

THE KHYBER PAKHTUNKHWA FREE AND COMPULSORY EDUCATION ACT 2017

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A Bill *to provide for free and compulsory education to all children of the age of five to sixteen years.*

Whereas Article 25A of the Constitution of Islamic Republic of Pakistan enjoins

that the State shall provide free and compulsory education to all children of the age of five to sixteen years and, for the purpose, it is expedient to make necessary provisions;

It is enacted as follows

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. –

This Act may be called the

KP Free and Compulsory Education Act 2017

(2) It shall extend to all districts of the province of Khyber Pakhtunkhwa

(3) It shall come into force on such date as the Government may, by Notification in the official gazette.

2. Definitions.– In this Act:

(a) “child” means a child from the age of five to sixteen years of either sex whose age at the beginning of school year is not less than five years or greater than sixteen years and within the age limit prescribed for admission from class 1 to class 10th.

(b) 'government' means Government of Khyber Pakhtunkhwa

(c) "capitation fee" means any kind of donation or contribution or payment, by whatever name, other than the fee notified by the Government or the local authority;

(d) "disadvantaged child" means a child who belongs to a socially and economically disadvantaged class, or to any other group having disadvantage owing to social, or such other reasons or who belongs to such a parent whose annual income is less than the limit which the Government may, by notification, specify;

(e) "education" means teaching and training of mind and character by attendance in regular school education, madrassa education, vocational training and special education in the class room and school setting, or nonformal education or the education prescribed for a child or category of children by the Government;

(e) "free education" implies that the Government or a local authority shall not charge any fee or expense for providing education and shall endeavour to remove financial barriers that may prevent a child from completing ten years' education;

(f) "parent" means Mother or Father of the child and also describes a person declared to be guardian of such a child as declared by the Guardians and Wards Act, 1890 (Act no. viii of 1890).

(g) "school" means an educational institution imparting primary, elementary or secondary education to children and includes:

(i) a school owned or controlled by the Government or a local authority;

(ii) a school receiving aid or grant to meet whole or part of its expenses from the Government, Federal Government or local authority

(iii) a school not receiving any kind of aid or grant from the Government, Federal Government or a local authority;

(iii) a Deeni madrassa or any school providing religious education recognized by the Government;

(h) "Vocational education" includes the training of skills to prepare trainees for jobs and careers at various levels from trade to a craft.

(i) "School Attendance Authority" means the School Attendance Authority constituted under section (6) of the Act

CHAPTER II

RIGHT TO FREE AND COMPULSORY EDUCATION

3. Right to free and compulsory education.– (1) Every child shall have a right to Free primary and secondary education from class one to ten, non-formal education, vocational education or a combination of all or any of the two as notified by the Government considering the needs, capability and age of the child so as to ensure completion of education or specified education in a school in the neighborhood or the school allocated for the child.

(2) The Government shall prescribe academic calendar for class one to class ten and for non-formal education, vocational and special education.

(3) For purposes of sub-section (1) a child or parent/guardian shall not be liable to pay any kind of fee or charges or expenses for completing the education in a school mentioned in sub-clause (g) of section (2).

(4) The parent shall send the child to school other than a reasonable excuse as described in the section 5.

4. Duty to provide education.–(1) The Government shall:

(a) provide free and compulsory education to every child in the neighborhood school or the school allocated for the child;

(b) Ensure good quality education conforming to the standards and norms of quality education

(c) Prepare an annual statement of the children admitted and retained in the educational institutions.

(2) A local government shall:

(a) Maintain, in the prescribed manner, a record of children up to the age of sixteen years residing within its jurisdiction; and

(b) Ensure and monitor admission, attendance and completion of education by every child residing within its jurisdiction.

5. School Attendance Authority (1) Government may, by notification constitute a School Attendance Authority (SAA) for each school and/or give powers to existing Parents Teachers Council (PTC) for the purpose of this Act and shall consist of such members as may be determined by Government

(2) the School Attendance Authority /or PTC shall ensure that every child shall attend a school under its jurisdiction and shall take such steps as it may consider necessary or as may be specified by the Government.

6. Reasonable excuse for Non-attendance: reasonable excuse for the sub-section 3 are shall include any of the following cases:

a) Where school attendance authority or Parent Teacher Council (PTC) is satisfied about non-attendance of schools by reason of sickness, infirmity or intellectual disability or it is not advised for the child to carry forward to secondary education for peculiar causes.

b) where there is no school in the radius of two kilometers of the residence of child

c) Where the child is receiving education other-wise than in school, which is sufficient for the school attendance authority.

b) where School Attendance Authority/PTC is satisfied that parents who are required to under this act to attend the school has failed to do so the school attendance authority after giving the parents an opportunity of being heard and after that pass such ensuring order to cause such child to attend the school after the date of the notification.

CHAPTER III

DUTIES OF GOVERNMENT, LOCAL AUTHORITY AND PARENTS

7. Sharing of financial and other responsibilities. –

(1) The Government and local authority shall have concurrent responsibility for providing funds for carrying out the purposes of this Act.

(2) The Government may approach the Federal Government to provide as grants-in aid such percentage of expenditure for education as may be determined with mutual consultation.

8. Establishment of schools. –

(1) For carrying out the purposes of this Act, a local authority shall make arrangements for the requisite number of schools, within such area as may be prescribed.

(2) The Government and a local authority may encourage enterprises, institutions and other segments of civil society, by granting exemption or rebate in taxes and offering incentives for those who establish, maintain or run schools for provision of free and compulsory education to children.

9. Pre-school education.

The Government or the local authority may establish a kindergarten school or childcare centre in a local area or consolidate or merge such schools or centres for providing free pre-school education and early childhood care for the children above the age of three years until they join a school for education.

10. Vocational Training and Non-Formal education:

The KP government shall ensure that it provides avenues of Vocational training and access to non-formal education programmes and/or literacy bridge programmes to children specified under section 10 of the Act (and even otherwise) in the form of any organised educational activity outside the established formal system – whether operating separately or as an important feature of some broader activity.

a) The appropriate government shall further ensure that such non-formal education programmes do not function in lieu of formal education as per the Act, providing a means to evade the responsibility to educate all children.

b) Such non-formal programmes must be designed to perform the function of alternate literacy bridging systems in order to facilitate learning alongside a child's formal education.

c) The appropriate government shall involve various community based stakeholders such as non-governmental organizations specializing in education policy making and reforms, for the provision of such non-formal programmes.

11. Management of schools. – The Government or the local authority shall establish a School Attendance Authority/or PTC of a public school consisting of its representatives, teachers, parents of children admitted to the school and confer on it the prescribed powers in relation to the school.

12. Children with Disabilities and special needs

The Government shall, in the prescribed manner, provide or cause to be provided suitable education to a child suffering from disability or a special child.

13. Taleem Fund.

(1) The Government may permit a school management body/PTC to establish, in the prescribed manner, a Taleem Fund for the school.

(2) All voluntary contributions from the philanthropists, alumni, students and parents shall be credited to the Taleem Fund, maintained at a scheduled Bank.

(3) The Fund shall be utilized for the welfare of the students of the school in the prescribed manner.

(4) All moneys from the Fund shall be withdrawn in the prescribed manner jointly by at least two members of the school attendance authority /School management body.

(5) The fund will be audited as per grant in aid rules

CHAPTER-IV PUBLIC AND PRIVATE SCHOOLS

14. Norms and Standards of School. It is obligation of the Government to -

(a) provide free education to every child;

(b) ensure compulsory admission and attendance to complete school education;

(c) ensure that the disadvantaged child is not discriminated against and prevented from, on any grounds whatsoever for pursuing and completing education;

- (d) provide infrastructure including standard school building, playgrounds, laboratories, teaching learning material and teaching staff;
- (e) monitor functioning of schools within its jurisdiction;
- (f) decide the academic calendar;
- (g) provide all training facilities for teachers and students;
- (h) ensure good quality education conforming to the prescribed standard and norms;
- (i) ensure timely prescribing of curriculum and courses of studies for education; and
- (j) ensure enabling learning environment for better teaching learning in schools.

15. School Attendance Authority and PTC: (1) Every school shall constitute a School Attendance Authority /PTCs with the equal representation from Government, teachers, parents of children admitted and management of the schools in such school, which shall be headed by the Principal or Head of an Institution of such school. This management committee shall have nine members including Principal or Head of Institutions.

(2) The SAA/PTC shall meet at least three times in an academic year.

(3) The SAA/PTC shall perform the following functions, namely:-

- (a) monitor the general working of the school;
- (b) ensure that the prescribed norms and standards are observed;
- (c) ensure that the education policy of the Government is implemented;
- (d) prepare and recommend the School Improvement Plan (S.I.P)
- (e) monitor the utilization of the aids and grants received from the Government or any other source; and
- (f) perform such other functions as may be prescribed or entrusted to it by Government or by the management committee itself.

(4) The SAA/PTC shall ensure attendance of every child for the purpose of this Act.

(5) Where a SAA/PTC is satisfied that a parent who is required under this Act to cause a child to attend a school has failed to do so, the PTC after giving the parent an opportunity of being heard and after such enquiries as it considers necessary, may pass an order directing the parent to cause such child to attend a school on and from a date which shall be specified in the order.

(6) Any parent who fails to comply with an order issued under sub-section (4) of this section, shall on conviction be punishable with fine which may extend to five thousand rupees and with further fine which may extend to five hundred rupees for every day after the conviction for which the failure continues or with imprisonment which may extend to three month or with both.

16. Criterion for admission in school: For the purposes of admission to a school, the age of a child shall be determined on the basis of the birth certificate /Child Rights Certification (CRC) issued as may be prescribed:

Provided that no child shall be denied admission in a school for lack of proof of age.

Determination of age of a child.

17. Admission, expulsion and corporal punishment

(1) A child shall be admitted in school at the commencement of every academic year or within such extended period as may be prescribed.

(2) No child admitted in a school shall be expelled from school till the completion of the prescribed education.

(3) No child shall be subjected to corporal punishment or mental harassment.

(4) Whoever contravenes the provisions of this section, shall be liable to disciplinary action under the service rules.

18. Establishment and School Functioning: (1) No school, other than a school established, owned or controlled by Government, after the commencement of this Act, shall be established or shall function, without obtaining a certificate of registration from the prescribed authority.

(2) The prescribed authority shall issue the certificate of registration in such form, within such period, in such manner, and subject to such conditions, as may be prescribed: Provided that no such registration shall be granted to a school unless it fulfills the prescribed norms and standards.

(3) The prescribed authority shall, on the contravention of the conditions of registration, by an order in writing, withdraw registration:

Provided that registration shall not be withdrawn without giving a reasonable opportunity of being heard to such school:

Provided further that such order shall contain a direction as to which of the school, the children studying in the so de-registered school, shall be shifted.

(4) Government or an authorized officer may, in writing, take such steps as deemed necessary to close any unregistered or de-registered educational institution.

(5) Any person who establishes or runs a school without obtaining certificate of registration, or continues to run a school after withdrawal of registration, shall be liable to fine which may extend to rupees five hundred thousand and imprisonment for six months which may extend to one year, or with both. In default of the payment of fine, he or she shall undergo further imprisonment of another one year.

19. (1) No school shall be established or registered or continue to function, unless it fulfills the prescribed norms and standards.

(2) Where a school established before the commencement of this Act does not conform to the prescribed norms and standards, it shall take steps to conform to prescribed norms and standards at its own expense, within a period of two years.

(3) Where a school fails to conform to the prescribed norms and standards within two years, the prescribed authority shall withdraw registration granted to such school.

(4) Any person who continues to run a school after the registration is withdrawn, shall be liable to fine which may extend to two hundred thousand rupees and in case of continuing contraventions, to a fine of twenty five thousand rupees for each day during which such contravention continues.

CHAPTER V - RESPONSIBILITIES OF SCHOOLS AND TEACHERS

20. Responsibility of private school for free education. –

For purposes of this Act; a private sector school:

- (a) 10 percent of total children in a private school will be given a fee waiver school;
- (b) The school will not force the parents/guardians to buy textbooks, uniforms, stationary and other required material for school to be bought from a specific vendor.

21. Capitation fee

(1) No school or person shall, while admitting a child in the school:

(a) Collect any capitation fee; or

(b) in case of schools owned or controlled by the Government or a local authority, no child or his/her parent shall be subject to any screening procedure.

(2) Any school or person who, in contravention of the provisions of subsection -

(a) Receives capitation fee, shall be punishable with fine which may extend to _____ (specify fine).

22 .Duties of teachers.–

(1) The head of the of a school and all other teaching staff in public and private setups shall effectively carry out his/her responsibilities and shall enforce discipline amongst the teachers and the students.

(2) A teacher including the head shall:

(a) maintain regularity and punctuality in attending the school, classes, curricular and co-curricular activities and impart such in the students too

(b) complete the curriculum, assessments, and teaching minutes within the specified time;

(c) try to improve children's ability to build knowledge, potential and talent. He/she shall be geared towards life-long learning for children ;

(d) conduct learning through activities, discovery and exploration in a child-friendly and learner -centered manner;

(e) keep the child free of fear, trauma and anxiety and help the child to express his views freely; shall not practice rote learning and book oriented- listed fact testing

(f) hold regular meetings with parents and share with them the relevant information about the child; and

(g) perform such other duties as may be prescribed.

(2) A teacher who fails to perform the duties specified in a satisfactory manner shall be liable to _____ (specify).

23. Appointment of teachers: (1) No person shall be appointed as a teacher unless he possesses the prescribed qualifications.

(2) Where the persons having the prescribed qualifications are not available, the Government may, by notification, relax the prescribed qualifications, for a period not exceeding two years:

Provided that a teacher, who at the commencement of this Act, does not possess the prescribed qualifications, shall acquire such qualifications within a period of two years.

24. Pupil Teacher ratio: (1) Government shall ensure that the prescribed Pupil-Teacher Ratio, is maintained in each school within one year from the date of commencement of this Act or as may be prescribed from time to time.

(2) Government shall ensure that vacancies of teachers in a school shall not exceed ten percent of the total sanctioned strength and such vacancy shall be filled within four months.

(3) No teacher shall be deployed for any non-educational purposes other than the Population Census, disaster relief duties or duties relating to election.

Duties of Teachers, Other Teachers Related Matters.

(4) Every child completing his education shall be awarded a proper certificate, in such form and in such manner, as may be prescribed.

(5) The grievances, if any, of a teacher, shall immediately be redressed in such manner as may be prescribed.

CHAPTER – VI CURRICULUM AND EVALUATION PROCEDURE

25. Curriculum and evaluation procedure: (1) The curriculum and the evaluation procedure for education shall be laid down by an academic authority to be specified by Government, by notifications;

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:-

- (a) conformity with the values enshrined in the Constitution;
- (b) take care of all round development of the child;
- (c) build-up child's knowledge, potent and talent;
- (d) development of physical, mental and social abilities to the fullest extent;
- (e) learning through activities, discovery and exploration in a child friendly and child-centered manner;
- (f) comprehensive and continuous evaluation of child's understanding of knowledge and his or her ability to apply the same.

CHAPTER-VII

IMPLEMENTATION AND MONITORING OF CHILD'S RIGHT TO EDUCATION

26. (1) Government, shall, in addition to the functions assigned to it under this Act, also perform the following functions, namely:-

- (a) take all necessary measures for the effective implementation of the child rights under this Act; and
- (b) inquire into complaints relating to child's right and take appropriate action.

(2) Any person having any grievance relating to the rights of a child under this Act may make a written complaint to Government.

(3) After receiving the complaint under sub-section (2), Government shall decide the matter within the period of one month after affording a reasonable opportunity of being heard to the parties concerned.

27. (1) Government shall constitute an Education Advisory Council consisting of such number of members, not exceeding nine including chairperson, to be appointed from amongst persons having

knowledge and practical experience in the field of the education, child rights and child development to advise the Government on implementation of the provisions of this Act in an effective manner.

Education Advisory Council.

(2) The Education Advisory Council shall also ensure that every child required to attend a school under this Act attends a school and for this purpose it shall take all steps as may be considered necessary or as may be specified by Government;

(3) The terms and conditions of the appointment of members of the Education Advisory Council shall be such as may be prescribed.

CHAPTER VIII- MISCELLANEOUS

28. Inspections and directions–

(1) In addition to the routine quality assurance of the schools and education of different levels, the prescribed authority shall inspect or cause to be inspected a school for purposes of ascertaining that this Act and the rules have been and are being complied with.

(2) The Government may issue such guidelines and give such directions to a local authority, as it deems fit, for effective implementation of this Act.

(3) A school shall provide such information as the Government or the Prescribed authority may require.

29. Power to make rules

(1) The Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for any of the following matters:

(a) manner of maintenance of records of children;

(b) The area or limits for establishment of a neighbourhood school;

(c) Extended period for admission of a child and the manner of completing study by the child if admitted after the extended period;

(d) Duties to be performed by the teachers;

(e) The manner of redressing grievances of teachers, students or any other person;

(f) the manner of giving opportunity of hearing under this Act;

30. Repeal

The Khyber Pakhtunkhwa Primary Education Act, 1996(XII of 1996) and is hereby repealed.