

SIKKIM

GOVERNMENT



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LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 18/LL/78

Dated Gangtok, the 26th September, 1978.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 25th day of September, 1978 is hereby published for general information.

SIKKIM ACT No. 19 OF 1978

THE SIKKIM BOARD OF SCHOOL EDUCATION ACT, 1978.

AN

ACT

to provide for the establishment of a Board of School Education to prescribe curricula, text-books and other instructional materials for schools and to conduct examinations at the school level in the State of Sikkim.

Be it enacted by the Legislature of the State of Sikkim in the Twenty-ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Sikkim Board of School Education Act, 1978. **Short title & Commencement.**
 - (2) It shall come into force on such date as the State Government may, by notification, appoint.
2. In this Act and in all Regulations made hereunder, unless there is anything repugnant in the subject or context:
 - (a) "Board" means the Sikkim Board of School Education established under this Act,
 - (b) "Fund" means the Sikkim Board of School Education fund, constituted under Section 22 of this Act,
 - (c) "Notification" means a notification under this Act published in the Official Gazette,
 - (d) "President" means the president of the Board,
 - (e) "Regulation" means a Regulation made under this Act,
 - (f) "Secretary" means the Secretary of the Board,
 - (g) "State Government" means the Government of the State of Sikkim,
 - (h) "Prescribed" means prescribed under the Regulations made under this Act,
 - (i) "Head of Institution" means the head of an educational institution of school level in the State by whatever name he be designated,
 - (j) "Employee" means a full or part-time employee engaged permanently or temporarily for the purpose of assisting in the work of the Board,
 - (k) "Text-book" means any book prescribed or recommended for an examination by the Board,

- (1) "Registered Teacher" means a teacher who is registered as a teacher in pursuance of a regulation made in that behalf by the Board.
3. (1) The State Government shall, as soon as may be, after this Act comes into force, establish a Board named the Sikkim Board of School Education. **Incorporation of the Board.**
- (2) The Board shall be a body corporate, with perpetual succession and a common seal and shall be entitled to acquire, hold and dispose of property, to enter into contract and to do all other things necessary for the purposes of this Act and shall by the said name sue and be sued.
4. (1) The Board shall consist of the following:— **Constitution of the Board.**
- (i) The Director of Education, Sikkim-President (ex-officio),
- (ii) The Principal of the Government Degree College, Gangtok - Member (ex-officio),
- (iii) The Principal, T.N. Academy, Gangtok - Member (ex-officio),
- (iv) Seven heads of institutions nominated by Government, at least two of whom shall be women - Members,
- (v) Two District Education Officers nominated by the State Government - Members,
- (vi) Three persons interested in education nominated by the Government,
- (vii) A representative of the Finance Department of the Government not below the rank of a Deputy Secretary nominated by the Government.
5. The names of the persons nominated as members of the Board shall be published by notification by the State Government. **Publication of the names of members.**
6. (1) A person shall not be eligible for nomination or co-option as a member of the Board or of the Committees formed by it, if he - **Disqualification for membership.**
- (a) has been adjudged by a court of law to be of unsound mind;
- (b) has been convicted by a court of law for an offence which is declared by the State Government to be an offence involving moral turpitude;
- (c) has directly or indirectly, any interest in publication of text-books intended to be prescribed or recommended by the Board for use in schools recognised by the Board.
- (2) If a nominated or co-opted member of the Board or of any Committee formed by it becomes subject to any of the disqualifications specified in sub-section (1) his membership shall thereupon cease.
- (3) All disputes relating to the eligibility of any person for nomination or co-option shall be referred to the State Government whose decision on such matters shall be final.
7. (1) Nominated members of the Board shall hold office for a term of three years from the date of Notification published under Section 5. **Term of office of members.**
- (2) A member nominated in his capacity as holder of particular appointment, shall cease to be a member if he ceases to hold that appointment.
8. (1) A member of the Board, other than an ex-officio member, may resign his seat by giving notice thereof in writing to the President, and such member shall be deemed to have vacated his seat from the date of acceptance of his resignation by the State Government. **Resignation of members and filling up of vacancies etc.**
- (2) In the event of a vacancy occurring by resignation, disqualification or death of a member, such vacancy shall be filled up, by nomination, as soon as may be, in the manner provided in Section 4.
9. The Board shall meet as frequently as would be necessary to transact its business, but the intervening period between any two consecutive meetings shall not ordinarily exceed fortyfive days. **Meetings of the Board.**
10. (1) The quorum for every meeting of the Board shall be five members. **Quorum : Proceedings not invalidated by reasons of vacancies.**
- (2) Subject to the provisions contained in sub-section (1) no act or proceedings of the Board shall be invalid merely by reason of the existence of any vacancy among the members of the Board.

11. Subject to any general or special order of the State Government, the provisions of this Act and any regulations made thereunder, the Board shall have the following powers:— **Powers and duties of the Board.**

- (1) to conduct examinations and grant diplomas and certificates to successful candidates;
- (2) to prescribe courses of instruction and text-books for examinations conducted by it;
- (3) to prescribe conditions for admission to examinations conducted by it;
- (4) to recognise institutions for purpose of its examinations with the concurrence of the State Government;
- (5) to demand and receive such fees as may be prescribed;
- (6) to make regulations for prescribing courses of instruction and text-books for study in institutions of school level in the State;
- (7) to make regulations for imposing penalties for misconduct of examinees, students and teachers and for negligence in work of examiners, paper setters and printing presses in connection with work done relating to examinations;
- (8) to submit to the State Government its views on any matter with which it is concerned or which the State Government may refer to it for advice;
- (9) to appoint part-time employees of the Board as may be necessary from time to time;
- (10) to institute and award scholarships, medals and prizes under conditions that may be prescribed and to accept endowments for the same, subject to such conditions as the Board may deem fit;
- (11) to organise and provide lecturers, demonstrations, educational exhibitions, educational excursions and to take such other measures as are necessary to promote the standards of school education in the State;
- (12) to appoint subject Committees to advise the Board in framing the courses of studies, prescription of text-books, appointment of paper-setters, moderators and examiners in different subjects of study, and
- (13) to do such other things as may be necessary to further the objects for which the Board has been constituted.

12. Notwithstanding anything contained in this Act—

Powers of the State Government.

- (1) The State Government shall have the right to address the Board with reference to anything conducted or done by the Board and to communicate to the Board its views on any matter with which the Board is concerned.
- (2) The Board shall report to the State Government such action, if any, as it proposes to take or has taken upon such communication.
- (3) If the Board does not, within a reasonable time, take action to the satisfaction of the State Government, it may, after considering any explanation furnished or representation made by the Board, issue such directions consistent with this Act, as it may think fit, and the Board shall comply with such direction.
- (4) In an emergency which, in the opinion of the State Government requires that immediate action should be taken, the State Government may take such action, consistent with this Act and the Regulations as it deems necessary without prior consultation with the Board and shall forth with inform the Board of the action taken.
- (5) The State Government shall have the power to suspend the Board and take over its functions, if in its opinion, the Board has persistently made default in the performance of the duties imposed upon it under this Act.

13. (1) The following shall be the officers of the Board:—

Officers of the Board.

- (i) The President
 - (ii) The Secretary
 - (iii) Such other Officers appointed to assist the Secretary, as may be necessary, from time to time.
- (2) The State Government shall appoint the Secretary of the Board and such other officers to assist him as it considers necessary.

14. The full time employees of the Board other than officers shall be appointed by the Board with the prior approval of the State Government. **Employees of the Board.**

15. (1) The President shall be the Chief Executive Officers of the Board. **Powers and duties of the President.**
- (2) The President shall, when present, preside over all meetings of the Board and the subject Committees constituted by the Board under this Act.
- (3) In case the President is unable to attend and preside over any meeting of the Board or a meeting of a Subject Committee, he may nominate in advance a member of the Board to preside in his place. In circumstances where such a nomination cannot be made, the members of the Board or Subject Committee present may elect one member from among themselves, to preside at the meeting.
- (4) It shall be the duty of the President to see that the provisions of this Act and the Regulations framed thereunder, are faithfully observed and he shall have all powers necessary for the purpose.
- (5) In case any emergency arises out of the administrative business of the Board, which in the opinion of the President requires that immediate action should be taken, he may take any action as he deems fit and report his action immediately to the State Government and to the Board at its next meeting.
- (6) The President shall have such powers as may be prescribed.
16. The Secretary shall:— **Powers and duties of the Secretary.**
- (1) Subject to the control of the President, act as the Head of the Board office.
- (2) be responsible for seeing that the orders of the Board are carried out,
- (3) be empowered to enter into all contracts on behalf of the Board,
- (4) be the custodian of the common seal and all properties and records of the Board,
- (5) be responsible for preparation of the Annual Report, Annual Statement of Accounts and Budget Estimates of the Board,
- (6) remain in charge of the funds of the Board and shall see that all moneys are expended on the purpose for which they are granted or allotted,
- (7) be the drawing and disbursing officer of the Board,
- (8) be responsible for keeping the minutes of the Board, its Subject Committees and Sub-Committees,
- (9) be responsible for the discipline and conduct of the Board Office,
- (10) conduct all official correspondence of the Board,
- (11) make all arrangements for conducting examinations of the Board,
- (12) deal with the applications and fees received from the candidate for admission to the examinations of the Board in accordance with the Regulations.
- (13) on behalf of the Board, issue under his signature, certificates to successful candidates,
- (14) remain in charge of the Library of the Board,
- (15) issue notices announcing text books prescribed and recommended for examinations of the Board,
- (16) render such assistance to the President as required by him, for performance of his duties,
- (17) perform such other duties as may required by the Board from time to time,
- (18) delegate, with the permission of the Board, such of his powers and functions to officers junior to him as will be considered by him to be necessary, and
- (19) exercise such other powers and perform such other duties as may be prescribed.
17. As soon as may be after the Board is established, it shall appoint, at a meeting of the Board Subject Committees for different subjects taught at the school stage in the State. **Subject Committees.**
18. (1) Each Subject Committee shall consist of not less than three and not more than seven members, chosen so as to represent as far as possible, teachers in the subject from different type of institutions spread over the State. **Membership, term, Quorum, meetings etc.**
- (2) The President and the Secretary shall be ex-officio members of all Subject Committees. The President shall preside over the meetings of every Subject Committee and the Secretary shall convene the meetings of the Committees.

- (3) The Board may, whenever it considers necessary, co-opt upto a maximum of two experts to any subject Committee. The co-opted members shall have right to vote.
- (4) The term of membership of Subject Committees shall be three years for an ordinary member and one year for a co-opted member.
- (5) The quorum for a meeting of any subject Committee shall be as near as one-third of the total membership of the Committee including the President, the Secretary and the co-opted members, if any.
- (6) The Subject Committees shall meet as often as it will be necessary to transact their business.
19. The first set of Regulations under this Act shall be made by the State Government to facilitate the initial working of the Board and shall be deemed to have been made by the Board. **First set of Regulations.**
20. Without prejudice to the generality of the foregoing powers, the Board may make regulations for all or any of the following matters, namely:— **Power to make regulations.**
- (1) the constitution, powers and duties of committees appointed under Section 17;
 - (2) marks required for passing in any subject and examination as a whole, and for credit and distinction in any subject,
 - (3) disciplinary measures for malpractices in examinations,
 - (4) fixing of fees and charges in respect of examinations,
 - (5) rate of travelling and daily allowances to the non-official members of the Board or Committees;
 - (6) laying down procedure to be observed for conduct of meetings of the Board, other than what has been provided in this Act;
 - (7) the conduct of examinations, publishing results including qualifications, appointment of of paper-setters, moderators, examiners, tabulators and their duties, powers, remuneration and the rate of travelling and daily allowance;
 - (8) the conditions under which candidates shall be admitted to the examinations of the Board;
 - (9) the conditions under which the Board may recognise institutions for the purposes of presenting candidates for its examinations;
 - (10) the courses of study to be followed in the primary, junior high, and higher secondary classes and the courses of study for teachers training and other examinations that may be conducted by the Board;
 - (11) the conditions for award of certificates and diplomas;
 - (12) the control, administration, safe custody and management of the finances of the Board, and
 - (13) all matters which by this Act are to be or may be provided for by the Regulations.
21. (1) No regulation of addition or amendment to or repeal of a regulation made by the Board shall be valid without the approval of the State Government. **Power of the State Government to make regulation, repeal, amend etc.**
- Provided, however, that in case of disapproval by the State Government, they shall refer the matter back to the Board for reconsideration and resubmission.
- (2) The State Government may, with or without consulting the Board when they deem it necessary and expedient, make, amend or repeal any regulation and such regulation shall be deemed to have been made, amended or repealed by the Board.
22. (1) The Board shall have a fund called the Sikkim Board of School Education Fund to which shall be credited - **Board Fund**
- (i) all income from fees, endowments, donations and grants for specific purposes, if any,
 - (ii) annual contributions which may be made by the State Government under such conditions as they may impose and
 - (iii) receipt from other sources.
- (2) All moneys at the credit of the Board shall be kept in the State Bank of Sikkim or any other Bank approved by the State Government, at Gantgok.
23. (1) The State Government shall make an initial contribution of such amount as it may deem fit to the Board immediately after its establishment. **Contribution by the State Government to the Board Fund.**

- (2) Thereafter, each year, taking into consideration the estimates of receipts and expenditure for the year prepared and presented to the State Government by the Board, the State Government shall make such contribution available to the Board as it may deem necessary.
24. The Board shall keep accounts of its receipts and expenditure in the manner and form prescribed. **Accounts.**
25. The accounts of the Board shall be examined and audited at least once each year by an Auditor appointed by the State Government, Copies of the audited accounts, together with the auditor's report, shall be forwarded to the Board and to State Government for taking such action as may be necessary. **Audit of accounts**
26. The Board shall furnish to the State Government such reports, and returns and statements and such other informations relating to any matter under the control of the Board as the State Government may require. **Board to furnish reports, returns etc. to the State Government.**
27. All regulations, syllabus, courses of studies and text-books prescribed by the Central Board of Secondary Education for the High School and Higher Secondary School Examinations shall continue to be followed until provisions to replacing them are made by the Board through its own regulations. **Central Board of Secondary Education.**
28. The State Government shall have power to exempt any institution or class of institutions from the operation of this Act in whole or in part. **Exemption**
29. To dispose of business quickly, the Board shall have the power to appoint ad-hoc sub-committees for specific purposes. The term of a Sub-committee shall expire as soon as the report is prepared and submitted by it to the Board. The Board, before taking a decision on the matter for which a Sub-committee was appointed, shall take into consideration the report of the Sub-Committee. **Power to appoint Sub-Committees.**
30. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may make such order or do such thing, not inconsistent with this Act as appears to it to be necessary or expedient, to remove the difficulty. **Removal of difficulty.**
31. The State Government may make rules for carrying out the purposes of this Act in respect of all matters which are not required to be provided for by regulations under this Act - **Power to make rules.**

By order of the Governor.

B. R. PRADHAN,
Secretary to the
Government of Sikkim,
Law & Legislative Department.
F. 16(66)LL/78.