



Government of Bombay
Legal Department

Bombay Act No. IV of 1923
The Bombay Primary Education
Act, 1923

(As modified up to the 15th March 1930)

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PREFACE.

The Bombay Primary Education Act, 1923 (Bombay IV of 1923), has been amended by Bombay Act No. XV of 1927.

In reprinting the Act the amendment has been inserted with an explanatory foot-note.

THE BOMBAY PRIMARY EDUCATION ACT, 1923.

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BOMBAY ACT No. IV OF 1923. [a]

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 22nd February 1923.)

An Act to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Bombay Presidency.

WHEREAS it is the declared policy of the Government that universal, free and compulsory elementary education for boys and girls should be reached by a definite programme of progressive expansion and WHEREAS it is expedient to provide for a progressive development and expansion of primary education so as to reach that goal on lines recommended by the Compulsory Education Committee of 1921 appointed by the Government, and WHEREAS it is expedient for this purpose to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Presidency of Bombay and WHEREAS the previous sanction of the Governor General required by clause (e) of sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; it is hereby enacted as follows:—

1. (1) This Act may be called the **Bombay Primary Education Act, 1923.** Short title and extent.

(2) It extends to the whole of the Bombay Presidency except the City of Bombay.

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

“approved school” means a school or part of a school in which instruction in elementary education is given and which is for the time being approved by the school board or by the

[a] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Pt. V, p. 166; for Report of the Select Committee, see *ibid* pp. 236, 260 and 267; and for Proceedings in Council, see *Council Debates*, 1922, vol. vii, pp. 389-412, 424-464, 466-501, 503-534, 1113-1128, 1133-1174, 1176-1219, 1216-1286 and 1288.

(Secs. 2-3.)

Government on appeal from a decision of the school board refusing approval ;

“ area of compulsion ” means the area in which elementary education is compulsory ;

to “ attend ” an approved school means to be present for instruction at such school on such days and at such time and for such periods on each day as may be required by the school board with the approval of the Government ;

“ child ” means a child whose age at the beginning of the school year is not less than six and not more than eleven years ;

“ elementary education ” means the education from time to time imparted in infant classes and vernacular standards I to IV inclusive as prescribed or sanctioned under section 17 ;

“ local authority ” means a district local board or a municipality which is authorised by the Government to manage its own schools and includes in the case of Aden, the Executive Committee of Aden ;

“ parent ” includes a guardian and any person who has the actual custody of a child ;

“ prescribed ” means prescribed by rules made by the Government for the purposes of this Act.

3. (1) For every local authority there shall be a school board. The school board shall be constituted as prescribed and shall consist of not less than seven and not more than nine elected members, if the local authority is a municipality, and not less than nine and not more than sixteen elected members if the local authority is a district local board. The members shall be elected by the local authority and shall, so far as may be, include persons experienced in education, women, representatives of minorities, backward classes, and depressed classes and, if the local authority is a district local board, representatives of municipalities in the district which are not local authorities

(Sec. 4.)

Such members shall not necessarily be members of the local authority.

Explanation : Backward and depressed classes shall mean classes so declared by the Government.

(2) The Government may appoint not more than three additional members if the local authority is a municipality and not more than four if the local authority is a district local board.

(3) The term of the school board shall be co-extensive with the term of the local authority ; and at the end of such term the members of the school board shall vacate office, provided that they shall continue in office till a new school board is appointed.

(4) Casual vacancies during the terms of the school board shall be filled by election or nomination as the case may be for the remaining period.

4. (1) From such date as the Government may direct in this behalf in respect of each school board, and subject to the general control of the local authority, the school board shall exercise and perform such powers and duties as may be enacted in or prescribed under this Act. Powers and duties of school boards. Commencement.

(2) The school board shall exercise the powers and perform the duties of the local authority for which it is constituted in respect of primary education and if the local authority is a district local board, it shall also exercise the like powers and perform the like duties of the municipalities in the district which are not local authorities. The school board shall also enforce the provisions of this Act.

(3) The school board shall submit its annual budget and all alterations therein for the sanction of the local authority.

(4) The school board shall further exercise such powers and perform such duties in respect of any educational purpose as may be delegated to it by the local authority or any such municipality as aforesaid.

(Secs. 5-7.)

(5) The school board shall elect its chairman from amongst the members of the board.

5. The school board may from time to time delegate any of its powers and duties to any sub-committee or member or honorary or stipendiary officer of the board; such committee, member or officer shall conform to any instructions that may from time to time be given by the school board; the board may at any time discontinue or alter the constitution of any sub-committee so formed or withdraw any of the powers or duties so delegated.

6. (1) Every municipality which is not a local authority shall on a date to be notified by the Government in this behalf transfer to the district local board of the district in which it is situate all primary schools, with their lands, buildings, records and equipment, which vest in it and shall pay over annually to the said district local board for educational purposes such amount as may from time to time be fixed by the Government on the basis of the number of children of the municipal district receiving primary education from the district local board, and the income accruing from any funds (including trust funds) held and all monies received by it for purposes of primary education.

(2) If any such municipality is at any time authorized by the Government to manage its own schools, the district local board of the district shall on a date to be notified by the Government in this behalf transfer to such municipality all primary schools, with their lands, buildings, records and equipment, situated in the area subject to such municipality; and such municipality shall from the aforesaid date no longer be liable to make the payments required by sub-section (1).

7. Where in any municipality a school committee has been appointed under section 28 of the Bombay District Municipal Act, 1901, the control by that committee of primary education shall from a date to be notified by the Government in this behalf cease.

(Secs. 8-9.)

8. (1) A local authority shall take over and employ such primary school teachers employed under the Educational Department of the Government as the Government may direct, on the same terms and conditions on which such persons were employed under the said department.

Absorption of existing educational staff by local authorities ; services of such officers shared by local authorities.

(2) The existing and future rights, liabilities, duties and powers of the Government in respect of such teachers shall vest in and be exercised or performed by the local authority :

Provided (a) that any such teacher shall have a right of appeal to the Government against any order of dismissal ;

(b) that the scales of pay and allowances applicable to such teachers at the time at which they are taken over and employed by the local authority shall not be altered without the previous sanction of the Government.

(3) A local authority shall make such payments to such other local authority as the Government may direct in respect of services rendered to such authority by any teacher taken over by such other authority under the provisions of sub-section (1).

(4) The provisions of this section shall apply to all primary school teachers employed under the Educational Department of the Government on or before the first July 1923 or on or before the date prescribed under section 4, sub-section (1), which ever shall be later.

9. (1) The local authority shall, [“]after inviting and considering the suggestions, if any[^a] of the school board and with the approval of the Government, appoint an officer who shall be called the School Board Administrative Officer. He shall be the chief executive officer of the school board and his pay, powers and duties shall be determined by rules made in this behalf by the local authority and sanctioned by the Government.

School Board Administrative Officer.

[a-a] These words were substituted for the original words by Bom. XV of 1927, s. 2.

(Secs. 10-11.)

(2) No such officer shall, save with the previous sanction of the Government, be removable from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors.

Declaration by local authority of intention to provide compulsory elementary education.

10. (1) A local authority may by resolution declare its intention to provide compulsory elementary education in the whole or any part of the area subject to its jurisdiction in the case of children of either sex or both sexes and, if the local authority is a district local board, in any area subject to the jurisdiction of a municipality situate in the district which is not a local authority and shall submit its proposals to the Government in the form of a scheme.

(2) A local authority, if called upon by the Government so to do, shall within a time to be specified by the Government submit a scheme to provide compulsory elementary education in such area as above as the Government may direct and in the case of children of either sex or both sexes as the Government may specify.

(3) Every local authority shall, within the prescribed period, prepare as complete a programme as possible for the universal introduction of compulsory education within the area subject to its jurisdiction within a definite period.

Particulars to be contained in scheme.

11. The scheme shall contain the following particulars:—

- (a) the area of compulsion ;
- (b) a census of children of either sex or both sexes residing within such area and classified by communities and vernaculars ;
- (c) a list of existing and proposed schools indicating the private schools which will be approved schools ;
- (d) a schedule of existing and proposed teaching, inspecting and supervising staff ;

(Secs. 12-14.)

(e) the manner in which provision will be made for the compulsory elementary education in their vernaculars of the children of all communities in the area of compulsion ;

(f) the recurring and non-recurring cost of the scheme and how the local authority proposes to meet its share of it ; and

(g) if there is a municipality which is not a local authority within the area of compulsion, the annual contribution which the municipality in the opinion of the local authority should make.

12. The Government may after such enquiry as shall seem necessary sanction such scheme with or without modification.

Sanction of Government to scheme.

13. (1) If the scheme is sanctioned the Government shall bear half of the additional recurring and non-recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the said cost if the local authority is a district local board ; but the liability of the Government shall not exceed half or two-thirds, as the case may be, as it was estimated by the local authority.

Government to make financial provision for scheme.

(2) Nothing in this section shall affect the claim of any local authority to any annual grant which at the time this Act comes into operation is being paid to it by the Government for purposes of primary education, provided that if the Government consider that the educational fund of any local authority has been or is about to be misused or misapplied, they may call upon such local authority for an explanation of such misuse or misapplication ; and if not satisfied with the explanation given may make such reduction in the grants payable to such local authority as they deem proper.

14. When a scheme has been sanctioned the local authority shall make adequate provision for compulsory elementary education within the area of compulsion and no fee shall be charged in any school within such area managed by the school board in respect of the elementary education of any child.

Duty of local authority.

(Secs. 15-18.)

Modification,
etc., of
scheme after
sanction.

15. A sanctioned scheme may with the sanction of the Government be withdrawn or from time to time modified by a local authority or may by an order published with the reasons for making it in the *Bombay Government Gazettee* be modified, cancelled or temporarily suspended by the Government.

Inspection
of schools.
Returns.

16. (1) Every approved school and every primary school maintained or aided by a local authority shall be open during school hours to inspection by the inspecting officers of the Government and of the local authority, for the purpose, in particular, of ascertaining—

(a) whether instruction is given as prescribed or sanctioned under section 17 ;

(b) whether any instruction of a pernicious nature is given ;

(c) whether the provisions of the Act for the compulsory attendance of children are being carried out ; and

(d) whether the prescribed registers and records are being maintained.

(2) The school board in respect of any such school maintained by a local authority, and the manager of any other such school shall furnish such returns and supply such information as the Government or the local authority may from time to time require.

Subjects, curricula, etc., of approved schools.

17. The subjects, curricula, books and standards of teaching of approved schools and other primary schools maintained or aided by a local authority shall be as prescribed but may be altered by the school board with the sanction of the Government to suit local requirements.

Duty of parents to cause children to attend school.

18. In every area of compulsion the parent of every child to whom a scheme applies shall in the absence of a reasonable excuse as hereinafter provided and if such parent and child ordinarily reside in such area cause such child to attend an approved school in such area.

(Secs. 19-20.)

19. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend an approved school in any of the following cases:—

Meaning of reasonable excuse.

(a) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause;

(b) where the child is receiving, otherwise than in an approved school, instruction which in the opinion of the school board is efficient, or has received from the school board a certificate of having already completed his elementary education;

(c) where there is no approved school within a distance to be fixed by the Government in consultation with the school board and measured according to the nearest road, from the residence of the child;

(d) where after due application, entrance to an approved school has been refused to the child and there is no other approved school to which he can be admitted within the distance fixed under clause (c) until such time as the parent is notified that the child can be admitted;

(e) where there is no approved school in the locality in which instruction is given in the vernacular of the child;

(f) where there is no approved school in the locality to which the parent can send the child without exposing it to religious instruction to which the parent objects.

20. (1) Where the school board is satisfied that the parent of any child who is bound under the provisions of section 18 to cause such child to attend an approved school, has failed to do so, the school board, after giving the parent an opportunity of being heard and after such enquiry as it considers necessary, may pass an order directing the parent to cause such child to attend an approved school on and from a date which shall be specified in the order.

Issue of attendance order.

(Secs. 21-22.)

(2) This power may be delegated by the school board to a person or committee appointed by it.

Penalty for failure to cause child to attend school.

21. (1) Any parent against whom an order with reference to a child has been passed under section 20 and who fails to comply with the provisions of section 18 with respect to such child on and after the date specified in such order shall, if he resides in a town or village where there is a magistrate, on conviction by such magistrate, and, if he resides elsewhere, on conviction by a revenue or police patel or other person empowered in this behalf by the District Magistrate, be liable to a fine not exceeding two rupees and, if such failure continues after such conviction, he shall also on conviction by such magistrate, patel or person be liable to a fine of eight annas for every day that the failure continues or is repeated.

(2) No magistrate, patel or person shall take cognizance of an offence under sub-section (1) except on the complaint of the authority or person who passed the order under section 20, or by any person authorised by the said board in this behalf.

Penalty for employing child liable for compulsory education.

22. (1) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any other person, any child in respect of whom the provisions of section 18 apply, so as to interfere with the efficient instruction of such child, shall, on conviction before a magistrate, be liable to a fine not exceeding twenty-five rupees.

(2) No court shall take cognizance of an offence under this section except on the complaint of the school board or the School Board Administrative Officer or any person authorized by the said board or officer in this behalf; and before making any complaint under this section against any person, the school board or the School Board Administrative Officer or such person shall, unless such person has previously been convicted under this section in respect of the same child cause a warning to be given to such person.

(Secs. 23-26.)

23. (1) If a fine imposed under section 21 or 22 by a magistrate, patel or person is paid, it shall be credited to the local authority and applied by the said authority for educational purposes.

Fines how
dealt with.

(2) If such fine be not paid the amount thereof shall be recoverable by the local authority in the same manner as an amount claimed on account of a tax.

24. An appeal from a conviction under section 21 by a patel or person shall lie to the nearest magistrate having jurisdiction in the town or village where the appelland resides.

Appeal.

25. The Government may by notification in the *Bombay Government Gazette* exempt children of either sex of any particular class or community in any area of compulsion or part thereof from the operation of this Act.

Power to
exempt
particular
classes.

26. (1) If a local authority when called upon makes default in preparing a scheme or after a scheme has been sanctioned omits to make adequate provision for compulsory elementary education in accordance with a scheme as sanctioned and to bring into operation or continue to keep in operation such scheme, the Government may after due enquiry appoint a person to prepare the scheme or to bring it into operation or to continue to keep it in operation as the case may be, and the expense thereof shall be paid by the local authority to the Government.

Default
by local
authority.

(2) If the expense is not so paid the Government may make an order directing any person who has for the time being custody of any moneys on behalf of the local authority either as banker or in any relation to pay such expense from such moneys as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

(Sec. 27.)

27. (1) The Government may by notification in the *Bombay Government Gazette* make rules regulating—

(a) the exercise and performance of the powers and duties of local authorities, municipalities which are not local authorities, school boards and School Board Administrative Officers and their relations with the Government Educational Department and with each other in educational matters ;

(b) the maximum and minimum pay, the grant of pension or provision of provident funds, the grant of leave and other conditions of service of, to or for the teaching, inspecting and supervising staff employed by a local authority ;

(c) matters to be prescribed under the Act.

(2) Rules made under sub-section (1) shall be made after previous publication.

(3) The local authority may from time to time with the sanction of the Government make regulations not inconsistent with the provisions of this Act and the rules thereunder for carrying out the purposes of this Act ; in particular and without prejudice to the generality of the foregoing provisions, the local authority may make regulations—

(a) including in the curriculum of primary education courses of practical instruction suitable to local needs ;

(b) for the instruction in experimental science, modelling, nature study, manual training, and prevocational work including household science of children of any age receiving primary education ;

(c) for the physical and moral training of children of any age receiving primary education ;

(d) determining the pay and terms of employment of the teaching, inspecting and supervising staff and regulating the administration and management of primary schools ;

(*e*) for the supply of books, slates and educational requisites to indigent children of any age receiving primary education ;

(*f*) prescribing prevocational courses as a part of upper primary education.

Bom.
I of
1918. **28.** The Bombay Primary Education (District Municipalities) Act, 1918, is hereby repealed : Repeal of
Bom. I of
1918.

Provided that in any municipal district where a notification under section 3 of that Act has issued the provisions of this Act shall from the date of repeal have effect as though the municipality had followed the procedure described in this Act.