

Himachal Pradesh Early Childhood Care and Education Centres (Registration and Regulation) Act, 2017

HIMACHAL PRADESH

India

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Act 10 of 2018

- Published on 17 November 2018
- Commenced on 17 November 2018
- [This is the version of this document from 17 November 2018.]
- [Note: The original publication document is not available and this content could not be verified.]

Himachal Pradesh Early Childhood Care and Education Centres (Registration and Regulation) Act, 2017(Act No. 10 of 2018)(As Assented to by the President on 17th November, 2018)An Act to provide for registration and regulation of Early Childhood Care and Education Centres (ECCE) in the State for the children below six years of age and for matters connected therewith or incidental thereto.Whereas, articles 39 (f) and 45 of the Constitution of India empowers the States that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment and that States shall endeavour to provide early childhood care and education for all children until they complete the age of six years;And Whereas, section 11 of the Right to Education Act, 2009 provides that "with a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre-school education for such children";And Whereas, the Government of India, Ministry of Women & Child Development has formulated the National Early Childhood Care and Education (ECCE) Policy, 2013, with the objective to provide integrated services for holistic development of all children, along the continuum, from the pre-natal period to six years of age so that sound foundation for survival, growth and development of children can be laid down. This policy focuses on making necessary arrangement for providing pre-school education to all children by involving both the organized and un-organized sectors like non-Governmental channels which are largely supported by trusts, societies, religious groups or international funding agencies and these channels suffer from issues of equitable access, uneven quality and growing commercialization;And Whereas, in the State of Himachal Pradesh there is no legislation in place for regulating Early Childhood Care and Education Centres;Now, Therefore, it is considered necessary and expedient to bring a legislation to ensure delivery of quality pre-school education to

the children below six years of age. Be it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-eighth Year of the Republic of India as follows : -

1. Short title and commencement.

(1) This Act may be called the Himachal Pradesh Early Childhood Care and Education Centres (Registration and Regulation) Act, 2017. (2) It extends to whole of the State of Himachal Pradesh. (3) It shall come into force on such date as the Government may, by Notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "area" means villages, wards, hamlets or locality where Centre is to be set up; (b) "Centre" means a registered Early Childhood Care and Education Centre run by an Institution; (c) "children" means children below six years of age and includes Children With Special Needs (CWSNs) with no age bar; (d) "Deputy Commissioner" means the Deputy Commissioner of the District; (e) "Director" means the Director, Women & Child Development, Himachal Pradesh; (f) "District" means a revenue District; (g) "Early Childhood Care and Education Centre" means a Centre like crèche, play school, day care centre, or kindergarten, nursery school or balwadi; (h) "employee" means any person or teaching staff appointed by the Institution for running of Centre; (i) "existing Centre" means a Centre which is running prior to the commencement of this Act. (j) "fee" means monetary collection made by the Institution or Individual, as the case may be, from the parents or community by whatever name it may be called; (k) "Government" means the Government of Himachal Pradesh; (l) "Head of Centre" means the representative of the Institution who heads an Early Childhood Care and Education Centre and is responsible for the day-to-day functioning of the Centre; (m) "Institution" means the agency which intends to open an Early Childhood Care and Education Centre which may be a Non-Government Organizations, Trusts, Society or any other agency registered under the Societies Registration Act, 1860; the Himachal Pradesh Societies Registration Act, 2000; the Public Trust registered under the Indian Trusts Act, 1882 or under the relevant laws of the State or a Company registered under the Companies Act; (n) "new Centre" means a Centre established after commencement of this Act; (o) "Notification" means a Notification published in the Official Gazette; (p) "Official Gazette" means the Rajpatra, Himachal Pradesh; (q) "Policy" means the National Early Childhood Care and Education Policy, 2013; (r) "prescribed" means prescribed by rules made under this Act; (s) "PTA" means a Parent Teacher Association constituted in an Early Childhood Care and Education Centre; (t) "State Appellate Authority" means the Secretary (SJ&E) to the Government of Himachal Pradesh; and (u) "teacher" means a Worker, teacher, Instructor, Educator or any other person appointed to impart Early Childhood Care and Education to the children.

3. Objectives of establishment of Early Childhood Care and Education Centres.

- The objectives of the establishment of Early Childhood Care and Education Centres shall be as

under: -(a)Promotion of inclusive, equitable and universal opportunities for optimal and active development of all children below six years of age;(b)Laying of sound foundation for survival, growth and development of children with focus on early learning for every child and at the same time ensuring that there is no physical or mental burden inflicted on the child;(c)Ensuring the right of every child to universal and quality pre-primary Education;(d)Preparation of children above the age of three years for elementary education and provision of early childhood education for all children until they complete the age of six years;(e)Ensuring following basic quality standards of Early Childhood Care and Education: -(i)An Early Childhood Care and Education programme of 3-4 hours duration,(ii)Accommodation with such indoor and outdoor space as may be prescribed,(iii)Appropriately trained staff, having a minimum basic qualification of 10+2. Preference shall be given for the higher academic education and specialized courses like Nursery Teachers' Training (NTT)/Early Childhood Care and Education Diploma for teaching staff, in addition to the provision of regular upgradation of skills and knowledge of the entire staff (teaching as well as nonteaching),(iv)Every Centre shall have an age appropriate child centric curriculum in line with the National Early Childhood Care and Education Policy, 2013,(v)Provision of adequate toys and learning material for conduct of indoor and outdoor activities,(vi)Safe building having easy approach and clean surrounding area,(vii)Provision of safe drinking water facility,(viii)Provision of separate child friendly toilet, child friendly basins, liquid hand wash facilities and clean towels,(ix)Immediate health services in terms of first aid and medical kit, and(x)An adult child ratio of 1:20 for three to six year old children and 1:10 for under three year old children,(f)Addressing various facets of care, education and development of children below six years of age and ensuring the right of the child to inclusive and integrated development; and(g)Regulating institutions providing Early Childhood Care and Education for children below six years of age in a congenial atmosphere :Provided that clauses (c), (d) and (e) (i), (iii) and (iv) of section 3 shall not apply in case of creches and other Centres not providing early childhood education.

4. Online applications.

(1)The Institution or the Head of Centre of an existing or new Centre shall make an online application in such form alongwith such registration fee as may be prescribed, to the District Programme Officer concerned for seeking registration of the Centre.(2)The Director shall be responsible for development and maintenance of the online portal dealing with Centres, their registration and other matters relating thereto.

5. Inspection Committee.

- All the applications received online under section 4, shall be considered and processed by an Inspection Committee constituted by the Director in the prescribed manner.

6. Registration of existing Centres.

(1)All the existing Centres, other than Centres established under the Integrated Child Development Services Scheme (ICDS), shall be required to obtain a certificate of registration from the Director, within twelve months from the date of commencement of this Act.(2)For this purpose, all the

existing Centres shall apply for registration of a Centre within three months of the commencement of the Act, on the form as may be prescribed to the concerned District Programme Officer. The District Programme Officer shall place all such applications before the Inspection Committee within one month from the date of receipt of such applications.(3)The Inspection Committee shall process the applications within two months in accordance with the procedure as may be prescribed. The concerned District Programme Officer shall be responsible to ensure the compliance in a time bound manner.

7. Directorate level Committee.

(1)The report of the Inspection Committee shall be considered by a Committee at the Directorate level to be constituted by the State Government in the prescribed manner.(2)Directorate Level Committee may refer back the case to the Inspection Committee, if required, for seeking any clarification or additional information.

8. Issue of Registration Certificate for existing Centres.

- If the Directorate Level Committee is satisfied that the proposal for registration fulfills the objectives laid down under section 3, the Director shall issue Registration Certificate for a period of three years on such form as may be prescribed.

9. Registration of new Centres.

(1)After the commencement of this Act, no new Centre shall run without having a valid Certificate of Registration from the Director and in accordance with the terms and conditions specified therein.(2)For the registration of new Centres, the applications shall be accepted online from August to October of every year in such form and alongwith such fee as may be prescribed.(3)In new Centres where infrastructure and other facilities are usually not available at the time of application, a project proposal shall be submitted to the concerned District Programme Officer and he shall place all such applications before the Inspection Committee constituted under section 5 within one month from the date of receipt of such applications.(4)The Inspection Committee shall evaluate the proposal and then send its report to the Director for provisional registration in accordance with the procedure as may be prescribed.(5)The report of the Inspection Committee shall be considered by a Committee at the Directorate Level headed by the Director.(6)The Directorate Level Committee may refer back the case to the Inspection Committee, if required, for seeking any clarification or additional information.

10. Grant of provisional registration.

(1)If the Directorate Level Committee is satisfied that the proposal for provisional registration is as per the objectives laid down under section 3, the Director shall grant provisional registration for a period of six months.(2)The report of the Inspection Committee for the final registration of a Centre which has been provided the provisional registration under sub-section (1) shall be processed in

such manner as may be prescribed.

11. Issue of final Registration Certificate.

- The report submitted under sub-section (2) of section 10 shall be considered by a Committee at the Directorate Level headed by the Director. If the Committee is satisfied that the proposal for registration fulfills the objectives laid down under section 3, the Director shall issue a Registration Certificate to establish and run the Centre for a period of three years (inclusive of six months provisional registration) on such form as may be prescribed.

12. Renewal of registration.

(1) Every Centre shall apply online for renewal of its registration, at least six months before the expiry of its registration on such form and alongwith such fee as may be prescribed. (2) The Registration Certificate shall be renewed on the recommendations of the Inspection Committee constituted under section 5.

13. Display of refusal of registration through public notice.

- In case of refusal of registration or denial of renewal of Registration Certificate to a Centre, the District Programme Officer concerned shall ensure that the unsuitability of the Centre is displayed through public notices, displayed on the premises of the Centre and also on the prominent places for the information of public, parents and guardians of children.

14. Institution to regulate fee structure.

(1) The Institution shall be competent to regulate its fee structure and shall ensure that this fee structure is inclusive of all charges. (2) All Institutions shall share details of their fee structures, in such manner, as may be prescribed.

15. Infrastructure.

- The Institution shall adhere to the guidelines and instructions with regard to infrastructure as specified in the Act and as may be prescribed.

16. Basic requirements.

- The Institution shall adhere to the basic requirements for registration of a Centre as specified under section 3 of this Act.

17. No test, written or oral, for admission.

- The Institution shall abide by the provision of section 13 of the Right to Education Act, 2009 and no child shall be subjected to admission test, written or oral assessment for granting admission in a Centre.

18. No discrimination in admission.

(1) Admission in a Centre shall be given to children without any discrimination on grounds of caste, creed, religion, sex or disability. (2) Every child below five years of age shall be enrolled only in a Centre.

19. No written or oral examination.

- No written or oral examination or test shall be taken but only grading parameters as may be prescribed shall be followed to assess growth and development of a child.

20. Parent Teacher Association.

(1) Each Centre shall constitute a Parent Teacher Association (PTA) within one month of its registration. (2) The nature, structure and duties of a Parent Teacher Association shall be such as may be prescribed. (3) The Centre may also call regular meetings of all the parents for discussing various issues related to the well being of children and the running of the Centre.

21. Safety and security of children.

(1) The Head of Centre shall ensure safety and security of children and shall appoint preferably the female staff, to the extent possible. (2) The Head of Centre shall ensure that no child is abused or exploited by any person, staff member or outsiders within the premises of the Centre or in any area or facility related to it. (3) The Head of Centre shall ensure that no child in a Centre is subjected to any physical punishment or mental harassment. (4) The Head of Centre shall ensure that staff of Centre is appointed after proper Medical Examination and Police verification. (5) The Head of Centre shall ensure that all facilities provided in the Centre are child friendly and conducive for children, including Children With Special Needs (CWSNs). (6) The Head of Centre shall ensure that there are no harmful devices, sharp edged furniture or anything harmful or dangerous within the reach of children in the Centre and in the facilities related to it. (7) The Head of Centre shall display the telephone number of CHILD HELPLINE (1098) and provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012 at prominent places in the premises of the Centre and shall also orient the parents and staff about it. (8) The Head of Centre shall ensure that no child is subjected to any kind of discrimination on grounds of caste, creed, race, sex, religion, mental or physical shortcomings or on socioeconomic status of the family. (9) The Head of Centre, in addition to above, shall adhere to all directions and notifications, if any, issued by the Government in this regard from time to time. (10) In case, any violation of the above provisions or any untoward incident occurs in

the Centre or in any facility related to the Centre, the Head of Centre and the Head of Institution shall also be held responsible, in addition to the perpetrator of the crime or untoward incident. The Head of Centre and the Head of Institution shall also be liable for action under the concerned sections of various Acts in place for dealing with acts of negligence and offences committed against children :Provided that in case of any offence committed under the provisions of the Protection of Children from Sexual Offences Act, 2012, the Director shall suspend the registration of the Centre immediately.

22. Inspections.

(1)The officers of the Department of Women and Child Development and District Administration, as may be authorized by the Director, may visit and inspect the Centre and record their observations in inspection report or visitors' registers.(2)An Advisory Committee at the level of the Centre consisting of members of Parent Teacher Association (PTA) of the Centre, concerned ward member of Gram Panchayat or Nagar Panchayat or Municipal Council and circle Supervisor may visit the Centre once in a year and inspect and advise on the functioning of the Centre.

23. Review and assessment of Centres.

- The Director, Deputy Commissioner and District Programme Officer of the district concerned shall have the power to review and assess the functioning of the Centres in the manner as may be prescribed.

24. Penalties.

(1)The Deputy Commissioner concerned either suo moto or on a complaint that the Institution or Head of Centre has contravened any of the provisions of the Act, in accordance with the procedure as may be prescribed, may, -(i)impose a penalty upto Rs. 15,000/- depending on the nature of violation; or(ii)recommend to the Director seizure of all assets, equipments created for running of the Centre; or(iii)recommend to the Director suspension of Registration of such Centre; or(iv)recommend to the Director cancellation of Registration of such Centre.(2)The Director either suo moto or on a complaint about the contravention of any of the provisions of the Act, in accordance with the procedure as may be prescribed, may, -(i)order seizure of all assets, equipment created for running of the Centre; or(ii)in case Institution fails to comply with any of the provisions of section 3 of the Act, impose a penalty upto Rs. 50,000/- depending on the nature of violation; or(iii)order suspension of Registration of such Centre; or(iv)cancel the Registration of the Centre, depending upon the severity and the frequency of the violation of any of the provisions of the Act.(3)The appeal against the orders of the Deputy Commissioner and the Director may be filed with the State Appellate Authority within one month of the date of orders, who may, -(i)reject the appeal with cost and direct the Institution to comply with the orders of the Director or the Deputy Commissioner; or(ii)debar the Institution from running the Centre for a period of five years; or(iii)blacklist the Institution for carrying out any type of activities in the State; or(iv)direct the Director or the Deputy Commissioner to review the orders by affording an opportunity to the Institution to defend its case; or(v)allow the appeal and set aside the orders of the Director or the

Deputy Commissioner :Provided that no order shall be passed under this section without affording the person/ Institution concerned opportunity of being heard.

25. Annual list.

- The annual list of Centres shall be prepared and published in the Official Gazette and also uploaded on the Departmental website for wide publicity by the Director on or before the first day of April in each year. The list shall include among other matters, the names of all Centres which have been registered under this Act during the year and list of Centres in relation to which such permission has been cancelled during the aforesaid period.

26. Maintenance of annual accounts and audit.

- The separate annual accounts of the Centres shall be maintained by the Institution. The annual accounts shall be audited at least once in every year by the auditors appointed by the Institution for this purpose.

27. Power to make rules.

(1)The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.(2)All the rules made under this Act shall be laid, as soon as may be after they are so made, before the State Legislative Assembly, while it is in session, for a period of not less than 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 successive session aforesaid, the State Legislature agrees in making modification in any of such rules or agrees that any such rules should not be made, such rules 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.

28. 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 Official Gazette, make provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulties :Provided that no such Order shall be made under this section after the expiry of a period of two years, from the commencement of this Act.(2)Every Order made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly.