

The Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2007

KARNATAKA

India

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Act 29 of 2007

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The Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2007(Karnataka Act No. 29 of 2007)Statement of Objects and Reasons - Act 29 of 2007. - It is considered necessary to regulate transfer of teachers in Government Primary Schools and Secondary Schools including lecturers in Government Pre-University Colleges in order to ensure availability of teachers in rural areas by classifying rural areas depending on the distance from the limits of city corporation, city municipal council, town municipal council, town panchayat, district headquarters or taluk headquarters as Zone-A, Zone-B and Zone-C so as, -(1) to transfer a teacher to a rural area on his initial appointment and also to transfer a teacher to a rural area on his immediate next transfer who has not worked before the commencement of this Act in any rural area;(2) not to transfer any teacher out side the rural area who is appointed in a rural area before the completion of five years from the date of his appointment;(3) to prohibit transfer of a teacher from one unit of seniority in which he is appointed to another unit of seniority; and for other matters connected therewith or incidental thereto.Hence the Bill.(L.A. Bill No. 2 of 2007)(Entry 41 of List II of the Seventh Schedule to the Constitution of India.)Statement of Objects and Reasons - (Act 10 of 2019). - It is considered necessary to amend the Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2007 (Karnataka Act 29 of 2007), -(a) to reduce the duration of service for transfer from 5 years to 3 years in a zone in different cadres put together;(b) not to include City Municipal Council, Town Municipal Council and Town Panchayat in the limits of urban area in respect of Pre-university Education Teacher for transfer;(c) to grant exemption from compulsory transfer in the cases of teacher or spouse or child suffering from severe illness for which treatment is not available else where and in respect husband and wife cases for posting to same place;(d) to provide transfer opportunity to the teachers to the places where his spouse is working in a Government or Public sector undertaking; and(e) certain consequential amendment are also proposed.Hence the Bill,[L.A. Bill No. 15 of 2018, File No. Samvyashae 29 Shasana 2018][Entry 41 of the List II of the Seventh Schedule to the Constitution of India.](First Published in the Karnataka Gazette Extra-ordinary on the First day of

September, 2007)(Received the assent of the Governor on the thirty first day of August, 2007)An Act to provide for regulation of transfer of teachers so as to ensure the availability of teachers in Government schools and Pre-University colleges in rural areas. Whereas it is expedient to provide for regulation of transfer of teachers so as to ensure the availability of teachers in government schools and pre-university colleges in rural areas and for the matters connected therewith or incidental thereto; Be it enacted by the Karnataka State Legislature in the fifty-eighth year of the Republic of India, as follows:-

1. Short title and commencement.

(1) This Act may be called the Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2007. (2) It shall be deemed to have come into force with effect from the fourteenth day of December, 2006.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a) "appointment" means appointment by direct recruitment, by absorption or by promotion; (b) "appointing authority" means the authority competent to make appointment to the post of a teacher; (c) "competent authority" means the authority competent to make orders of transfer of a teacher; (c1) ["maximum period" means a continuous service of ten years in a Zone in different cadres put together; [Inserted by Act 23 of 2017, dated 18.04.2017.]] (c2) "minimum period" means a continuous service of [Three] years in a Zone in different cadres put together; (d) "Pre-University college" means Pre-University colleges belonging to the State Government; (e) "rural area" means the areas of,-(i) Zone-B consisting of the areas upto such distance away from the limits of Zone-A of urban area; and (ii) Zone -C consisting of the areas lying beyond the limits of Zone- B; as may be notified by the State Government from time to time; (f) "school" means Primary or the High School belonging to the State Government as the case may be; (g) "schedule" means the schedule appended to this Act; (h) "teacher" means a person appointed to a category of posts of a teacher, in a Primary School or a High School and includes a lecturer in a Pre-University college, belonging to the State Civil Services and such other posts as specified in the Schedule; (i) "transfer" means posting of a teacher to a post in a place of working, including posting of a teacher from one place of working to a post in another place of working and includes transfer within or outside the unit of seniority in the same cadre; (j) "unit of seniority" means the jurisdiction of the appointing authority competent to make appointment to the post of teacher; (k) "urban area" means any areas within the limits of a taluk or district head quarters and the limits of a City Corporation, City Municipal Council, Town Municipal Council or a Town Panchayat and upto such distance away from the limits of above areas notified as Zone-A area by the State Government from time to time. [Provided that, in respect of Pre-University Education Teacher the Urban area does not include City Municipal Council, Town Municipal Council and a Town Panchayat] [Inserted by Karnataka Act No. 10 of 2019, dated 1.3.2019.].

3. Compulsory appointment of a teacher to rural areas.

(1) Every appointing authority while making initial appointment of a teacher to a school or Pre-University college shall ensure that vacancies in Zone-C shall be filled in the first instance: Provided that the provisions relating to compulsory appointment of a teacher to the rural area shall not apply to a teacher who has been appointed to a unit of seniority which does not comprise any rural area. (2) If no vacancy is available for initial appointment or transfer in any particular Zone, a vacancy may be created by transfer of a teacher who has completed minimum number of years of service to another Zone in the order of priority from Zone-C to Zone-B, Zone-B to Zone-A or Zone-A to any other urban area within the same unit of seniority: Provided that in case any teacher who is serving in Zone-C, is eligible to be transferred to Zone -B and similarly in case a teacher who is serving in Zone-B is eligible to be transferred to Zone-A, but if he desires to continue to serve in zone-C or zone-B, as the case may be, he may be allowed to continue to serve in these respective zones. Explanation: Order of priority shall be calculated inter alia, on the basis of the total number of years of service, of a teacher in a zone in different cadres and on the basis of any other criteria as may be prescribed. (3) The teacher who is in urban area and who is undergoing any time bound penalty imposed under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 or who is facing any criminal charges in court of law may be transferred to Zone-C, if no vacancy is available in Zone-C, a vacancy may be created in the manner specified in sub-section (2). Provided that if such teacher is working in Zone-B or Zone-C, he shall be transferred from the place where he is working to another place in the same Zone, but he shall not be transferred out side the rural area till the completion of such disciplinary proceedings, criminal proceedings or penalty as the case may be.

3A. [Compulsory transfer of a teacher in public interest. [Inserted by Act 23 of 2017 w.e.f. 18.04.2017.]

(1) A teacher who has completed maximum period of service in Zone A and has more than two years of remaining service shall be transferred compulsorily to a post in Zone 'C' in public interest. Provided that a teacher who is a office bearer of a recognized teacher's or employee's association or an unmarried female teacher or a widow female teacher or a teacher having more than forty percent physical disability [and cases falling under clause (4) and (5) of sub-section (2) of section 6] shall be given exemption from provision of this sub-section. [Provided further that, where no teacher has opted for a place in the process of Counseling and it is required to be filled based on student teacher ratio and in public interest, the State Government may transfer any teacher to such place who has completed minimum period of service in any other zone subject to such other conditions as may be prescribed] [Inserted by Karnataka Act No. 10 of 2019, dated 1.3.2019.]. (2) A teacher serving in Zone A and undergoing a major penalty under the Karnataka Civil Service (Classification, Control and Appeal) Rules, 1957 or facing criminal charges in Court of Law shall be transferred to Zone 'C' even if he has not completed minimum period of service. (3) If no vacancies are available for such compulsory transfer under sub-section (1) or (2), the vacancies may be created by offering transfer option to existing teachers who have completed minimum period of service in Zone 'C' as provided in sub-section (2) of section 3.

3B. Rotation of teachers.

(1)A teacher who has served minimum period of service in Zone 'B' or Zone 'C' shall be offered an option to seek transfer to Zone 'A' or Zone 'B' respectively subject to availability of vacancies.(2)A vacancy remaining unfilled in Zone 'A' shall be filled by transfer of teacher in Zone 'B' on exercise of option and any vacancy still not filled may be filled by transfer of eligible teachers in Zone 'C'.(3)A vacancy remaining unfilled in Zone 'B' shall be filled by transfer of a teacher in Zone 'C' on exercise of option and any vacancy still not filled in Zone B may be filled by transfer of teacher in Zone 'A' who are to be transferred compulsorily under sub-section (1) of section 3A]

4. Transfer by counseling.

- The transfer of a teacher under this Act shall be done through a process of computerized counseling conducted in such manner as may be prescribed.

5. Transfer of teachers in the interest of public service.

- A teacher who is in service on the date of commencement of this Act and has served for not less than 10 years continuously in any school in a zone shall be transferred on the basis of length of service in that school to another school in the same zone within the same unit of seniority:Provided that the total number of such transfers in a unit of seniority shall not exceed five percent of the number of sanctioned posts of teachers in that cadre in that unit of seniority.

6. Prohibition of transfer of a teacher from one unit of seniority to another unit of seniority.

(1)There shall be no transfer of a teacher from the unit of seniority in which he is appointed to another unit of seniority except in cases specified in sub-clause (2):Provided that a teacher who is found surplus in an unit of seniority may be transferred or redeployed to a needy school or pre-university college in another unit of seniority:Provided further that a teacher who is in service and has completed not less than five years of service as on 04.05.2005 in a unit of seniority to which he is initially appointed, may on his request, be transferred through counselling, to another unit of seniority not more than once in his service.(2)The provision of sub-section (1) shall be relaxed in the following cases, namely:-[***] [Omitted '(1) In the case of a married teacher, where the spouse is residing outside the unit of seniority then the other spouse may also be transferred once during his/her service outside that unit of seniority if he or she has completed not less than 3 years of service in the existing unit of seniority subject to availability of a clear vacancy;' by Karnataka Act No. 10 of 2019, dated 1.3.2019.](2)Where a female teacher is a widow;(3)Where a teacher is physically handicapped or disabled;(4)Where a teacher or his/her spouse or children are suffering from serious ailments, for which medical treatment is not available at his/her place of work and his/her transfer is necessary to a place where such treatment is available so as to provide him/her the required medical treatment. However, no transfer shall be made unless the teacher concerned produces a certificate from the District Medical Board specifying the nature of ailment, stating the

fact that the required treatment is not available at his/her place of work, specifying the place where the required treatment is available and certifying that his/her transfer is necessary to such a place to provide him/her the required medical treatment.(5)[The teacher may, on his request, be transferred through process of counseling to such place or near by place or post out side the unit of seniority where his spouse is working in an aided educational Institution [in a Government or public sector undertaking] [Inserted by Act 32 of 2015, dated 13.08.2015.] but excluding an urban area.](6)[Where a teacher has completed minimum period of service in any Zone and is seeking transfer to an eligible Zone in another unit of seniority which does not has surplus teachers.] [Inserted by Act 23 of 2017, dated 18.04.2017.]

7. Penalties.

- If any competent authority or any officer makes an order of posting or appointment or transfer in contravention of the provisions of this Act or the rules made thereunder, such competent authority or officer as the case may be, shall be liable for disciplinary action under the disciplinary rules applicable to civil servants.

8. Cognizance of offences.

- No Court shall take cognizance of any offence under this Act except on a complaint made in writing by an officer authorized by the Government by notification published in this behalf in the Official Gazette.

9. An Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

10. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the official Gazette make provisions not inconsistent with the provisions of this Act as it appear to be necessary or expedient for removing the difficulty:Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

11. Power to amend the Schedule.

- The State Government may, by notification, add, alter or remove any of the entries specified in the Schedule.

12. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything done in good faith or intended to be done under this Act.

13. Power to make rules.

(1)The State Government may by notification and after previous publication, make rules to carry out the purposes of this Act.(2)Any rule made under this Act may be made with retrospective effect and when such a rule is made, the reasons for making the rule shall be specified in a statement to be laid before both Houses of the State Legislature and subject to any modification made under sub-section(3), every rule made under this Act shall have effect as if it is enacted under this Act.(3)Every rule made or notification issued under this Act, shall be laid as soon as may be after it is made before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification, in the rule or notification or decide that any rule or notification should not be made, the rule or notification 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 or notification.

14. Transitory provisions.

- Any rule, notification, order or appointment, made or issued under the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) or otherwise providing for or relating to any of the matters for the furtherance of which this Act is an enacted, before the commencement of this Act and in force on the date of commencement of this Act, to the extent they are not inconsistent with the provisions of this Act, shall continue to be in force and effective as if they are made or issued or appointed under the corresponding provisions of this Act unless and until superseded by anything done or any Act action taken or any rule, notification, order or appointment made under this Act.

15. Repeal and Savings.

(1)The Karnataka State Civil Services (Regulation of Transfer of Teachers) Ordinance, 2006 (Karnataka Ordinance 4 of 2006) is hereby repealed. Anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Schedule

[see section 2(h) and section 9]

Sl. No.	Designation of the posts of Teachers
(1)	(2)

I. Posts in Government

Primary Schools:

1. Head Master/Mistress in (2) Notwithstanding such repeal Government Higher Primary School
2. Non-Graduate Head Master in Model Higher Primary School
3. Primary School Assistant Master/Mistress consisting of the following categories. -(i) Primary School Assistant Master/Mistress (General);(ii) Primary School Assistant Master/Mistress (Science);(iii) Primary School Assistant Master/Mistress (English); and(iv) Primary School Assistant Master/Mistress (Hindi).
4. Music Teacher
5. Physical Education Teacher Grade-II
6. Drawing Teacher in Government Higher Primary School/Model Higher Primary School

II. Posts in Government

High Schools:

1. Head Master in Government High Schools by whatever name called including Head Master/Head Mistress of Government Higher Secondary/Multipurpose High School and Head Master/Head Mistress of Government High School.
2. Secondary School Assistant (Grade-I)
3. Secondary School Assistant (Grade-II)
4. Graduate Assistant Master/Mistress in Government High School, Composite Pr - University College, Composite High School, consisting of the following categories of posts, namely:-(i) Assistant Master Arts in Kannada, English, Urdu, Hindi, Marathi, Tamil and Telugu mediums of instruction;(ii) Assistant Master in Physical Science in Kannada, English, Urdu, Hindi, Marathi, Tamil and Telugu mediums of instruction;(iii) Assistant Master in Biological Science in Kannada, English, Urdu, Hindi, Marathi, Tamil and Telugu mediums of instruction;(iv) Language Assistant in Kannada, English, Urdu, Hindi, Marathi, Tamil, Telugu and Sanskrit languages.
5. Physical Education Teacher Grade-I in Government High Schools and Composite Pre-University Colleges.
6. Drama Teacher (Grade-II)
7. Dance Teacher (Grade-II)
8. Arts Master
9. Drawing Master
10. Craft Teacher (Grade-II).

III Posts in Government

pre-university colleges:

1. Lecturers

The above translation of PÀÉÁđlPÀgÁđđ¹ «⁻i , ÉÃ^aÉUÀ^{1/4}À(²PÀëPÀgÀ^aÀUÁđ^aÀuÉ^æAiÀÄAvÀçt)
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