

Assam Education (Provincialisation of Services of Non-teaching Staff of Venture Educational Institutions) Act, 2018

ASSAM

India

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Act 18 of 2018

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Assam Education (Provincialisation of Services of Non-teaching Staff of Venture Educational Institutions) Act, 2018(Assam Act No. 18 of 2018)Last Updated 12th February, 2020(Received the assent of the Governor on 9th May, 2018)(Published in the Assam Gazette, Extraordinary dated 19.5.2018, pp. 2185-2195)An Act to provincialise the services of the non-teaching staff of the Venture Educational Institutions in the State of Assam.PreambleWhereas it is expedient to provincialise the services of the non-teaching staff of the Venture Educational Institutions in the State of Assam;It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Assam Education (Provincialisation of Services of Non-teaching Staff of Venture Educational Institutions) Act, 2018.(2)It extends to the whole of Assam.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act or for different category of educational institutions.

2. Definitions.

(1)In this Act, unless the context otherwise requires, -(a)"Base School" means either an existing provincialised or a Venture Educational Institution identified for the purpose of provincialisation of services of teachers and/or tutors under the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (Assam Act No. XXV of 2017), within the radius of 1 km in case of Lower Primary Schools, within the radius of 3 kms. in case of

Upper Primary Schools, within the radius of 5 kms. in case of High Schools or High Madrassas and within the radius of 7 kms. in case of Higher Secondary schools or Senior Secondary Schools and which possess satisfactory norms and standards in relation to enrollment of students, adequate infrastructure and having DISE Code for the year 2009-2010 or before;(b)"District Scrutiny Committee" means the District Scrutiny Committee constituted under section 7 for each District to recommend names of Venture Educational Institutions along with the names of non-teaching staff whose services are considered eligible for provincialisation under this Act;(c)"DISE Code" means District Information System for Education Code prepared by the Sarba Siksha Abhijan, Assam and as available in the records of the National University of Educational Planning and Administration, New Delhi;(d)"employee" means and includes all serving non-teaching staff of Venture Educational Institutions who have been appointed and joined in the concerned Venture Educational Institution before the 1st day of January, 2011 and whose services are being or would be provincialised under this Act;(e)"non-teaching staff" means and includes the Librarian, Assistant Librarian, Sr. Assistant, Junior Assistant, Library Assistant, Laboratory Assistant, Laboratory Bearer, Grade-IV as specified in the Schedule;(f)"provincialisation" means taking over the liabilities for payment of fixed salaries and gratuity, pension, leave encashment, etc., as admissible, under the existing rules to the Government servants serving under the Government of Assam;(g)"Provincialised School" or 'Provincialised College' means an existing provincialised school or college or a Venture Educational Institution wherein the services of teachers and tutors are provincialised under the Assam Education (Provincialisation of 2017 Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (Assam Act No.XXV of 2017);(h)"Schedule" means the Schedule appended to this Act;(i)"State Government" means the State Government of Assam in the concerned Education Department, i.e., Elementary Education Department in case of Primary and Upper Primary Schools; Secondary Education Department in case of Secondary, Higher Secondary Schools and Senior Secondary Schools, Higher Education Department in case of Degree Colleges;(j)"State Level Scrutiny Committee" means the State Level Scrutiny Committee constituted under section 7 to cause physical verification of the institutions as recommended by the District Scrutiny Committee for final recommendation in the matter of provincialisation;(k)"Venture Degree College" means a Degree College imparting education beyond Class XII stage established by the people of the locality prior to 1.1.2006 and which has also received affiliation at least for 1st year degree class from the concerned University and concurrence from the State Government on or before 1.1.2006 and whereof the services of non-teaching staff have not been provincialised under any Act enacted by the State Legislature so far;(l)"Venture High School" means High School imparting education up to class X and established by the people of the locality prior to 1.1.2006 which has received permission from the State Government and recognition from the Board of Secondary Education, Assam on or before 1.1.2006 and whereof the services of the non-teaching staff have not been provincialised under any Act enacted by the State Legislature so far;(m)"Venture Higher Secondary School" means a Higher Secondary School imparting education up to Class XII and established by the people of the locality prior to 1.1.2006 which has received permission from the State Government on or before 1.1.2006 and whereof the services of non-teaching staff have not been provincialised under any Act earlier enacted by the State Legislature so far;(n)"Venture Senior Secondary School" means a Venture Senior Secondary School (erstwhile Junior College) established by the people of the locality prior to 1.1.2006 which has received concurrence from the Government and permission from the Assam Higher Secondary Education Council on or before 1.1.2006 and whereof the services of non-teaching

staff have not been provincialised under any Act earlier enacted by the State Legislature so far;(o)"Venture ME School" including "Venture ME Madrassa" means an Upper-Primary School imparting education from class VI up to class VIII and established by the people of the locality prior to 1.1.2006 which has received recognition from the competent authority on or before 1.1.2006 and captured in the DISE Code up to 2009-10 and whereof the services of the non-teaching staff have not been provincialised under any Act enacted by the State Legislature so far:Provided that the DISE Code shall have to be issued on or before 2009-10 and DISE Code issued thereafter shall not be considered for the purpose of provincialisation of services of any employee of the institution;(p)"Venture Upper Primary School" means a School imparting education from class VI up to class VIII and established by the people of the locality prior to 1.1.2006 which has received recognition from the competent authority on or before 1.1.2006 and captured in the DISE Code up to 2009-10 and whereof the services of the non-teaching staff have not been provincialised under any Act enacted by the State Legislature so far;(q)"Venture Educational Institutions" means and includes Venture Degree College, Venture Higher Secondary School, Venture Senior Secondary School, Venture High School, Venture High Madrassa, Venture ME School, Venture ME Madrassa, Venture Upper Primary School and Venture Lower Primary School situated within the State of Assam whereof the services of the non-teaching staff have not been provincialised under any Act enacted by the State Legislature so far:Provided that the educational institutions which are running professional courses and private institutions run with the fees received from the students shall not come within the purview of the definition of Venture Educational Institution under this clause.(2)Words and expressions used in this Act and not defined but defined in the Assam Education (Provincialisation of Services of Teachers and Reorganisation of Educational Institutions) Act, 2017 (Assam Act No. XXV of 2017), shall have the same meanings respectively assigned to them in the said Act.

3. Eligibility criteria for selection of educational institution for provincialisation of services of non-teaching staff.

- Subject to the provisions of article 30 of the Constitution of India, the Venture Educational Institutions which have been considered for provincialisation of services of teacher/tutors under the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (Assam Act No. XXV of 2017) shall be eligible for being considered for provincialisation of services of their non-teaching staff.

4. Non-teaching staff to be Government servants.

(1)Subject to fulfillment of all other provisions of this Act, the services of the non-teaching staff of all Venture Educational Institutions eligible under section 3 shall be deemed to have been provincialised on the date of publication of the provincialisation order by Notification in the Official Gazette for the provincialisation of services of teacher/tutor of that school/ college, and they shall become employees of the State Government with effect from such date. Further their services shall also be utilized in the base school where the services of teachers/tutors of that school are utilized :Provided that where the numbers of the non-teaching staff serving in such Venture Educational Institutions exceed the numbers as specified in the Schedule, the provincialisation of the services of

the employees shall be on the basis of seniority of service in the respective category in the concerned educational institutions. The State Government shall have no such liability whatsoever in regard to such excess employees.(2)The employee to be provincialised under this Act, -(i)must have been working in the concerned Venture Educational Institution that have been recognized by the competent authority on or before 1.1.2006;(ii)must have minimum educational and professional qualifications as laid down under relevant Service Rules as on 1.1.2011;(iii)must have rendered at least six years continuous service as on 1.1.2017 from the date of joining in the concerned Venture Educational Institution which must be on 31.12.2010 or prior to that date.

5. Educational and Professional qualification of non-teaching staff.

- The services of non-teaching staff in a Venture Educational Institution from the Elementary level up to the Degree Level, shall be considered for provincialisation subject to fulfillment of the eligibility criteria required for the respective post.

6. Terms and conditions of service.

(1)Subject to the provisions of this Act and the Rules made thereunder, all rules including service rules and rules of conduct and discipline which are applicable to State Government servant of corresponding ranks, shall be applicable to all employees of educational institutions whose services have been or to be provincialised under the provisions of this Act.(2)The non-teaching staff whose services have been provincialised under this Act shall get fixed pay as specified in the Schedule with effect from the date of provincialisation of their services, as if they are fresh appointees and they cannot claim any benefit whatsoever in respect of past services rendered by them before provincialisation and in respect of pension, they shall be governed by the New Pension Scheme applicable to the State Government employees of the corresponding rank. However, their fixed salary shall not be less than the minimum wages fixed by the Government from time-to-time under the provisions of the Minimum Wages Act, 1948 (Central Act No. 11 of 1948).(3)Depending upon the revision of minimum wages fixed by the Government from time-to-time under the Minimum Wages Act, 1948, the Government may revise the fixed salary of the provincialised non-teaching staff by notification in the Official Gazette, so that their fixed salary shall not be less than the minimum wages fixed by the Government under the Minimum Wages Act, 1948 and on such notification having been issued, the Schedule shall be deemed to have been amended.(4)The non-teaching staff, who have completed sixty years of age as on the date of coming into force of this Act, shall be deemed to have retired with effect from that date and they shall have no claim whatsoever from the State Government as regards their pay, allowances and retirement benefits for services already rendered by them in such educational institutions before the date of provincialisation.(5)The non-teaching staff whose services have been provincialised under this Act shall hold personal posts to be created for provincialisation of their services. These posts shall be outside the cadre which shall stand abolished on cessation of services by the concerned employee due to retirement, death, resignation or any other reason whatsoever.

7. District Scrutiny Committee and State Level Scrutiny Committee.

(1)The District Scrutiny Committees and State Level Scrutiny Committee as constituted under section 13 of the Assam Education (Provincialisation of Services and Re-organisation of Educational Institutions) Act, 2017 (Assam Act No. XXV of 2017), in each district and at the State level shall scrutinize service records and other related issues of the non-teaching staff of Venture Educational Institutions for the purpose of provincialisation of their services under this Act. The list of the non-teaching staff whose services shall be provincialised under this Act, shall be finalized in the manner prescribed under the aforesaid Act.

8. Appellate authority.

- The State Level Scrutiny Committee shall be the appellate authority in respect of any recommendation of the District Scrutiny Committee and the State Government in the concerned administrative department shall be the appellate authority in respect of any recommendation of the State Level Scrutiny Committee.

9. Offences and penalties.

- Whoever provides misleading, incorrect or false information to and suppresses material information from or abets the providing or suppression of such information to, the District Scrutiny Committee or any other authority under this Act, shall commit an offence under this Act which shall be punishable with imprisonment for a term which may extend to two years.

10. Offences to be cognizable and non-bailable.

- Offences committed under this Act shall be cognizable and non-bailable under the provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

11. Trial of cases.

(1)Offences under section 10 shall be triable by a Judicial Magistrate of the competent jurisdiction under the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).(2)Cases under this section shall be tried summarily under the Code of Criminal Procedure, 1973.

12. Suit and proceedings.

- No suit, prosecution or other legal proceeding shall lie for anything in good faith done under this Act, except with the previous sanction of the State Government.

13. Power of interpretation and removal of difficulties.

(1) If any difficulty arises in interpretation of any provisions of this Act, the interpretation of the State Government shall be final. (2) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order do anything not inconsistent with the provisions of this Act and the rules framed thereunder, which appear to be necessary or expedient for the purpose of removing the difficulty.

14. Creation of personal post and maintenance of reservation policy.

- For the purpose of provincialisation of services of the non-teaching staff under this Act, the Government shall create and sanction such number of ex-cadre posts which shall be personal to the incumbents. These personal posts shall stand abolished on cessation of the services of the teachers for any reason whatsoever including retirement, resignation, death, etc. Since these are personal as well as ex-cadre posts, the present cadre strength of the concerned service shall not be impacted in any way due to creation of these posts.

15. Power to make rules.

(1) The State Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Act. (2) Without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely, - (i) prescribing service conditions and specifying the duties and responsibilities of all non-teaching staff whose services have been provincialised under this Act; (ii) preparation and maintenance of service records of the non-teaching staff whose services have been provincialised; (iii) prescribing the scope of work, emoluments and remuneration, and other terms and conditions of service of non-teaching staff provincialised under this Act. (3) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislative Assembly may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

16. Savings.

- Notwithstanding the repeal of the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 (Assam Act No. XVII of 2011) as amended vide the Assam Venture Educational Institutions (Provincialisation of Services) (Amendment) Act, 2012 (Assam Act No. XXI of 2012) and the Assam Venture Educational Institutions (Provincialisation of Services) (Amendment) Act, 2013 (Assam Act No. XX of 2013), by the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (Assam Act No. XXV of 2017), all the

non-teaching staff of the Venture Educational Institutions, whose services were provincialised prior to 23.09.2016, shall continue in their services and their cases shall be reviewed as per the eligibility norms set forth for Provincialisation under this Act.

Schedule

[See sections 2(s), 4(1) and 6(2)] Fixed salary admissible for non-teaching staff

Category of Institution	Category of post held by the employee in the institution prior to provincialisation	Maximum number of posts to be provincialised in each institution	Fixed monthly salary for the first three years	Fixed monthly salary from fourth year onwards
Degree College	Assistant Librarian	1	12600	14000
Senior Assistant	2	12400	13800	
Junior Assistant	2	10600	11800	
Laboratory Assistant for Science Stream.	1	10600	11800	
Library Assistant	1	10600	11800	
Laboratory Bearer for Science Stream.	1 in each stream	8700	10000	
Grade-IV	6	8700	10000	
Senior Secondary School/Higher Secondary School.	Senior Assistant	1	12400	13800
Junior Assistant	1	10600	11800	
Library Assistant	1	10600	11800	
Laboratory Bearer for Science Stream (Subject having practical classes).	3	8700	10000	
Grade-IV	31	8700	10000	
High School/ High Madrassa.	Junior Assistant	1	10600	11800
Grade-IV	1	8000	10000	
Upper Primary School (ME-School/ME Madrassa	Grade-IV	1	8000	10000