

PARLIAMENT OF CEYLON

1st Session 1960-61



Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960

Date of Assent : November 17, 1960

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*Assisted Schools and Training Colleges (Special Provisions)
Act, No. 5 of 1960*

L. D.—O. 22/60.

AN ACT TO MAKE PROVISION FOR THE APPOINTMENT OF THE DIRECTOR OF EDUCATION AS MANAGER OF EVERY ASSISTED SCHOOL OTHER THAN A SCHOOL WHICH THE PROPRIETOR HAS ELECTED TO ADMINISTER AS AN UNAIDED SCHOOL, TO ENABLE THE DIRECTOR OF EDUCATION TO DIVEST HIMSELF OF THE MANAGEMENT OF CERTAIN ASSISTED SCHOOLS TO GIVE EFFECT TO A DECISION BY THE TEACHERS, AND THE PARENTS OF PUPILS, IN SUCH SCHOOLS ON A POLL TAKEN UNDER THIS ACT, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent : November 17, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960.

Short title.

2. This Act shall apply to every Assisted school, other than any such school as is specified in the Schedule to this Act, and the expression "Assisted school to which this Act applies", wherever it occurs in this Act, shall be construed accordingly.

Schools to which this Act applies.

3. (1) The Minister may, by Order published in the *Gazette*, declare that, with effect from such date as shall be specified in the Order, the Director shall be the manager of every Assisted school to which this Act applies :

Power of Minister to appoint the Director as the manager of certain Assisted schools.

Provided that, where the proprietor of any Assisted school to which this Act applies (not being an Assisted training college) has, at any time before the date specified in such Order, served under section 5 a written notice on the Director under this Act to the effect that he has from the date specified in the notice elected to carry on the administration of such school as an unaided school, such Order shall, with effect from the date so specified in the notice, cease to apply to such school.

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(2) The date specified in the Order made and published under sub-section (1) may, before that date, be altered by the Minister, after consultation with the Director, by Order published in the *Gazette*.

Effect of the making and publication of an Order under section 3.

4. On the date specified by the Minister in the Order made and published under section 3, the following provisions shall have effect in relation to every Assisted school to which that Order applies on that date :—

(a) the manager of such school on the day immediately prior to that date shall cease to hold office as such manager ;

(b) the Director shall be manager of such school.

Proprietor of any Assisted Grade I or Grade II school may elect to administer such school as an unaided school.

5. (1) The proprietor of any Assisted school (not being an Assisted training college) which is a Grade I or Grade II school may, at any time before the date specified in the Order made and published under section 3, elect to administer such school as an unaided school and if, before that date, he serves a written notice on the Director to the effect that he has made such an election and specifying the date of such election (such date being a date earlier than the date specified in the Order) the provisions of the Proviso to the said section 3 shall apply in the case of such school with effect from the date of such election.

(2) Where notice of an election under sub-section (1) has been served on the Director as required by that sub-section in respect of any Assisted school, then, with effect from the date of such election, such school shall cease to be an Assisted school and shall be administered as an unaided school.

Special provisions applicable to the proprietor of a school which, by virtue of an election made under section 5, is an unaided school.

6. The proprietor of any school which, by virtue of an election made under section 5, is an unaided school—

(a) shall educate and train the pupils in such school in accordance with the general educational policy of the Government ;

(b) shall continue to maintain all such facilities and services as were maintained by such school on the day immediately preceding the twenty-first day of July, 1960 ;

- (c) shall not, after the date of such election, admit a pupil whose parent does not profess the religion of such proprietor unless prior permission is obtained from the Director ;
- (d) shall not levy fees other than any fees for facilities and services which are permitted by regulations made in that behalf under the Education Ordinance, No. 31 of 1939 ;
- (e) shall make no reduction in the accommodation provided in such school for pupils ;
- (f) shall not dismiss or discontinue any pupil who was in that school on the day prior to the date of such election, except upon disciplinary grounds and with the approval of the Director ;
- (g) shall comply with the provisions of any written law applicable to such school and matters relating to education.

7. (1) The proprietor of any Assisted school (not being an Assisted training college), which is a Grade I or Grade II school and the manager of which is the Director, may make a written request to the Director to take a poll for the purpose of enabling the teachers, and the parents of pupils, in such school to elect whether or not such school should be administered by the proprietor as an unaided school with the right to levy fees for admission to, and the educational or other facilities provided by, such school.

Right of the proprietor of an Assisted school to request the Director to take a poll for the purpose of determining whether the school should be administered as an unaided school.

(2) Upon the receipt of a request from the proprietor of any school referred to in sub-section (1), the Director shall, as soon as practicable thereafter, take a poll for the purpose of enabling the election referred to in that sub-section to be made.

8. The following provisions shall apply in the case of any poll which is required to be taken by the Director under sub-section (2) of section 7 in respect of any Assisted school of which the Director is the manager under this Act :—

Provisions regarding the taking of a poll for the purposes of any election required by section 7.

- (a) The poll shall be taken on such date and at such time and place, as may be determined by the Government Agent.

- (b) Every person who is a teacher, or a parent of a pupil, in such school shall be entitled to vote at such poll, each such parent having as many votes as he has children as pupils in such school.
- (c) Votes shall be given at such poll by ballot, and each voter shall be entitled to as many ballot papers as he has votes.
- (d) At the conclusion of the poll, the Government Agent shall count the votes given at the poll.
- (e) At the conclusion of the counting of votes given at such poll, the Government Agent shall announce the result of such poll, and shall also issue a certificate under his hand to the proprietor of such school and the Minister as to the result of such poll.
- (f) Such certificate shall specify the total number of votes which persons entitled to vote at the poll had the right to cast at the poll, the total number of votes cast in favour of such school being administered by the proprietor as an unaided school with the right to levy fees for admission to, and the educational or other facilities provided by, such school, and the total number of votes cast against the school being so administered.
- (g) The poll and the counting of the votes given at the poll shall be carried out in accordance with the provisions of regulations made in that behalf under this Act.

Power to make regulations regarding the holding of polls for the purpose of any election required by sub-section (2) of section 7 and the counting of votes given at such poll.

9. Regulations may be made under this Act—

- (a) prescribing the procedure to be followed at any poll required to be taken, for the purpose of any election, by sub-section (2) of section 7 ;
- (b) prescribing the form of ballot papers to be used for the purpose of such poll ;

- (c) prescribing the procedure to be followed in the case of the issue of ballot papers to persons who are entitled to vote at such poll ;
- (d) providing for the production of documents of identity before ballot papers are issued to voters at such poll, and for the preparation and use of lists of the persons entitled to vote at such poll ;
- (e) providing for the manner in which voters shall vote at such poll ;
- (f) prescribing the procedure to be followed at the counting of the votes given at such poll ;
- (g) prescribing the circumstances in which the ballot paper of any voter may be rejected ;
- (h) providing for the maintenance of order and discipline during the poll and the counting of the votes given at such poll ; and
- (i) providing for any other matter connected with or incidental to the conduct of the poll and the counting of the votes given at such poll.

10. Upon the receipt of a certificate issued to him by the Government Agent as to the result of a poll taken as required by sub-section (2) of section 7 for the purpose of any election referred to in that sub-section in respect of any Assisted school the manager of which is the Director, the Minister, if that certificate discloses that at least 75 per centum of the total number of votes, which persons entitled to vote at such poll had the right to cast, have been cast in favour of such school being administered by the proprietor as an unaided school with the right to levy fees for admission to, and the educational or other facilities provided by, such school, shall by Order published in the *Gazette* declare that the Director shall, with effect from such date as may be specified in the Order, cease to hold office as manager of such school, and on the date so specified the Director shall be deemed to have vacated the office of manager and that such a school shall be administered as an unaided school subject to the provisions of section 6 (a), (b), (c), (e), (f) and (g).

Duty of
Minister on
receipt of
certificate as
to the result of
a poll taken for
the purpose of
any election
required by
sub-section (2)
of section 7.

Power of the Minister to make an Order appointing the Director as manager of an unaided school.

11. Where the Minister is satisfied—

- (a) after examination of any representations made to him by any person or persons entitled under sub-section (b) of section 8 to vote at any poll held by the Director under sub-section (2) of section 7, that the decision in favour of such school being administered by the proprietor as an unaided school with the right to levy fees was obtained by fraudulent or improper means ; or
- (b) after consultation with the Director, that any school which, by virtue of the provisions of this Act, is being administered as an unaided school, is being so administered in contravention of any of the provisions of this Act or any regulations or Orders made thereunder or of any other written law applicable in the case of such school,

the Minister may, by Order published in the *Gazette*, declare that, with effect from such date as shall be specified in the Order,—

- (i) such school shall cease to be an unaided school,
- (ii) such school shall be deemed for all purposes to be an Assisted school, and
- (iii) the Director shall be the manager of such school.

Person obstructing the Director guilty of an offence under this Act.

12. (1) Every person who obstructs the Director or any officer authorised by him in the exercise, performance or discharge of his powers, functions or duties as manager of any school to which this Act applies shall be guilty of an offence.

(2) Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, restraint, bribery or corruption, or who inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss, upon or against any person entitled to vote at a poll taken by the Director under sub-section (2) of section 7, in order to induce or compel such person to vote in any particular way at such poll or who by duress or any other

fraudulent device or contrivance impedes or prevents the free exercise of the vote of any person entitled to vote under sub-section (b) of section 8, shall be guilty of an offence.

13. Where the Director is the manager of any Assisted school under this Act his powers, duties and functions as such manager may be exercised, performed or discharged by any Deputy Director of Education or Assistant Director of Education or any other officer authorised in that behalf by the Director.

Powers, duties and functions of Director in his capacity as manager of an Assisted school may be exercised, performed or discharged by certain other officers.

14. (1) The Minister may make regulations—
- (a) in respect of any matter for which regulations are authorised or required to be made by this Act, and
 - (b) for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations.

(2) No regulation made by the Minister shall have effect until it is approved by the Senate and the House of Representatives and notification of such approval is published in the *Gazette*.

15. (1) Any person who contravenes or fails to comply with any provisions of this Act or of any Order or regulation made thereunder shall be guilty of an offence.

Offences and penalties.

(2) Every person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term of three months with or without a fine not exceeding five hundred rupees.

16. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Act to prevail in case of conflict with other written law.

17. In this Act, unless the context otherwise requires,—

Interpretation.

“Assisted school” means any school or training college to which aid is contributed from State funds or was contributed from such funds on July 21, 1960;

“ Director ” means the Director of Education;

“ Government Agent ”, in relation to a poll taken in respect of any Assisted school, means the Government Agent of the Administrative District in which such school is situated and includes any Assistant or Additional Government Agent of such District ;

“ parent ”, in relation to any pupil in any school, means his father or, if his father is dead or is resident outside Ceylon, his mother or, if both his father and mother are dead or are resident outside Ceylon, his legal guardian ;

“ proprietor ” has the same meaning as in the Education Ordinance, No. 31 of 1939.

SCHEDULE

Any school maintained exclusively for the education of children suffering from any mental or physical disability.

Any school maintained exclusively for the teaching of dancing.

Any night school, that is to say, any school providing education for pupils over fourteen years of age whose circumstances prevent them from receiving instruction in a day school.

Any estate school.

Pirivenas.