

The West Bengal Schools (Control of Expenditure) Act, 2005

WEST BENGAL

India

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Act 14 of 2005

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The West Bengal Schools (Control of Expenditure) Act, 2005 West Bengal Act 14 of 2005 [Dated 19th August, 2005] Assent of the Governor first published in the Kolkata Gazette, Extraordinary, dated the 19th August, 2005. An Act to provide for the control of expenditure in the schools in West Bengal. Whereas it is expedient to provide for the control of expenditure in the schools in West Bengal and the matter connected therewith or incidental thereto; It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Schools (Control of Expenditure) Act, 2005. (2) It extends to the whole of West Bengal. (3) This section shall come into force at once and the remaining sections shall come into force on such date or dates and in such area or areas as the State Government may, by notification, appoint and different dates may be appointed for different sections or for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "approved" means approved by the Director or his authorised officer; (b) "Board" means the West Bengal Board of Secondary Education established under the West Bengal Board of Secondary Education Act, 1963; (c) "Board of Madrasah" means the West Bengal Board of Madrasah Education established under the West Bengal Board of Madrasah Education Act, 1994; (d) "Council" means the West Bengal Council of Higher Secondary Education established under the West Bengal Council of Higher Secondary Education Act, 1975; (e) "Director" means the Director of School Education, West Bengal; (f) "District Level Inspection Team" means the District Level Inspection Team constituted under sub-section (1) of section 8; (g) "Madrasah" shall have the same meaning as defined in clause (h) of section 2 of the West Bengal School Service Commission Act, 1997; (h) "non-teaching staff" means a member of the

staff other than a teacher of a school;(i)"notification" means notification published in the Official Gazette;(ia)["pay" means the amount drawn monthly by a Teacher or a nonteaching staff as- [Inserted by West Bengal Act No. 20 of 2016, dated 2.2.2017.](i)the pay which has been sanctioned for a post held by him either in substantive or in officiating capacity, to which he is entitled by reason of his position in a school; and(ii)the grade pay according to category as assigned by the State Government from time to time, if any.](j)"prescribed" means prescribed by rules made under this Act;(k)"recognised", with its grammatical variations, used with reference to a school, shall mean recognised or deemed to have been recognised under -(i)the West Bengal Board of Secondary Education Act, 1963, or(ii)the West Bengal Primary Education Act, 1973, or(iii)the West Bengal Council of Higher Secondary Education Act, 1975, or(iv)the West Bengal Board of Madrasah Education Act, 1994;(l)"region" means a region as specified under sub-section (2) of section 3 of the West Bengal School Service Commission Act, 1997;(m)"school" means -(i)a recognised non-Government aided -(A)secondary school, or educational institution, or part or department of such school or institution, imparting instruction in secondary education, or(B)higher secondary school, or educational institution (other than a college), or part or department of such school or institution, imparting instruction in higher secondary education, or(C)Madrasah, or(D)Primary Teachers' Training Institution; or(ii)a recognised non-Government institution which has been imparting instruction in secondary education or higher secondary education or madrasah education and receiving grant from the State Government in the form of dearness allowance for its teachers and non-teaching staff.Explanation I. - "Aided", with its grammatical variations, used with reference to a school, shall mean aided by the State Government in the shape of financial assistance towards the [pay] [Substituted 'basic pay' by West Bengal Act No. 20 of 2016, dated 2.2.2017.] of the teachers and non-teaching staff of that school.[***] [Omitted 'Explanation II. - 'Basic pay' shall mean the monthly pay of a teacher or non-teaching staff of a school, which corresponds to a stage in the time-scale of pay of the post held by the teacher or nonteaching staff in that school.' by West Bengal Act No. 20 of 2016, dated 2.2.2017.]Explanation III. - "Secondary Education" shall have the same meaning as in clause (1) of section 2 of the West Bengal Board of Secondary Education Act, 1963.Explanation IV. - "Higher Secondary Education" shall have the same meaning as in clause (d) of section 2 of the West Bengal Council of Higher Secondary Education Act, 1975;(n)"school authority", in relation to a school, means the governing body, managing committee, ad hoc committee, administrator or any other body, by whatever name it is called, which is charged with the management of the affairs of the school;(o)"State Government" means the Government of West Bengal in the School Education Department;(p)"teacher" means an Assistant Teacher or any other person, holding a teaching post in a school on a regular and whole-time basis and is paid from the fund under the control of the State Government and includes a Headmaster or a Headmistress;(q)"unaided school" means a recognised unaided school to which no financial assistance has been sanctioned by the State Government;(r)"West Bengal Board of Primary Education" means the West Bengal Board of Primary Education established under the West Bengal Primary Education Act, 1973.

3. Application.

- This Act shall apply to schools other than, -(a)a school not in receipt of any financial assistance from the State Government; or(b)a Government school:Provided that the State Government may, if

it considers necessary in the exigencies of public service, exempt any school from the operation of this Act for such period as it may think necessary. Explanation. - "Government school" means a school maintained and managed by the State Government, the Government of India, or the Railway Board under the Ministry of Railway, Government of India.

4. Previous sanction of State Government for appointment etc.

(1) Save as otherwise provided in sub-section (2), no school authority shall, -(i) create any teaching or non-teaching post involving any financial liability on the State exchequer; or (ii) appoint or engage any teacher or non-teaching staff; or (iii) regularise the service of any person, who has rendered service on any casual or part-time vacancy on contract or any other basis, against any permanent teaching or non-teaching post of a school; or (iv) revise the pay or allowances of any teacher or non-teaching staff; or (v) grant any special pay or allowance or other remuneration under any description whatsoever including ex gratia payment or any other benefit, having financial implication, to any person holding a teaching or non-teaching post; or (vi) incur, except as prescribed, expenses for any development scheme, without previous sanction of the State Government. (2) Notwithstanding anything contained in sub-section (1), the school authority may fill up, in the manner as may be prescribed, a vacancy of a teacher caused by leave or deputation for a period not exceeding one year without previous sanction of the State Government: Provided that no such person who has been appointed on such vacancy in a school, shall be appointed in any sanctioned post or by creating any new post in that school, only for rendering such service.

5. [Void appointments. [Substituted by West Bengal Act No. 21 of 2017, dated 17.4.2017.]

(1) The Board shall not appoint teachers or non-teaching staff in a school in contravention of the provisions of this Act or the rules, Orders, procedures or directions issued thereunder. (2) Any appointment made by the Board in a School in contravention of Sub-section (1), shall be void. (3) Any appointment made by a school authority in contravention of sub-section (1) or sub-section (2) shall be void.

6. Unaided school not to get financial assistance.

- No unaided school shall be entitled to get any financial assistance from the State Government.

7. Appointment on part-time or contract basis.

- Notwithstanding anything contained in any other law for the time being in force or any rules or orders issued thereunder or any contract, customs or usages to the contrary, no person, who has been appointed as teacher or non-teaching staff on any casual or part-time vacancy or on contract basis in a school, shall have any right to be appointed on permanent basis in any sanctioned post or by creating any new post only for rendering such service.

8. Constitution of District Level Inspection Team.

(1)The State Government may, by order, constitute a District Level Inspection Team for each district.(2)The District Level Inspection Team shall consist of the following members :-(a)a nominee of the Board;(b)a nominee of the Council;(c)a nominee of the Board of Madrasah;(d)the District Inspector of Schools (Secondary Education).(3)The District Inspector of Schools (Secondary Education) shall be the Member-convenor of the said District Level Inspection Team.(4)The District Level Inspection Team shall inspect and enquire into facts and records of the schools, which are under consideration of the State Government for recognition or upgradation, and shall discharge such other duties and perform such other functions as the State Government may, by order, direct for carrying out the purposes of this Act.

9. Selection of site for setting up new school etc.

(1)The State Government may, -(a)select the site for setting up a new school,(b)set up a new school,(c)upgrade an existing school,(d)determine the strength of teacher and non-teaching staff in a school, in such manner as may be prescribed.(2)Notwithstanding anything contained in sub-section (1), the State Government shall not set up a new school or upgrade an existing school unless, -(a)the District Level Inspection Team recommends so to do, and(b)due appropriation is made in the Budget of the State by the State Legislature in this behalf.Explanation I. - For the purposes of this section, the expression "upgrade" means upgradation of a Junior High School to a Secondary School, or as the case may be, from a Secondary School to a Higher Secondary School.Explanation II. - The expression "Junior High School" means, a school imparting instruction in Secondary Education from class V to class VIII.

10. Power of State Government to sanction additional post.

- The State Government may, if it considers necessary so to do, sanction additional post of teacher or non-teaching staff in a school in such manner as may be prescribed:Provided that no such additional post of teacher or non-teaching staff shall be sanctioned, unless due appropriation is made in the Budget of the State by the State Legislature in this behalf.

11. Power to inspect and hold enquiry.

(1)The State Government may, if it considers necessary so to do, by general or special order, authorize the Director or any other officer not below the rank of a Sub-Inspector of schools in this behalf to -(a)inspect any school, its buildings, laboratories, libraries, records and equipments;(b)make an enquiry into any financial irregularities by any school;(c)make an enquiry into the income, expenditure, properties, assets and liabilities of any school.(2)The State Government may, after considering the report of such inspection or inquiry, direct the school authority to take such action in the matter concerned, as may, in the opinion of the State Government, be necessary.(3)If the school authority omits or fails to comply with the direction of the State Government, as stated in sub-section (2), the State Government may take action against

such school authority in accordance with the provisions of section 12.

12. Power to derecognise school or abolish post.

- If the State Government has reason to believe that the number of students studying in a particular school has fallen below the prescribed number, or the school authority has failed to take action as directed by the State Government under section 11, it may, after giving the concerned school authority an opportunity of being heard and for the reasons to be recorded in writing, -(a)direct the Board, West Bengal Board of Primary Education, Council, Board of Madrasah, or such other authority to derecognise the school; or(b)abolish any teaching or non-teaching post of such school; or(c)order shifting of teaching and non-teaching staff from such school to any other school within the region; or(d)take such action as may appear to the State Government to be necessary and proper.

13. Power to determine fixation of pay and age of superannuation.

- The State Government may, -(a)determine and approve the case of fixation of pay of the teacher or non-teaching staff of a school in the manner, as may be prescribed;(b)determine the age of superannuation and the benefits payable after superannuation to the teachers and non-teaching staff of a school in the manner as may be prescribed.

14. [Pay of teacher] [Substituted 'Scale of pay etc. of teacher' by West Bengal Act No. 20 of 2016, dated 2.2.2016.].

(1)Every teacher of a school [shall be entitled to draw pay] [Substituted 'shall, if appointed in the post of Undergraduate teacher category, be entitled to draw pay in the scale of pay' by West Bengal Act No. 20 of 2016, dated 2.2.2016.] in which he is appointed and shall not be entitled to claim any additional increment or higher scale of pay for acquiring any qualification other than the qualifications specified for such post.(2)[Every teacher appointed for classes VI toVIII and classes IX and X, shall be entitled to draw pay meant for Graduate teacher] [Substituted 'Every teacher of a school shall, if appointed in the post of Graduate teacher category, be entitled to draw pay in the scale of pay in which he is appointed' by West Bengal Act No. 20 of 2016, dated 2.2.2016.] and shall not be entitled to claim any additional increment or higher scale of pay for acquiring any qualification other than the qualifications specified for such post.(3)[Every teacher appointed for classes XI and XII, shall be entitled to draw pay meant for Post-graduate qualification and shall not be entitled to claim any additional increment or higher scale of pay for any qualification other than the minimum qualification specified for such post.] [Substituted by West Bengal Act No. 20 of 2016, dated 2.2.2016.]

15. Option of Contributory Provident Fund or General Provident Fund.

- Notwithstanding anything contained in the West Bengal Non-Government Educational Institutions and Local Authorities (Control of Provident Fund of Employees) Act, 1983, or in any

rules made thereunder, or in any other law for the time being in force, -(a)if a teacher or a non-teaching staff, who had been a subscriber to the Contributory Provident Fund scheme and opted for remaining subscriber to the said scheme instead of being a subscriber to the General Provident Fund scheme, such option shall be treated as final and no change in such option shall be allowed thereafter;(b)if a teacher or a non-teaching staff, who had been a subscriber to the Contributory Provident Fund scheme and opted for shifting from Contributory Provident Fund scheme to General Provident Fund scheme, such teacher or non-teaching staff shall not be entitled to get the employers' contribution made to his credit in the Contributory Provident Fund scheme.

16. Protection of teacher and non-teaching staff.

- Notwithstanding anything contained elsewhere in this Act, the terms and conditions of service of a teacher or a non-teaching staff in the employment of a school, immediately before the commencement of this Act, shall not be varied to his disadvantage in so far as such terms and conditions relate to the appointment of such teachers and non-teaching staff to the posts held by them immediately before the commencement of this Act.

17. Penalty.

- Whoever contravenes the provisions of section 4 or section 5, shall be punishable with imprisonment for a term not exceeding two years, or with fine, or with both.

18. Cognizance of offence.

- No prosecution shall be instituted under this Act without the previous sanction of the State Government.

19. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any officer of the State Government for anything which is in good faith done or intended to be done in the discharge of his duties under this Act or the rules or orders made thereunder.

20. Act to have overriding effect.

- The provisions of this Act or any rules or orders made thereunder shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, custom or usages to the contrary.

21. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as the State

Government may consider necessary for removing such difficulty: Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

22. Power to make rules.

(1) The State Government may, by notification, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for any matter, which may be or is required to be prescribed. (3) Every rule made under this section shall, as soon as may be after it is made, be laid before the State Legislature.