

MODEL RIGHT TO FREE AND COMPULSORY EDUCATION ACT



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EDUCATION ACT**

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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 education is a fundamental human right as guaranteed to the citizens of Pakistan under Article 25-A of the Constitution of Islamic Republic of Pakistan 1973;

AND WHEREAS it is the responsibility of the Provincial Government to make provision for primary, elementary and secondary education;

AND WHEREAS it is necessary to ensure provision for free and compulsory education to all the children of the age five to sixteen;

Now, therefore it is expedient to provide for the recognition and realization of the Right to Education and for the matters connected therewith or incidental thereto;

It is hereby enacted as follows:—

**CHAPTER-I
PRELIMINARY**

1. Short Title, extent and commencement.---(1)This Act may be called the _____ Free and Compulsory Education Act, 2012.

(2) It shall extend to whole of _____.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,—



- (a) “Act” means the _____ Free and Compulsory Education Act, 2012
- (b) “Government” means Government of the _____;
- (c) “Capitation fee” means any sum of amount, other than the fee i.e.; donation, contribution or payment, required by the School or on its behalf, except that which is notified by the government;
- (d) “Child” means any minor of the age of five to sixteen years of age regardless of sex, nationality, race or religion;
- (e) “Disadvantaged child” means a child who belongs to a socially and economically disadvantaged class, or group or belongs to such parent whose annual income is lower than the minimum limit specified by the Government, by the official notification;
- (f) “Education” means the prescribed education from Nursery to Class 10 for a child or category of children by the academic authority, notified by the government;
- (g) “Free education’ means education free of any cost or education related charges or expenses, including expenditure on stationery, transportation, schoolbags, which may prevent him or her from pursuing education in accordance with the provisions of this Act.
- (h) “Local Authority” means the local government or authority exercising administrative control over the school or any autonomous body or body corporate.
- (i) “Migrant family” means a family or a group of individuals who do not belong to a certain locality, but are residing there on permanent or temporary basis. .
- (j) “Neighborhood” means neighborhood as defined in the rules.
- (k) “Notification” means a notification published in the Official Gazette;
- (l) “Parent” includes a person having the care and custody of a child and includes a natural guardian or legal guardian so appointed or declared by a court;
- (m) “Prescribed” means prescribed by rules made under this Act;
- (n) “Rules” means rules framed under this Act.
- (o) “School” means any recognized school imparting education between nursery and class 10. It includes:—
- (i) a school established, owned or controlled by the Government, or a local authority;
 - (ii) a school receiving aid or grants from the Government, Federal Government or local authority to meet the whole or part of its expenses;

- (iii) a school belonging to specified category;
- (p) “Screening procedure” means the method of selection for admission of a child, in preference over another, other than a transparent random method or as may be prescribed;
- (q) “Specified Category” in relation to School, means institutions for religious education, special education, skill training, or any other School having a distinct character which may be specified by notification by the Government.

CHAPTER-II

RIGHT TO FREE AND COMPULSORY EDUCATION

3. Right of child to free education. --- (1) Every child of the age five to sixteen, regardless of sex, nationality, race or religion shall have a right to free and compulsory education in a neighborhood school.

(2). No child shall leave or be caused to leave the school before the completion of prescribed education even after 16 years of age.

(3) The Government shall establish a system of grants-in-aid to support the school attendance of poor students as may be prescribed.

(4). No child shall be liable to pay any kind of fee, charges or expenses in relation to admission and education at school except that as may be prescribed.

4. Right to a Safe learning environment.---(1) A child admitted to school shall be entitled to a safe learning environment.

(2) The school shall draw up a plan, in connection with curriculum design, for safeguarding child against violence, bullying and harassment, execute the plan and supervise adherence to it and its implementation.

(3) The school shall adopt rules or issue other regulations to be applied in the school with a view to promoting internal order in the school, unhindered learning and the safety and satisfaction of the school community.

6. Special Provisions for Children not Admitted or Who have not Completed Education.---Where a child has not been admitted in any school or though admitted, could not complete his education, then [s]he shall be admitted in an appropriate class:

Provided that [s]he shall, in order to be at par with others, have a right to receive special training, in such a manner as may be prescribed.

7. Right of Transfer to other School.---(1) Where in a school, there is no provision for completion of the prescribed education, a child shall have a right to seek transfer to any other school for completing his education.

(2) Where a child is required to move from one school to another, for any reason whatsoever, such child shall have a right to seek transfer to any other school for completing his education.

(3) For seeking admission in such other school, the head teacher or principal of the school where such child was last admitted, shall immediately issue the transfer certificate:

Provided that delay in producing the transfer certificate shall not be a ground for either delaying or denying admission in such other school:

Provided further that the head teacher or principal of the school delaying issuance of transfer certificate or delaying or denying admission shall be liable for disciplinary action under the service rules applicable to him/her.

CHAPTER-III

DUTIES AND RESPONSIBILITIES OF GOVERNMENT, LOCAL AUTHORITY AND PARENTS

8. Duty of the Government to Establish schools.---(1) For ensuring the provision of the right to free and compulsory education the Government and the local authority shall establish within such limits of neighborhood as may be prescribed, a school, within a period of four years from the commencement of this Act.

(2) For as long as there is no government owned school in a neighborhood, the education of children going to privately owned schools in that neighborhood will be financed to the extent of average education cost per child in a government owned school.

(3) In the neighborhoods, where no school or educational institution exists, the governments, in consultation with the community, notify teachers and places where the children may receive free and compulsory education until the school is established.

9. Financial and Other Responsibilities.---(1)The Government shall be responsible for providing funds for carrying out the provisions of this Act.

(2) The government may approach the Federal government to provide as grants-in-aid for ensuring universal provision of free and compulsory education as they may determine with mutual consultation.

10. Monitoring of Child's Right to Education.- (1) The Government, shall, in addition to the functions assigned to them under this Act, shall take all necessary measures for the effective implementation of the child rights under this Act; and

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

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

11. Inspections and Directions.---(1) The government shall, from time to time, inspect or cause to be inspected a registered educational institution for the purpose of ascertaining that this Act and the rules made under this Act have been and are being complied with.

(2) The Government may issue such guidelines and give such directions as it deems fit for the proper implementation of the provisions of this Act.

(3) Every school shall provide such information as may be required by the government.

12. Duty of Local Authority.---- (1) Local Authority shall

(a) ensure that the education policy of the Government is implemented and the teachers are providing quality education with dedication for proper development of human personality

(b) ensure through the process of quality assurance that the prescribed norms and quality standards are observed and aimed quality is achieved in the Schools;

(c) appoint and provide teaching and other staff against the post sanctioned by the Government for each school;

(d) monitor the utilization of the aids and grants received from any source

(e) perform such other functions as may be prescribed or entrusted to it by Government

(2) Local Authority shall ensure that every child required to attend a school under this Act is admitted and attends a school for the purpose of ensuring admission and attendance of the child.

(3) Local Authority for the purpose of section 12 (2) will nominate a sub committee comprising three of its members with representation from the community, not exceeding two;

(a) to provide hearing to the parents or guardian of the child not admitted to a School, to consider whether the excuse for not admitting the child is just and reasonable and the child is entitled to be exempted from attending a school to receive education

(b) In case the excuse is considered unfounded and unreasonable, such parent or guardian shall be directed to have the child admitted in the neighbourhood or allocated school.

(4) Local Authority shall take all steps for securing attendance of the dropout students as may be considered necessary or as may be prescribed by the Government.

13. Duty of Parents.---(1) The parent of a child shall, except in the case of a reasonable excuse, cause a child to attend a school in the neighborhood until the said child has completed the prescribed education.

(2) Reasonable excuse for the purpose of sub section (1) shall include any of the following cases:-

(a) where the local authority is satisfied that the child is incapable of attending school by reason of any infirmity or mental incapacity; or

(b) it is not desirable that the child should be compelled to carry on his study further;

Chapter IV
Responsibilities of Schools and Teachers

14. No Capitation Fee and Screening Procedure.---(1) No school or person shall, while admitting a child, collect any capitation fee and subject the child or his parents or parent to any screening procedure.

(2) Any school or person, if in contravention of the provisions of sub-section (1),—

(a) receives capitation fee, shall be punishable with fine which may extend to twenty times the capitation fee charged for the first contravention and fifty thousand rupees for each subsequent contravention; and

(b) subjects a child or parent to screening procedure, shall be punishable with fine which may extend to fifty thousand rupees for the first contravention and one hundred thousand rupees for each subsequent contravention.

15. Proof of Age for Admission.---For the purposes of admission to school, the age of a child shall be determined on the basis of the birth certificate issued as prescribed:

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

16. Responsibility of Private School for Free education.--- For the purposes of this Act, a school.-

(a) specified in sub-clauses (i) and (ii) of clause (o) of section 2, shall provide free education to such proportion of children admitted therein as its annual aid or grant so received bears to its annual recurring expenses;

(b) specified in sub-clause (iii) of clause (o) of section 2, shall admit the child as per prescribed rules specified by notification by the Government, under clause (s) of Section 2.

17. No Denial of Admission and Expulsion.---(1) A child shall be admitted in a school at the commencement of every academic year:

Provided that no child shall be denied admission if such admission is sought subsequent to termination of admission period of the academic year:

Provided that any child subsequently admitted shall complete his studies in such manner as may be prescribed.

(2) No child admitted in a school shall leave or be caused to leave school till the completion of the prescribed education.

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

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

18. Norms and Standards of School.---(1) No school shall be established or registered or continue to function, unless it fulfills the norms and standards as prescribed in Schedule 1.

(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.

19. Terms and Conditions of Service of Teachers.---(1) No person shall be appointed as a teacher unless[s]he possesses the prescribed qualifications.

- (2) Where the persons having the prescribed qualifications are not available, the appropriate 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 three years.

20. Other Teachers Related Matters.---(1) The Government shall ensure that the prescribed child-Teacher Ratio, is maintained in each school within two years from the date of commencement of this Act.

- (2) The appointing government shall ensure that vacancies of teachers in a school shall not exceed ten per cent 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 elections.
- (4) The grievances, if any, of a teacher shall immediately be redressed in such manner as may be prescribed.

CHAPTER-V

OFFENCES

20. Offences.---(1). Any parent who fails to comply with an order issued under sub-section 12(3) above, shall on conviction before Magistrate to 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 months or with both.

(2) An employer who has employed a child required under this Act to attend a School, after receiving due warning from the local authority, continues to employ a child, whether on remuneration or otherwise, shall on conviction before Magistrate, be punishable with fine which may extend to fifty thousand rupees or with imprisonment which may extend to six months or with both and with a further fine which may extend to one thousand rupees for every day after the conviction for which the non-attendance at a school continues.

21. Prosecution of the offences.---(1) No prosecution for offences punishable under this Act shall be instituted except upon a complaint with the previous sanction of the Government.

(2) All the offences under this Act are bail-able and compoundable.

(3) The authorized officer in a case where he deems it fit and proper so to do, may compound any offence committed by a person which is punishable under this Act on payment, within such time as may be specified in the order, of such sum of money, as may be so specified, which shall not exceed fifty per centum of the amount of the maximum fine to which the person would have been liable if he had been convicted of the offence.

22. No Court shall take cognizance of any offence under this Act except on a complaint in writing made by the local authority.

CHAPTER VI

Miscellaneous

24. Overriding Affect.--- Notwithstanding anything contained in any other law for time being in force, this Act shall have overriding effect to the extent other laws contradict the provisions of this law.

25. Repeal.---- The _____ Compulsory Primary Education Act _____, shall stand repealed;

Provided that such repeal shall not affect the previous operations of the law under repeal or order passed or anything duly done or suffered there under.

26. Powers to make rules.---(1) The Government may, by notification, make rules, for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the area or limits for establishment of a neighborhood school;
- (b) the manner of maintenance of records of children;
- (c) determining the age of child;
- (d) the extended period for admission and the manner of completing study if admitted after the extended period;
- (e) the manner of giving special training and the time-limit thereof;
- (f) the authority, the form and manner of making application for Certificate of Registration;
- (g) the form, the period, the manner and the conditions for issuing Certificate of Registration;
- (h) the manner of giving opportunity of hearing under this Act;

- (i) the salary and allowances payable to, and the terms and conditions of service of teachers;
- (j) the duties to be performed by the teachers;
- (k) the manner of redressing grievances of teachers, students or any other person;
- (l) the form and manner of awarding certificate for completion of the education; and
- (m) the allowances and other terms and conditions of appointment of members of the relevant Education Advisory Council.

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