

Assam Colleges (Taking over of Management and Control) Act, 1985

ASSAM

India

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Act 15 of 1985

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Assam Colleges (Taking over of Management and Control) Act, 1985(Assam Act 15 of 1985)Last Updated 13th February, 2020(Received the assent of the President of India on 6th November, 1985)An Act to provide for taking over the colleges in the State of Assam.Preamble. - Whereas it is expedient to take over the colleges covered by the Deficit Grants-in-aid Scheme for effecting uniformity and improvement in the management of these colleges and also to provide more facilities for higher education in the State of Assam and matters incidental thereto;It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

- (i) This Act may be called the Assam Colleges (Taking over of Management and Control) Act, 1985.(ii) It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject of context: -(i)'College' means all non-Government Degree Colleges receiving grants from the State Government under the Deficit Scheme of Grants-in-aid and includes Degree Colleges having (Pre-Degree) + 2 Course in the 10+2+3 system of education.(ii)'College Education' means education imparted for the Degree Course.(iii)'College authority' means the Governing Body of a college duly constituted by the Director of Higher Education, Assam and duly functioning on the date of taking over of a college or any other authority on whom the function of the Governing Body of a college is vested by the Director of Higher Education, Assam in the absence of a duly constituted Governing Body.(iv)'Commission' means the Assam Public Service Commission.(v)'Date of appointment' means the date of joining or the date of formal sanction of the post by the State Government

whichever is later.(vi)'Director' means the Director of Higher Education, Assam and shall also include the Additional Director of Higher Education, Joint Director of Higher Education and Deputy Director of Higher Education.Note: - All actions or proceedings taken by the Director of Public Instruction till 31st March, 1985 shall be deemed to have been taken by the Director of Higher Education.(vii)'Employee' means all teaching and non-teaching employees of a college who are serving at the time of taking over against posts sanctioned by the State Government.(viii)'State Government' means the Government of Assam in the Education Department.(ix)'Taking over' of a college means taking over by the State Government in terms of the provisions of this Act the management and control of the assets and liabilities including services of the employees of the college.(x)'University Acts' means the Gauhati University Act, 1947 and the Dibrugarh University Act, 1965.

3. Government to take over colleges.

- (i) Subject to the provisions of Articles 30 of the Constitution of India, the State Government may, by notification in the Official Gazette, take over any College in the State of Assam from such date as may be specified in the said notification.(ii)On taking over, the Governing Body of the College shall stand dissolved and the administration, management and control of the college shall vest in the State Government from the date of taking over and all employees shall be employees of the State Government and their conduct, service conditions, pay and allowances and all other allied matters shall be governed and regulated by the Acts and Rules which are in force and as are applicable to the State Government employees.Provided that an employee shall not get emoluments less than what he was getting before such taking over.(iii)Notwithstanding anything contained in the Assam Public Service Commission (Limitation of Functions) Regulation, 1951, the appointment of all employees who have been appointed and their appointments have been approved by the Director prior to taking over of the college shall be deemed to be regular from the date of such appointments.(iv)Notwithstanding anything contained in any section of this Act, but subject to provisions in sub-section (vi) and (vii) of this Section all employees other than grade IV employees of a college coming within the purview of this Act shall, on attaining the age of 58 years, go on superannuation and Grade IV employees shall go on superannuation on attaining the age of 60 years.(v)All employees going on superannuation under the preceding sub-section shall be eligible to pension or gratuity or both in accordance with the Pension Rules applicable to the State Government servants of equivalent rank. In such a case, the amount at his credit in the contributory provident fund' of the employee concerned upto the date of taking over of the college shall be allowed to be retained by the employee and his service from that date onwards would count towards pensionary benefits.(vi)Any employee, other than the Grade-IV employee, who does not intend to go on superannuation on attaining the age of 58 years shall have the option to continue upto the completion of the age of 60 years under the same terms and conditions which were applicable to him before the date of taking over of the college in which case he shall not be entitled to any pension or gratuity.(vii)Any employee, other than Grade-IV employees, who does not intend to go on superannuation on attaining the age of 58 years but wants to continue till the completion of 60 years shall give an option in writing to that effect in the manner prescribed within a period of three months from the date of taking over of the college under Section 3(1) of this Act. Any employee who does not give such option in writing within the date specified above shall be deemed to have opted

for going on superannuation on attaining the age of 58 years.

4. Assets and liabilities.

- (i) On taking over of the college, all assets and liabilities of the college shall stand transferred to the State Government and it shall be the responsibility of the State Government to maintain these assets from the date of taking over of the college: Provided that the State Government shall not be liable to take over the services of those employees who on the date of taking over of the college:-(a) are not qualified to hold such posts.; or (b) are working against posts not sanctioned by Government or approved by Director and cannot be retained according to staffing norms for Government colleges: Provided further that those employees whose services are not taken over by the State Government under (a) or (b) of the foregoing proviso would be paid such terminal benefits as they would have received in terms of their appointment under the Governing Body for termination of their services provided that such terminal benefits would not exceed the amount that would be admissible to the State Government servant of corresponding rank on such termination. (ii) Notwithstanding anything contained in the State P.W.D. Code all buildings on taking over, shall stand transferred to and be borne in the books of the P.W.D. and it shall be the responsibility of the P.W.D. to maintain these buildings from the date of taking over.

5. Constitution of Service.

- (i) On taking over of the college the services of all employees shall be constituted into distinct service or services or shall be encadred in appropriate cadres of the Assam Education Service as may be determined by the State Government. (ii) The inter se seniority of the employees of a cadre or class shall be determined on the basis of principles laid down in the rules framed under this Act.

6. Power to make rules.

- (i) The State Government may, by notification published in the official Gazette, make rules for giving effect to the provisions of this Act. (ii) Every rule made under this Section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may comprise in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

7. Suits and proceedings.

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

8. Power of interpretation and removal of difficulties.

- (i) If any dispute arises about the interpretation of any provisions of this Act, the interpretation of the State Government shall be final. (ii) If any difficulty arises in giving effect to the provisions of this Act, the Governor may, by order do anything not inconsistent with the provisions of this Act, which appear to him to be necessary for the purpose of removing that difficulty.