



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

RIGHT TO FREE EDUCATION

A

BILL

to provide access to Free Education to all Children in Sri Lanka

*Presented by Hon. Akila Wiraj Kariyawasam M. P. for
Kurunegala District on 08th February, 2011*

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Right to Free Education

AN ACT TO PROVIDE ACCESS TO FREE EDUCATION TO ALL
CHILDREN IN SRI LANKA

WHEREAS it has become necessary to ensure that all children of Sri Lanka be provided with free education upto at least the Secondary Level: Preamble.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Right to Free Education Act, No. of 2011. Short title.

RIGHT TO FREE AND COMPULSORY EDUCATION

2. (1) Every child from the age of five years shall have a right to free education in a prescribed school till completion of his/her education as set out. Right of child to free and compulsory education.

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charge or expense other than prescribed under the law which may prevent him or her from pursuing and completing such education.

3. (1) Where in a school, there is no provision for completion of education, a child shall have a right to seek transfer to any other prescribed school, in accordance with such regulations or directives issued by the appropriate authority. Right of transfer to other school.

(2) Where a child is required to move from one school to another, either within the Province or outside, for any reason whatsoever, such child shall have a right to seek transfer to any other prescribed school, in accordance with such regulations or directives issued by the appropriate authority.

DUTIES OF APPROPRIATE AUTHORITY AND PARENTS

4. The Appropriate Authority shall be obliged to the following, while giving full effect to the provisions of the School Development Boards Act, No. 8 of 1993, the National Child Protection Authority Act, No. 50 of 1998, Part II of the Tsunami (Special Provisions) Act, No. 16 of 2005 and the Prevention of Domestic Violence Act, No. 34 of 2005 in so far as it relates to children and the Convention on the Rights of the Child signed by Sri Lanka on 12th July 1991 more particularly as set out in the Schedule hereto:
- (a) provide free education in a Prescribed school to every child commencing at the age of five years until the completion of his or her education as specified in paragraph (b);
- 15 Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a prescribed school, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on the education of the child in such other school.
- 20
- (b) provide free education to every child of the age of five upto class thirteen subject to him/her being successfully qualified at any public examination referred to in Section 5 (1);
- 25
- (c) ensure admission, attendance and completion of education of every child;
- (d) ensure availability of a state school for fulfilling the objectives of Section 2;
- 30 (e) provide infrastructure including school building, teaching staff and learning equipment; and
- (f) provide training facility for teachers.

Duties of
Appropriate
Authority.

5. (1) The Minister may by order made in the Gazette specify any Public Examination conducted by the Commissioner General of Examinations as a qualification necessary to proceed to the next year of studies.

General
promotional
examination.

5 (2) A child suffering from a disability shall also have the right to pursue free education in a manner provided by the Minister in accordance with a regulation made under this Act.

6. (1) The Appropriate Authorities shall have the responsibilities of obtaining funds for carrying out the provisions of this Act.

Sharing of
financial
responsibilities.

(2) Starting from the year 2012 the Minister shall with the concurrence of the Minister of Finance submit to Parliament a report on the five year estimate of the total capital and recurrent expenditure required by all the Appropriate Authorities for implementing the provisions of this Act.

(3) The Minister in charge of the subject of Finance when presenting the Budget to Parliament or the Provincial Council, as the case may be, shall make a statement in regard to compliance with the estimates.

20 (4) The Minister in charge of the subject of Finance may amend this report from time to time.

(5) The President may make a reference to the Finance Commission to examine the need for any additional resources to provide for Provincial Executive so that the said Provincial Executive may provide these funds for implementing the provisions of this Act.

(6) Every Provincial Executive shall take into consideration the sums provided by the Government to the said Provincial Executive under the above mentioned sub section and its other resources, and be responsible to provide funds for implementation of the provisions of this Act.

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- 7.** It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to a school education in a prescribed school.

Duty of
parents and
guardians.

RESPONSIBILITIES OF SCHOOLS AND TEACHERS

- 8.** No school or person shall, while admitting a child, collect any fee.

No Fee to be
charged.

- 9.** (1) The use of students in any activity other than school activities, national day, religious functions and visits of foreign state dignitaries shall be prohibited.

Functions of
the Minister.

- (2) The Minister shall before 31 October of every year, Gazette the school calendar for the following year including the days on which examinations would be held.

- (3) The Minister shall prescribe the minimum number of working days for the academic year provided it shall not be less than 180 days.

- (4) When dates are fixed for examinations, it shall not be changed by the Minister without the permission of Parliament other than in emergencies such as natural disasters.

- (5) The Commissioner General of Elections shall not fix elections to conflict with the period of examinations.

- 10.** (1) Teachers recruited should have teaching qualifications listed in the 9th Schedule, Appendix III item 4. Any other selection/recruitment will be on the basis of recruitment examinations as outlined in Appendix III item 5.

Teachers.

- (2) Promotion scheme for Principals and teachers will be based solely on merit and seniority.

- 11.** (1) Every teacher shall perform the following duties, namely:—

Duties of
teachers and
redress of
grievances.

- (a) maintain regularity and punctuality in attending school;

- (b) conduct and complete the curriculum in accordance with the provisions of sub-section (2) of section 29;
- 5 (c) complete entire curriculum within the specified time;
- (d) assess the learning ability of each child and accordingly supplement additional instructions as required;
- 10 (e) hold regular meetings with parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other relevant information about the child; and
- (f) perform such other duties as may be prescribed.

(2) A teacher committing default in performance of duties
15 specified in sub-section (1) shall be liable to disciplinary action under the service rules applicable to him or her;

Provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such teacher.

20 (3) The grievances, if any of the teacher shall be redressed in such manner as may be prescribed.

12. (1) Within one year from the date of commencement of this Act, the Appropriate Authority shall ensure that the Pupil-Teacher Ratio as prescribed is maintained in each
25 school.

Pupil-Teacher Ratio.

(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than those
30 specified in section 13.

(3) For the purpose of implementing the provisions of this Act priority will be given in the posting of teachers. No teacher shall be posted outside a Province unless the relevant ratio has been maintained in all the schools of the Province.

- 5 **13.** No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections.
- Prohibition of deployment of teachers for non-educational purposes.

PROTECTING THE RIGHTS OF CHILDREN

- 10 **14.** (1) The Appropriate Authority shall give full effect to the provisions of National Child Protection Authority Act, No. 50 of 1998.
- Redress of grievances.

(2) After receiving the complaint under sub-section (1), the Council shall decide the matter within a period of three months after affording a reasonable opportunity of being

15 heard to the parties concerned.

(3) The Advisory Council for each Province shall forward its decision to the relevant Appropriate Authority for the redress of grievances.

(4) Any person aggrieved by the decision of the

20 Appropriate Authority may prefer an appeal to the High Court of the Province.

- 15.** There shall be an Advisory Council for each Province consisting of 15 members of whom, 07 shall be from the National Child Protection Authority, 07 shall be persons appointed by the Provincial Executives. The Chairman shall be appointed by the Minister.
- Constitution of the National Advisory Council.

- 16.** (1) The functions of the Advisory Council shall be:
- Constitution of the Provincial Advisory Council.
- (a) Advise the Provincial Executive on measures—
- (i) to ensure the right of child to universal and equal access to free school education;
- 30

- 5 (ii) promote the interests of children so as to ensure their full development physical, mental, moral, religious, and social, and to protect them exploitation and discrimination; and
- (iii) to ensure for all children and students the right to universal and equal access to school education,
- 10 (b) to submit reports to the National Child Protection Authority on the implementation within the Province of the provisions of Section 16(1)(a);
- (c) to inquire and recommend redress under Section 16.
- 15 (2) The Minister shall prescribe all provisions for the functioning of the Council under Section 7 including the powers and the procedures of the Council.
- 20 (3) The allowances and other terms and conditions of appointment of members of the Advisory Council shall be such as may be prescribed by the relevant Appropriate Authority.

17. In this Act, unless the context otherwise requires:— Interpretation.

- (a) “Appropriate Authority” means—
- 25 (i) in relation to a state school controlled by the Government, the “Government”; and
- (ii) in relation to a state school, other than the school referred to in sub clause (i), a state school controlled by “the Provincial Executive”,
- 30 (b) “child” means a child of five years of age on the 31st of January of the year of entry;

- (c) “guardian”, in relation to a child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or a statute;
- 5 (d) “Minister” means the Minister in-charge of the subject of education of the Appropriated Authority as the case may be;
- (e) “prescribed” means prescribed by rules made under this Act;
- 10 (f) “Prescribed Schools” shall mean State schools coming under the Government in accordance with item 3 of List I of the 9th Schedule of the Constitution;
- 15 (g) “the Provincial Executive” means Provincial Board of Ministers for each Province acting under Article 154 (f) of the Constitution or the President or the Governor or any other person exercising powers under Article 154 (l) of the Constitution;
- 20 (h) “Schedule” means the Schedule annexed to this Act;
- (i) “School education” means the education from the grade one to the grade thirteen subject to any public examination.
- 18.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
- Sinhala text to prevail in case of inconsistency.

SCHEDULE

1. The Appropriate Authority recognizes the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular—

- (a) make primary education available free to all;
- (b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) make educational and vocational information and guidance available and accessible to all children;
- (d) take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. The Appropriate Authority shall take all appropriate measure to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. The appropriate authority shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

4. The appropriate authority recognizes the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

5. The appropriate authority shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

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