

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW JUSTICE PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 15th January 2014

No. LD/Legis/25-35/2014. The following Act of Assembly received the assent of the President on 09 day of January, 2014, is hereby published for general information.

(ACT IIT OF 2014)

An

Act

to constitute and organize the Board of District Elementary Education in Azad Jammu and Kashmir

WHEREAS It is expedient to constitute and organize the Board of District Elementary Education in the Districts of Azad Jammu and Kashmir for the purposes to harmonize the standard of education at elementary level and to conduct examination thereof for the Government as well as private institutions;

It is hereby enacted as follows:-

1. Short title, Extent and Commencement.- (1) This Act may be called the Board of District Elementary Education of Azad Jammu and Kashmir Act, 2014.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once and shall be deemed to have taken effect from 23.09.2013.

2. Definition.-In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

(a) 'Board' means the Board of District Elementary Education of the district constituted under this Act;

(b) Chairman' means Chairman of the Board;

(c) 'Committee' means a Committee constituted under this Act;

(d) 'Controller of Examination' means the controller of Examinations of the Board;

(e) 'Controlling Authority' means the controlling Authority

specified in Section 12;

(f) 'District'? means the District of the Azad Jammu and Kashmir;

(g) 'Director Public Instructions' means the Director Public Instructions of the Government;

(h) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(i) 'Head of an Institution' means the principal of a college or the headmaster or headmistress of a school;

Gg) 'Elementary Education' means education pertaining to class (v) and class (VIID);

(k) 'Member' means a member of the Board;

6)) 'Prescribed' means prescribed by the rules made under this Act;

(m) 'Recognized' means recognized by the Board;

(n) "Rules and Regulations' means respectively the rules and regulations made or deemed to have been made by the Board under this Act;

(0) 'School ' means an Institution recognized for the Elementary and Secondary Education;

(p) 'Secondary Education' means education pertaining to Class V and class VIII and such other classes as may be declared by Government to be classes of Secondary Education;

(q) 'Secretary' means the Secretary of the Board;

(r) 'Institution' means the institutions established by the Government or in private sector and are responsible for teaching Elementary Education;

(s) 'Private Institution' means privately managed institutions.

Establishment of the Board. - (1) There shall be the Board of District Elementary Education for each District to be constituted under this Act. .

(2) The Board shall be a body corporate and shall have perpetual succession and a common seal with power to acquire and hold property and to transfer the same and may sue or sued by its corporate name.

Constitution of the Board.- (1) The Board shall consist of the following members, namely:

(i) The Chairman;

(ii) two District Education Officers each from amongst the male and female officers;

(iii) two Principals/Headmasters/Headmistresses of an Institution nominated by the Controlling Authority;

(iv) one Member nominated by the Controlling Authority from amongst retired educationist of BPS-18 and above; and

(v) two Members nominated by the managing body of privately managed Institution.

(2) The names of nominated Members shall be notified in official Gazette.

Terms and Conditions.-(1) The terms of office of Members other than ex-officio Members shall be three years.

(2) No Member appointed by virtue of his office shall continue to be a member, if he ceases to hold an office.

(3) When a person ceases to be a Member of the Board, he shall cease to be a member of any of the committees of which he may be a member.

Resignation of a Member.-A Member of the Board may resign his membership by a letter addressed to the Chairman:

Provided that the resignation shall not have effect until it is accepted by the Controlling Authority.

Removal of a Member.-(1) A member shall be removed by the controlling Authority, if he;

(i) becomes of unsound mind; or

(ii) is declared insolvent by a competent court; or

(iti) is convicted by a criminal court of an offence involving moral turpitude; or

(iv) is found negligent in the discharge of his functions.

(2) The decision of the Controlling Authority removing a Member from his office under sub- section (1) shall be final and shall not be questioned by or before any court or other authority.

Casual Vacancies.- (1) Whenever there occurs a vacancy in the membership of the Board due to death, resignation or removal, it shall be filled in accordance with the provisions of this Act.

(2) The person who fills the vacancy shall be the Member of the Board for the remaining term of three years.

Meeting of the Board.-(1) The Chairman may, whenever he considers necessary, and shall on a requisition from at least five

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Members of the Board, call a meeting of the Board.

(2)

The quorum for meetings of the Board shall be five.

Jurisdiction of the Board.-The Board shall exercise its powers over the Institution within the territorial limits of the concerning

District.

Powers of the Board.-(1) Subject to this Act the Board shall have powers to organize, regulate, develop and control Districts Elementary examinations.

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The Board shall be responsible:

to hold and conduct all examinations, pertaining to Elementary Education in Azad Jammu and Kashmir;

to lay down conditions for admission to its examinations, to determine the eligibility of candidates and to admit them to such examinations;

to grant certificates who have passed its examinations and to withdraw such certificates;

to fix, demand and receive such fees as may be prescribed;

to constitute and award scholarships, medals and prizes in accordance with the Regulations and Rules;

to organize and promote co-curricular activities for
Recognized Institutions;

to hold, control and administrate its property and funds;

to enter into and carry out contracts in exercise of its
powers and in the performance of its duties under the
Act and Regulations;

to pass the annual budget;

to transfer any movable and immovable property
belonging to it;

to hold and manage endowment;

to regulate and decide all administrative matters,
including the creation and abolition of posts under the
Board, except matters relating to the appointment,

suspension, removal and matters relating to condition of
the service of the officers of the Board:

Provided that a post above the BPS-9 shall not
be created without the prior approval of the Controlling

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Authority;

(xiii) to assign such duties as it may consider necessary for the performance of its functions and conditions of service;

(xiv) to make provision for building, premises, furniture, apparatus, books and other means required for carrying out the purposes of this Act;

(xv) to sanction or incur such expenditure as may be necessary to carry out the purposes of this Act; and

(xvi) to do all other functions necessary for carrying out the purposes of this Act.

(3) The Board may delegate any of its powers to the chairman or any officer of the Board or to a Committee or sub-committee nominated by it, as it may deem fit.

(4) The Board shall not make any rule or allow any concession, benefit, privilege or allowance to any person which is not in conformity with the rules enforced by the Government on similar matters.

Controlling Authority.-Secretary of the Government Education Department (Schools) shall be the Controlling Authority of Board.

Powers__of Controlling Authority.-(1) The Controlling

Authority shall have the powers to cause an inspection to be made by such person(s) as it may direct, of the offices, activities and funds of the examinations conducted by the Boards and to cause an enquiry to be made in like manner in respect of any matter concerning the Board, or the discharge of functions of the Member, officers and the employees of the Board.

(2) The Controlling Authority may at any time suspend a Member, an officer or an employee of the Board.

(3) The controlling Authority shall communicate to the Board the result of such inspection or enquiry and may advise the Board to take such action within such period as may be specified.

(4) The Board shall report to the Controlling Authority, the action, it proposes to take or has taken on such communication.

(5) Where the Board does not, within a specified time take action to the satisfaction of the Controlling Authority, the

Controlling Authority may, after considering any explanation made by the Board, issue such direction as it thinks appropriate, and the Chairman shall comply with such directions.

(6) If the Controlling Authority is satisfied that any proceeding of the Board or a Committee is not in conformity with the provisions of this Act or Regulations, the Controlling Authority may, without prejudice to the provisions of this Act, by order in writing, annul such proceeding:

Provided that before making any such order the Controlling Authority shall, through the Chairman, call upon the Board or the Committee, as the case may be, to show cause why an order should not be made.

(7) The Controlling Authority may, from time to time direct the Board to conduct its affairs and to perform its functions in such manner as may be specified.

(8) The Controlling Authority may, require the Board to furnish it with,-

(i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board; or

(ii) a report on any such matter; or

(iii) a copy of any document in the charge of the Board, and

the Chairman shall comply with every such requisition.

(9) Notwithstanding anything to the contrary contained in this Act, the Controlling Authority may,-

(a) place the services of any of the officers or other employees of the Board at the disposal of other Boards for such period and on such terms and conditions as may be determined by it immediately before the transfer:

Provided that such terms and conditions shall not be less favorable than those admissible;

(b) make appointment to any post in the Board in any capacity from persons in the service of the Government, as may be prescribed;

(c) make regulations concerning efficiency and discipline of officers and other employees of the Board; and

(d) remove from service any employee of the Board:

Provided that no such employee shall be removed from service without being given an opportunity of being heard:

Provided further that where the Controlling

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Authority has initiated any such proceeding against any such employee, no other person including the Board shall have powers to initiate any proceedings or take any steps in the same matter.

Officers of the Board.- The following shall be the Officers of the Board who shall execute the decisions of the Board:-

(i) The Chairman of the Board;

(ii) The Secretary;

(iii) The Controller of Examinations;

(iv) Secrecy Officer; and

(v) such other officers as may be appointed by the Board.

Chairman.-(1) The Chairman shall be appointed from amongst the District Education Officers cadre of Elementary and Secondary Education Department on such terms and conditions as may be determined by the Government.

(2) If at any time the office of the Chairman is vacant temporarily or otherwise, by reason of leave, illness or other cause, for a period not exceeding one year, the Controlling Authority shall make such arrangements for carrying on the duties of the office of the Chairman as it may think fit.

(3) The Chairman shall be the principal executive and academic officer of the Board and shall, when present preside at the meetings of,-

(i) The Board;

(ii) the committees of the Board constituted under Section 18.

(4) It shall be the duty of the Chairman to ensure that the provisions of this Act and the Regulations and Rules are faithfully observed and carried out, and shall exercise all powers necessary for this purpose.

(5) In any emergency arising out of the administrative business of the Board and requiring in the opinion of the Chairman immediate action, the Chairman may take such action as he may deem necessary and shall report the action so taken to

the Board at its next meeting for approval.

(6) The Chairman shall exercise such other powers as may be prescribed by Regulations.

Secretary and_ Controller of Examination.- (1) The Secretary, the Controller of Examination and the Secrecy

officer shall be whole-time salaried officers of the Board and

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shall be appointed by the Controlling Authority on such terms and conditions as it may determine.

(2) The Secretary, the Controller of Examination and Secrecy Officer shall hold office for a term of three years from the date of notification of their appointments and shall be eligible for re-appointment for such further period not exceeding three years, as may be specified in the order of re-appointment:

Provided that the Controlling Authority may, at any time, review the work of the Secretary, the Controller of Examinations and the Secrecy Officer and if on such review it is satisfied that in the interest of the Board, or for any other sufficient cause it is necessary so to do, it may, after giving the Secretary or Controller of examinations, or the Secrecy Officer, as the case may be, an opportunity of showing cause against the proposed action, reduce the term of office to such period as it may determine.

(3) The terms and conditions of service of the Secretary, the Controller of Examinations and the Secrecy Officer and their powers and duties shall be such as may be Prescribed.

Other Officers.- Subject to the provisions of the Act, the powers and duties of other officers of the Board shall be such as may be determined by the Board.

Committee_of_ the Board.-(1) The Board shall have the following Committees, namely:

(60) The Academic Committee;

(ii) the Finance Committee;

(iii) the Appointment Committee;

(iv) committee for appointment of Paper Setters and head Examiners; and

(v) such other Committees as may be Prescribed.

(2) Committee may appoint such sub-committees as it may deem necessary.

Constitution, Function and Duties of the Committees.- The constitution, function and duties of the Committees mentioned in sub-section (1) of Section 18 shall be such as may be prescribed

by Regulations.

Powers of the Board.- (1) The Board may, subject to the approval of the Government, frame Regulations, not inconsistent with the provisions of this Act to carry out the purposes of this

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Act, provided that:

(i) The Board shall not propose draft of Regulations affecting the constitution of power of any authority of the Board until such authority has been given an opportunity of expressing an opinion in writing upon the proposals; and

(ii) the draft of Regulations shall be forwarded to the Controlling Authority and shall not be effective until it has been approved by the Controlling Authority.

(2) In particular and without prejudice to the generality of the foregoing powers such Regulations may provide for,-

(a) the terms and conditions of service of the employees of a Board, including matters relating to grant of leave, and retirement of such employees;

(b) the constitution of pension or provident fund or both for the benefit of the officers and other employees of the Board;

(c) all other matters required under any of the provisions of this Act to be Prescribed by Regulations.

Power of the Board to make Rules.-The Board may make Rules consistent with this Act to provide for:

(i) The report/information to be furnished by them;

(ii) the conditions of admission of candidates to the examinations and eligibility for certificates;

(iii) the manner and the form in which account of the Board shall be maintained; and

(iv) such other matters as may be required under the Regulations to be provided under this Act.

Funds.- The Board shall have a fund to which shall be credited all its income including income from fees, endowments, grants and contributions.

Accounts and Audit.-(1) The accounts of the Board shall be maintained in such form and in such manner as may be

prescribed by Rules.

(2) The accounts of the Board shall be audited in such manner as may be prescribed by the Regulations.

(3) The Board shall, as soon as possible at the end of every financial year, prepare and submit to the Controlling Authority

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the annual statement of its accounts duly audited together with the report of the auditor.

(4) The Controlling Authority shall submit to the Government the annual statement of accounts received from the Board under sub-section (3).

Provident Fund.-(1)The Board shall establish for the benefit of its employees a provident fund in such manner and subject to such conditions as may be prescribed by Regulations.

(2) The Government may, by notification in the Official Gazette declare that the provisions of the Provident Fund Act, 1925 (Act XI of 1925) shall apply to such fund, and making of such declaration that Act shall apply accordingly as if the Board were Government and the said Fund were the Government Provident Fund.

Submission of Yearly Reports and Returns.-The Board shall submit to the Controlling Authority as soon as possible at the end of every financial year but not later than the 30th September, a report on the conduct of its affairs for that year.

Member _prohibited_ from deriving monetary gains.-No member of the Board shall draw any fee or other remuneration in any capacity whatever from the funds of the Board or enter into any contract with the Board directly or through any other persons in connection with the affairs of the Board:

Provided that the emoluments of the Chairman shall, under the terms and conditions of his appointment, be paid from the funds of the Board:

Provided further that a member of a Committee may receive from the Board remuneration in lump sum for writing, compiling or editing a book included to be prescribed for an examination of the Board.

Bar_against Membership.-No person who has any financial interest in any book prescribed by the Board as a course of study for examination conducted by the Board or has a financial interest as a partner or otherwise in any firm which publishes, procures or supplies any such book, shall be eligible to become a

member of the Board or a committee, or continue as such after having acquired any such interest.

Non-compliance with certain formalities/requirements not be invalidate actions.- No Act or proceedings of the Board or any Committee shall be invalidated merely by reason of the existence of vacancy on the Board or the Committee as the case may be, or

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by reason of any irregularity in the appointment of any member of the Board or the Committee.

Bar of suits.-No act done, orders made or proceeding taken by the Board in pursuance of this Act shall be called in question in any Court.

Members and Employee of Board deemed _to be Public Servants- Members of the Board and the Committees

constituted under this Act, the employees of the Board and other persons appointed for carrying out the purpose of this Act, shall be deemed to be public servants within the meanings of Section 21 of the Azad Penal Code.

Protection of Acts and Orders.-No suit for damages or other legal proceedings shall be instituted against the Government, Controlling Authority, the Board, any Committee, any member of the Board or Committee, or an officer or an employee of the Board in respect of anything done or purported to have been done in good faith in pursuance of the provisions of this Act and the Regulations and Rules made thereunder.

Transitional Provisions.-(1) From the date of commencement of this Act and till such time as the nominated Members are appointed, the Chairman and the ex-officio members shall exercise all the powers and perform all the duties of the Board and its Committees.

On the appointment of the nominated Members, the Board shall exercise all powers and perform duties of the Committees of the Board up to the time the Committees are constituted.

If any difficulty arises in giving effect to the provisions of this Act, the Controlling Authority may take such action to remove the difficulty as it deems necessary.

Repeal.-The Board of District Elementary Education of Azad Jammu and Kashmir Ordinance, 2013 (Ordinance XCII of 2013)

is hereby repealed.

Sd/-
(Ch. Muhammad Nawaz)
Section Officer Law