

[Received the assent of the Governor on the 5th August, 1969]

THE ASSAM ELEMENTARY EDUCATION ACT, 1968

(Published in the *Assam Gazette* Extraordinary, dated the 9th August, 1969)

**An
Act**

to provide for the management and control of elementary education and for free compulsory elementary education in Assam

Preamble. WHEREAS it is expedient to make provision for expansion, management, improvement and control of elementary education ;

AND WHEREAS it is further expedient that free and compulsory elementary education shall be introduced in the State of Assam in gradual stages ;

It is hereby enacted in the Nineteenth Year of the Republic of India as follows :—

PART I

CHAPTER I

Preliminary

Short title,
extent and
commence-
ment.

1.(1) This Act may be called the Assam Elementary Education Act, 1968.

(2) It extends to the whole of Assam except the autonomous districts:

Provided that the Governor may, with the consent of the District Council concerned, extend all or any of the provisions of this Act to all or any of the autonomous districts on such date or dates as may be notified in this behalf.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) “area of compulsion” means an area specified for the purpose of making elementary education compulsory under section 42 ;

- (b) "attendance authority" means any person appointed to be an attendance authority under section 48 ;
- (c) "Autonomous district" means the autonomous districts under the Sixth Schedule to the Constitution of India ;
- (d) "Basic Training Centre" means an Institution in which teachers are trained in Basic Education ;
- (e) "Block Development Officer" means the Executive Officer appointed by the Government to be in-charge of a Community Development Block ;
- (f) "Child" means a person of either sex who has completed five years of age and has not exceeded fourteen years or of such age as the State Government may, from time to time, prescribe ;
- (g) "District Council" means a District Council constituted under sub-paragraph (I) of paragraph 2 of the Sixth Schedule to the Constitution of India ;
- (h) "elementary education" means education upto such class or standard, as may be prescribed ;
- (i) "elementary school" means a school where elementary education is imparted ;
- (j) "guardian" means the person to whom the duty of taking care of, bringing up or the custody of the child has been entrusted by law or custom, or by any lawful authority, or who has in fact accepted or assumed such duty, or has actual custody of such child or where such guardian cannot be readily ascertained such person as the local authority shall decide ;
- (k) "local authority" means a Municipal Board as defined in the Assam Municipal Act, 1956, a Town Committee as established under section 335 of the said Act, an Anchalik Panchayat and a Gaon Panchayat established under the Assam Panchayat Act, 1959 ;

Assam Act
XV of
1957.

Provided that the Regional Board shall be deemed as local authority in respect of schools which are not maintained and managed by the Municipal Board, Town Committee, Anchalik Panchayat and Gaon Panchayat;

- (l) "management" means and includes such powers and functions in respect of the local authorities and of District Councils as have been laid down in this Act ;
- (m) "notification" means a notification published in the official Gazette ;
- (n) "prescribed" means prescribed by rules made under this Act ;
- (o) "recognised school" means a school recognised under this Act ;
- (p) "State Board" means the State Board for Elementary Education constituted under section 3 ;
- (q) "Existing teachers" mean the teachers appointed or deemed to have been appointed under the Assam Elementary Education Act, 1962 and the teachers appointed by the Government and taken over by the State Board under section 35 (2).

CHAPTER II

State Board—its constitution, powers and functions

State Board. 3. (1) The State Government shall constitute a State Board for Elementary Education for management, improvement and expansion of Elementary Education in the State and to advise the Government on matters relating to Elementary Education.

(2) The State Board shall be a body corporate with perpetual succession and a common seal, and shall sue and be sued by the name of the State Board for Elementary Education. It shall be competent to acquire and to hold movable and immovable property, to transfer any such property so held by it, and to do all other acts necessary for carrying out its duties and functions under this Act and the rules made thereunder.

Constitution
of the
State
Board.

4. (1) The State Board shall be constituted with the following members—

- (i) The Minister of Education, by virtue of his office, shall be the Chairman of the State Board.
- (ii) The Minister of State for Education or the Deputy Minister of Education, as the case may be, by virtue of his office shall be the Vice-Chairman of the Board.
- (iii) The Secretary of Education.
- (iv) The Director of Public Instructions, by virtue of his office.
- (v) The Additional Director of Public Instructions, by virtue of his office.
- (vi) The Additional Director of Public Instructions, Hills by virtue of his office.
- (vii) The Joint Director of Public Instruction or the Officer-in-charge of Elementary Education by whatever name he may be designated, by virtue of his office, shall be the Secretary of the State Board.
- (viii) The Deputy Director of Public Instruction, in-charge of Women's Education.
- (ix) All the Inspectors of Schools of the Plains Districts, by virtue of their offices who shall be the Joint Secretaries of the State Board.
- (x) The Principal of State Institute of Education.
- (xi) Seven representatives to be elected by the Assam Legislative Assembly from amongst its members.
- (xii) Members not exceeding seven in number including one woman educationist to be nominated by the State Government to serve such interest and areas as, in the opinion of the State Government, should specially be represented.

(xiii) Two representatives of teachers one from Lower Primary Schools and one from Middle Vernacular Schools to be nominated by the State Government.

(xiv) One representative from each Autonomous District to which the provision of this Act may be extended under section 1(2)

(2) No person shall be entitled to continue as a member under clause (xi) of sub-section (1) if he ceases to be a member of the Legislative Assembly.

(3) No person nominated or appointed by virtue of his office under this section shall continue to be a member of the State Board, if he ceases to hold that office.

(4) Eleven members shall form the quorum.

Publication of the names of members of the State Board. 5. As soon as the State Board has been constituted, the names of the members thereof shall be notified by the State Government.

Terms of office of the member of the State Board. 6. (1) Subject to other provisions of this Act, every member of the State Board shall hold office for a term of four years from the date on which the notification under section 5 has been published. On the expiry of such term, a member shall be eligible for re-appointment or re-election.

(2) A casual vacancy occurring in the State Board at any time during the term of four years shall be filled for the remaining period of the term in the same manner in which the membership was originally filled up.

(3) The State Board shall be competent to exercise all its powers at any time notwithstanding any vacancy or vacancies in its membership remaining unfilled for the time being.

(4) Notwithstanding the expiry of four years specified in sub-section (1), every member of the State Board shall continue to hold office until the first meeting of the next State Board at which a quorum is present.

Resignation of membership. 7. Any member of the State Board may resign his membership at any time by giving notice thereof in writing to the Secretary who shall forward the same to the State Government. The member shall be deemed to have vacated his membership as soon as the State Government has accepted his resignation.

Cessation of
membership. 8. Any member of the State Board who is not a member by virtue of office may be removed from office by the State Government if he is absent for three consecutive meetings thereof and fail to offer reasons for such absence which are considered sufficient by the State Government.

Removal of
members. 9. The State Government may of its own motion or on the recommendation of the State Board remove any member of the State Board if the State Government is satisfied that he has been guilty of misconduct in the discharge of his duties as such member or of any conduct involving moral turpitude or has become incapable of performing such duties by reason of any physical or mental infirmity:

Provided that no such member shall be so removed unless the recommendation, when there be any, for such removal has been made by a resolution passed in a meeting of the State Board in which at least two-thirds of the total number of members were present :

Provided further that no member shall be so removed by the State Government of its own motion nor shall any resolution recommending his removal be of any effect, unless he has previously been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made.

Meeting of
the State
Board. 10. (1) Ordinary meeting—The State Board shall meet not less than twice a year, but six months shall not ordinarily intervene between two successive meetings.

(2) Special meetings—The Secretary of the State Board may, at any time, and shall upon requisition made by not less than one-third of the non-official members of the Board, and on a date not more than twenty-one days of the receipt of such requisition, call a special meeting of the Board.

(3) The Chairman and in his absence the Vice-Chairman shall preside over the meeting of the State Board, and in the absence of both the members present shall elect one of them to preside over the meeting.

(4) The procedure to be followed in the meeting and the period of notice of the meeting shall be as prescribed.

Powers and
duties of the
Chairman
and Vice-
Chairman.

11. (1) It shall be the duty of the Chairman and Vice-Chairman to see that the provisions of this Act and the rules and regulations made thereunder are duly observed and the decisions of the State Board are duly implemented by the Secretary of the State Board and they shall have all the powers necessary for this purpose.

(2) The Chairman shall have power to direct the Secretary to convene a meeting of the State Board.

(3) When any emergency arises in course of the administrative business of the State Board which, in the opinion of the Chairman, requires an immediate action, he shall take such action as he deems necessary and report his action to the Board at its next meeting for approval.

(4) The Chairman and the Vice-Chairman shall exercise such other powers as may be prescribed.

Rules of
business.

12. The State Board shall perform its duties and carry out its functions in accordance with such rules of business as may be prescribed.

Powers and
functions
of the
State Board.

13. The State Board shall have the following powers and functions, namely :—

- (a) to lay down principles or norms for sanction of non-recurring grants to elementary schools for maintenance of school buildings, provision of furniture, educational aids and equipments as may be found necessary from time to time ;
- (b) to supervise and regulate the activities of the Regional Boards ;
- (c) to lay down procedure and conditions of granting financial assistance to schools of pre-elementary stage ;
- (d) to formulate rules for constitution, dissolution, functions and duties of the Managing Committees of elementary schools under the State Board ;
- (e) to lay down principles, conditions and manner of recognition, amalgamation, expansion, opening and closing of elementary schools as may be necessary from time to time and to make financial allotment to the Regional Boards for carrying out their functions under this Act ;

- (f) to lay down the pattern and strength of office staff in the offices of the Secretary of the State Board and of the Secretaries of the Regional Boards as recommended by the Executive Committee constituted under section 14 and to create such posts as may be necessary from time to time ;
- (g) to appoint, transfer, discharge, dismiss or otherwise punish the employees of the offices of the State Board and Regional Boards ;
- (h) to create such posts of officers of the State Board as may be found necessary from time to time with prior approval of State Government ;
- (i) to hold such tests or examinations at such stages of elementary education as may be deemed necessary by the State Board ;
- (j) to constitute committee or committees for the purpose of conducting examinations or for any other purposes ;
- (k) to lay down the pattern and strength of the teaching staff of elementary schools, qualifications required of teachers and to lay down the manner, method and procedure of their recruitment and to arrange for such tests or examinations as may be necessary for selection of candidates for teachership ;
- (l) to make such regulations as may be necessary with the approval of State Government ;
- (m) to formulate rules governing the provident fund of the employees of the State Board ;
- (n) to formulate rules of conditions of service of teachers of elementary schools including their conduct rules ;
- (o) to levy such examination fees as may be necessary and to lay down rates of remuneration to paper setters, invigilators, tabulators, examiners and others in connection with different examinations ;
- (p) to write off unrecoverable loans and advances and value of property irrecoverably lost :

Provided that such writing off shall require State Government's prior approval where the value of the loan or property exceeds Rs.5,000 in each case ;

- (q) to delegate any of its powers as may be found necessary to the Executive Committee constituted under section 14 or to any officer including *ex-officio* officers by a resolution of the Board ;

(r) to do any other act which the State Board considers necessary for carrying out the purposes of this Act fully and effectively.

Executive
Committee
of the State
Board.

14. (1) There shall be an Executive Committee of the State Board consisting of the following:—

(i) The Minister of Education or the Minister of State for Education or the Deputy Minister for Education, as may be notified by the State Government, shall be the President of the Executive Committee.

(ii) Director of Public Instruction, Assam—Vice-President—*Ex-Officio*.

(iii) Additional Director of Public Instruction, Assam—Member—*Ex-Officio*.

(iv) One member from each Plains District, one member from each Hills District to which the provision of this Act is extended and one woman member to be elected by the State Board from amongst its members.

(v) The Secretary of the State Board, Assam—Secretary—*Ex-Officio*.

(2) The Executive Committee shall exercise such powers and perform such duties as may be delegated to it by the State Board. The Committee shall meet as and when occasion arises but not less than four times a year.

Responsi-
bility of the
State Go-
vernment.

15. Notwithstanding anything contained in this Act, the responsibility of proper administration, and supervision of elementary education and of arrangements of inspection and of proper training of teachers shall lie with the State Government. The State Government shall also determine the curriculum and duration, standard and syllabus of the course of instruction to be imparted in an elementary school.

Powers and
duties of the
Secretary.

16. The Secretary of the State Board shall be the Principal Administrative Officer of the Board and shall exercise such powers and perform such duties as may be required for carrying out the purposes of this Act. He shall also perform such other duties and exercise such other powers as may be prescribed, provided the Secretary shall be subject to control of the Executive Committee in respect of such matters as may be delegated to the Executive Committee by the State Board under section 14(2) of this Act.

The Joint
Secretaries,
their power
and func-
tions.

17. The Joint Secretary of the State Board shall have the following powers and functions, namely:—

- (a) to inspect and supervise the offices of the Secretaries of the Regional Board constituted under section 18 (1) under his jurisdiction ;
- (b) to ensure proper observance by the Regional Boards of the rules and regulations and directions of the State Government ;
- (c) to ensure proper observance by the Regional Boards of the rules and regulations and directions of the State Board ;
- (d) to hear appeals against the decisions of the Secretary of the Regional Board within his jurisdiction in the manner prescribed ;
- (e) to take disciplinary actions against such employees of the State Board and in such matters as may be prescribed ;
- (f) to transfer employees of the State Board within his jurisdiction as prescribed.

CHAPTER III

Regional
Board.

Regional Board for Elementary Education

18. (1) A Regional Board shall be constituted by the State Government for elementary education for each Deputy Inspector of Schools' circle for performing the functions as provided in section 19 of this Act.

(2) The Regional Board shall consist of the following members—

- (a) one Chairman to be nominated by Government ;
- (b) the Deputy Inspector of Schools shall be *ex-officio* Secretary ;

(c) the Additional Deputy Inspector of Schools or where there is no such officer, the senior-most Sub-Inspector of Schools will be the *ex-officio* Joint Secretary ;

(d) all members of the Assam Legislative Assembly representing the areas within the jurisdiction of the Regional Board concerned or their nominees to be notified in the manner prescribed :

Provided that such a nomination once made by a member of the Assam Legislative Assembly or notified shall be irrevocable during the tenure of his membership of the Board ;

Provided further that if a member of the Assam Legislative Assembly ceases to be a member of the Assembly, his nominee shall also cease to be a member of the Regional Board ;

(e) two representatives of the Mahkuma Parishad other than the members of the Assam Legislative Assembly representing the areas within the jurisdiction of the Regional Board to be elected by the Mahkuma Parishad concerned ;

(f) persons not exceeding four to be nominated by the State Government to represent such interests as deemed necessary by the State Government ;

(g) one person is to be nominated by the State Government from amongst the members of the Municipal Board and the Town Committees within the jurisdiction of the Regional Boards.

(3) The tenure of the Regional Board shall be four years :

Provided that the State Government may at any time remove any member and dissolve and reconstitute the Regional Board, if circumstances so demand :

Provided further that the State Government may extend the terms of a Regional Board not exceeding one year under special circumstances :

Provided further that no such member shall be so removed unless he has previously been given a reasonable opportunity of showing cause why he should not be so removed.

(4) (a) The Regional Board for elementary education may by resolution delegate any of its powers to the Secretary or any member or members of the Board.

(b) The Secretary shall be the principal administrative officer of the Regional Board and subject to the control of the Chairman shall exercise all powers and functions relating to day-to-day administration.

(c) The Secretary of the Regional Board shall pass the Travelling Allowances bills of the members of the Regional Board.

(5) No person shall be entitled to continue as a member of a Regional Board under clauses (d), (e) and (g) of sub-section (2) of this section if he ceases to be a member of the Assam Legislative Assembly, Mahkuma Parishad and Municipality, Town Committee as the case may be.

(6) If a Mahkuma Parishad fails to elect the members within the prescribed time fixed by the State Government, the State Government shall appoint any such representatives.

(7) No person elected, nominated or appointed by virtue of his office under this section shall continue as a member in the Regional Board, if he ceases to hold office.

19. The Regional Board shall act according to the regulation made by the State Board and shall have the following functions:—

- (a) to establish and to take over Elementary Schools subject to financial allotment made by the State Board ;
- (b) to expand, re-distribute and amalgamate existing Elementary Schools as and when necessary and also to grant permission for opening new Elementary Schools ;
- (c) to appoint, transfer, discharge, dismiss or punish teachers and Grade IV employees according to rules and procedure provided by the State Board ;
- (d) to sanction non-recurring grants for buildings and other purposes from the provisions allotted by the State Board ;
- (e) to prepare and submit the annual budget for different purposes to the State Board by the month of June every year ;

- (f) to submit an annual report to the State Board by the month of July every year ;
- (g) to raise funds for the 'Elementary Education Fund' through donations and subscriptions ;
- (h) to select teachers for deputation to training for Basic Training Centres according to sanction ;
- (i) to grant such advances to the Board Employees as may be prescribed ;
- (j) to constitute Committee or Committees for carrying out the functions assigned to it.

CHAPTER IV

Elementary Education Fund

Elementary
Education
Fund.]

20. (1) A fund hereinafter called the Elementary Education Fund shall be created and maintained by the State Board.

The following shall form part of and be paid into the Elementary Education Fund:—

- (i) All sums of money that may be in the Elementary Education Fund, constituted under section 17 of the Assam Elementary Education Act, 1962, on the date on which this Act comes into force; Assam Act
XXX of
1962.
- (ii) Such grants as may be made by the State Government to the State Board for the purpose of Elementary Education ;
- (iii) income derived from any endowment or property owned or managed by State Board for the purposes of this Act ; and
- (iv) money that may be received by the State Board by way of subscription, donation, etc., either directly or through Regional Board.

Application
of the
fund.

21. Except as otherwise provided in this Act, the Elementary Education Fund shall be applied for:—

(i) in payment of grants to the Regional Boards and to the District Councils as the case may be, for the purpose of Elementary Education ;

(ii) payment of grants to a school authority on specific projects and schemes on Elementary Education ;

Explanation—"School authority" means the Managing Committee the Head of the Institution or the proprietor, as the case may be ;

(iii) payment of salaries of the employees of the State Board, and Regional Boards and their office expenses ;

(iv) payment of such contributions to the provident funds in respect of the employees of the State Board and Regional Boards as may be prescribed ;

(v) payment of such travelling and other allowances to members and employees of the State Board as may be prescribed ;

(vi) payment of any other sums which the State Board is legally liable to pay, or of any other liability as may be prescribed ; and

(vii) payment of legal expenses.

Administra-
tion of the
fund.

22. (1) The fund shall be administered by the Secretary of the State Board and the accounts shall be operated by him.

(2) The State Board may constitute a Finance Committee with three members including the Secretary of the State Board who shall be the Secretary of the Committee to advise the Executive Committee in such manner as may be laid down by the State Board.

Receipt and
expenditure

23. (1) All moneys received for the purpose of the Elementary Education Fund shall forthwith be paid into the account opened in the Government treasury or in a Bank approved by the State Government.

(2) No expenditure shall be incurred from the Elementary Education Fund except for the purposes of this Act and unless such expenditure has been provided for in the budget for the State Board approved by the State Government.

Budgets

24. (1) On receipt of the estimates from the Regional Boards and the District Councils, or otherwise, the State Board shall prepare the annual budget estimates before the commencement of the next financial year at such time and in such manner as may be prescribed.

(2) Such budget estimates shall include the probable receipts and expenditure of the year concerned on account of elementary education.

(3) The Budget estimates as approved by the State Government shall be treated as the final budget of the State Board.

(4) The State Board shall be competent to make re-appropriation from one head to another within the approved budget.

Accounts and audit.

25. The State Board shall keep accounts of all its receipts and expenditure and such accounts shall be audited by an auditor appointed by the State Government.

CHAPTER V**Local authorities' power of management of Elementary Schools****Management through local authorities and District Councils.**

26. As soon as this Act comes into force, the management of elementary schools shall, subject to such conditions as may be prescribed, vest in the local authorities of the area concerned:

Provided that nothing in this section shall preclude the right of minorities whether based on religion or language or any private body from managing their own schools.

Co-ordinating agency.

27. In the areas where the Assam Panchayat Act, 1959 is in operation the Block Development Officer or, where there is no Block Development Officer, such other officer as may be specified by State Government in this behalf, with the help of such officers of Education Department, as may be attached to him, shall act as a co-ordinating agency between the Gaon Panchayats and the Regional Boards. It shall be the duty of the co-ordinating agency to see that the provisions of this Act are observed in the schools maintained by the Gaon Panchayats.

Assam Act
XXIV of
1959.

Powers of
District
Councils.

28. The District Council for an autonomous district shall have the power to establish, construct or manage elementary schools in the autonomous district and, in particular, to prescribe the language and the manner in which elementary education shall be imparted in the elementary schools in the district subject to such conditions as may be prescribed with the consent of the District Council or Councils concerned.

Control of
State Govern-
ment on
local autho-
rities.

29. The State Government may on the advice of the State Board or otherwise rescind in part or in whole any resolution, order or decision of a local authority and may also prohibit the doing of any act in pursuance of such resolution, order or decision whenever in the opinion of the State Government, such resolution, order, decision or act is in excess or abuse of the powers conferred upon the local authority by this Act, or by any rules framed thereunder.

CHAPTER VI

Fund for State Board and District Council and Regional Board

Application
of Fund.

30. (1) The State Government shall place such amounts as may be necessary at the disposal of the State Board and District Councils for the management and maintenance of elementary schools vested in them.

(2) In autonomous districts the amount so received shall be deposited in the Fund of the District Council under a separate head 'Elementary Education' and the amount shall be applied for the purposes enumerated in section 32.

(3) The Secretary of the State Board shall deposit the amount received under sub-section (1) in a Government treasury or Post Office Savings Bank and apply the same in the manner prescribed.

31. (1) A fund hereinafter called the Regional Board Fund shall be created and maintained by each Regional Board and the following shall form part of the said fund namely:—

- (i) grants or allotments, as the case may be, made by the State Board for the purpose of elementary education ;

(ii) fees and fines realised under the provision of this Act ;

(iii) all other sums of money that may be realised by the authority concerned by or under this Act.

(2) The Secretary of the Regional Board shall deposit the amount received under sub-section (1) in a Government treasury or State Bank of India or Post Office Savings Bank and apply the same in the manner prescribed.

Application of the Regional Board Fund. 32. Subject to other provisions of this Act, the Regional Board fund shall be applied for the following purposes, namely:—

(i) (a) payment of salaries of the establishment maintained by the Regional Board concerned on account of elementary education as may be prescribed ;

(b) payment of salaries of teachers and other employees of the elementary schools ;

(c) payment of such salary or honoraria as may be prescribed to the attendance authority ;

(ii) payment of such contributions to the provident funds in respect of the employees mentioned in clause (i) as may be prescribed ;

(iii) payment of any stipend or scholarship to students in accordance with Rules and Orders of the Education Department ;

(iv) payment of such sums of money as may be found necessary for construction, extension, improvement and maintenance of school buildings and for provision of midday meal, play ground, furniture and equipment ;

(v) payment of travelling and other allowances to the officers and establishment of the local authorities concerned, as may be prescribed ;

(vi) payment of any other sum which the Regional Board concerned is legally liable to pay or of any other liability as may be prescribed ;

(vii) payment of any legal expenses ;

(viii) payment or maintenance grant of financial assistance to elementary schools managed by authorities other than those set up under the Act including any linguistic minority group or a private body ;

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(xi) payment of maintenance grant or financial assistance to elementary schools managed by other local authorities within the jurisdiction of the Regional Board concerned.

Accounts. 33. (1) Each Regional Board, District Council and other local authority shall maintain separate accounts of income and expenditure relating to elementary education within its respective jurisdiction in the manner prescribed.

(2) The accounts so maintained by the Regional Boards, District Councils and other local authorities shall be open to inspection by such officer as may be deputed by the State Government and the State Board for the purpose.

Audit. 34. The accounts of the Regional Boards, the District Councils and other local authorities relating to elementary education shall be examined and audited at least once in each year by an auditor appointed by the State Government.

CHAPTER VII

Properties of the Elementary Education Board

35. As soon as this Act comes into force

**Absorption
of property
ties, etc.**

(1) all money deposited in the hands of and held by the State Board for Elementary Education constituted under section 3 of the Assam Elementary Education Act, 1962 on the date on which the State Board established under this Act takes charge of office, shall be transferred to and be held by the State Board ;

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of 1962.

(2) all teachers and other employees of Elementary Schools maintained by the Government or by the State Board for Elementary Education constituted under the Assam Elementary Education Act, 1962 shall be taken over by the State Board.

Assam Act
XXX of
1962.

(3) all teachers and other employees of schools taken over by the State Board under sub-section (2) shall be deemed to be employees of the Regional Board concerned within whose jurisdiction they are in service :

Provided that the total emolument of these employees at the time they are taken over shall be protected and their existing seniority shall be maintained;

(4) all other employees of the State Board for Elementary Education constituted under section 3 of the Assam Elementary Education Act, 1962 including the employees of the said office of the State Board for Elementary Education shall be taken over by the State Board :

Assam Act
XXX of
1962.

Provided that the total emolument of these employees at the time they are taken over shall be protected and their existing seniority shall be maintained;

(5) all properties of the State Board for Elementary Education constituted under section 3 of the Assam Elementary Education Act, 1962 shall vest in the State Board and be utilised for such purposes as may be in consonance with the provisions of this Act ;

(6) all buildings and land appurtenant thereto of any school under the management of the State Board within the jurisdiction of the Regional Board shall vest in and be held by the Regional Board concerned ;

(7) all residuary properties held before the commencement of this Act by any authority constituted under the Assam Elementary Education Act, 1962 and not transferred to a local authority or to the State Government under the provision of this Act, shall vest in and be held by the State Board.

Assam Act
XXX of
1962.

State Government's power to settle disputes. 36. Any dispute arising out of provision of section 35 in respect of transfer and ownership of any property or any matter pertaining to the aforesaid provision shall be referred by the aggrieved party to the State Government whose decision in this behalf shall be final and binding on all concerned.

CHAPTER VIII

Recognition of Elementary Schools and their affairs

Classes of schools to be recognised as elementary schools.

37. The following classes of schools shall be deemed to be recognised as elementary schools under this Act, namely :—

- (a) all Government Middle Vernacular Schools and Government Senior Basic Schools including those that receive grant-in-aid from Government ;
- (b) all Middle Vernacular Schools Senior Basic School and Middle Madrassas under the management of any other authority or authorities, that have been recognised by the State Government, to be responsible for maintenance of such schools ;
- (c) all schools under the management of the Regional Boards ;
- (d) all Primary Schools and Junior Basic Schools maintained or aided directly by Government or by any other duly constituted authority which is recognised by the State Government to be responsible for imparting Elementary Education.

Recognition and grant-in-aid to new schools.

38. (1) The terms and conditions of recognition and of grant-in-aid to new Elementary Schools shall be as laid down by the State Board from time to time :

Provided that the State Government may direct the State Board to recognise any existing rule or set of rules adopted in any particular area by a local authority and such direction from the Government shall be binding on the State Board.

(2) Subject to the provision of sub-section (1), the Regional Board concerned shall on the recommendation of the Deputy Inspector of Schools concerned, accord necessary recognition to such Elementary Schools as may fulfil the required conditions.

Appointment of teachers.

39. All existing teachers and other employees of the schools or those to be appointed in any Elementary School recognised under this Act, except in the case of the autonomous districts, shall be deemed to have been employed by the Regional Board concerned.

Appeal.

40. (1) An appeal against the original decision of the Joint Secretary of the State Board for Elementary Education shall lie to the Secretary of the State Board :

Provided that the employees concerned shall have a right to prefer a second appeal to the State Government against the decision of the Secretary of the State Board passed under this sub-section and the decision of the State Government in this behalf shall be final.

(2) An appeal against the decision of the Secretary of the State Board for Elementary Education by an employee of the State Board shall lie to the State Government whose decision on this behalf shall be final.

(3) An appeal against the decision of the Regional Board by a person aggrieved including a teacher or any other employee of the Elementary Schools shall lie to the Executive Committee constituted under section 14 of the Act in the manner prescribed. A second appeal shall lie to the State Government whose decision in this behalf shall be final.

(4) An appeal against the original decision of the State Board or of the Executive Committee of the State Board shall lie to the State Government whose decision in this behalf shall be final.

(5) Notwithstanding anything contained in sub-sections (1) to (4) the State Government may at any time call for the records of any authority and pass necessary orders after examination thereof. The orders passed by the State Government shall be final in this behalf.

(6) An appeal in each case shall be preferred within 45 days from the date of order appealed against.

PART II

CHAPTER IX

Compulsory Education

Exemption from fees. 41. (1) No fee shall be levied in respect of any child for attending a recognised school which is under the management of the Regional Board.

(2) Where in respect of any child an attendance order has been passed under sub-section (3) of section 48 and the only school which he can attend is a recognised school under private management, the Regional Board shall take such steps as it may think fit for the purpose of ensuring that the education which the child is to receive is free.

Compulsory Education. 42. The State Government may, by notification, declare that elementary education shall be compulsory upto certain age to be prescribed, in any area of the State as specified under the notification.

Duty of Guardian. 43. In an area of compulsion the guardian of every child, resident in such area, shall subject to the provisions of section 44 be bound to cause the child to attend a recognised Elementary School in such area.

Exemption. 44. A guardian may be exempted from causing a child to attend a recognised Elementary School if,—

- (i) the child is receiving education otherwise than in a recognised Elementary School to the satisfaction of the attendance authority;
- (ii) the child has already completed the standard of elementary education prescribed;
- (iii) there is no recognised Elementary School within the distance of one mile from the residence of the child, or even if there is one when it is not reasonably or conveniently accessible from such residence;
- (iv) the child is prevented from attending school by sickness, infirmity or any other mental or physical defect accepted as sufficient ground by the attendance authority; or
- (v) there is any other compelling circumstance which, in the opinion of the attendance authority prevents the child from attending a recognised Elementary School.

Part time
instruction.

45. (1) If the attendance authority is satisfied that a child due to economic or other circumstances connected with the family to which the child belongs, is unable to attend an approved school in the manner required by or under this Act, it may permit the child to attend any institution imparting part-time elementary education.

(2) A child receiving education under sub-section (1), shall be deemed to have fulfilled the requirements of section 43 of this Act.

Preparation
of details in
enforcing
compulsion.

46. The manner in which a list of children in an area of compulsion shall be caused to be prepared, the manner of notifying the guardians, the period and duration of compulsory attendance of children in schools, shall be as prescribed.

Duty of the
local autho-
rities to
arrange for
attendance.

47. In an area of compulsion, it shall be the duty of every local authority to enlist the co-operation of the guardians in ensuring the attendance of children in schools.

Attendance
authority.

48. (1) The Secretary of the Regional Board may appoint the attendance authorities for the purpose of enforcing attendance in schools.

(2) The attendance authorities shall have such powers, functions and duties as may be prescribed.

(3) An attendance order on the guardian of a child shall be passed at such time and in such manner as may be prescribed.

Restriction
on employ-
ment of a
child.

49. No guardian or person shall utilise the time or the services of a child in connection with employment of such a child, whether on remuneration or otherwise, in such a manner or at such time of the day as to interfere with regular attendance of the child in a school as required under this Act.

Penalty.

50. Any guardian who contravenes the provision of section 43 or any guardian or person who contravenes the provisions of section 49 shall be punishable with fine not exceeding two rupees and in case of a continued contravention with an additional fine not exceeding fifty paise for every day [during which such contravention continues:

Provided that the amount of fine payable by any one person in respect of any child in any one year shall not exceed fifty rupees.

Courts competent to try offences. 51. The Courts competent to try offences under this Act shall be the following:—

- (a) in areas where the Panchayati Adalat has been constituted under section 86 of the Assam Panchayat Act, 1959 such Adalat within whose jurisdiction the offence is committed ;
- (b) in other areas the Court of a Magistrate having jurisdiction.

CHAPTER X

Miscellaneous

Cognizance of offences. 52. No Court shall take cognizance of an offence under this chapter except on a complaint of an attendance authority.

Certain persons to be public servants. 53. The attendance authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Act XLV of 1860.

Restriction on legal proceedings. 54. No suit, prosecution or other legal proceedings for anything done in good faith under this Act shall lie without the previous sanction of the State Government in this behalf.

Power to make rules. 55. (1) The State Government may after previous publication 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 provisions such rules may provide for all or any of the following matters, namely—

(i) laying down terms and conditions of service of teachers of elementary schools including conduct and discipline of teachers ;

(ii) laying down powers and duties of the Secretary and Joint Secretary, State Board and Secretary, Regional Board;

(iii) manner of placing Funds by the State Board at the disposal of Regional Board and other authorities constituted under this Act ;

(iv) manner of making payment including scholarships by the Regional Board ;

- (v) laying down the rules of business of the State Board and of the Regional Boards;
- (vi) fixation of rates of contribution of provident fund of the employees of the State Board and of the Regional Boards ;
- (vii) laying down conditions of drawal and fixation of the rates of travelling and other allowances to members of the State Board and of the Regional Boards ;
- (viii) payment of other liability that the State and the Regional Boards are legally liable to pay ;
- (ix) manner of preparing the annual budget estimates by the State Board and by the Regional Board ;
- (x) laying down conditions under which management of elementary schools shall vest in the local authority ;
- (xi) laying down the form of register of children to be maintained by a local authority ;
- (xii) laying down conditions under which administration of elementary education has to be carried out in the autonomous districts ;
- (xiii) laying down conditions for placing of funds with different authorities constituted under this Act ;
- (xiv) manner of disbursing funds by a local authority or by any other authority constituted under this Act ;
- (xv) terms and conditions of service of the establishment of the Regional Board and the State Board ;
- (xvi) payment of contribution to the provident fund in respect of the employees of the State and of the Regional Boards ;
- (xvii) laying down the conditions of taking over of the Government Schools by the State Board ;
- (xviii) conditions of payment of other liabilities that a Regional Board or the State Board has to make ;

- (xix) manner of keeping accounts by a Regional Board and District Council or local authority ;
- (xx) laying down conditions of taking over of assets of the State Board by a Regional Board;
- (xxi) laying down the manner procedure and authorities for taking disciplinary action ;
- (xxii) fixing the limits of the age for a child ;
- (xxiii) manner of preparation of details as required under section 46 ;
- (xxiv) fixation of powers, duties and responsibilities of the various offices including attendance authorities ;
- (xxv) fixation of time and manner of serving attendance order on guardians.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree 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.

Repeal
and savings.

56. (1) The Assam Elementary Education Act, Assam Act
1962 is hereby repealed. XXX of
1962.

(2) Notwithstanding the repeal all authorities constituted, appointments, rules, orders or notifications made under the said Act shall be deemed to be constituted or made under this Act, and continue to function or to be in force until actions under the provisions of this Act are taken.

(3) Any of the provisions of the Assam Municipal Act, 1956 and the Assam Panchayat Act, 1959 which is repugnant to any of the provisions of this Act shall stand repealed. Assam Act
XV of 1957
and Assam
Act XXIV
of 1959.