

# **Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Act, 2017**

KERALA

India

## **Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Act, 2017**

### **Act 15 of 2017**

- Published on 16 September 2017
- Commenced on 16 September 2017
- [This is the version of this document as it was from 28 June 2019 to None.]
- [Note: The original publication document is not available and this content could not be verified.]

Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Act, 2017(Act No. 15 of 2017)Last Updated 8th August, 2020[Dated 16.9.2017.]An Act to provide for the regulation of admission and fixation of fee to private medical educational institutions in the State of Kerala and to provide for reservation of seats to students belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes in medical educational institutions.Preamble. - Whereas, it is expedient to provide for the regulation of admission and fixation of fee to private medical educational institutions in the State of Kerala and to provide for reservation of seats to students belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes in medical educational institutions and for matters connected therewith or incidental thereto;Be it enacted in the Sixty-eighth Year of the Republic of India as follows:-

### **1. Short title, extent and commencement.**

(1)This Act may be called the Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Act, 2017.(2)It extends to the whole of the State of Kerala.(3)It shall be deemed to have come into force on the 1st day of June, 2017.

### **2. Definitions.**

- In this Act, unless the context otherwise requires,-(a)[ "Admission Supervisory Committee" means the Admission Supervisory Committee constituted as per Section 3:] [Inserted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](aa)[[ [Relettered '(a)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] "appropriate authority" means a Central or State

authority established by the Central of the State Government for laying down norms and conditions for ensuring standards of medical education;(b)"capitation fees" means any amount or thing, by whatever name called, whether in cash or in kind, paid or collected or received directly or indirectly in addition to the fees fixed under this Act;(c)"centralized counseling" means a common counseling and allotment of seats in colleges through a single window procedure by the Government or by any agency authorized by it for persons who have qualified in the common entrance test, for the purpose of merit based admission to medical colleges or institutions;(d)[ "Committees" mean the Admission Supervisory Committee constituted as per Section 3 and the Fee Regulatory Committee constituted as per Section 3A;] [Substituted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](e)"common entrance test" means an entrance test conducted by the Central Board of Secondary Education, New Delhi or any agency authorized by Government of India for determination of merit of the candidates;(f)"fee" means all fee including tuition fee and development charges;(fa)[ "Fee Regulatory Committee" means the Fee Regulatory Committee constituted as per Section 3A;] [Inserted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](g)"Government" means the Government of Kerala;(h)"management" means any person or body, by whatever name called, managing and controlling the private medical educational institutions;(i)"medical course" means a course of study notified as a medical or paramedical course by the appropriate authority, such as a degree, diploma or certificate, by whatever name called;-(j)"medical educational" means education in medicine, dentistry, pharmacy, ayurveda, homoeopathy, siddha, unani, naturopathy, nursing and other medical courses;(k)"minority" means a community defined as minority under clause (f) of Section 2 of the National Commission for Minority Educational Institutions Act, 2004 (Central Act 2 of 2005);(l)"minority institution" means an institution imparting medical education, established and administered by a minority;(m)"non-resident Indian" shall have the same meaning as assigned to it in clause (e) of Section 114C of the Income Tax Act, 1961 (Central Act 43 of 1961);(n)"Other Backward Classes" means the Other Backward Classes notified as such by the State Government as amended from time to time;(o)"prescribed" means prescribed by rules made under this Act;(p)"private medical educational institution" or "institution" means a private aided or private unaided educational institution which is a college, a school, a department or an institution, by whatever name called, imparting medical education, other than those promoted and maintained by the Central Government or State Government, approved or recognized by an appropriate authority, which is affiliated to, or is a constituent unit of a university, established or incorporated by an Act of the State Legislature;(q)"private unaided medical educational institution" means a medical educational institution which is not receiving recurring financial aid or grant-in-aid from any State or Central Government and which is not established or maintained by the Central Government, the State Government or any public body;(r)"reserved seats" means the seats reserved in favour of students belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes notified by the State Government;(s)"sanctioned intake" means the total number of seats sanctioned by an appropriate authority and notified by the State Government for admitting students in each course of study in a medical educational institution;(t)"Scheduled Castes" means any caste, race or tribe or part of, or group within caste, race or tribe specified as Scheduled Castes with respect to the State of Kerala under Article 341 of the Constitution of India;(u)"Scheduled Tribes" means any tribe or tribal community or part of, or group within such tribe or tribal community specified as Scheduled Tribes with respect to the State of Kerala under Article 342 of the Constitution of India;(v)"State" means

the State of Kerala;(w)"University" means a University established under any law made by the Legislature of the State.

### **3. [ Constitution of Admission Supervisory Committee. [Substituted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]**

- The Government shall, by notification in the Gazette, constitute an Admission Supervisory Committee consisting of the following members for the purpose of supervision and issuing guidelines of admission process in the private medical educational institutions, namely: -

- |   |                        |
|---|------------------------|
| (a) A retired Judge of High Court   | .. Chairperson         |
| (b) Secretary, Health and Family Welfare Department (ex-officio)  | Member<br>.. Secretary |
| (c) Law Secretary (ex-officio)  | .. Member              |
| (d) A representative of Medical Council of India nominated by the Government  | .. Member              |
| (e) Commissioner of EntranceExaminations (ex-officio)   | .. Member              |
| (f) An educational expert belonging to Scheduled Caste or Scheduled Tribe<br>nominated by the Government in consultation with the Chairperson | .. Member              |

### **3A. Constitution of Fee Regulatory Committee.**

- The Government shall, by notification in the Gazette, constitute a Fee Regulatory Committee for fixing the fee that may be charged from the students who get admission in private medical educational institutions, consisting of the following members, namely: -

- |   |                        |
|---|------------------------|
| (a) A retired Judge of High Court   | .. Chairperson         |
| (b) Secretary, Health and Family Welfare Department (ex-officio)                  | Member<br>.. Secretary |
| (c) A representative of Medical Council of India nominated by the Government      | .. Member              |
| (d) One Chartered Accountant nominated by the Government                          | .. Member              |
| (e) An expert nominated by the Government in consultation with the<br>Chairperson | .. Member              |

### **3B. Special provisions in respect of committees.**

- The Chairperson of the committees constituted as per Section 3 and 3A shall be same Judge and the representative to be nominated to the committees from the Medical Council of India also shall be same person:Provided that the Chairperson so appointed shall be eligible for the honorarium entitled for one post alone.]

#### **4. Term of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] and conditions of services of the members.**

(1)The term of the members of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] , other than ex-officio members, shall be three years from the date of publication of the notification constituting the Committee.(2)The members of [the Committees] [Substituted 'the Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall continue to hold office until [new Committees are] [Substituted 'a new Committee is' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] constituted, subject to the provisions of this Act and the rules made thereunder.(3)The nominated members shall hold office during the pleasure of the Government which shall not exceed three years at a time and shall be eligible for re-appointment:Provided that a person shall not be appointed as member for more than two terms.(4)A member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he is nominated.(5)A nominated member may resign his office by writing under his hand addressed to the Government but he shall continue his office until his resignation is accepted by the Government.(6)No act or proceedings of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall be deemed to be invalid by reason of any defect or irregularity in its constitution or on the ground of existence of any vacancy in the office of any member.(7)The [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall regulate [their] [Substituted 'its' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] own procedure for the conduct of its business.(8)The salary and allowances and the other conditions of service of the Chairperson and the nominated members shall be such as may be prescribed.

#### **5. Meeting of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] .**

(1)The [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall meet in such place and time as decided by the Chairperson as and when required.(2)The Chairperson or in his absence, a member of [the Committee concerned] [Substituted 'the Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] elected from among the members present at the meeting shall preside over the meeting.[\*\*\*] [Omitted '(3)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]

#### **6. Disqualification.**

(1)No person who is associated with any private medical educational institution shall be eligible to be a member of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.].(2)Government may remove any member, other than ex-officio member, if he,-(a)is declared as undischarged insolvent;(b)becomes incapable of continuing as such, due to physical or mental disability;(c)becomes unsound mind and stands so declared by a court of competent jurisdiction;(d)has been convicted for an offence, which in the

opinion of the Government involves moral turpitude or financial irregularities;(e)has, in the opinion of the Government, abused his official position so as to render his continuance in office prejudicial to public interest:Provided that the person shall be given a reasonable opportunity of being heard in the matter.

## **7. Officers and other employees of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] .**

(1)The Government shall provide the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] with such officers and employees as may be necessary for the efficient performance of the functions of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.].(2)The salaries and allowances and the other conditions of service of the officers and other employees appointed for the purpose of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall be such as may be prescribed.[Provided that the committees shall function with the common office, officers and employees.] [Added by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]

## **8. [ Powers and functions of the Admission Supervisory Committee. [Inserted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]**

(1)The Admission Supervisory Committee shall exercise the following powers and perform the following functions, namely: -(a)on receipt of a complaint regarding the admission made in contravention of the provisions of this Act or the rules made thereunder, to inquire into the admission made by any private medical educational institutions in contravention of such provisions or the collection of fee exceeding the fee determined as per the provisions of this Act or the realisation of capitation fee or the profiteering and cause inspection of the institution for the purpose of making inquiry, on the basis of the said complaint or suo moto;(b)to take appropriate action, after conducting an inquiry under clause (a), on an inspection report prepared by the department concerned on the direction of the Government or the University concerned or the appropriate authority;(c)if satisfied that there has been any violation by such institutions of the provisions of this Act or the rules made thereunder regarding admission, recommend to the Government to take the following actions against such institution, namely: -(i)impose a monetary fine up to ten lakh rupees on the institution together with interest thereon at the rate of twelve per cent per annum which shall be recovered as if it were an arrear of public revenue due on land;(ii)declare admission made in any or all the seats in an institution, in contravention of the provisions of this Act or the rules made thereunder invalid, and thereupon take necessary action causing the institution to forthwith cancel the admission of such student and the University concerned to cancel the enrolment of such student and cancel his results of examinations concerned in which the student has already appeared;(iii)order the institution to stop admission or reduce the sanctioned intakes in any medical course for such period as it may deem fit;(iv)recommend to the University or the appropriate authority to withdraw the recognition of the institution;(v)any other course of action, as it deems fit.(2)The Admission Supervisory Committee shall ensure that the

admission in a private medical educational institution is done in a fair and transparent manner.(3)The Admission Supervisory Committee shall, for the purpose of making any enquiry under this Act, have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely: -(a)summoning and enforcing the attendance of any witness and examining him on oath:(b)requiring discovery and production of any document:(c)receiving evidence on affidavit; and(d)issuing commissions forthe examination of witnesses and for local inspections.][8A] [Renumbered 'section 8' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]. Powers and functions of the [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.].(1)The Committee shall exercise the following powers and perform the following functions, namely:-(a)require a private medical educational institution to furnish, within a specified date, information, documents or records as may be necessary for enabling the [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] to determine the fee that may be charged by the institution in respect of each medical course, [\*\*\*] [Omitted 'and the fee so determined by the Committee shall be valid for such period as may be notified by the Government' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.];[\*\*\*] [Omitted '(b)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](c)hear complaints with regard to admission in contravention of the provisions of this Act or the rules made thereunder either on receipt of a complaint or suo motu and shall,-[\*\*\*] [Omitted 'its item and proviso' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](2)The [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall, for the purpose of making any enquiry under this Act, have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely: -(a)summoning and enforcing the attendance of any witness and examining him on oath;(b)requiring the discovery and production of any document;(c)receiving evidence on affidavit; and(d)issuing commissions for the examination of witnesses and for local inspections.(3)The fee determined by the [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall be applicable to a student who is admitted to a private medical educational institution in that academic year and shall not be revised till the completion of his course in the said institution or University. No private medical educational institution shall collect a fee amounting to more than one year's fee from a student in an academic year. Collection of more than one year's fee in an academic year shall be construed as collecting of capitation fee and shall be liable to be proceeded against.(4)The [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] may, if it is satisfied that there has been any violation by such institution of the provisions of this Act or the rules made thereunder regarding [\*\*\*] [Omitted 'admission or' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]fees, it may recommend to the Government to take the following actions against such institution, namely: -(a)impose a monetary fine up to ten lakh rupees on the institution together with interest thereon at the rate of twelve per cent per annum which shall be recovered as if it were an arrear of public revenue due on land;[\*\*\*] [Omitted '(b)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](b)[ ] [Relettered '(c)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] order the institution to refund to the student within such time as specified in the order, any amount received by the institution in excess of the fees fixed by the [Fee Regulatory Committee] [Substituted 'Committee' by Notification No.

4573/Leg.H1/2019/Law, dated 28.6.2019.] or any amount received by way of capitation fee or any amount received for profiteering: Provided that if the institution fails to refund the amount within the specified time to the student, the same shall be recoverable along with interest thereon at the rate of twelve per cent per annum as if it were an arrear of public revenue due on land and paid to the student;[\*\*\*] [Omitted '(d)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.](c)[[Relettered '(e)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] recommend to the University or the appropriate authority to withdraw the recognition of the institution;(d)[[Relettered '(f)' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] any other course of action, as it deems fit.(5)[ Before recommending to the Government to initiate actions under subsection (4) the institutions shall be given a reasonable opportunity of being heard.] [Substituted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]

## **9. Eligibility for admission.**

(1)The eligibility for admission to a private medical educational institution shall be such as may be notified by the appropriate authority.(2)Admission to the sanctioned intake of students in an institution shall be strictly on the basis of inter se merit obtained in the common entrance test in such manner as may be prescribed by the Government.(3)Every admission to private medical educational institution shall be made in accordance with the provisions of this Act and the rules made thereunder and every admission made in contravention thereof shall be void.

## **10. Reservation of seats.**

- In the admission to private medical educational institutions, other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India, there shall be reservation of seats at the stage of admission for the students belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes, in such manner as may be prescribed by the Government.

## **11. Factors for determination of fee.**

(1)The [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall determine the fee that may be charged by a private medical educational institution in the manner as may be prescribed, considering the following factors, namely: -(a)the location of the private medical educational institution;(b)the nature of the medical course;(c)the cost of land and building;(d)the available infrastructure, teaching and non-teaching staff and other equipments;(e)the expenditure on administration and maintenance of the medical educational institution;(f)a reasonable surplus required for growth and development of the medical educational institution;(g)any other relevant factor.(2)The [Fee Regulatory Committee] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] shall, before fixing any fee, give the institution a reasonable opportunity of being heard: Provided that no such fee as may be fixed by the Committee shall amount to profiteering or commercialization of education.

## **12. Appeal.**

- Any person aggrieved by an order of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.], may prefer an appeal, within thirty days from the date of such order, before the High Court.

## **13. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall lie against the Government or the officers or employees, or the Chairperson or members of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] for anything which is done or intended to be done in good faith under this Act.

## **14. Power to remove difficulties.**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the purpose of removing the difficulty: Provided that no such order shall be issued after two years from the commencement of this Act. (2) Every order issued under this section shall be laid before the Legislative Assembly as soon as may be after it is issued.

## **15. Overriding effect of the Act.**

- The provisions of this Act and the rules made thereunder shall have effect over the provisions of the Kerala Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitation Fee and other Measures to ensure Equity and Excellence in Professional Education) Act, 2006 (19 of 2006) in so far as it is applicable to the private medical educational institutions in the State: Provided that anything done or deemed to have been done or any action taken or deemed to have been taken under the said Act prior to the date of commencement of this Act shall be continued and maintained under the provisions of that Act and any suit, prosecution or any other legal proceeding so taken under the said Act shall be continued, maintained or dealt with in accordance with the provisions of the said Act as if this Act was not promulgated.

## **16. Power to make Rules.**

(1) The Government may, by notification in the Gazette, make rules for carrying out the provisions of this 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) the salary and allowances and other conditions of service of the Chairperson and the members of the [Committees] [Substituted 'Committee' by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.] under sub-section (8) of Section 4; (b) the salary and allowances and other conditions of service of the staff and employees appointed for the purpose of the [Committees] [Substituted 'Committee' by Notification No.



4573/Leg.H1/2019/Law, dated 28.6.2019.] under sub-section (2) of Section 7;(c)the eligibility of admission, manner of admission and allocation of seats in private medical educational institutions under sub-section (2) of section 9;(d)the manner of determination of fee to be charged by a private medical educational institution from the candidates under sub-section (1) of Section 11;(e)any other matter which is required to be, or may be, prescribed.(3)Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised 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 Legislative Assembly makes any modification in the rule or decides 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.

## **17. [ [Omitted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]**

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17. Agreement between Government and medical educational institutions.- Notwithstanding anything contained in the foregoing provisions or in any other law, the Government may enter into any agreement with one or more private medical educational institutions regarding fee or any such other matter.

## **18. Repeal and saving.**

(1)The Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Ordinance, 2017 (14 of 2017) is hereby repealed.(2)Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.

## **19. [ [Omitted by Notification No. 4573/Leg.H1/2019/Law, dated 28.6.2019.]**

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19. Validation.- Notwithstanding anything contained in the Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Ordinance, 2017 (14 of 2017) or in any rules made thereunder or in any judgement, decree or order of any court, the proceedings of the Admission and Fee Regulatory Committee fixing the fee provisionally and the fee so fixed as per order numbers AFRC 50/17/BDS/SFMC, AFRC 50/17/MBBS/SFMC dated the 13th day of July, 2017, shall be deemed to be valid till the fee is fixed finally subject to the provisions of this Act and the same shall not be called in question before any court of law for the reason that there was no provision in this behalf in the said Ordinance or there was defect in the procedure fixing the fee.