

**THE ASSAM SECONDARY EDUCATION ACT,
1961***

(Assam Act No. XXV of 1961)

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[Received the assent of the Governor on 4th December, 1961]

**An Act to provide for the establishment of a Board of
Secondary Education to regulate, supervise and develop
Secondary Education in the State of Assam**

Preamble.

Whereas it is expedient to establish a Board of Secondary Education to regulate, supervise and develop the system of Secondary Education in the State of Assam;

It is hereby enacted in the Twelfth Year of the Republic of India as follows:

1. Short title, extent and commencement.

- (1) This Act may be called the Assam Secondary Education Act, 1961.
- (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.

(4) From the date on which this Act comes into force, the Gauhati University or any other University or any Board or education shall cease to exercise its jurisdiction over the institutions of Secondary Education recognised by the Government of Assam.

Provided that the Gauhati University shall continue to have the same jurisdiction as now exercised by it over the High Schools till such time as the State Government, by notification in the official Gazette, may appoint.

2. Admission of institutions in other States and Administrations to the privileges of the Board.

Notwithstanding anything contained in S. 1, any Government of a State or Territory or the North East Frontier Agency Government of Assam, Union Territory or the North East Frontier Agency Administration may apply to the Board may subject to such conditions as it may think fit to impose, admit such State or Territory or Administration to the privileges of the Board.

3. Definitions.

In this Act, unless there is anything repugnant to the subject or context –

- (a) “Board” means the Board of Secondary Education established under this Act;
- (b) “Chairman” means the Chairman of the Board;
- (c) “Controller of Examinations” means the officer conducting the examination of the Board;
- (d) “Education Department” means the Department of Education of the Government of Assam;
- (e) “Fund” means the Secondary Education Board Fund constituted under this Act;
- (f) “Headmaster or Headmistress” means the head of the teaching staff of a High School or Higher Secondary School by whatever name he or she be designated;
- (g) “High School” means a school or department of a school giving instruction in Secondary Education and preparing students for Matriculation or High School Leaving Certificate Examination;
- (h) “Higher Secondary School” means a school or department of a school giving instruction in Secondary Education and preparing students for Higher Secondary School Leaving Certificate Examination;

- (i) “Managing Committee” means a Managing Committee of a High School or a Higher Secondary School;
- (j) “Primary Education” means education imparted in a Primary or Junior Basic School or its equivalent;
- (k) “Recognised” means recognised by the Board for the purpose of admission to the privileges of the Board or prior to recognition by the Board, by any University established by law in India or by any Board recognised by the State Government;
- (l) “Regulation” means a regulation made by the Board under the Act;
- (m) “Rule” means a rule made by the State Government under this Act;
- (n) “Secondary Education” means such education as is designed to meet the needs of the stage which follows immediately the stage of Primary Education and precedes immediately the stage of Degree or Diploma Education controlled by any University established by law in India or by a Board constituted by Government for this purpose;

- (o) “Secretary” means Secretary of the Board; and
- (p) “Notification” means a notification published in the official Gazette.

4. Incorporation of the Board.

- (1) The State Government shall, as soon as may be after the commencement of the Act, establish, by notification, a Board for regulation, supervision and development of Secondary Education in accordance with the provisions of this Act.
- (2) The Board shall, by the name of the Board of Secondary Education, be a body corporate with perpetual succession and a common seal, shall have power to acquire and hold property, both movable and immovable, to transfer any property held by it, to enter into any contract and to do all other things necessary for the purposes of carrying out its duties and functions, and shall be the said name sue or be sued.

5. Constitution of the Board.

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

- (i) a Chairman to be nominated by the State Government.

Ex-officio Members

- (ii) Additional Director of Public Instruction, Assam – Vice-Chairman.
- (iii) Director of Agriculture, Assam.
- (iv) Director of Technical Education, Assam.
- (v) Director of Health Services, Assam.
- (vi) Director of Industries, Assam.
- (vii) Principal, Assam Agricultural College.
- (viii) Director of Education of territories of other States and Administrations admitted to the privileges of the Board.
- (ix) Deputy Director of Public Instruction Incharge of Women's Education, Assam.

Members to be nominated by the Government.

- (x) One Inspector of Schools.

- (xi) One Principal of Higher Secondary Schools.
- (xii) Two head Masters and one Head Mistress of High Schools.
- (xiii) One Superintendent of High Madrassas.
- (xiv) Two representatives of each of the Universities of the State on the recommendations of respective Vice-Chancellors.
- (xv) One Principal of Teacher's Training College.
- (xvi) One Principal of a Polytechnical Institute.
- (xvii) Two representatives of Assam Aided High School Teachers' Association.
- (xviii) Two representatives of Assam High School Teachers' Association.
- (xix) Two representatives of the All Assam M.E. School Teachers' Association.

Co-opted Members

- (xx) The Board shall have power to co-opt not more than three members from among the distinguished educationists.

- (2) The State Government shall appoint an officer of the State Government as *ex-officio* Secretary to the Board who shall also be an *ex-officio* member of the Board. The emoluments of the Secretary shall be determined by the State Government and shall be paid from the Board's Fund.
- (3) The Chairman shall be appointed by the State Government for a term of three years and shall be eligible for re-appointment for a second term only.
- (4) The State Government may remove the Chairman before expiry of his term of appointment by giving one month's notice thereto, in writing, if the State Government considers his continuance as Chairman, for good and sufficient grounds, to be detrimental to the interest of the Board.
- (5) The emoluments of the Chairman and other terms and conditions of his service shall be determined by the State Government and such emolument shall be paid from the Board's Fund.
- (6) The Chairman shall preside over all the meetings of the Board and of the different committees constituted by it. In the absence of the Chairman, the Vice-Chairman shall preside over the meetings of the Board or of any committee.

COMMENTS

Section 5. The original section was first amended *vide* Assam Act No. XVI of 1956, published in the Assam Gazette, dated the 27th May, 1966, to come into force from 1st July, 1966 *vide* Notification No. ESS 33/65/48, dated 27-7-66 published in the Assam Gazette Part II-A, dated 3-8-66, page 1853. Section 5 so substituted by the 1965 Amendment Act read as follows:

“5. *Constitutionfo the Board.* (1) The Board shall consist of the following members, namely:

Ex-officio Members

- (i) Director of Public Instruction, Assam—
Chairman.
- (ii) Additional Director of Public Instruction, Assam
– Deputy Chairman.
- (iii) Director of Agriculture, Assam.
- (iv) Director of Technical Education, Assam.
- (v) Director of Heath Services, Assam.
- (vi) Director of Industries, Assam.

- (vii) Principal, Assam Agricultural College.
- (viii) Director of Education of the Territories of the other States and Administrations admitted to the privileges of the Board.
- (ix) The Deputy Director of Public Instruction in charge of Women's Education, Assam.

Members to be nominated by Government

- (x) One Inspector of Schools.
- (xi) One Principal of Higher Secondary Schools.
- (xii) Two Headmasters and one Headmistress of High Schools.
- (xiii) One Superintendent of High Mardrassas.
- (xiv) Two representatives of each of the Universities of the State on the recommendations of the respective Vice-Chancellors.
- (xv) One Principal of a Teachers' Training College.
- (xvi) One Principal of a Polytechnic Institute.

Co-opted Members

(xvii) The Board shall have power to co-opt not more than three members from among the distinguished educationists.

(xviii) The Government will appoint an officer of the Government as the *ex-officio* Secretary of the Board who will also be an *ex-officio* member of the Board.”

But until the constitution of the Board under this Amendment Act, the Board constituted under the Principal Act and functioning immediately before the commencement of the Amendment Act shall be deemed to be the Board constituted under the Principal Act as amended by the Amendment Act and continue to function as such: Provided that the Government shall appoint a date not later than six months from the date of commencement of the Amendment Act for the constitution of the Board under the provisions of the Principal Act as amended.

This section was again amended as the present one *vide* Assam Act No. XVII of 1973, published in the Assam Gazette dated the 30th July, 1973, to come into force on such date as the State Government may, by notification in the official Gazette, appoint.

6. Publication of names of the members of the Board.

The names of persons nominated or co-opted as members of the Board, shall be published by notification by the State Government.

7. Term of office of members.

Term of office of members –

- (i) Nominated members shall hold office for a term of three years from the date of the notification published under S. 6 and the term of office of co-opted members shall terminate on the same date as that of the nominated members:

Provided that the State Government may, by notification in the official Gazette, extend the term of the office of all such members by a period not exceeding one year.

- (ii) Notwithstanding the expiry of the term of three years specified in Cl. (i) the term of office of the outgoing members shall be nominated members are published under S. 6.

8. Disqualification of membership.

- (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-
 - (a) has been adjudged by a court of law to be of unsound mind;
 - (b) is an undischarged insolvent;
 - (c) 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, as provided in the rules.
- (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-S. (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 matter shall be final.

9. Resignation of members and casual vacancy, etc.

- (1) The Chairman may resign his seat by giving notice thereto in writing to the State Government and he shall be deemed to have vacated his seat from the date of acceptance of his resignation by the State Government.
- (2) A member of the Board, other than an *ex-officio* member, may resign his seat by giving notice thereof in writing to the Chairman, and such member shall be deemed to have vacated his seat from the date of acceptance of his resignation by the Chairman.
- (3) The State Government may by notification, remove any nominated or co-opted member who remains absent from three consecutive meetings of the Board without the leave of the Board.
- (4) In the event of a casual vacancy occurring by resignation, removal, death or disqualification of a member such vacancy shall be filled by nomination or co-option, as the case may be, in the manner provided in S. 5.
- (5) Any person nominated or co-opted to fill a casual vacancy shall hold office for the unexpired portion of

the term of office of the member in whose place he is nominated or co-opted.

COMMENTS

Section 9. In this section, the present sub-S. (1) was inserted *vide* Assam Act No. XVII of 1973, published in the Assam Gazette dated the 30th July, 1973, to come into force on such date as the State Government may, by notification in the official Gazette, appoint and the original sub-Ss. (1) to (4) were re-numbered accordingly as sub-Ss. (2) to (5) respectively.

10. Meetings of the Board.

- (i) *Ordinary Meetings.* The Board shall meet not less than thrice a year, but four months shall not intervene between two successive meetings.
- (ii) *Special Meetings.* The Chairman may at any time, and shall upon the requisition made by not less than one-third of the members of the Board other than the *ex-officio* members, and on a date not more than twenty-one days of the receipt of such requisition, call a special meeting of the Board.
- (iii) Twenty-one days' notice shall be given for ordinary meetings the Board and ten days' notice for special meetings.

11. Quorum: Proceedings not invalidated by reason of vacancies.

- (i) The quorum for every meeting of the Board shall be nine.
- (ii) Subject to the provisions contained in sub-S. (i) 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.

12. Officers of the Board.

- (1) The following shall be the officers of the Board:
 - (i) The Chairman;
 - (ii) The Secretary; and
 - (iii) The Controller of Examinations.
- (2) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act on such terms and conditions as may be determined by regulations.

13. Powers and duties of the Board.

Subject to the provisions of the Act the powers and duties of the Board shall be as follows, namely:

- (i) to prescribe curriculum, syllabus, and course of instruction for High Schools, Higher Secondary Schools and High Madrassas,
- (ii) to conduct examinations based on such courses,
- (iii) to admit to its examinations, on conditions that may be prescribed by regulations, candidates who have pursued the prescribed course of instruction and also to take such disciplinary action against candidates as may be prescribed by regulations,
- (iv) to demand and receive such fees as may be prescribed by regulations,
- (v) to publish the results of its examinations,
- (vi) to grant certificates to students passing the examinations,
- (vii) to institute and award scholarships, prizes etc.,

- (viii) to prescribe and select text books and supplementary books,
- (ix) to lay down conditions of recognition of High Schools and High Madrassas/Higher Secondary Schools,
- (x) to recognise High Schools, Higher Secondary Schools and High Madrassas and to withdraw such recognition,
- (xi) to take such disciplinary action it thinks fit against institutions as prescribed by regulations,
- (xii) to adopt measures for study and examination of problems in the field of Secondary Education,
- (xiii) to advice Government on physical, moral and social welfare of students in recognised institutions, and to prescribe conditions of their residence and discipline,
- (xiv) to prescribe necessary qualifications of teachers in recognised schools,
- (xv) to prescribe courses of instruction in Under-graduate Teacher's Training Institutions and to hold examinations on such courses and to award certificates,

- (xvi) to recognise Under-graduate Teachers' Training Institutions and to withdraw recognition,
- (xvii) to organise seminars and provide in-service Teachers' Training courses,
- (xviii) to receive grants from Government and donations from private individuals or associations for specific or general purposes,
- (xix) to call for reports from the Director of Public Instruction on the conditions of recognised institutions or of institutions applying for recognition,
- (xx) to advise Government on re-organisation and development of Secondary Education,
- (xxi) to advise Government relating to any matter within the provisions of this Act on which the Government may consult the Board,
- (xxii) to appoint officers and other employees of the Board, and to prescribe by regulations the terms and conditions of their service,
- (xxiii) to institute by regulations for the benefit of its officers and other employees such pension, gratuity and provident funds as it may deem fit in such manner,

and subject to such conditions as may be prescribed by regulations,

(xxiv) to delegate any of its powers to any Committee constituted under this Act.

(xxv) to administer the Secondary Education Board Fund,

(xxvi) to receive, purchase and hold any property, movable or immovable, which may become vested in it, and to dispose of all or any of the property, movable or immovable belonging to it, and also do all other acts incidental or appertaining thereto; and

(xxvii) to do all such acts things as may be necessary to carry the purposes of this Act.

COMMENTS

Section 13. Clause (i) in this section was first amended *vide* Assam Rules No. XVI of 1966, published in the Assam Gazette dated 27-5-1966 and then substituted *vide* Assam Act No XXIII of 1972, published in the Assam Gazette dated the 6th October, 1972, to come into force on such date or dates as the State Government may, by a notification in the official Gazette, appoint.

Clause (viii) was substituted *vide* Assam Act No, XXIII of 1972, published in the Assam Gazetted dated 6-10-1972, and the original Cl. (viii) read as follows:

“(viii) to prepare, publish and select text books and supplementary books.”

In Cl. (ix) the words, “and High Madrassas” are substituted for the word “and” originally occurring, *vide* Assam Act No. XVI of 1966, published in the Assam Gazette dated 27-5-1966, and similarly in Cl. (x) the words “and High Mardrassas” were inserted.

13-A. It shall be the endeavour of the Board to prepare the publish text books and supplementary books through the Assam State Text Book Production and Publication Corporation Ltd., a State Government undertaking form such date or dates after the Corporation is registered under the Indian Companies Act, 1956 as may be notified by the State Government in the official Gazette.

If, however, the Assam State Text Book Production and Publication Corporation Ltd., fails to prepare and publish text books and supplementary books within a reasonable period, the Board will have freedom to prepare and publish them through any other agencies or under its own control giving proper notice to the Assam State Text Book Production and Publication Corporation Ltd.

COMMENTS

Section 13-A. This section was inserted *vide* Assam Act No. XXVIII of 1972, published in the Assam Gazette dated 6-10-1972, to come into force on such date or dates as the State Government may, by a notification in the official Gazette, appoint.

14. Powers of the State Government.

Notwithstanding anything contained in this Act –

- (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 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 the communication of the State Government.
- (3) The State Government may after consultation with the Board issue such directions consistent with the provisions of this Act, as it may think fit, and the Board shall comply with such directions.
- (4) The State Government may by order in writing specifying the reasons thereof, suspend the execution

of any resolution or order of the Board, and prohibit the doing of an act ordered to be done by the Board, if the State Government is of the opinion that such resolution, order or act is in excess of the powers conferred upon the Board by or under this Act.

- (5) The State Government may, after consultation with the Board, suspend or remove a member whose continuance as a member of the Board is considered detrimental to the interest of the Board.

15. Constitution of Secondary Education Board Fund.

A fund to be called Secondary Education Board Fund shall be constituted and all sums received by or on behalf of the Board under this Act shall be placed to the credit thereof.

16. Custody and investment of the Secondary Education Board Fund.

All moneys at the credit of the Fund shall be kept in the Government Treasury or the State Bank of India or the Assam Co-operative Apex Bank, Ltd., as the Board may determine.

17. Application of the Fund.

Subject to the provisions of this Act, the Fund shall be applicable only to the payment of the charged and expenses incidental to matters specified in this Act.

18. Audit of the accounts of the Board.

The accounts of the Board shall be audited only by such agency as may be specified by the State Government, and a copy of the audited accounts shall be submitted by the Board to the State Government by such date each year as the State Government may specify.

19. Powers and duties of the Chairman.

- (1) It shall be the duty of the Chairman to see that the provisions of this Act and the regulations made under it are faithfully observed, and the decisions of the Board are duly implemented and he shall have all powers necessary for this purpose.
- (2) The Chairman shall have power to convene meetings of the Board.
- (3) When any emergency arising out of administrative business of the Board requires, in the opinion of the Chairman shall take such action as he deems

necessary and report his action to the Board at its next meeting.

- (4) The Chairman shall exercise such other powers as may be prescribed by the regulations.

20. Powers and duties of the Secretary.

The Secretary of the Board shall be the principal administrative officer, and shall, subject to the control of the Chairman, perform such duties as may be prescribed by regulations.

21. Powers and duties of other officers.

Other officers will have such powers and duties as may be prescribed by regulations.

22. Committees of the Board.

- (1) The Board shall, for the purposes of carrying out its duties and functions imposed under this Act appoint the following committees, namely:

- (i) Curriculum and Syllabus Committee,

- (ii) Examination Committee,

- (iii) Physical Education Committee,

- (iv) Girls' Education Committee, and
 - (v) Such other Committees, as may be found necessary.
- (2) Every such Committee shall consist of such members of the Board and of such others as the Board may appoint.
- (3) Every such Committee except the Examination Committee may co-opt persons to be members to the extent of one-third of the members appointed to it.
- (4) Members of such committees shall hold office for such time as the Board may determine.
- (5) Subject to the provisions of this Act and the rules made thereunder the duties and functions of the Committees shall be determined by regulations.

23. Exercise of powers delegated by the Board to Committees.

All matters relating to exercise of powers conferred upon the Board by this Act which are regulations delegated to any Committee appointed under S. 22 shall stand referred to that committee, and the Board before exercising such powers

shall receive and consider the report or recommendation of the Committee with respect to the matter in question.

24. Power of Board to make regulations.

- (1) The Board may make regulations for the purpose of carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers, the Board may make regulations providing for all or any of the following matters, namely:
 - (a) the constitution, powers and duties of Committees appointed under S. 22,
 - (b) courses of study to be laid down for different examinations,
 - (c) marks required for passing in any subject and the examination as a whole, and for credit and distinction in any subject,
 - (d) qualification, appointment and remuneration of examiners, paper-setters and others,
 - (e) conducting examinations and publishing the results,

- (f) conditions of recognition of High Schools and High Madrassas/Higher Secondary Schools,
- (g) conditions under which candidates shall be admitted to the examinations of the Board,
- (h) disciplinary measures for malpractices in examinations,
- (i) fixing of fees and charges in respect of examinations,
- (j) provident fund, etc., for the benefit of the employees of the Board,
- (k) rate of travelling and daily allowances to the non-official members of the Board or Committees,
- (l) delegation of powers or assignment of functions to Committees formed under this Act,
- (m) all members which by this Act, are to be or may be provided for by regulations:

Provided that all regulations, alteration and revocation thereof shall be subject to approval by the State Government and published in the official Gazette.

COMMENTS

Section 24. In Cl. (f) of sub-S. (2) of this section, the words, “and High Madrassas” were inserted, *vide* Assam Act No. XVI of 1966, published in the Assam Gazette dated the 27th day of May, 1966, to come into force from 1st July, 1966 *vide* Notification No. ESS 33/65/48 dated 27-7-66 published in the Assam Gazette Part II-A, dated 3-8-1966, p. 1853.

25. Board to furnish reports, returns, etc., to the State Government.

The Board shall furnish to the State Government such reports, returns and statements and such other information relating to any matter under the control of the Board as the State Government may require.

26. Power of State Government to reconstitute the Board.

If in the opinion of the State Government, the Board has shown its incompetence to perform, or persistently made, default in the performance of the duties imposed, or exceeded or abused the powers conferred upon it by or under this Act, the State Government shall formulate in writing specific charges against the Board in respect of those matters and shall forward a copy of such charges to the Board with direction to submit any comments or explanations in respect thereof to the State Government

within such period as may be specified in this behalf. After the consideration of the comments of the Board, the State Government may, if it thinks fit, by notification, supersede the Board in accordance with the provisions of S. 5 and in every such case, the State Government shall, as soon as may be, lay before the State Legislature a copy of the said notification together with the statement of the reasons which led to such reconstitution.

27. Vesting of powers till the re-constitution of the Board.

Until the Board is reconstituted after supersession under S. 26, the duties and powers of the Board shall be performed and exercised by, and the property of the Board shall vest in such person or authority as the State Government may specify by notification.

28. Power of State Government to make rules.

- (1) The State Government may make rules for carrying out the purposes of this Act.
- (2) All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative assembly may make during the session in which they are so laid or the session immediately following.

COMMENTS

Application of the Act in the State of Meghalaya

THE ASSAM SECONDARY EDUCATION ACT, 1961

[Meghalaya Section]

This Act was adapted for its application in the State of Meghalaya, *vide* the Meghalaya Adaptation of Laws Order (No. 4), 1971, published in the Gazette of Meghalaya, dated the 30th November, 1971 *vide* Notification No. LL 1/71/99, dated the 30th November, 1971 effective from the appointed day *i.e.*, the 2nd day of April, 1970, with the following amendments in the Assam Act:

Section 1. Sub-sections (2) and (3) omitted.

Section 2. Omitted.

Section 5. The following are omitted from section:

- (i) “Additional Director of Public Instructions”.
- (ii) “Director of Education of the Territories of other States and Administrations admitted to the privileges of the Board”.

- (iii) “Deans of the Faculties of Arts and Science, Gauhati University”.
- (iv) “as recommended by the Executive Committees of the all Assam Aided High School Teachers’ Association”.
- (v) “Two nominees of the Gauhati University”.

This Act and the Meghalaya Secondary Education Act, were repealed by the Meghalaya Board of School Education Act, 1973.
