

# The Hr. School Edu. Act, 1995

(HARYANA ACT NO. 12 OF 1999)

(Copy of Hr. Noti. No. Leg 14/99 dt. 4.6.99-Hr. Act No. 12 of 1999 as notified in Haryana Govt. Gazette dt. 4.6.1999)

## Chapter-I PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Haryana School Education Act, 1995. [Act No. 12 of 1999]

(2) It extends to the whole of the State of Haryana.

(3) It shall come *into force on such date*, as the State Government may, by notification, appoint and *different dates may be appointed* for different provisions of this Act, and any reference to the commencement of this Act in relation to any provision thereof shall be construed as a reference to the date on which that provision comes into force.

### Commencement Notification.

In exercise of the powers conferred by Sub-section (3) of the Section 1 of the Haryana School Education Act, 1995 (Act 12 of 1999) and all other powers enabling him in this behalf, the Governor of Haryana hereby appoints the date of publication of this notification in the official Gazette to be the date on which provisions of all Sections of the said Act, except Section 8 and 24 (which have already come into force vide Haryana Government, Education Department, notification Bi, S,I, 141/H.A. 12/1999/S.I./2000, dated the 14th December, 2000) shall come into force.

(Hr. Govt. Noti. No. S.O. 97/H.A. 12/1999/S.I./2001 dt.20.7.2001 pub. In Hr. Govt. Gaz., L.S. Pt. III, dated 20.7.2001, p. 598).

2. **Definitions.**—In this Act, unless the context otherwise requires,—

- (a) “*affiliation*” means formal enrolment of a school among the list of approved schools of a Board or Council for Indian School Certificate Examinations, following prescribed/approved courses of studies up to class VIII, X and XII as well as those preparing students according to prescribed courses for the Board's examinations or Council for Indian School Certificate Examinations;
- (b) “*aid*” means any aid granted to a recognised school by the Government, a local authority or any other authority designated by the Government, Director or a local authority;
- (c) “*aided school*” means a recognised private school which is receiving aid in the form of grant from the Government;
- (d) “*appropriate authority*” means,—
  - (i) in the case of a school recognised or to be recognised by an authority designated or sponsored by the Government, that authority;
  - (ii) in case of disbursement of grant of recognised private aided schools, the authority designated by the Director;
- (e) “*Board*” means the Board of School Education, Haryana, the Central Board of Secondary Education, or any other Board which the State Government may, from time to time, specify;
- (f) “*Director*” means Director, Secondary Education/Director, Primary Education, as the case may be, and includes any other officer authorised by the Government in this behalf;
- (g) “*District Education Officer*” means the District Education Officer of the district in which a recognised Senior Secondary or High School is situated and includes any other officer authorised by the Government in this behalf;
- (h) “*District Primary Education Officer*” means the District Primary Education Officer of the district in which a recognised primary school is situated and includes any other officer authorised by the Government in this behalf;

- (i) “*existing school*” means a recognised private school which is in existence at the commencement of this Act;
- (j) “*Government*” means the Government of the State of Haryana
- (k) “*manager*” in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under the scheme of management under section 5, with the management of the affairs of that school;
- (l) “*managing committee*” means the body of individuals entrusted with the management of any recognised private school or schools;
- (m) “*minority school*” means a school established and administered by a minority whether based on religion or language; having the right to do so under clause (1) of Article 30 of the Constitution of India;
- (n) “*prescribed*” means prescribed by rules made under this Act;
- (o) “*private school*” means a school which is not run or sponsored by the Government, Director, a local authority or other authority designated or sponsored by the Government;
- (p) “*recognised school*” means a school recognised by the appropriate authority;
- (q) “*recognition*” means formal certification granted by an appropriate authority to a privately managed educational institution that the institution conforms to the standards and conditions laid down by the appropriate authority;
- (r) “*school*” includes a primary, middle, high or senior secondary school and also includes any other institution which imparts education or training below degree level, but does not include an institution which imparts technical education;
- (s) “*school property*” means all movable and immovable property belonging to, or in the possession of, the school 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, investments and bank balances;
- (t) “*Secretary*” means the Secretary to Government, Haryana Education Department;
- (u) “*State*” means the State of Haryana.

## Chapter-II

### ESTABLISHMENT, RECOGNITION, MANAGEMENT AND AID TO SCHOOLS

3. **Power of Government to regulate education in schools.**—(1) The Government may regulate education in all schools in the State in accordance with the provisions of this Act and the rules made thereunder.

(2) The Government may establish and maintain any school in the State or may permit any person or local authority to establish and maintain any school in the State, subject to the provisions of this Act and rules made thereunder.

(3) The establishment of a new school or the opening of a higher class or the closing down of existing class in any existing school in the State, after the commencement of this Act and subject to the provisions of clause (1) of article 30 of the Constitution of India, shall be subject to the provisions of this Act and rules made thereunder and any new school or higher class establishment or opened otherwise than in accordance with the provisions of this Act, shall not be recognised by the appropriate authority.

4. **Recognition of schools.**—(1) The appropriate authority may, on an application made to it in the prescribed form and in the prescribed manner, recognise any private school:

*Provided that no school shall be recognised unless—*

- (a) it has adequate funds to ensure its financial stability and regular payment of salary and allowance to its employees;
- (b) it has a duly approved scheme of management as required under section 5 of this Act;

- (c) it has suitable or adequate accommodation and sanitary facilities having regards, among other factors, to the number, age and sex of the pupils attending it;
- (d) it provides for approved courses of study and efficient instructions;
- (e) it has teachers with prescribed qualifications; and
- (f) it has the prescribed facilities for physical education, library service, laboratory works, workshop practice and co-curricular activities.

(2) Every application for recognition of a school shall be entertained and considered by appropriate authority and the decision thereon shall be communicated to the applicant within a period of six months from the date of receipt of the application and where recognition is not granted, the reasons for not granting such recognition shall be communicated to the applicant within the said period.

(3) Where recognition to a school is refused, any person aggrieved by such refusal may, within thirty days from the date of communication to him of such refusal, appeal against such refusal, in the prescribed manner, to the prescribed authority, and the decision of the prescribed authority thereon shall be final :

*Provided that the prescribed authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of thirty days, extend, for reasons to be recorded by it in writing, the said period by a further period of sixty days.*

(4) Where the managing committee of a school obtains recognition by fraud, misrepresentation or suppression of material particulars, or where, after obtaining recognition, the school fails to continue to comply with any of the conditions specified in the proviso to sub-section (1) the authority granting the recognition may, after giving the managing committee of the school a reasonable opportunity of showing cause against the proposed action to withdraw the recognition granted to such school.

(5) The recognition granted under sub-section (1) shall not by itself, entitle any school to receive aid.

(6) Every existing recognised school or schools which are already affiliated with Boards or Council for Indian School Certificate Examinations other than Board of School Education, Haryana, after obtaining 'No Objection Certificate' from the Government, shall be deemed to have been recognised under this section and shall be subject to the provisions of this Act and the rules made thereunder :

*Provided that where any such school does not satisfy any of the conditions specified in the proviso to sub-section (1), the prescribed authority may require, the school to satisfy such conditions within a specified period and if any such condition is not satisfied, the recognition may be withdrawn from such school.*

(7) Every school, whose recognition is withdrawn under sub-section (4) or sub-section (6), may appeal to the prescribed authority, who shall dispose of the appeal within one year from the date of presentation of the appeal in such manner as may be prescribed, and if the appeal is not disposed of within that period, the order for the withdrawal of recognition shall on the expiry of the said period of one year stand cancelled.

(8) On hearing an appeal preferred under sub-section (3) or sub-section (7), the prescribed authority may, after giving the appellant a reasonable opportunity of being heard, confirm, modify or reverse an order appealed against.

5. **Scheme of management.**—(1) Notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law, the managing committee of every recognised school shall make, in accordance with the rules made under this

Act and with the previous approval of the appropriate authority, a scheme of management for such school :

*Provided that in the case of a recognised private school which does not receive any aid, the scheme of management shall apply with such variations and modifications as may be prescribed :*

*Provided further that so much of this sub-section as relates to the previous approval of the appropriate authority, shall not apply to a scheme of management for an un-aided minority school.*

(2) A scheme may be made, in like manner, to add to, vary or modify any scheme made under sub-section (1).

6. **Aid to recognised schools.**—(1) The Government may pay to the prescribed authority, for disbursement of aid to recognised private schools such sums of money as the Government may consider necessary:

*Provided that the schools already under grant-in-aid system, shall continue to receive such grant provided that they comply with the conditions as specified under sub-sections (1) to (5) of this section.*

(2) The authority competent to grant the aid may stop, reduce or suspend aid for violation of any of the conditions prescribed in this behalf.

(3) The aid may cover such part of the expenditure of the school as may be prescribed.

(4) No payment, out of the aid given for salary, allowances and provident fund of employees of the school, shall be made for any other purpose.

(5) No un-recognised school shall be eligible to receive any aid or any benefit made available to private school by the Government or any other agency of the Government.

### **Chapter-III**

#### **SCHOOL PROPERTY**

7. **School Property.**—(1) The management of every aided school shall furnish to the appropriate authority annually, a statement containing a list of school property together with such particulars as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force, no transfer, mortgage or lease of any movable or immovable property of an aided school, not being the property specified in the rules, shall be made except with the previous permission of the appropriate authority:

*Provided that where the appropriate authority omits or fails to dispose of the application for such permission within ninety days from the date of receipt of the application in this behalf, the permission shall, on the expiry of the said period of ninety days, be deemed to have been granted.*

(3) Any person aggrieved by the grant or refusal of permission under sub-section (2) may prefer, in such form and within such time, as may be prescribed, appeal to the prescribed authority against such grant or refusal of permission and decision of the prescribed authority thereon shall be final.

(4) Any transaction made in contravention of the provisions of sub-sections (2) and (3) shall be void.

### **Chapter-IV**

#### **TERMS AND CONDITIONS OF SERVICE OF EMPLOYEE OF AIDED SCHOOLS AND TAKING OVER THE MANAGEMENT THEREOF**

8. **Terms and conditions of service of employee of aided schools.**—(1) The Government may make rules regulating :—

- (a) uniform code of service rules for employees in the State relating to pay, allowances, dismissal, removal, suspension, leave, conduct and discipline, provident fund, travelling allowance and other cognate matter;
- (b) essential qualifications for various classes of employees; and
- (c) uniform scales of pay for various classes of employees :

*Provided that the Government may exempt any aided school or class of an aided school from operation of the provision of this section for such period as it may think fit on grounds of economic capacity thereof.*

(2) Subject to any rules that may be made in this behalf no employee of a recognised private aided schools shall be dismissed, removed or reduced in rank nor shall his services otherwise terminated except with the prior approval of the Director or his nominee :

*Provided that this section shall not apply where an employee is dismissed removed or reduced in rank on the ground of conduct which had led to his conviction on a criminal charge involving moral turpitude.*

(3) Any employee of a private aided school, who is dismissed, is removed or reduced in rank may, within three months from the date of communication to him of the order of such dismissal, removal or reduction in rank, appeal against such order to the Director who may after giving the parties an opportunity of being heard and after making such further enquiry, if any, as he may consider necessary, pass such order as he thinks fit, confirming modifying or reversing the decision or order appealed against.

(4) Any employee of the aided school who has been suspended by the managing committee, the managing committee will hold an enquiry within three months of his suspension. In case the enquiry is not completed within three months, the managing committee will have to take permission from the District Education Officer for the extension of time.

9. **Employee to be governed by a Code of Conduct.**—Every employee of an aided school shall be governed by such code of conduct as may be prescribed and on the violation of any provision of such code of conduct, the employee shall be liable to such disciplinary action as may be prescribed.

10. **Taking over the management of aided Schools.**—(1) If the Director is satisfied that the managing committee or the manager has indulged in any financial irregularity or administrative mismanagement or neglected to perform any of his duties imposed on it by or under this Act or any rule made thereunder and that it is expedient in the interest of school education, to take over the management of such school, he may after giving the managing committee or the manager of such school, a reasonable opportunity of showing cause against the proposed action, take over the management of such school for a limited period not exceeding two years :

*Provided that where the management of a school has been taken over for a period of two years or less, the Director may, if he is of the opinion that in order to secure proper management of the school it is expedient that such management should continue to be in force after the expiry of said limited period he may from time to time, issue directions for the continuance of such management for such period not exceeding one year at a time as he may think fit, so, however, that the total period for which such management is taken over shall not in any case exceed three years.*

(2) Whenever the management of any school is taken over under sub-section (1), every person incharge of management of such school immediately before its management is taken over, shall deliver possession of the school property to the Director or any officer authorised by him in this behalf.

(3) After taking over the management of any school under this section the Government may arrange to manage the school through a person (hereinafter referred to as the “Administrator”) authorised by the Director.

(4) Where the management of any school has been taken over under sub-section (1), the managing committee or manager of such school may, within three months from the date of taking over, appeal to the Secretary, who may after considering the representation made by managing committee or manager, pass such orders, including an order for the restoration of the management or for the reduction of the period during which the management of such school shall remain vested in the Director, as he may deem fit.

(5) Where the management of a school has been taken over under this section, the Government shall pay such rent as may be payable on the building of the school to the person entitled to receive it, as was being paid by the managing committee or the manager immediately before the management of such school was taken over.

(6) During such period as any school remains under the management of an Administrator—

- (a) the service conditions, as approved by the Director, of the employee of the school who were in employment immediately before the date on which the management was taken over, shall not be varied on to their disadvantage;
- (b) all educational facilities which the school has been affording immediately before such management was taken over shall continue to be afforded ;
- (c) the school fund, the pupil fund, and any other existing fund shall continue to be available to the Administrator for being spent for the purpose of the school ; and
- (d) no resolution passed at any meeting of the managing committee of such school shall be given effect to unless approved by the Director.

11. **Section 10 not to apply to minority school.**—Nothing contained in section 10 shall apply to aided minority school.

### **Chapter-V**

#### **PROVISIONS APPLICABLE TO UN-AIDED MINORITY SCHOOLS**

12. **Power to prescribe minimum qualifications for recruitment.**—The Government may make rules regulating the minimum qualifications for and method of recruitment of, employees of unaided minority schools, provided that no qualification shall be varied to the disadvantage of an existing employee of such schools.

13. **Power to prescribe code of conduct.**—Every employee of un-aided minority schools shall be governed by such code of conduct as may be prescribed.

14. **Contract of service.**—The managing committee of every un-aided minority school shall enter into a written contract of service with every employee of such school under section 20 of this Act.

### **Chapter-VI**

#### **ADMISSION TO SCHOOLS AND FEES**

15. **Admission to schools and fees.**—(1) A child who has not attained the age of five years shall not be admitted to class one or any equivalent class higher than one in recognised school.

(2) A child seeking admission for the first time in a recognised school in a class higher than class one shall not be admitted to that class in his age reduced by the number of years of normal school study between that class and class one or an equivalent class, falls short of five years.

(3) Admission to recognised schools or to any class thereof, shall be regulated by rules made in this behalf.

16. **Fees and other charges.**—(1) No aided school shall levy fee or collect any other charge or receive any other payment except those specified by the Director.

(2) Every aided school having different rates of fees or other charges or different funds shall obtain prior approval of the prescribed authority before levying such fees or collecting such charges or creating such funds.

(3) The Manager of every recognised school shall, before the commencement of each academic session, file with the Director a full statement of the fees to be levied by such school during the ensuing academic session, and except with the prior approval of the Director no such school shall charge, during the academic session, any fee in excess of the fee specified by its Manager in the said statement. Such fee should commensurate with the facilities provided by such school.

(4) No other charges shall be taken from the children except those approved by the Director.

(5) Receipt shall be issued for every fee and charges taken from the children.

17. **School funds.**—(1) In every aided school, there shall be a fund, to be called as the school fund which shall include the following :

(a) any aid granted by the Government ;

(b) income accruing to the school by way of fees, charges or other payments ; and

(c) any other contribution, sale of property, rent from property, endowments and the like.

(2) The school fund and all other funds including the pupils fund established with the approval of the Government, shall be accounted for and operated in accordance with the rules made under this Act.

(3) In every recognised un-aided school, there shall be a fund, to be called the “Recognised Un-aided School Fund”.

It shall include the following :-

(a) fees ;

(b) any charges and payment which may be realised by the school for other specified purposes; and

(c) any other contributions, endowments, gifts and the like

(4) (a) Income derived by un-aided schools by way of fees shall be utilised only for such educational purposes as may be prescribed ; and

(b) charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for specific purpose for which they were realised or received. The unspecified gifts shall also be used for academic purpose.

(5) The Managing Committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed and every such return shall be audited by such authority as may be prescribed.

18. **Affiliations.**—(1) For the purpose of any public examination, any aided middle, high or senior secondary school shall be affiliated to the Board of School Education, Haryana.

(2) For the purpose of any public examination every recognised high or senior secondary school other than those specified under sub-section (1), shall get affiliation with the Boards or Council for Indian School Certificate Examinations for conducting such examination and shall fulfil the conditions specified by such Boards or Council, as the case may be. However, if any recognised school is de-recognised under sub-section (4) of section 4 and clause (b) of sub-section (4) of section 21, it will automatically stand disaffiliated from the Board or Council to which it was affiliated.

(3) The children of recognised senior secondary school, high school and middle school shall be prepared for and presented to the public examination or such other form of evaluation held or made for the children of such schools.

**Explanation.**—For the purpose of this section, ‘public examination’ means an examination conducted by the Central Board of Secondary Education, Council for Indian School Certificate Examinations, Board of School Education, Haryana or any other Board.

## **Chapter VII**

### **MISCELLANEOUS**

19. **Delegation of Powers.**—(1) The Government may delegate all or any of its powers, duties and functions under this Act to the Director or any other Officer.

(2) Every person to whom any power is delegated under sub-section (1), may exercise that power in the same manner and with the effect as if such power had been conferred on him directly by this Act and not by way of delegation.

20. **Contract of service.**—(1) The Managing Committee of every recognised private school shall enter into a written contract of service with every employee of such school :

*Provided that if, at the commencement of this Act, there is no written contract of service in relation to any existing employee of a recognised school, the Managing Committee of such school shall enter into such contract within a period of three months from the commencement of this Act :*

*Provided further that no contract referred to in the foregoing proviso shall vary to the disadvantage of any existing employee the term of any contract subsisting at the commencement of this Act between him and the school.*

(2) A copy of every contract of service referred to in sub-section (1) shall be forwarded by the managing committee of the concerned recognised school to the Director who shall on receipt of such copy register it in such a manner as may be prescribed.

(3) Every contract of service referred to in sub-section (1) shall provide for the following matters, namely :-

- (a) the terms and conditions of service of the employee, including the scale of pay and other allowances to which he shall be entitled;
- (b) the leave of absence, age of retirement, contributory provident fund or any other benefits to which the employee shall be entitled;
- (c) the penalties which may be imposed on the employee for the violation of any code of conduct or the breach of any term of the contract entered into by him;
- (d) the manner in which disciplinary proceedings in relation to the employee shall be conducted and the procedure which shall be followed before any employee is dismissed, removed from service, or reduced in rank;
- (e) arbitration of any dispute arising out of any breach of contract between the employee and the managing committee with regard to:—
  - (i) pay and other allowances ;
  - (ii) leave of absence, age of retirement, contributory provident fund and other benefits ; and
  - (iii) any disciplinary action leading to the dismissal or removal from service or reduction in rank of the employee ;
- (f) any other matter which in the opinion of the managing committee, ought to be, or may be specified in such contract.

21. **Inspection of Schools.**—(1) Every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed.

(2) The Director may also arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him.

(3) The Director may give directions to the managing committee requiring it to rectify the defects or deficiencies found at the time of inspection or otherwise in the working of the school.



(4) If the managing committee fails to comply with any directions given under sub-section (3), the Director may, after considering the explanation or report, if any, given or made by the managing committee, take such action as he may deem fit, including—

- (a) stoppage of aid (in case of aided schools);
- (b) withdrawal of recognition ; or
- (c) taking over of management.

22. **Jurisdiction of civil courts barred.**—No civil court shall have jurisdiction in respect of any matter in relation to which the Government or the Director or any other person authorised by the Government or Director or any other officer or authority appointed or specified by or under this Act, is empowered by or under this Act or exercise any power, and no injunction shall be granted by any civil court in respect of any thing which is done or intended to be done by or under this Act.

23. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Government, Director or any other person authorised by the Government or Director for any thing which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

24. **Power to make rules.**—(1) The Government may, by notification in the Official Gazette, 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 all or any of the following matters, namely :—

- (a) the manner in which education may be regulated by the Government in the State ;
- (b) the conditions which every existing school shall be required to comply with ;
- (c) establishment of a new school or the opening of a higher class or the closing down of an existing class in an existing school ;
- (d) the form and manner in which an application for recognition of a school shall be made ;
- (e) the facilities to be provided by a school to obtain recognition;
- (f) the manner in which, and the authority to which, any appeal against the refusal, withdrawal or recognition shall be made ;
- (g) the minimum qualifications for employees in different categories;
- (h) the authorities to be specified for the purposes of the different provisions of this Act ;
- (i) the particulars which a scheme of management shall contain and the manner in which such scheme shall be made ;
- (j) variations and modifications which may be made in the scheme of management for a recognised school which does not receive any aid ;
- (k) the conditions under which aid may be granted to recognised school and on the violation of which aid may be stopped, reduced or suspended;
- (l) the part of the expenditure of a recognised school which is to be covered by aid ;
- (m) particulars of school property which would be furnished to the appropriate authority ;
- (n) the form in which, and the time within which, an appeal shall be preferred to the Government against an order made in relation to the transfer, sale, mortgage or lien or lease of any school property;
- (o) admissions to a recognised school ;
- (p) fees and other charges which may be collected by an aided school;
- (q) the manner of inspection of recognised school ;
- (r) financial and other returns to be filed by the managing committee of recognised private school and the authority by which such return shall be audited ;
- (s) educational purposes for which the income derived by way of fees by recognised unaided school shall be spent ;
- (t) manner of accounting and operation of school funds and other funds of a recognised private school;
- (u) fees, for preferring an appeal under this Act ; and
- (v) any other matter which is to be, or may be, prescribed under this Act.

(3) 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 successive sessions aforesaid, 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.

25. **Repeal.**—The Haryana Aided Schools (Security of Service) Act, 1971 (Haryana Act No. 10 of 1971), is hereby repealed.

