

Maharashtra Self-Financed Schools (Establishment And Regulation) Act, 2012

1 of 2013

[04 January 2013]

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Maharashtra Self-Financed Schools (Establishment And

Regulation) Act, 2012

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PREAMBLE

An Act to make provisions to establish a new school including provision for up-gradation of existing school on self-financed basis, to make suitable provisions with regard to requirements and norms for establishing such new school or up-gradation of existing school, for creating an endowment fund and to provide for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to make provisions for giving permission to establish a new school including permission for up-gradation of the existing school to upper-primary or secondary or higher secondary school, as the case may be, on self-financed basis, to make suitable provisions with regard to requirements and norms for establishing such new school, or up-gradation of existing school, for inviting applications therefor, to provide procedure to scrutinize such applications for creating an endowment fund and to provide for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-third Year of the Republic of India as follows:--

1. Short title extent and commencement :-

- (1) This Act may be called the Maharashtra Self-financed Schools (Establishment and Regulation) Act, 2012.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

- (1) In this Act, unless the context otherwise requires,--
 - (a) "District Education Officer" in relation to primary education means, the District Education Officer (Primary) and in relation to secondary or higher secondary education means, the District Education Officer (Secondary);
 - (b) "Director",--
 - (i) in relation to primary education, means the Director of Education (Primary Education);
 - (ii) in relation to secondary or higher secondary education means, the Director of Education (Secondary and Higher Secondary

Education);

(c) "endowment fund" means the endowment fund created under section 4;

(d) "existing school" means a recognised school existing and imparting education on the date of commencement of this Act;

(e) "local authority" means,--

(i) in relation to educational institution managed by a Zilla Parishad, the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayats Samitis Act, 1961 (Mah. V of 1962);

(ii) in relation to educational institution managed by the Municipal Corporation, the Municipal Corporation constituted under the Mumbai Municipal Corporation Act (III of 1888) or, as the case may be, the Maharashtra Municipal Corporations Act (LIX of 1949);

(iii) in relation to educational institution managed by the Municipal Council, Nagar Panchayat or, as the case may be, Industrial Township, the Municipal Council, Nagar Panchayat or Industrial Township constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965);

(iv) any other authority treated as local authority under any other law;

(f) "pre-primary school" means a Nursery, Junior Kinder Garten, Senior Kinder Garten level or any school imparting education upto pre-primary school level for children having age 3 to 6 years, by whatever name called and of any medium attached to primary school, but does not include a creche;

(g) "prescribed" means prescribed by rules;

(h) "registered society" means a society for charitable purposes registered under the provisions of the Societies Registration Act, 1860(21 of 1860);

(i) "registered trust" means a public trust for charitable purposes registered under the provisions of the Maharashtra Public Trusts Act (XXIX of 1950);

(j) "rules" means rules made under this Act;

(k) "Schedule" means the Schedule appended to this Act;

(l) "school" means a pre-primary school, primary school, secondary school, higher secondary school or junior college recognised by the Government and managed by any management and affiliated to any Indian or foreign course or Board on self-financed basis wherein all expenses of the school, for any purpose whatsoever, are to be met with by the management itself; and neither any grant-in-aid or financial assistance be given from the State Government

or from a local authority, nor the State Government or the local authority be liable to meet any liability whatsoever incurred by such management of the school;

(m) "scrutiny committee" means a scrutiny committee constituted under section 6;

(n) "section" means section of this Act;

(o) "State" means the State of Maharashtra;

(p) "up-gradation of school" means up-gradation of a recognised primary school to upper-primary school, upper-primary school to secondary school or secondary school to higher secondary school.

(2) Words and expression used in this Act, but not defined herein, and--

(i) defined in the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) or the rules made thereunder shall have the meanings respectively assigned to them in that Act or the rules; or

(ii) defined in the Maharashtra Primary Education Act (LXI of 1947) or the Maharashtra Secondary and Higher Secondary Education Boards Act, 1965 (Mah. XLI of 1965) or the Maharashtra Educational Institutions (Transfer of Management) Act, 1971 (Mah. XLIX of 1971) or the Maharashtra Educational Institutions (Management) Act, 1976 (Mah. XIII of 1976) or the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (Mah. III of 1978), shall, as the context may require, have the meanings respectively assigned to them in or under these Acts.

3. Application to establish new school or up-gradation of existing school :-

Any registered trust or a registered society or a local authority desirous of establishing a new school, such as pre-primary or primary or upper-primary or secondary or higher secondary or up-gradation of the existing school to upper-primary or secondary or higher secondary, as the case may be, shall submit the application to the concerned Director in the format as provided in Schedule A alongwith the documents as specified in Schedule B, and with such fees as the State Government may by order, specify from time to time; and such application shall be made before the 30th June of the year previous to the academic year for which permission is applied for:

Provided that, for the academic year 2013-2014, such application

shall be made before the 31st January 2013.

4. Creation of endowment fund :-

(1) Any registered trust or a registered society or a local authority desirous of establishing a new school or up-grading the existing school shall have to deposit the amount as specified in Schedule C, by way of National Saving Certificate or Fixed Deposit in any Nationalized Bank as security deposit towards creating an endowment fund; and pledge, such certificate or Fixed Deposit Receipt obtained in the name of the management, with the concerned District Education Officer.

(2) The endowment fund may, with the prior permission of the State Government and subject to the provisions of section 5, be utilized for meeting the liability in the form of legal dues, if any, of the management.

5. No financial assistance by State Government to school established on self-financed basis :-

(1) An application, for establishing a new school or for up-gradation of a school anywhere in the State by private management of registered trust or a registered society or a local authority shall, and shall only, be on the condition that such school shall be established, maintained and administered or up-graded on self-financed basis. Subject to the provisions of sub-section (2) of section 12 of the Right of Children to Free and Compulsory Education Act, 2009, (35 of 2009) all expenses in a school for any purpose whatsoever shall be met with by the management itself; and neither any grant-in-aid or financial assistance shall be sought from the State Government or from a local authority, nor shall the State Government or the local authority be liable to meet any liability in the form of legal dues whatsoever incurred by such management of the school.

(2) On withdrawal of a permission to run or up-grade a school granted under the provisions of this Act, or where a school is established or up-graded without obtaining such permission, or any school established or up-graded after obtaining a permission under the provisions of this Act, or an existing school is closed, for any reason whatsoever, the liabilities in the form of legal dues of a management establishing or up-grading or closing a school, as aforesaid, shall first be met with from the endowment fund created under section 4.

(3) If the endowment fund falls short of the total liability in the form of legal dues incurred by the management, which has obtained a permission to establish or up-grade a school on self-financed basis, the office bearers and the members holding office for the time being in force of the management of a school, shall be jointly and severally liable to meet such liability in equal proportion:

Provided that, nothing contained in this sub-section shall render any such person liable as aforesaid, if he proves that such liability was incurred without his knowledge or that he exercised all due diligence to prevent incurring such liability.

(4) Notwithstanding anything contained in sub-section (5), where a liability in the form of legal dues has been incurred by the management and it is proved that the liability has been incurred with the consent or connivance of, or is attributable to any neglect on the part of any secretary, manager, or any staff, then such secretary, manager, or staff, shall also be deemed to be liable to meet such liability.

6. Procedure to scrutinize application :-

(1) The State Government shall, by notification in the Official Gazette, constitute the scrutiny committee for the entire area of the State or different scrutiny committees for different areas of the State as may be specified in such notification, consisting of Chairperson and not less than three other members, for considering and recommending to the State Government the permission to be granted to the applicants for establishing a new school or up-grading an existing school based on inspection report obtained by the scrutiny committee. The report of the scrutiny committee shall, having regard to the norms and standards for school as required under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) and the rules made thereunder, as well as such other norms and standards as may be prescribed, from time to time, the applicants financial soundness, the extent of assets and its ability to setup the infrastructure of a school, its expertise and experience in the field of education and after the spot inspection, contain reasons for recommending grant of permission or, as the case may be, for rejecting the application seeking permission for establishing a new school or up-grading the school, and shall be submitted to the State Government on or before the 31st October of the year referred to in section 3:

Provided that, for the academic year 2013-2014, such report of the scrutiny committee shall be submitted to the State Government on or before such date as the State Government may by order, specify.

(2) Before submission of such report to the State Government, the scrutiny committee shall display its report on the State Government Website inviting objections and suggestions so as to reach the Director within fifteen days from the date of public notice in respect thereof given in at least two local newspapers. The report to be submitted by the scrutiny committee, to the State Government under sub-section (1), shall be accompanied with the objections and suggestions, if any, received.

(3) The qualifications and experience of the Chairperson and members, the powers and duties and the procedure to be followed for transacting the business of the scrutiny committees shall be such as may be prescribed.

7. Grant of permission :-

(1) The State Government on receipt of the report of the scrutiny committee, may grant or refuse the permission to establish a new school applied for or to up-grade an existing school.

(2) The decision of the State Government under sub-section (1) shall be final.

8. Communication of decision of Government :-

(1) The decision of the State Government of granting or refusing to grant any permission as applied for under section 3 shall be communicated with reasons to the applicant before the 1st May of the academic year; and the same shall be displayed on the State Government Website.

(2) On establishing a new school or up-gradation of a school from the academic year for which the permission is granted, the management shall inform the concerned District Education Officer about the same within one month from the commencement of the academic year.

9. Special provisions in respect of certain schools :-

The State Government, in case of a school imparting education in any language except English, as a medium of instruction, running for a period of at least five years immediately before the date of

commencement of this Act, shall have power to grant permission to such school under this Act:

Provided that, no such school shall be granted permission under this section unless the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) are complied with:

Provided further that, all the provisions of this Act, except the provisions of sections 3, 4 and of paragraph 12 of Schedule A shall, mutatis mutandis apply to such school.

10. Disciplinary action :-

The work of scrutiny of applications received under section 3, submission of report of inspection and official duties assigned to the officers under this Act if found to be inaccurate or false, or there is any willful or intentional delay or negligence in discharge of such official duties, it shall amount to dereliction of official duties and make such officer liable for appropriate disciplinary action under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such officer.

11. Permission for academic year :-

Permission to establish or up-grade a school granted under the provisions of this Act shall be for the academic year for which it is granted and on the failure of the management to start a school within eighteen months, the permission so granted shall stand cancelled.

12. Up-gradation of existing schools :-

(1) Any registered trust or a registered society or a local authority running an existing school may, at its option apply for up-gradation of the school on self-financed basis under this Act and shall abide by the orders or directions issued by the State Government in this regard.

(2) The Director or an officer nominated by the Director may, during working hours enter and inspect such school as and when required and forward the inspection report to the State Government.

13. No school under this Act to be closed down :-

(1) Save as otherwise provided in this Act, no school established or

up-graded under this Act shall be closed down or discontinued, unless a notice of not less than eighteen months indicating the intention of the management of the school to do so, has been given by the secretary or manager or any person who is managing the affairs of the school, by whatever designation called, to the concerned Director and the State Government. On receipt of such notice, the Director may, if in his discretion he so desires, give the secretary, manager or the person who is managing the affairs of the school, as the case may be, an opportunity of being heard in person. Thereafter, if the Director is of the opinion that the closing down or discontinuation of school is justified, he shall report to the State Government for taking appropriate action to accommodate affected students. The Government shall take appropriate actions to accommodate such affected students to other available neighbourhood schools.

(2) If any such secretary, manager or person who is managing the affairs of the school fails to give notice as required under sub-section (1), he shall, on conviction, be punished with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees.

14. Withdrawal of permission :-

(1) Without prejudice to the provisions of section 11, the State Government may, by order, withdraw the permission, if any, granted, on following reasons, namely:--

(a) violation of any of the provisions of this Act or rules made thereunder or failure to comply with any directions issued under this Act or the norms or standards or terms and conditions, if any, stipulated by the State Government, from time to time;

(b) engaged in activities prejudicial to the interests of the student; or

(c) poor academic performance.

(2) No order for withdrawal of permission under sub-section (1) shall be passed, unless a reasonable opportunity of being heard is given to such trust or society or local authority.

15. Provisions of Act to apply to school seeking affiliation to any Board or institution in the State, outside State or outside India :-

(1) Any registered trust or a registered society or a local authority intending to establish or run a school which it proposes to have it

affiliated to any Board or any Institution in the State, outside the State or outside India shall be bound to comply with the requirements for establishing such school in the State in addition to any other requirements of any such Board or Institution in the State, outside the State or outside India and any application for permission to establish or run such school made by such trust, society or local authority in that behalf shall be processed in accordance with the provisions of this Act.

(2) No such school shall be established without obtaining the permission under this Act, and merely because an application is made in that behalf it shall not be deemed that a permission is granted for establishing such school in this State.

(3) The registered trust or registered society or local authority as the case may be, shall ensure that the school is run as per the provisions of this Act or the rules made thereunder, and the specified norms and standards and shall be committed to provide quality education to the children.

16. Power to issue directions to registered trust or registered society or local authority :-

The State Government may issue to any registered trust or registered society or local authority to which permission is granted under this Act, such general or special directions, consistent with the provisions of this Act and the rules made thereunder, as in its opinion are necessary or expedient, for carrying out the purposes of this Act or for giving effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the educational institution shall comply with every such direction.

17. Power to amend Schedules :-

(1) The State Government may, from time to time, by notification in the Official Gazette, modify, add to or delete any entry, from any of the Schedule and may, for that purpose, suitably amend the Schedule, by the said notification, and thereupon the entry in the Schedule shall stand amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.

18. Finality of orders :-

Save as otherwise expressly provided in this Act, every decision taken, order passed or notice, directions issued by the State Government or the concerned Director shall be final.

19. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against any officer of the State Government for anything which is done in good faith or intended to be done by any such officer under this Act or any rules or orders made thereunder.

20. Officers, etc., to be public servants :-

Every officer or servant acting under the provisions of this Act (45 of 1860) or the rules shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

21. Act shall be in addition to existing laws :-

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any law for the time being in force in relation to, and applicable to, a management of a school established or up-graded under this Act.

22. Delegation of powers :-

The State Government may, by notification in the Official Gazette, delegate all or any of its powers under this Act, except the powers under sections 6, 7, sub-section (1) of section 17, this section and section 23, the powers of the Director and District Education Officer, to any of its or their subordinate officers subject to such conditions and to such control as may be specified in the notification; and it may, in the like manner, withdraw any powers so delegated.

23. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be

comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall from the date of publication of such decision in the Official Gazette, 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 or omitted to be done under that rule.

24. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by an order, published in the Official Gazette, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

SCHEDULE 1

SCHEDULE A

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SCHEDULE A

(See section 3)

FORM OF APPLICATION

(1) Name of the Applicant-A Registered Trust or Registered Society or a local authority:

(2) Application for opening of new school: Pre-primary or Primary or Upper-primary or Secondary or Higher Secondary either separately or in combination with one or more of them:

(3) The name of the school:

- (4) Full address of the--
- (a) Applicant:
- (b) Office of the Management:
- (5) Up-gradation of existing school: Primary or Upper-primary or Secondary or Higher Secondary (give DISE or SEMIS number of existing school):
- (6) Medium of Instruction for proposed new school or up-gradation of existing school:
- (7) Details about existing affiliation or proposed affiliation to State Board or CBSE or ICSE or IGCSE or IB or CIE or any other Board or Institute, by whatever name called:
- (8) Place, taluka, district where the school is or will be located:
- (9) Copy of certificate of registration of trust or society or details of local authority:
- (10) (a) Copy of Trust Deed or Scheme:
- (b) Details of the trustees, members of the managing committee and their addresses:
- (11) Land details--
- (a) Registered Land in the name of the management:
- (b) Registered Lease Deed of thirty years or more in favour of the trust, society or local authority:
- (c) Board or Institute or Council to which school wishes to seek affiliation:
- (12) Area of land available--
- (a) Minimum half acre in Mumbai and Mumbai suburban area:
- (b) One acre in city area:
- (c) Two acres in rural area:
- (13) Construction on the land for which the documents are submitted (details about the construction)--
- (a) Total area in square metre:
- (b) Construction area in square metre:
- (c) Area available in classroom per child (per child approximately one square metre):
- Total construction details--
- (i) Number of Classrooms--(classroom size eight metres x six metres):
- (ii) Staff room:
- (ii) Principal room:
- (iv) Office room:
- (v) Library:
- (vi) Laboratory:
- (vii) Activity room:
- (viii) Computer room (minimum ten computers):
- (ix) Toilets (lavatory for boys and girls separately):
- (x) Drinking water facility:
- (xi) Equipped with necessary furniture:
- (xii) Playground:
- (14) Transport facility for children (optional):
- (15) Residential facility for children (optional):
- (16) Staff quarters (optional):
- (17) Extra facilities (provided by the school), details:
- (18) Bank details--
- (a) Current savings, fixed deposit, bonds:
- (b) Balance sheet or certified audit report:
- (19) Details about the fees which shall be charged, estimated income and expenditure details:
- (20) Staff norms-adequate qualified staff according to norms:

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Dated:

Signature.

SCHEDULE 2

SCHEDULE B

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SCHEDULE B

(See section 3)

DOCUMENTS TO ACCOMPANY THE APPLICATION

- (1) Copy of Certificate of Registration.
- (2) Copy of trust deed, scheme.
- (3) Documents related to land details.
- (4) Documents related with construction details-plan, commencement certificate, completion certificate, occupation certificate.
- (5) Photos related with infrastructure norms as required under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.
- (6) Documents related with bank Accounts.
- (7) Audit report.
- (8) Balance sheet.

SCHEDULE 3

SCHEDULE C

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SCHEDULE C

[See section 4(1)]

(a) for establishing a new primary or pre-primary attached to primary or upper-primary or secondary or higher secondary school, as the case may be,--	(i) in village panchayat area	Rupees minimum two lakh,

	(ii) in Municipal Council, <i>Nagar Panchayat</i> or Industrial Township area	Rupees minimum three lakh,
	(iii) in Municipal Corporation area (iv) in Mumbai and Mumbai suburban area	Rupees minimum five lakh, Rupees minimum seven lakh;
(b) for establishing a new school from primary level to higher secondary,--	(i) in village panchayat area	Rupees minimum five lakh,
	(ii) in Municipal Council, <i>Nagar Panchayat</i> or Industrial Township area	Rupees minimum ten lakh,
	(iii) in Municipal Corporation area	Rupees minimum fifteen lakh,
	(iv) in Mumbai and Mumbai suburban area	Rupees minimum twenty lakh;
(c) for up-gradation of school to upper- primary, secondary or higher secondary school, as the case may be,--	(i) in village panchayat area	Rupees minimum two lakh (for each up-gradation),
	(ii) in Municipal Council, <i>Nagar Panchayat</i> or Industrial Township area	Rupees minimum three lakh (for each up- gradation),
	(iii) in Municipal Corporation area	Rupees minimum five lakh (for each up-gradation),
	(iv) in Mumbai and Mumbai suburban area	Rupees minimum seven lakh (for each up- gradation).