qualifications, and such other expenses connected therewith, as the appropriate government may notify, shall be borne by the employer.

- (3) Terms and conditions of service of teachers serving in schools, shall be decided from time to time, by the appropriate government, commensurate with prescribed professional qualifications and experience.

**26. Duties of Teachers**

- (1) It shall be the duty of every teacher to:
  - (i) regularly attend school for its full duration,

- (ii) transact and complete the curriculum in accordance with the principles laid down in clause 29,
  - (iii) transact the curriculum in accordance with the time schedule, decided by the school, subject to general guidelines of the Competent Academic Authority,
  - (iv) report every case of non-attendance to the parent or guardian concerned in the first instance, and in case it persists, to the SMC constituted under Section 22,
  - (v) regularly assess the learning level of each child, and to provide supplementary instruction needed by the child,
  - (vi) regularly apprise every parent/guardian about the progress of learning and development of his child/ward studying in the school, and to also regularly report about such progress to the SMC, in such manner as may be prescribed, and
  - (vii) perform such other functions as the appropriate government or the appointing authority may specify, consistent with the provisions of Section 20.
- (2) Default by a teacher in the performance of a duty stipulated in sub-section (1) shall amount to professional misconduct, and such teacher shall be liable to be punished in accordance with the provisions of Section 27 of this Act and/or the disciplinary rules applicable.

**27. Accountability of Teachers Employed in State Schools and Fully-aided Schools**

- (1) Notwithstanding anything contained in any other law, rules, regulation or contract for the time being in force, the following provisions shall apply to every teacher employed in State schools and fully-aided schools: -
- i) Power to grant leave to teachers shall vest in the Head Teacher/ School Management Committee (SMC) to such extent and subject to such restrictions as regards nature and duration of leave, and in such manner as may be prescribed;
  - ii) The SMC, Panchayat at the village level, or a municipal body, as the case may be, shall, where it is not itself the Appointing Authority for teachers serving in school(s) falling within its jurisdiction, furnish periodic assessment reports regarding performance of duties stipulated in Section 26 by such teachers, to the concerned Appointing Authority, in such manner as may be prescribed;

iii) Unless the State legislature has by law otherwise provided, power to impose minor punishment on a teacher in a State School, who was appointed by an authority higher than, or different from the authority mentioned in column 3 of the table below, shall vest in the Local Authority specified in column 3, and having jurisdiction over the rural/urban/metropolitan area in which the school is situated:-

A	For teachers in rural areas	Panchayat of the intermediate or village level or SMC, as the appropriate govt. may notify
B	For teachers in government schools in urban areas	The municipality or SMC, as the appropriate govt. may notify
C	For teachers in government schools in metropolitan areas	Such authority or SMC, as the appropriate govt. may notify

(2) When an SMC considers a matter in exercise of its powers under sub-clause (iii) of sub-section (1), no teacher other than the Head Teacher, who is a member of the SMC, shall participate in its proceedings, and the Head Teacher shall also not do so when the SMC is considering a matter concerning him.

## **28. Redressal of Teachers' Grievances**

It shall be the duty of the SMC/Local Authority to redress teachers' grievances to the extent they fall within its purview, and to support the teacher in obtaining redressal of such grievances as do not fall within its purview.

## Chapter V

### CONTENT AND PROCESS OF EDUCATION

#### 29. Values, Content and Transaction of Elementary Education

Competent Academic Authorities while prescribing curriculum and evaluation procedures, and schools while transacting them, shall adhere to the following principles:

- (i) They shall conform to the values enshrined in the Constitution,
- (ii) All schools shall function in a child friendly and child centred manner, and shall in particular:
  - (a) allow the child who is capable of forming her own views the right to express those views freely in all matters affecting the child, and allow the views of the child to be given due weight in accordance with the age and maturity of the child,
  - (b) build on the child's knowledge, environment and cultural identity, particularly linguistic, and develop the child's personality, talents and mental and physical abilities to their fullest potential,
  - (c) use the child's mother tongue as the medium of instruction as far as possible, at least during the first five years of the elementary stage,
  - (d) would rely on activity, discovery, exploration, understanding and problem-solving.
  - (e) would be free of fear, trauma and anxiety to the child, and
  - (f) conduct learner evaluation in a continuous and comprehensive manner such that it tests the child's understanding and ability to apply knowledge rather than rote learning.

#### 30. Certification of Completion of Elementary Education

- (1) No child shall be required to appear at a public examination during the elementary stage except, if at all, at the completion of such stage.
- (2) Every child who completes elementary education shall be awarded a certificate to that effect by the examining body holding public examination in terms of sub-section (1) above, or, in case no public examination is so held, by the school where she completes it.

#### 31. Prohibition of Physical Punishment

- (1) No child shall be awarded physical punishment in any form in a school.

- (2) Violation of sub-section (1) by a teacher shall amount to professional misconduct, and such teacher shall be liable to be punished in accordance with Section 26 of this Act and/or the disciplinary rules applicable.

**32. Teacher Training and Innovation**

- (1) NCTE while laying down norms, standards and guidelines in respect of pre-service training programmes for elementary school teachers shall be guided by the principles laid down in section 29.
- (2) The appropriate Government in respect of teachers in State schools and fully-aided schools, and managements in respect of teachers in unaided schools, shall take all necessary steps to ensure suitable in-service training and regular academic support, including through the use of information & communication technology (ICT), to teachers to enable them to implement the principles laid down in Section 29. In particular, all teachers shall be provided opportunities for peer interaction and encouraged to engage in innovation.

## Chapter VI

### MONITORING OF IMPLEMENTATION OF THE ACT

#### 33. National Commission for Elementary Education

- (1) Central Government shall, by notification, constitute a body to be known as the National Commission for Elementary Education, to continuously monitor implementation of this Act, recommend corrective measures wherever necessary, and to exercise powers and perform other functions assigned to it under this Act.
- (2) The National Commission for Elementary Education, shall consist of:-
  - (a) A Chairperson, who shall be an eminent person with proven record of service in the field of education;
  - (b) One member each having expertise in the fields of elementary education, development of disadvantaged groups, child development/child rights, finance, and law; and
  - (c) A Member-Secretary having experience/expertise in educational management.
- (3) Chairperson and members of the National Commission shall be appointed by the President, on the recommendation of a committee consisting of the following:-

Prime Minister, Speaker of the *Lok Sabha*, Minister, Human Resource Development, and Leaders of Opposition in the two Houses of Parliament.
- (4) The Commission will perform the following functions, namely:
  - i) To monitor all aspects, including quality, of elementary education;
  - ii) To act as Ombudsman for the purposes of this Act, and to direct appropriate authorities to redress grievances of parents/citizens relating to elementary education;
  - iii) To present an annual report to Parliament on the status of implementation of this Act and such other issues pertaining to elementary education as may be prescribed;
  - iv) To render policy advice to Central Government/appropriate government/local authorities regarding effective implementation of this Act;
  - v) To commission such surveys, studies and research as it considers necessary for the discharge of its functions, especially in regard to provision of free and compulsory education to disadvantaged groups, and to disseminate their findings; and

- vi) Such other functions as may be prescribed.

### **34. Term of Office of the Chairperson and Members**

(1) The Chairperson and Members shall hold office for a term of three/ five years from the date on which they enter upon their office:

Provided that the Chairperson or a Member shall not hold office as such after he has attained –

- (a) in the case of the Chairperson, the age of seventy years; and
- (b) in the case of any other Member, the age of sixty-five years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the President, resign his office at any time.

### **35. Removal from Office**

(1) Subject to the provisions of sub-section (2), the Chairperson shall be removed from his office by order of the President on the ground of proven misconduct or incapacity.

(2) Notwithstanding anything contained in sub-section (1), the President may, by order remove from office the Chairperson or any other Member, if the Chairperson or such other Member, as the case may be, –

- (a) is adjudged an insolvent; or
- (b) is unfit to continue in office by reason of infirmity of mind or body; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) is or has been convicted of an offence which, in the opinion of the President, involves moral turpitude.

### **36. Vacation of Office by Chairperson or Member**

(1) If the Chairperson or a Member, as the case may be –

- (a) becomes subject to any of the disqualifications mentioned in section 35, or
- (b) is, without obtaining leave of absence from the Commission, absent from its three consecutive meetings, or
- (c) tenders his resignation under sub-section (2) of section 34,

his office shall thereupon become vacant.

(4) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his death, resignation or otherwise, such vacancy shall be filled by

making fresh appointment in accordance with the provisions of section 33, and the person so appointed shall hold office only for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place he is so appointed, would have held office.

**37. Vacancies, etc. not to Invalidate Proceedings of Commission**

No act or proceeding of the Commission shall be invalid merely by reason of –

- (a) any vacancy or defect in the constitution of the Commission, or
- (b) any defect in the appointment of a person as Chairperson or Member, or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

**38. Procedure for Transaction of Business**

- (1) The Commission shall meet at least once every quarter at such time as may be fixed by the Chairperson.
- (2) All decisions at Commission’s meetings shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

- (3) If for any reason, the Chairperson, is unable to attend a meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.
- (4) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including regarding quorum at such meeting, as may be prescribed.
- (5) All orders and decisions of the Commission shall be authenticated by the Member-Secretary.

**39. Salary, Allowances and Conditions of Service of Chairperson and Members**

The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed:

Provided that neither the salary and allowances nor other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

**40. Member-Secretary, Officers and Other Employees of the Commission.**

(1) Central Government shall, by notification, appoint a person not below the rank of Joint Secretary to the Government of India and having experience/ expertise in educational management, as Member-Secretary, and shall make available to the Commission such other officers and employees as may be necessary for the efficient discharge of its functions.

(2) The Member-Secretary shall be responsible for the proper administration of the affairs of the Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed.

(3) Salary and allowances payable to, and the other terms and conditions of service of the Member-Secretary, and of other officers and employees, appointed in the Commission shall be such as may be prescribed.

**41. Chairperson, Members and other Officers to be public servants.**

Chairperson and every Member of the Commission, and every officer appointed or authorized by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

**42. Powers of the Commission**

The Commission shall, in the discharge of its functions specified in sub-clauses (i) and (ii) of sub-section (4) of Section 33, have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any office of the Central Government or an appropriate government, Local authority or any organisation running schools,
- (e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under Section 346 of the Code of Criminal Procedure, 1973.

(3) If an enquiry by the Commission discloses a serious default in complying with the provisions of this Act, the Commission may:

- (i) recommend to the concerned Government or Local authority the initiation of disciplinary proceedings, or such other action as the Commission may deem fit, against the concerned person or persons.
- (ii) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
- (iii) recommend to the concerned Government or authority the grant of such compensation to the children affected by the non-implementation of this Act, as the Commission may consider appropriate.

#### **43. Grants by Central Government**

Central Government shall, after due appropriation made by Parliament, by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit to enable the Commission to discharge its functions.

#### **44. Accounts and Audit of the Commission**

(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights, privileges and authority in connection with such audit, as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission to the Central

Government, and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

#### **45. Annual and Special Reports**

(1) The Commission shall prepare, for each financial year, an annual report, giving a full account of its activities, and the status of implementation of this Act during that year, and forward a copy thereof to the Central Government.

(2) Central Government shall cause the report referred to in sub-section (1), to be laid before each House of Parliament, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report or any part thereof relates to any matter with which a State Government is concerned, the Commission shall forward a copy of such report or part thereof to such State Government, which shall cause it to be laid before the Legislature of the State, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for non-acceptance, if any, of any of such recommendations.

(4) The Commission may at any time submit a special report to the Central Government or to a State Government, on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of its annual report, and the Central Government or the concerned State Government, as the case may be, shall cause the special report of the Commission to be laid before each House of Parliament or the State Legislature, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission, and reasons for non-acceptance of the recommendations, if any.

## Chapter VII

### MISCELLANEOUS

#### **46. Redressal of Grievances Regarding Non-Implementation of School-related Provisions of This Act**

(1) Anyone who has a grievance that provisions of Sections 12, 14-18, 20, 21, 26, 29, 31, 48 and the Schedule of this Act, to the extent that they relate to establishment, provisioning, management of schools and conduct of activities therein, are not being complied with, may submit a written representation in that behalf to, as the case may be, the Local Authority or the School Management Committee concerned, which shall take appropriate action on it and inform the applicant within a period not exceeding ninety days from the date of receipt of the representation.

(2) If the person preferring the representation under sub-section (1) above is not satisfied with the action taken thereon by the Local Authority or SMC as the case may be, he may submit a representation in that behalf to such other authority as may be prescribed, which shall take appropriate action thereon and inform the applicant within a period not exceeding ninety days from the date of receipt of the representation.

#### **47. State-Level Regulatory Authority**

(1) The Appropriate Government may, by notification in the Official Gazette, appoint a State-level Regulatory Authority for inquiring into grievances which remain unredressed even after taking recourse to the remedies provided in Section 46. The composition of the Authority shall be such as the Appropriate Government may notify in its official Gazette.

(2) On receipt of a representation under sub-section (1), the Regulatory Authority may either itself inquire into the matter, or may refer it for inquiry to such officer of the Appropriate Government or concerned local authority as may be prescribed.

(3) For the purposes of the inquiry referred to in sub-section (2), the Regulatory Authority or, as the case may be, the officer to whom it refers the matter for inquiry, shall have the powers to record oral evidence of such persons, inspect such premises, and examine such documents, as it thinks fit, in order to ascertain whether the provisions of this Act or rules made thereunder have been complied with.

(4) Every school and other institution imparting elementary education, and every employer shall afford the Authority/officer referred to in sub-section (3), all reasonable facilities for entering into and inspecting premises, examining documents and recording statements of persons, connected with the subject matter of the inquiry.

- (5) Every officer of the Regulatory Authority or of the Appropriate Government/local authority to whom a matter is referred for inquiry under sub-section (2) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860)
- (6) If after inquiry as above, the Regulatory Authority is satisfied that provisions of this Act are not being complied with, it may, in its discretion, direct the government, local authority or private management running a school to take such corrective action, and within such period, as it may deem fit, or direct that:-
  - i) Proceedings be instituted by the competent authority for withdrawal of recognition under Sections 17 or 18 of this Act, or,
  - ii) Prosecution be launched against the offender(s) under Section 51 of this Act.

**48. Ensuring Participation in Elementary Education**

No person shall prevent a child from participating in elementary education;

Provided that notwithstanding anything contained in the Child Labour (Prohibition and Regulation) Act, 1986 (No.61 of 1986), no person shall employ or otherwise engage a child in a manner that renders her a working child.

**49. Entry Age for Elementary Education and Procedure for Computing Age of a Child**

- (1) A child shall be admitted to Grade 1 only if she has attained the age of five years and ten months before the beginning of the academic year.
- (2) Ordinarily the birth certificate and, in its absence, a declaration by the parent or guardian shall be treated as prima facie proof of the age of a child, unless the admitting authority has reason to disbelieve it. In case it is disbelieved, the admitting authority shall determine the child's age after making an enquiry in such manner as may be prescribed.

**50. Responsibility of the Parent / Guardian**

- (1) It shall be the responsibility of every parent/guardian to enrol his child or ward, who has attained the age of 6 years and above in a school, and to facilitate her completion of elementary education.
- (2) If a parent/guardian persistently defaults in discharge of his responsibility under sub-clause (1) above, the SMC may direct such parent/guardian to perform compulsory community service by way of child care in the school, in such manner as may be prescribed.

**51. Penalty for contravention of Sections 15, 17, 18 and 48**

- (1) If a school contravenes the provisions of Section 15 by charging capitation fee, its management shall be liable to fine which may extend to ten times the capitation fee charged.
- (2) If a school contravenes the provisions of Section 15 by conducting any screening procedure for admission of children, its management shall be liable to fine which may extend to Twenty Five Thousand Rupees for the first contravention, and Fifty Thousand Rupees for subsequent contraventions.
- (3) If a person contravenes the provisions of sub-section (2) or (6) of Section 17 or of sub-section (5) of section 18, he shall be punishable with fine which may extend to Rupees One lakh, and in case of continuing contravention, to a fine of Rupees Ten Thousand for each day during which such contravention continues.
- (j) If any person contravenes the provisions of section 48, he shall be punishable with a fine which may extend to Ten Thousand Rupees, and in case of continuing contravention, with an additional fine not exceeding Rupees Five Hundred for each day during which such contravention continues.
- (k) No Court shall take cognisance of an offence under this Act, except on a complaint made by a person authorised by the Appropriate Government in this behalf.

**52. Power of Central Government, Appropriate Government and Local Authorities to Issue General Directions**

- (1) Central Government may issue guidelines and give general directions to appropriate governments regarding implementation of this Act.
- (2) An Appropriate Government may issue guidelines and give general directions to Local Authorities and School Management Committees regarding implementation of this Act.
- (3) A Local Authority may issue guidelines and give general directions to School Management Committees regarding implementation of this Act.

**53. Power To Remove Difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Act, Central Government may, by Order published in the Official Gazette, make such

provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty;

Provided that no Order shall be made under this sub-section after the expiry of two years from the commencement of this Act.

- (2) Every Order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament.

**54. Protection of Action Taken In Good Faith**

No suit or other legal proceeding shall lie against the Central Government, an appropriate government, the Commission, a local authority, a School Management Committee, or any person acting under the direction of such government/ Commission/authority/Committee, in respect of anything which is in good faith done, or intended to be done, in pursuance of this Act, or any rules or any order made thereunder.

**55. Act to be in Addition to, and not in Derogation of Certain Other Laws**

Provisions of this Act in relation to (i) children with disabilities, and (ii) children in need of care and protection, shall be in addition to, and not in derogation of the provisions, respectively, of (i) the Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Act, 1995 [1 of 1996], and (ii) Juvenile Justice [Care and Protection of Children] Act, 2000 [56 of 2000].

**56. Power of Central Government to Make Rules**

- (1) Central government may, by notification, make rules, within a period not exceeding three months from the commencement of this Act, to carry out the provisions of Chapter VI of the Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
- (a) Functions of the Commission under sub-clause (vi) of sub-section (4) of Section 33,
  - (b) Salary and allowances, and other terms and conditions of service of the Chairperson and Members of the Commission under Section 39;
  - (c) The procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of Section 38;
  - (d) Powers and duties of the Member Secretary of the Commission under sub-section (2) of Section 40;

- (e) Salary and allowances and other terms and conditions of the service of officers and other employees of the Commission under sub-section (3) of Section 40; and,
  - (f) Form of the Statement of Accounts and other records to be prepared by the Commission under sub-section (1) of Section 44.
- (3) Every rule notified by the Central Government under this Section shall be laid, as soon as may be after it is notified, before each House of Parliament.

**57. Power of Appropriate Government to Make Rules**

- (1) The appropriate Government may, by notification, make rules, within a period not exceeding six months from the commencement of this Act, for carrying out the provisions of Chapters I-V and VII of the Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-
  - (a) notification of disadvantaged groups under clause (m) of sub-section (1) of section 2.
  - (b) courses of study for the elementary stage under clause (o) of sub-section (1) of section 2.
  - (c) expenses under sub-clause (ii) of clause (q) of sub-section (1) of section 2.
  - (d) notification of number of days in the calendar year in relation to migrant families under clause (y) of sub-section (1) of section 2.
  - (e) notification of neighbourhood in relation to a child under clause (aa) of sub-section (1) of section 2.
  - (f) the manner in which a child or her parents/guardians shall be heard in the event her expulsion is contemplated by the SMC under sub-section (5) of section 3.
  - (g) prescription and revision of curriculum under clause (v) of sub-section (2) of section 10.
  - (h) norms for building, teacher aids and learning materials under clause (vi) of sub-section (2) of section 10.
  - (i) identification and notification of elements of free entitlement under clause (vii) of sub-section (2) of section 10.
  - (j) the form and manner in which record of children shall be maintained by Local authorities under clause (i) of sub-section (1) of section 12.

- (k) reimbursement of expenses to unaided schools and schools of specified categories under sub-section (2) of section 14.
- (l) the manner in which management of a school shall be heard in the event that withdrawal of its recognition is contemplated under sub-section (5) of section 17.
- (m) manner in which financial assistance will be provided by the appropriate government to schools other than state schools and fully aided schools for complying with the provisions of section 18 (2).
- (n) functions of School Management Committees (SMCs) under clause (i) of sub-section (2) of section 22.
- (o) determining representation of sections of the community under clause (i) of sub-section (3) of section 22.
- (p) rules of procedure governing assignment of teachers to specific schools under sub-section (2) of section 23.
- (q) the form and manner in which progress of children shall be reported to their parents/guardians and to the SMC under clause (vi) of sub-section (1) of section 26.
- (r) nature and duration of leave and the manner in which it may be granted to teachers under clause (i) of sub-section (1) of section 27.
- (s) payment of salary to teachers, and withholding of it for period of unauthorised absence, if any, under clause (iv) of sub-section (3) of section 22.
- (t) the form and manner in which periodic assessment reports of the performance of teachers shall be provided to the appointing authority under clause (ii) of sub-section 1 of section 27.
- (u) notification of authority competent to impose minor punishment on teachers in government schools in metropolitan areas under clause (iii) of sub-section (1) of section 27.
- (v) the form and manner in which reports relating to implementation of this act and other issues pertaining to elementary education shall be made to Parliament by the National Commission for Elementary Education under clause (iii) of sub-section (4) of section 33.
- (w) officer of an appropriate government or local authority to whom the State-level Regulatory Authority may refer representations for inquiry under sub-section (2) of section 47.
- (x) the manner in which the age of a child may be computed or determined under sub-section (2) of section 49.

- (y) prescription of curriculum, specifications of classroom, teaching learning equipment, library, and play material and sports equipment under items 1, 4 (vi), 8, 9 and 10 of the Schedule.
- (3) Every rule notified by an appropriate government under this Section shall be laid, as soon as may be after it is notified, before the appropriate Legislature.

**SCHEDULE**  
(See Section 18)

**Norms and Standards for a School**

S.No.	Item	Norm														
1.	Curriculum	As prescribed by the Competent Academic Authority														
2	Number of teachers:															
	(a) Primary School (Classes 1-5)	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Enrolment</th> <th style="text-align: left; border-bottom: 1px solid black;">No. of teachers</th> </tr> </thead> <tbody> <tr> <td>Up to 60</td> <td>2</td> </tr> <tr> <td>61 - 90</td> <td>3</td> </tr> <tr> <td>91 - 120</td> <td>4</td> </tr> <tr> <td>121 – 200</td> <td>5</td> </tr> <tr> <td>&gt;150</td> <td>5+ 1Head Teacher</td> </tr> <tr> <td>&gt;200</td> <td>Pupil Teacher Ratio (excluding Head Teacher) not to exceed 40</td> </tr> </tbody> </table>	Enrolment	No. of teachers	Up to 60	2	61 - 90	3	91 - 120	4	121 – 200	5	>150	5+ 1Head Teacher	>200	Pupil Teacher Ratio (excluding Head Teacher) not to exceed 40
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91 - 120	4															
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>150	5+ 1Head Teacher															
>200	Pupil Teacher Ratio (excluding Head Teacher) not to exceed 40															
	(b) Upper Primary School (Classes 6-8)	<ul style="list-style-type: none"> <li>• At least one teacher per class such that there is as far as possible at least one teacher each for               <ol style="list-style-type: none"> <li>1. Science and Maths</li> <li>2. Social studies</li> <li>3. Languages</li> </ol> </li> <li>• At least one teacher for every 35 children</li> <li>• As soon as enrolment crosses 100:               <ol style="list-style-type: none"> <li>i. A full time head teacher</li> <li>ii. At least part time instructors for:                   <ul style="list-style-type: none"> <li>• Art Education</li> <li>• Health and Physical Education</li> <li>• Work Education</li> </ul> </li> </ol> </li> </ul>														
3.	Qualifications of teachers	As per Section 25 of the Act.														

4.	Building	All-weather building consisting of: i At least one classroom for every teacher ii An office-cum-store cum-head teacher's room in every school. iii Toilets (separate for boys and girls) iv Drinking Water facilities v Kitchen (wherever mid day meal is cooked in the school) vi Barrier-free access
5.	Specifications of a classroom	As may be prescribed
6.	Minimum number of working days/instructional hours in an academic year	i 200 working days for Primary schools ii 220 working days for Upper Primary schools iii 800/1000 Instructional hours per academic year for primary/upper primary schools
7.	Minimum number of working hours per week for the teacher	45 (Teaching plus preparation hours)
8.	Teaching learning equipment	As may be prescribed
9.	Library	As may be prescribed
10.	Play material, games and sports equipment	As may be prescribed
11*	Boundary wall or fencing	
12*	Playground/space (with e.g. slides, swings, see- saw, gymnastic bars, sand pit etc.)	
<b>B. Desirable</b>		
1.	Facility for pre-school education in accordance with Section 7.	
2.	Electrification, telephone and at least one personal computer.	

\* Exemptions may be permitted in appropriate cases