

The Haryana Private Educational Institutions (Taking Over of Management) Act, 1978

HARYANA

India

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Act 26 of 1978

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The Haryana Private Educational Institutions (Taking Over of Management) Act, 1978 Haryana Act No. 26 of 1978 Received the assent of the President of India on the 31st October, 1978, and first published in Haryana Government Gazette (Extraordinary) of November 4, 1978. An Act to provide for the management of private [Educational Institutions] [Substituted by Haryana Act No. 16 of 1999.] [receiving aid in the form of maintenance grant from the State Government, local authority or university] [Words omitted by Haryana Act No. 25 of 1984.] Be it enacted by the Legislature of the State of Haryana in the Twenty-ninth Year of the Republic of India as follows :-

1. Short title and commencement.

(1) This Act may be called the Haryana Private [Educational Institutions] [Substituted for 'Colleges' by Haryana Act No. 16 of 1999.] (Taking Over of Management) Act, 1978. (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Administrator" means an officer appointed by the State Government to take over the management of an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.]; (b) ["educational institution" means an institution which is not run by the Central Government, the State Government or a Local Authority and includes an institution, college or polytechnic being run and managed by individuals, societies, trusts or charitable societies whether aided or not and which is recognised by or affiliated to the State Board of Technical Education, Haryana or the universities incorporated under the Haryana State Acts, as the case may be, imparting education in the field of medical, dental, ayurvedic, homeopathic, technical, engineering, business management and computer etc.] [Substituted by Haryana Act No. 16 of

1999.](c)"[Educational Institution]" [Substituted by Haryana Act No. 16 of 1999.] property" means all movable and immovable property belonging to, or in the possession of, an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, play grounds, hostels, furniture, books, apparatus, maps, equipment, utensils, cash, reserve funds, investment and bank balances;(d)"managing committee" means the body of individuals entrusted with the management of an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.](e)"minority [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.]" means an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] established and administered by a minority having the right to do so under clause (l) of article 30 of the Constitution; and(f)"president" in relation to an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.], means the person by whatever name called, who is entrusted with the management of the affairs of the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] immediately before taking over the management under this Act.

3. Power to take over management of

[Educational Institutions] [Substituted by Haryana Act No. 16 of 1999.] - [(1) Whenever the State Government, on receipt of a report from the [University concerned State Board of Technical Education, Haryana, as the case may be, or otherwise] [Substituted by Haryana Act No. 13 of 1993.] is satisfied that the managing committee or president of an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] has -(a)[neglected to perform or persistently made default in the performance of duties and functions imposed on it by the State Board of Technical Education, Haryana or by the Universities incorporated under the Haryana State Acts, or the statutes, ordinances or regulations made thereunder; or] [Substituted by Haryana Act No. 16 of 1999.](b)failed to carry out any order passed or directive issued by the State Government or any order passed by the Director under the Haryana Affiliated [Educational Institutions] [Substituted by Haryana Act No. 16 of 1999.] (Security of Service) Act, 1979); or(c)exceeded or abused its or his powers;and that it is expedient in the interest of college education to take over the management of such [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.], the State Government may, after giving the managing committee or the president of such [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.], a reasonable opportunity of showing cause against the proposed action, and after considering the reply, if any, made by the managing committee or the president of such [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.], as the case may be, make an order for taking over the management of such [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] by an Administrator, for a period not exceeding three years, as it may deem fit.](2)Whenever the management of any [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] is taken over under sub-section (1), every person incharge of the management of such [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] immediately before its management is taken over, shall deliver the possession of the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] property to the Administrator.(3)After taking over the management of an [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] under this section , the Administrator shall exercise all the powers of the managing committee and the president.(4)During the period, the [Educational Institution]

[Substituted by Haryana Act No. 16 of 1999.] remains under the management of an Administrator, - (a) the managing committee and the president shall cease to exercise powers and functions of management over the affairs of the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] as long as the management vests in the Administrator; (b) the service conditions of the employees of the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] who were in employment immediately before the date on which the management was taken over, shall not be varied to their disadvantage; (c) all educational facilities, which the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] had been affording immediately before such management was taken over, shall continue to be afforded; (d) the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] fund, pupils' fund, management fund and any other existing fund shall continue to be available to the Administrator for being spent for the purposes of the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.]; (e) without prejudice to the generality of the provisions of sub-section (3) of Section 3 of the Act, no decision or resolution of the managing committee made after the date of the show cause notice issued under sub-section (1) of Section 3 shall be given effect to unless approved by the Administrator; and (f) the Administrator shall report to the State Government all such decisions and his orders thereon and it shall be open to the State Government to confirm, modify or reverse the order of the Administrator. (5) The State Government may, at any time before the expiry of the period for which the management of the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] is taken over, and shall, on the expiry of the period for which the management of a [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] is taken over, hand over the management along with the [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] property to the duly constituted managing committee of the [Educational Institution]. [Substituted by Haryana Act No. 16 of 1999]

4. Act not to apply to minority [Educational Institutions]. [Substituted by Haryana Act No. 16 of 1999.]

- Nothing contained in this Act shall apply to any minority [Educational Institution]. [Substituted by Haryana Act No. 16 of 1999.]

5. Bar of jurisdiction.

- No Civil Court shall have jurisdiction in respect of any matter in relation to which the Administrator is empowered by or under this Act to exercise any power and no injunction shall be granted by any civil Court in respect of anything which is done or intended to be done or under this Act.

6. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or the Administrator or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

7. Liability of managing committee to punishment.

(1) If the President or the managing committee, as the case may be of any [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] - (a) omits or fails without any reasonable excuse to carry out any order made under this Act; or (b) omits or fails to deliver any [Educational Institution] [Substituted by Haryana Act No. 16 of 1999.] property to the Administrator or any officer authorised by him in writing, the president or the managing committee, as the case may be, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both. (2) If the person committing an offence under this Act is a managing committee, every person, who at the time the offence was committed, was a member or office-bearer shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to be prosecuted if he shows that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

8. Cognizance of offences.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974), - (a) no Court inferior to that of a Judicial Magistrate of 1st Class shall try any offence under this Act; (b) no Court shall take cognizance of any such offence except with the previous sanction of the State Government or such other officer as the State Government may, by general or special order specify in this behalf.

9. Power to remove difficulty.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order to be published in the Official Gazette, make such provision or give such directions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

10. Power to make rules.

(1) the State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. (2) Every rule made under this section shall be laid, as soon as may be after it is made, before the House of the State Legislature while it is in session for a total period of ten 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, the House agrees in making any modification in the rule or the House agrees 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.

11. Repeal and Saving.

- The Haryana Private Colleges (Taking Over of Management Act, 1978) (Haryana Act 4 of 1978), is hereby repealed.