

অসম



ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 5th September, 2011

No.LGL. 98/2011/21. -- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XVII OF 2011

(Received the assent of the Governor on 3rd September, 2011)

**THE ASSAM VENTURE EDUCATIONAL INSTITUTIONS
(PROVINCIALISATION OF SERVICES) ACT, 2011.**

AN
ACT

to provincialise the services of the employees of the Venture Educational Institutions in the State of Assam and to restrict further establishment of such Educational Institutions in the State.

Preamble Whereas it is expedient to provincialise the services of employees of the Venture Educational Institutions in the State of Assam and to restrict further establishment of such educational institutions in the State;

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

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| Short title,
extent and
commence-
ment | 1. (1) This Act may be called the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act or for different category of educational institutions. |
| Definitions | 2. In this Act, unless the context otherwise requires,-

(a) "Assam Higher Secondary Education Council" or "AHSEC" means the Assam Higher Secondary Education Council constituted under the provisions of Assam Higher Secondary Education Act, 1984; Assam Act XVII of 1984.

(b) "Block Elementary Education Officer" means the Block Elementary Education Officer in the concerned Block;

(c) "Board of Secondary Education, Assam" or "SEBA" means the Board of Secondary Education, Assam constituted under the provisions of the Assam Secondary Education Act, 1961; Assam Act XXV of 1961

(d) "Deputy Inspector of Schools" means the Deputy Inspector of Schools in the concerned Sub-division;

(e) "Director" means the Director of Elementary Education in case of a Primary or a Upper Primary School; Director of Secondary Education in case of a High school or a Higher Secondary School or a Junior College; and Director of Higher Education in case of a Degree College : |

Provided that in case of amalgamated High or Higher Secondary Schools, where primary or upper primary education is also imparted, the Director would mean the concerned Director in respect of the teachers and matters concerning their service conditions and emoluments but for the purpose of administration and all other purposes the Director would mean the Director of Secondary Education;

(f) "District Elementary Education Officer" means the District Elementary Education Officer of the concerned district;

(g) "District Scrutiny Committee" means the District Scrutiny Committee constituted under section 10 for each District to recommend names of Venture Educational Institutions which are considered eligible for provincialisation of the services of the employees serving therein;

(h) "Employee" means and includes all serving employees both teaching and non-teaching of Venture Educational Institutions who have been appointed by the concerned Venture Educational Institution before the 1st day of January, 2011 and whose services are being or would be provincialised under this Act;

(i) "Governing Body" means the Governing Body of a College or a Junior College approved by the appropriate authority as notified by the State Government, for carrying out the management of the College or the Junior College, as the case may be;

(j) "State Government" means the State Government of Assam in the concerned Education Department i.e. Education (Elementary) Department in case of Primary and Upper-Primary Schools, Education (Secondary) Department in case of Secondary, Higher Secondary Schools and Junior Colleges, Education (Higher) Department in case of Degree Colleges;

(k) "Inspector of Schools" means the Inspector of Schools in the concerned district and unless the context otherwise requires, it includes an Assistant Inspector of Schools of the same district;

(l) "Managing Committee" means the Managing Committee constituted under the provisions of Right of Children to Free and Compulsory Education Act, 2009 or the rules made thereunder in the case of a Primary or Upper Primary School and in case of High School and Higher Secondary School, the Managing Committee approved by the appropriate authority as notified by the State Government for carrying out the management of the concerned educational institution;

Central
Act No
35 of
2009

(m) "Provincialised School" or "Provincialised College" means a Venture Educational Institution wherein the services of employees are provincialised under this Act;

(n) "University" means the affiliating University in the state, namely; the Gauhati University, the Dibrugarh University, or the Assam University, as the case may be;

(o) "Venture Degree College" means a Degree College imparting education beyond Higher Secondary stage established by the people of the locality prior to 1.1.2006 and which has also received affiliation from the concerned University and concurrence from the State Government on or before 1.1.2006 and not provincialised under any Act enacted by the State legislature so far;

(p) "Venture High School" means High School including a High Madrassa imparting education upto class X and established by the people of the locality prior to 1.1.2006 which has received permission from the State Government and recognition from the Board of Secondary Education, Assam on or before 1.1.2006 and not provincialised under any Act enacted by the State legislature so far;

(q) "Venture Higher Secondary School" means a Higher Secondary School imparting education upto Class XII and established by the people of the locality prior to 1.1.2006 which has received permission from the State Government prior to 01.01.2006 and not provincialised under any Act earlier enacted by the State legislature so far and it includes a Junior College established by the people of the locality prior to 1.1.2006 which has received concurrence from the Government and permission from the Assam Higher Secondary Education Council on or before 01.01.06;

(r) "Venture ME School" including "ME Madrassa" means an Upper-Primary School imparting education upto Class VIII and established by the people of the locality prior to 1.1.2006 which has received recognition from the competent authority on or before 01.01.2006 and not provincialised under any Act enacted by the State legislature so far;

(s) "Venture Primary School" means a Primary School imparting education upto Class V and established by the people of the locality prior to 1.1.2006 and not provincialised under any Act enacted by the State legislature so far;

(t) "Venture Educational Institutions" means and includes Venture Degree College, Venture Higher Secondary School, Venture High School, Venture ME School and Venture Primary School situated within the State of Assam.

- Eligibility criteria for selection of educational institutions for provincialisation of services of its employees
3. (1) Subject to the provisions of Article 30 of the Constitution of India, the following categories of Venture Educational Institutions shall be eligible for being considered for provincialisation of the services of its employees :-
- (i) the Venture Educational Institutions which have been established and had obtained the required permission or recognition or affiliation or concurrence, as the case may be, from the respective competent Authority or Authorities before 1.1.2006;
 - (ii) it has a minimum enrolment of 25 students in the highest class i.e. Class-V, if it is a Primary School; Class-VIII, if it is an upper-Primary School; Class-X, if it is a High School; and Class-XII, if it is a Higher Secondary School or a Junior College ; and Final year of Three Year Degree Course, if it is a Degree College, as on the date of coming into force of this Act;
 - (iii) in case of a High School or a Higher Secondary School or a Junior College or a Degree College, the concerned educational institution must have a consistent good academic performance which would mean that at least 30% of the candidates appearing for the final examination must have passed in any three examinations held since 01.01.2006.
- (2) In case of a Degree College and a Junior College, the eligibility criteria specified in sub-section (1) above regarding date of recognition, affiliation or concurrence, minimum enrolment and performance would mean in respect of each of the subjects with or without 'Major' as the case may be, and the services of the employees appointed or engaged in connection with such subject or subjects shall be considered for provincialisation under the provisions of this Act, only if the specified eligibility criteria are satisfied.
- (3) The concerned educational institution must have the required infrastructure (i) in case of Degree College as specified by the concerned University to which the College is affiliated; (ii) if it is Primary or Upper Primary School as specified in Item-2 of the

Schedule of the Right of Children to Free and Compulsory Education Act, 2009 and in case of all other educational institutions, the concerned institution must have the required infrastructure as specified in section 10 of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006.

Assam
Act IV
of 2007

(4) An institution, which does not have the required infrastructure specified in sub-section (3) above, may be considered as eligible for provincialisation of the services of the employees, provided such institution acquires the required infrastructure within two years from the date of commencement of this Act.

(5) Subject to the provisions of the Statutes, Ordinances and Regulations made by the concerned affiliating University, in case of a Degree College and subject to the provisions of the Right of Children to Free and Compulsory Education Act, 2009, in case of a Primary or Upper Primary School and in case of all other institutions, subject to the provisions of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006, an educational institution which does not fulfil the eligibility criteria as on the date of coming into force of this Act or does not acquire eligibility under sub-section (4) above within the two years period as aforesaid shall not be eligible to be considered for provincialisation of the services of its employees, but may be allowed to run as a Private Institution or a Non-Government Educational Institution.

Central
Act No
35 of
2009

Assam
Act IV
of 2007

(6) Save and except an institution covered under Article 30 of the Constitution of India which is already getting some financial assistance or grants-in-aid, no Private or Non-Government educational institution shall be entitled to get any aid or assistance from the State Government in any form with effect from the date of coming into force of this Act.

Employees to
be
Government
servant

4. (1) The services of the employees of all eligible Venture Educational Institutions under section 3 and who have already completed ten years of services in such Educational Institution without any break from the date of affiliation, recognition, concurrence or permission as the case may be, of the concerned educational institutions as on the date of coming into force of this Act, shall be deemed to have been provincialised and they shall become employees of the State Government with effect from that date.

- (2) The services of all the teaching and non-teaching employees, who have not yet completed ten years of continuous services without break in that Venture Educational Institutions as under sub-section (1) shall be provincialised with effect from the date on which they complete the required ten years of service as stipulated under sub-section(1):

Provided that the numbers of employees in both teaching and non-teaching cadre in each of the institution, services of whom are provincialised or to be provincialised under this Act, shall not exceed as specified in the Schedule appended to this Act:

Provided further that where the number of such employees serving in such Venture Educational Institutions exceeds the numbers as specified in the Schedule, the provincialisation of the services of the employees shall be on the basis of seniority in the respective category in the concerned educational institution. The State Government shall have no liability whatsoever in regard to such excess employees.

- (3) The services of a teaching or non-teaching employee in a Venture Educational Institution upto higher secondary level shall be considered for provincialisation, only if they have the requisite academic and professional qualifications prescribed by the relevant Rules at the time of their initial appointment. In case of employees of a Degree College, they must have acquired such requisite educational as well as professional qualification as may be determined by the University Grants Commission from time to time:

Provided that if an employee is required to acquire any prescribed academic or professional qualifications, services of such employee may be considered for provincialisation if otherwise eligible, but in such case the provincialisation would be subject to acquisition of such prescribed qualifications within a period of five years from the date of coming into force of this Act, and during this intervening period, he may continue to work under the existing terms and conditions under which he was working, until his services are provincialised. In case of his failure to acquire the required academic or professional qualifications within the stipulated period, his services shall stand terminated with effect from the date of expiry of stipulated period of five years.

- Terms and conditions of Service
5. (1) Subject to the provisions of this Act and the Rules made thereunder all rules including service rules and rules of conduct and discipline which are applicable to State Government servant of corresponding ranks, shall be applicable to all employees of educational institution whose services have been or would be provincialised under the provisions of this Act.
- (2) All such employees shall get such emoluments as salary and allowances as may be prescribed with effect from the date of provincialisation of their services and the past service rendered by them shall not be counted for any purpose whatsoever, and all such employees shall get same pay and allowances as if they are fresh appointees and in respect of pension, they shall be governed by the New Pension Scheme applicable to the State Government employees of the corresponding rank.
- (3) The employees, who have completed sixty years of age as on the date of coming into force of this Act, shall be deemed to have retired with effect from that date and they shall have no claim whatsoever from the State Government as regards their pay, allowances and retirement benefits for services already rendered by them in such educational institutions.
- (4) Services of all employees shall be encadred in appropriate cadres in accordance with the rules as may be prescribed by the State Government for this purpose.
- Management of the educational institution where services of employees are provincialised
6. With effect from the date of publication of the notification under sub-section (4) of section 10, the administration, management and control of all provincialised educational institutions coming within the purview of this Act shall vest in the State Government.
- Managing Committee in respect of Primary/ Upper Primary Schools.
7. The constitution, composition, powers, functions and duties of the Managing Committee in respect of the Primary and Upper Primary Schools shall be governed by the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and the Rules made thereunder.
- Managing Committee /Governing Body in respect of other Educational Institutions.
8. (1) The State Government or an officer authorized by the State Government, by an order, constitute a Managing Committee in respect of High School or Higher Secondary School and a Governing Body in respect of a Junior College or a Degree College, for managing the affairs of such Educational Institutions.

- (2) The Governing Body and the Managing Committee, as the case may be, of such institutions shall exercise such powers and shall perform such functions as may be specified by the State Government under the Rules made under this Act.
- (3) The State Government or the officer so authorized by the State Government may, at any time, re-constitute the Managing Committee or the Governing Body, as the case may be, whenever it is considered necessary.
- (4) The composition of the Managing Committee or Governing Body shall be such as may be prescribed by the State Government.
- (5) Subject to overall control and supervision of the Director, all teaching and non-teaching employees whose services are or would be provincialised, shall be accountable and remain subject to the control of the Managing Committee or the Governing Body as the case may be.
- (6) All teachers, whose services have been provincialised shall render their services under the control and supervision of the Head of the Institution and if so required their services may be utilized in the lower classes.

Amalgama-
tion, shifting
or expansion
of educational
institution

9. (1) In appropriate cases, if there is already an existing educational institution nearby, and the enrolment of the students does not justify more than one institution in the same locality, or there are other sufficient reasons so to do, the State Government, in the public interest and for reasons to be recorded may, order transfer or shifting of the institution from one place to another, or may order amalgamation of two or more existing institutions.
- (2) In appropriate cases, if the State Government is of the view that an existing educational institution need be expanded so as to have more classes, the State Government may order expansion of an existing educational institution from Primary to Upper-Primary and from Upper-Primary to Secondary and Secondary to Higher Secondary or *vice-versa*.
- (3) All employees teaching or non-teaching whose services have been provincialised under the provisions of this Act and who are working in one of the schools in respect of which an order under sub-sections (1) and (2) above has been passed, shall be liable to be transferred and posted in any such provincialised institution in the same rank and grade.

- District
Scrutiny
Committee
- (4) All teachers working on a higher grade in an institution in respect of which an order under sub-section (2) has been passed may be required to teach in the lower classes also.
10. (1) There shall be one District Scrutiny Committee in each district separately for Elementary, Secondary and for Higher Education to scrutinize service records and other related issues of the serving teachers and staff of Venture Educational Institutions pertaining to provincialisation of their services.
- (2) The Deputy Commissioner of the District, by an order, shall constitute the District Scrutiny Committee for the respective district under preceding sub-section.
- (3) The District Committee shall first scrutinize and prepare a list of all Venture Educational Institutions within the district, which are eligible in terms of the provisions of this Act and shall thereafter proceed to scrutinize and verify the service records of all the serving employees, who are eligible or would become eligible for being considered for provincialisation of their services.
- (4) The District Scrutiny Committee shall forward the verified list of eligible teachers school-wise in accordance with the number of posts specified in the Schedule appended to this Act, to the concerned Director who shall, after making such further scrutiny as may be required, shall forward the same to the concerned Department of the State Government for consideration and for issuing Notification in respect of the eligible institutions and employees eligible for getting their services provincialised.
- (5) The District Scrutiny Committee shall have the powers to inspect all documents and records produced before it and call for such further records and documents as may be required for the purpose of causing verification and scrutiny and examine witnesses for the purpose, if considered necessary and while doing so it shall have the powers of a Civil Court for the purpose of compelling attendance of persons and production of documents.
- (6) The District Scrutiny Committee for Higher Education shall be constituted with the following members, namely:-
- (i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;
 - (ii) The Inspector of Schools-----Member-Secretary;
 - (iii) One Principal of College to be nominated by the Inspector of Schools----Member;

- (iv) One retired Principal of College to be nominated by the Inspector of Schools ---Member;
 - (v) One eminent person in the field of education to be nominated by the Deputy Commissioner—Member.
- (7) The District Scrutiny Committee for Secondary Education shall be constituted with the following members, namely:-
- (i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;
 - (ii) The Inspector of Schools-----Member-Secretary;
 - (iii) One Principal of Junior College to be nominated by the Inspector of Schools----Member;
 - (iv) One Principal of Provincialised Higher Secondary School to be nominated by the Inspector of Schools --Member;
 - (v) One Headmaster of Provincialised High School/High Madrassa to be nominated by the Inspector of Schools – Member;
 - (vi) One eminent person in the field of education to be nominated by the Deputy Commissioner—Member;
 - (vii) One retired Principal/Headmaster to be nominated by the Inspector of Schools---Member.
- (8) The District Scrutiny Committee for Elementary Education shall be constituted with the following members, namely:-
- (i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;
 - (ii) The District Elementary Education Officer—Member-Secretary;
 - (iii) The Deputy Inspectors of Schools of all Sub-divisions----Members;
 - (iv) The Block Elementary Education Officer of all Blocks ---Members;
 - (v) One eminent person in the field of education to be nominated by the Deputy Commissioner—Member.
- (9) The State Government may, by an order re-constitute the District Scrutiny Committee or may change its composition, if the circumstances so warrant.

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| Educational Institution not provisioned, to function as Private /Non-Government Institutions. | 11. (1) | The service of employees of the Venture Educational Institutions which have been established on or after 1-1-2006, shall not be provincialised and no such educational institution shall be allowed to remain functional unless it has obtained,- | |
| | | (i) affiliation from the affiliating University, if it is a Degree College; | |
| | | (ii) permission under the provisions of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006, in case of all other educational institutions; and | Assam Act IV of 2007 |
| | | (iii) recognition from the authority notified under the provisions of section 18 of the Right of Children to Free and Compulsory Education Act, 2009. | Central Act No 35 of 2009 |
| | (2) | All such Venture Educational Institutions, which have obtained the required affiliation, permission or recognition as the case may be, shall be allowed to function as purely Private or Non-Government Educational Institution. | |
| Offences and Penalties | 12. (1) | Whoever provides misleading, incorrect or false information to and suppresses material information from or abets the providing or suppression of such information to the District Scrutiny Committee or to any other authority under this Act shall commit an offence under this Act which shall be punishable with imprisonment for a term which may extend to three years. | |
| | (2) | Offences committed under this Act shall be cognizable offences under the provisions of the Code of Criminal Procedure, 1973. | Central Act No 1 of 1974 |
| Suit and Proceedings | 13. | No suit, prosecution or other legal proceeding shall lie for anything in good faith done under this Act, except with the previous sanction of the State Government. | |
| Power of interpretation and removal of difficulties | 14. (1) | If any difficulty arises in interpretation of any provisions of this Act, the interpretation of the State Government shall be final. | |
| | (2) | If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order do anything not inconsistent with the provisions of this Act which appear to be necessary or expedient for the purpose of removing the difficulty. | |

- Delegation of powers 15. (1) The State Government may delegate all its powers, except the powers conferred under section 14 and 16 of the Act to concerned Director or to the Deputy Commissioner or to an Inspector of Schools or a District Elementary Education Officer of the District.
- (2) The Officer or Authority to whom the powers are delegated under sub-section (1) shall exercise the same subject to overall supervision and control of the State Government and subject to such limitations as may be specified by the State Government.

- Power to make rules 16. (1) The State Government may, by notification published in the *Official Gazette*, make rules for carrying out the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-
- (i) prescribing service conditions and specifying the duties and responsibility of all employees whose services have been provincialised under this Act;
 - (ii) preparation and maintenance of service records of the employees whose services have been provincialised;
 - (iii) for management of the educational institutions;
 - (iv) specifying the powers, duties and responsibility of the Managing Committee or Governing Body of the educational institutions.
- (3) Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agrees in making any modification in the rule or the Assam Legislative Assembly agrees that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Schedule

[See Sections 4(2) and 10(4)]

Maximum number of employees per educational institution whose services shall be provincialised

Category of Institution	Category of Staff	Maximum number of posts
Degree College	Principal	1
	Lecturer 3 (for pass Course), 1 (for Major Course), 1 in each MIL Subject)	30
	Librarian	1
	Assistant Librarian	1
	Sr Asstt. / Jr. Asstt. /Lab.Asstt	5
	Library Assistant	1
	Grade-IV	6
Additional stream for Degree College	Lecturer	15
	Junior Assistant.	1
	Lab. bearer	1 in each subject having practical classes
	Grade-IV	3
Junior College	Principal	1
	Lecturer	8 for Arts, 7 for Science, 6 for Commerce stream
	Demonstrator	3 for Science stream
	Junior Assistant	2
	Library Assistant	1
	Laboratory Bearer (subject having practical classes)	3
	Grade-IV	3
Higher Secondary School	Subject Teacher	7 for Arts, 7 for Science, 6 for Commerce stream
	Demonstrator	3 for Science stream
	Senior Assistant	1
	Laboratory Bearer	3 for Science stream
	Grade-IV	1 for Arts, 1 for Sc, 1 for Commerce
High School/High Madrassa (2 Classes)	Headmaster/Superintendent	1
	Assistant Teacher (BA/BCom)	Single Section-2, Mixed medium-2, Three-sections-2, Four-sections-3 and Five- sections-4.
	Assistant Teacher (Science)	Single Section-2, Mixed medium -2, Three-sections-2, Four-sections-2 and Five- section-3.
	Sr. Hindi Teacher	1
	Classical Teacher	2(One for each classical language)
	Music Teacher	1 (Where teacher is in position since 01.01.06 or before)
	Craft Teacher	1 (Where teacher is in position since 01.01.06 or before)
	Junior Assistant	1
	Grade-IV	1

-14-		
High School/ High Madrassa (5 classes or more)	Headmaster/Superintendent	1
	Asstt. Headmaster/ Asstt. Supdt.	1
	Assistant Teacher (BA/B.Com)	Single Section-4, Mixed medium (Ass & Bodo)-2, Three-sections-3, Four-sections-4 and Five-section-4.
	Assistant Teacher (B.Sc)	Single Section-3, Mixed medium (Ass & Bodo)-2, Three-sections-2, Four-sections-2 and Five-section-3.
	Sr. Hindi Teacher	2
	Classical Teacher	2(One for each classical language)
	Junior Assistant	1
	Grade-IV	2
Upper Primary School (ME School/ME Madrassa)	Headmaster	1
	Assistant Teacher	2
	Graduate/Intermediate Teacher (Science & Mathematics)	1
	Hindi Teacher in the rank of Asst Teacher	1
	Arabic Teacher for (MEM)	1
	Assamese Language Teacher (For non-Assamese Medium School)	1
	Language Teacher (for bi-lingual School)	1
	Grade-IV staff	1
Primary School (L.P School)	Assistant Teacher	1 (Additional Teacher 1 if PTR exceeds 30)

Note:- (1) For High School and High Madrassa, section would be counted on the basis of a minimum enrolment of 40 students per section appearing as regular students from the concerned High School/High Madrassa in the Final Examination conducted by SEBA.

(2) One additional Science Graduate with Mathematics if Advance Mathematics is introduced and one special subject teacher for elective subject like Sanskrit, Arabic etc. provided candidates have actually appeared in the Final Examination conducted by SEBA.

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department, Dispur.