

EDUCATION ACT, 2028 (1971)

Royal Seal and Date of Publication

2028/5/24 (9 Aug. 1971)

Amending Acts:

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|-----|---|-------------------------------|
| 1. | Education (First Amendment) Act, 2033 (1976) | 2033/7/4 (20 Oct. 1976) |
| 2. | Education (Second Amendment) Act, 2036 (1979) | 2036/8/5 (21 Nov. 1979) |
| 3. | Education (Third Amendment) Act, 2037 (1980) | 2037/5/26 (11 Sept. 1980) |
| 4. | Certain Nepali Act Amendment Act, 2041 (1984) | 2041/7/27 (12 Nov. 1984) |
| 5. | Judicial Administration Reform (Fourth Amendment) Act, 2043 (1986) | 2043/7/24 (10 Nov. 1986) |
| 6. | Education (Fourth Amendment) Act, 2045 (1988) | 2045/7/10 (26 Oct. 1988) |
| 7. | Education (Fifth Amendment) Act, 2049 (1992) | 2049/7/13 (29 Oct. 1992) |
| 8. | Education (Sixth Amendment) Act, 2055 (1998) | 2055/10/1 (15 Jan. 1999) |
| 9. | Education (Seventh Amendment) Act, 2058 (2001) | 2058-10-25 (Feb. 7, 2002) |
| 10. | Education (Eight Amendment) Ordinance, 2060 (2004) | 2060-10.14 (Jan. 28, 2004) |

Act No. 8 of the Year 2028 (1971)

An Act Made to Provide For Education to be Given in the Schools According to the National Education System Plan

* Preamble: Whereas, in order to prepare manpower for national development and to maintain good conduct, decency and morality of the people in general in consonance with multi-party democratic system, it is expedient to promote quality education through improvements in the management of existing and future schools throughout the Kingdom of Nepal.

Now, therefore, His Majesty King Mahendra Bir Bikram Shah Dev, has made this Act, upon the advice and consent of the National Panchayat.

1. Short title, extent and commencement: (1) This Act may be called "Education Act, 2028 (1971).

(2) This Act shall come into force throughout the Kingdom of Nepal.

* Amended by Fifth Amendment.

(3) This Act shall come into force at such area and from such date as His Majesty's Government may, by a notification in the Nepal Gazette, appoint.^Φ

2. **Definition:** Unless the subject or context otherwise requires, in this Act. -

- ♠(a) The term "Pre-Primary School" stands for those schools that provide one year's pre-primary education to those children that have completed four years of their age.
- Ψ(b) "Primary Education" means education given from class one to class five.
- ♦(b1) "Lower Secondary Education" means education given from class six to class eight.
- ∠(c)
- ♣(d) "Secondary Education" means education given from class nine to class ten.
- √(d1) "Special Education" means education given to blind, deaf, dumb or disabled or mentally retarded children.
- +(d2) The term "Community School" stands for those schools that have obtained approval and will gain regular grant from His Majesty's Government.
- +(d3) The term "Institutional School" stands for those schools that have obtained approval or permission for operation on condition that they will not get regular grants from His Majesty's Government.

Φ His Majesty's Government has implemented this Act to the following district on the following dates:

| | <u>Dates</u> | <u>Enacted districts:</u> |
|---------------------------|----------------|---|
| | 2028/7/15 | (1 Nov. 1971) Chitwan, Kaski |
| | 2029/6/15 | (1 Oct. 1972) Dang, Banke, Baglung, Rupandehi, Dhanusha, Kavre, Saptari, Dhankuta, Morang, Jhapa, Jumla, Kailali, Kanchanpur. |
| 2030/7/1 | (17 Oct. 1973) | Ilam, Panchthar, Terathum, Sankhuwasabha, Sunsari, Sindhupalchowk, Kathmandu, Bhaktapur, Lalitpur, Gorkha, Tanahu, Syangja, Surkhet. |
| Manang, Lamjung, | 2031/6/21 | (7 Oct. 1974) Solukhumbu, Okhaldhunga, Khotang, Bhojpur, Udayapur, Siraha, Dolkha, Ramechap, Sindhuli, Sarlahi, Mahottari, Parbat, Gulmi, Arghakanchi, Palpa, Nawalparasi, Kapalbastu. |
| Nuwakot, Mustang, Myagdi, | 2032/6/20 | (6 Oct. 1975) Darchula, Baitadi, Daduldhara, Bajhang, Bajura, Acham, Bara, Parsa, Rautahat, Makwanpur, Rasuwa, Dhading, Dolpa, Rukum, Rolpa, Tibrikot, Mugu, Humla, Bardiya, Dailakh, Jajarkot, Doti. |
| Pyuthan, Salyan, | | |

♠ Amended by Seventh Amendment.

Ψ Amended by Fourth Amendment.

♦ Inserted by the Fifth Amendment.

∠ Deleted by the Fourth Amendment.

♣ Amended by Fifth Amendment.

√ Inserted by the Fourth Amendment.

+ Inserted by the Seventh Amendment.

- ♣(e) The term "School" stands for the Community School or Institutional School.
- ♦(e1) "Primary School" means School giving education pursuant to Clause (b).
- ♦(e2) "Lower Secondary School" means School giving education pursuant to Clauses (b) and (b1) or Clause (b1).
- ♦(e3) "Secondary School" means School giving education pursuant Clauses (b), (b1) and (d) or Clauses (b1) and (d) or Clause (d).
- (f) "Teacher" means teacher of a School and this term also includes the Headmaster.
- ♦(f1) "Commission" means ×..... Teacher Service Commission constituted pursuant to Section 11b.
- √(f2) "Secretariat" means Secretariat of the Commission.
- √(f3) "Chairman" means Chairman of the Commission.
- √(f4) "Member" means member of the Commission and this term also includes Chairman of the Commission.
- +(f5) The term "Parents / Guardians" stands for those persons that are the guardians of the children at the school mentioned in the school records.
- (g) "School Leaving Certificate Examination" means the examination to be held at the end of secondary education.
- √(g1) "Primary School Leaving Examination" means examination to be conducted at the end of Primary education.
- (h) "Prescribed or as prescribed" means prescribed or as prescribed in the Rules framed under this Act.
- ≈(i) "Licensee" means temporary approval, pending the permanent approval or grant of assistance by His Majesty's Government to open a School or add the classes at any prescribed place or area.
- ≈(j) "Approval" means the permanent approval given by His Majesty's Government to any School meeting the conditions as prescribed.
- ≈(k) "Residential School" means any School approved by His Majesty's Government as a Residential School.
- +(l) The term "Educational Trust" stands for the trust established by certain individuals without any motive for earning any profit in order to run the school.

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- ♣ Amended by Seventh Amendment.
 - ♦ Inserted by the Fifth Amendment.
 - × Deleted by the Seventh Amendment.
 - √ Inserted by the Sixth Amendment.
 - +
 - √ Inserted by the Fourth Amendment.
 - ≈ Inserted by the Second Amendment.

♣3. **Permission should be obtained for establishing school:** (1) If someone, except His Majesty's Government wants to open up a school, he should apply before His Majesty's Government or the appointed authority with detailed particulars and a recommendation letter obtained from the concerned District Education Officer requesting permission for the same. While applying for the same, those intending to found a school should mention whether they want to run it in the form Company Act or Educational Trust clearly in the application.

(2) If applications are received in accordance with the Sub-Clause (1) His Majesty's Government or the concerned authority will screen the application, and if the step is judged proper, he will grant permission to open the school provided that required conditions are fulfilled properly.

(3) His Majesty's Government or the concerned authority will give approval to the school established with permission under the Sub-Clause (2) provided that it has observed the regulations and conditions thereof.

#(4) Those schools that are running as Private Schools during the commencement of this Act, should apply before the appointed authority with detailed particulars provided within six months from the effect of this Act stating whether it will be conducted in the form of Company or Educational Trust.

(5) If applications are received in accordance with the Sub-Clause (4), the appointed authority will examine the necessary requirements in the application and while doing so, if the demand for the school is found justifiable, he will give approval to run the school as per the requisition.

(6) Despite whatever stated under Sub-clause (2), (3) or (5), no school subject to the following conditions shall be given permission or approval for running it in the form of Company:

- (a) School running in the Government or public buildings,
- (b) School running in such buildings as are constructed on the Government or public land,
- (c) School running in such buildings or land as have been donated by an individual or an organization to the school, or by constructing a building on the land donated in this way,

(7) Despite whatever mentioned under Sub-Clauses (2), (3) and (5), the concerned Village Development Committee or the Municipality will sanction permission or approval to open up Pre-primary Schools on its own resources.

(8) Despite whatever mentioned under Sub-Clauses (1), (2), and (3) above, nobody will be given permission to establish schools affiliated to any foreign educational institution.

However, His Majesty's Government can extend permission to establish and run schools affiliated to foreign educational institutions by fixing rules and conditions provided that a contract has been signed with His Majesty's Government or recommendations for the effect have been received through some diplomatic agency. Applications can directly be forwarded for this purpose before His Majesty's Government.

♣ Amended by Seventh Amendment.

See Education (Eight Amendment) Ordinance, 2060 for new Provision at the end of the text.

(9) His Majesty's Government can close such schools anytime as have been given permission or assent to run as per Sub-Clause (8), provided that they do not run in accordance with the rules and regulations.

(10) Regarding the schools permitted or approved under Sub-Clause (8), other regulations enacted under this Act will not be applicable to them.

4. **Operation of the School:** The operation of School shall be as prescribed.
- Ψ5. **Conduct and Control of Examination:** The conduction and control of Primary School Leaving Examination, *Lower Secondary Leaving Examination and School Leaving Certificate Examination shall be as prescribed.
6. **Types of Secondary Education:** Types of Secondary education shall be as follows:
(a) General Secondary Education
∠ (b)
(c) Sanskrit Secondary Education.
- +6A. **Operation of Special Education, Non-formal Education, and Distance Education and other provisions:** (1) The Regulations for Special Education will be like those for General Education.
(2) The provision for remuneration, facilities and other conditions for service of staff members and teachers appointed to run Special Education will be as prescribed.
(3) The regulation of informal education and distance education will be as prescribed.
- *7. **Medium of Education:** (1) The medium of education at the School shall be in Nepali language.
Provided that the education up to primary level may be given in mother tongue.
(2) Notwithstanding anything contained in Sub-section (1), while teaching the subject of language the medium of education may be in same language.
8. **Curriculum and Textbook of the School:** The School shall be required to implement the curriculum and text-book as approved by His Majesty's Government.
- +8A. **Department of Education:** (1) The Department of Education will be instituted under the Ministry of Education and Sports.
(2) A director General will head the Department of education instituted as per the Sub-Clause (1).
(3) The functions, duties, and rights of the Director General will be as prescribed.
- Ψ9. **Regional Education Directorate:** (1) His Majesty's Government may establish Regional Education Directorate in each development region.
(2) A Regional Education Director shall be as the Chief of the directorate to be established pursuant to Sub-section (1).
(3) Functions, duties and powers of the Regional Education Director shall be as prescribed.

Ψ Amended by Fourth Amendment.

* Amended by Fifth Amendment.

∠ Deleted by the Fourth Amendment.

+ Inserted by the Seventh Amendment

Ψ10. **District Education Office:** (1) His Majesty's Government may establish a District Education Office in each district.

(2) A District Education Officer shall be as the Chief of the Office to be established pursuant to Sub-section (1).

(3) Functions, duties and powers of the District Education Officer shall be as prescribed.

♠11. **The formation of District Education Committee:-** (1) In each district a District Education Committee will be formed to supervise and manage the schools within the district.

(2) As per the Sub – Clause (1) the Members of the District Education Committee will remain as follow:

- | | |
|---|-------------------|
| (a) President of the District Development Committee or the person authorized to perform the duties of the President | -Chairperson |
| (b) Chief District Officer | - Member |
| (c) Secretary to the District Development Committee | - Member |
| (d) One of the four teachers representing the Higher Secondary Schools, Secondary Schools, and Primary Schools of the District, should be a female, and all of them should have at least ten years' experience of working with the concerned school | - Members |
| (e) One of the chairpersons of the School Management committee nominated by District Education Committee | - Member |
| (f) One of the Chairpersons of the Management Committee of the Institutional Schools within the district nominated by District education Officer | - Member |
| (g) One of the Chairpersons of Village Education Committee nominated by District Education Committee | - Member |
| (h) President of the District Level Teachers' Union | - Member |
| (i) District Education Officer | -Member-Secretary |

(3) The tenure of office of the Members nominated as per Sub - Clause (2) will last for two years. The nominating authority or the concerned unit can dismiss the nominee anytime provided that the latter's conduct is found improper to the post.

But before dismissing him from the post he will not be deprived of the opportunity to absolve himself from the charge.

(4) The Parliament Members elected from the concerned district will be invited to the meetings of the District Education Committee.

(5) The functions, duties and rights of the District Education Committee will be as follow:

- (a) To formulate district level plans for education,
- (b) To encourage the Village Development Committees and Municipalities in assisting the Community Schools financially,

Ψ Amended by Fourth Amendment.

♠ Amended by Seventh Amendment.

- (c) To assist in conducting the examinations in the district in a desirable way,
- (d) To arrange for accumulating resources for the development of quality in education in the district,
- (e) To fix the remuneration for the auditor of the Community School,
- (f) To distribute and adjust the teachers' positions available among the Community Schools of the district, first on the basis of the student number to the Primary Schools whereas on the basis of the Student number as well as subject load in case of the Lower Secondary and Secondary Schools as per the policy of His Majesty's Government,
- (g) To forward required instructions to the School Management Committees.

(6) Other functions, duties, rights and procedures of meeting of the District Education Committee will be as specified.

∇11A. **District Education Committee May be Dissolved:** (1) In cases where the District Education Committee of any district fails to fulfill the responsibilities as prescribed, such District Education Committee may be dissolved by His Majesty's Government.

(2) After the dissolution of a District Education Committee pursuant to Sub-section (1), His Majesty's Government may constitute a temporary Committee to perform the functions of the District Education Committee till the constitution of another District Education Committee.

∇11B. **Constitution of the Commission:** ♣(1) A Teacher Service Commission will be instituted to appoint teachers in the vacant positions in accordance with the positions approved by His Majesty's Government for the Community Schools, to recommend the promotion of such teachers as are appointed in this way.

(2) The Commission will consist of two members excluding the President.

(3) In order to recommend the names for the appointment of the Members as per Sub –Clause (2), His Majesty's Government will form a committee under the chairmanship of the Chairman of the Public Service Commission consisting two Members – the Vice-chancellor of Tribhuvan University and a Secretary from the MOES, and His Majesty's Government will appoint the person recommended by the Committee for the post of member.

(4) The terms of Office of members appointed and nominated pursuant to sub-section (2) shall be of five years and they may be re-appointed.

+ (4a) The senior official in the Commission will function as the secretary to the Commission.

(5) Functions, duties powers and proceedings of the commission shall be as prescribed.

(6) Other terms of service of members shall be as prescribed.

(7) Remuneration and facilities of members shall be as prescribed by His Majesty's Government, by a notification in the Nepal Gazette.

∇ Inserted by the Third Amendment.

∨ Inserted by the Sixth Amendment.

♣ Amended by Seventh Amendment.

+ Inserted by the Seventh Amendment

∨11C. **Qualification for Membership:** (1) The following qualifications shall be required to be appointed to the post of a member:

- (a) Nepalese citizen,
- (b) Obtained Masters' degree from the University recognized by His Majesty's Government,
- (c) Should not be a member of any Party from at least two years before the appointment,
- (d) Completion of the age of 40 years,
- ♣(e) The eligibility for the post of Chairperson is at least five years' service in special class, and for the post of Member one should have earned at least fifteen years' experience in the field of Law, Education or Administration.

∨11D. **Membership Not To Be Maintained:** (1) The post of member shall be treated as vacant in the circumstances as follows:

- (a) If the tenure has been completed pursuant to Sub-section (4) of Section 11b,
- (b) If he has completed the age of 65 years,
- (c) If the resignation in writing tendered by him has been approved by His Majesty's Government,
- (d) If he dies.

(2) Notwithstanding anything contained in Sub-section (4) of Section 11b., if any person has made suit stating that any member has lack of efficiency in work performance or not been carried out the act as per the duties and involved in bad conduct, His Majesty's Government may, constitute a Committee to make investigation on such suit, and in the event of establishing of such matter, His Majesty's Government may remove such member from the post of member.

Provided that, such member shall not be deprived from the opportunity of submitting his clarification prior to removal from the post.

∨11E. **Provision Relating to Secretariat and Employee:** (1) There shall be a separate Secretariat of the Commission and such Secretariat shall be located in Kathmandu Valley.

(2) His Majesty's Government shall designate at least Gazetted First Class Officer level employee of His Majesty's Government to carry out the work as the Administrative Chief of the Secretariat.

(3) Other necessary employees of the Secretariat shall be arranged by the Ministry of Education.

∨11F. **Procedures to be Followed for Recommendation:** (1) The procedures to be followed for the recommendation to permanent appointment of teachers by the Commission shall be as follows:

- (a) To take details of number of teachers to be fulfilled according to the level of School from the concerned District Education

∨ Inserted by the Sixth Amendment.

♣ Amended by Seventh Amendment.

Office while fulfilling the vacant post of teachers permanently as per the approved position in the Schools of the district,

- (b) To publish advertisement for recruitment through open competition having mentioned the number of posts, and to take application from the candidates having the prescribed qualifications according to the post,
- (c) To select suitable candidate after investigation of the applications received pursuant to Clause (b), following the procedures as follows:
 - (1) Open competitive written examination,
 - (2) Interview,
 - (3) Practical examination.Provided that, practical examination shall be taken in only such situation as deemed appropriate and necessary by the Commission.
- (d) The recommendation of appointment and promotion shall be required to be made by the Commission within six months of advertisement.

(2) The procedures as prescribed shall be required to be followed by the Commission while making recommendation for promotion of the teacher.

- ∨11G. **Committee May Be Constituted:** (1) The Commission may constitute Committees in central and regional level as per necessity for the smooth operation of functions and proceedings to be carried out by it. The members of such Committees shall be constituted from among the education lists and the persons actively involved in the education sector, which are not members of any party from at least one year before the appointment.
(2) Functions, duties, powers and proceedings of the Committees constituted pursuant to Sub-section (1) shall be as prescribed by the Commission.
- ∨11H. **Delegation of Power:** The Commission may, as per necessity, delegate any of the powers conferred on it by this Act to the Chairman, member, the Committee pursuant to Section 11g. or any officer employee.
- ∨11I. **Deemed to have done by the Commission:** The functions and proceedings carried out by the District Teachers Selection Committee and Regional Teachers Selection Committee prior to the commencement of this Act shall be treated as done by the Commission.
- ∨11J. **Submission of Annual Report:** The Commission shall be required to submit annual report of the functions and proceedings carried out by it on such year to His Majesty's Government within three months of completion of each fiscal year.
- +11K. **Village Education Committee:** (1) In each of the Village Development Committees, a Village Education Committee will be formed in order to supervise and manage the schools that run within the area of the Village Development Committee, and also to

∨ Inserted by the Sixth Amendment.

+ Inserted by the Seventh Amendment

establish coordination among the various schools. The Village Development Committee will consist of the following Members:-

- (a) The President of the Village Development Committee or the person authorized to act for the same post. -Chairperson
- (b) One person nominated by the District Education Committee from among the Chairperson of the School Management Committees of the schools running within the Village Development Committee area. -Member
- (c) Two persons, including one woman, from among the social workers or educationists nominated by Village Education Committee -Member
- (d) A school supervisor from the concerned area -Member
The member of the District Development Committee of the area in which the school is located -Member
- (e) A Headmaster from the excellent school as evaluated by Village Education Committee among the Community Schools running within the Village Development Committee area. -Member-Secretary

(2) The tenure period of the Members nominated as per Sub-Clause (1) will be two years. The nominating authority or the concerned unit can dismiss the nominee member anytime provided that the latter's conduct is found improper to the post.

But before dismissing him from the post, he will not be deprived of the opportunity to absolve himself from the charge.

(3) Other functions, rights, duties of the Village Education Committee and the other procedures of meeting will be as prescribed."

+11L. **Running Mobile Schools:** His Majesty's Government can run Mobile Schools in the remote, mountain regions as specified.

+11M. **Teaching License Should be Obtained:** (1) After the commencement of this Act, nobody without producing teaching license from the Commission can be a candidate for the post of a teacher.

(2) The Commission can conduct examination as specified announcing through public notices for the purpose of giving Teaching Licenses.

(3) The commission can distribute Teaching License to those candidates that are successful in the examination conducted as per the sub-clause (2)

(4) Within six months of the commencement of this Act, the Commission will provide the working teachers with temporary Teaching Licenses.

(5) Those teachers who have obtained temporary Teaching Licenses as per Sub-Clause (4) will have to obtain permanent license from the Commission within five years of this.

(6) Those temporary teachers who fail to obtain permanent Teaching License within the specified period will automatically be terminated and the permanent teachers will be terminated as per specification of rules.

(7) Other provisions regarding the Teaching License will be specified.

+ Inserted by the Seventh Amendment

- +11N. **Grant will not be curtailed:** The amount of grant being provided by His Majesty's Government to the Community Schools at the commencement of this Act will not be curtailed.
- +11O. **Provision for scholarship can be made:** His Majesty's Government can arrange scholarship for the students enrolled at Lower Secondary Education and Secondary Education as per the rules specified.
- +11P. **Grants can be issued to the Child Development Centers:** His Majesty's Government can provide the Child Development Center established in collaboration with Village Development Committee or Municipality with grants as per the rules specified.
- ♣12. **School Management Committee:** (1) For every Community School a School Management Committee consisting of the following members will be constituted for its operation, supervision and management: -
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|-----|--|------------------|
| (a) | A person selected by the parents from among themselves | -chairperson |
| (b) | Three persons, including one female, selected by the parents among themselves | -Members |
| (c) | The Ward President of the concerned Ward of the Village Development Committee or Municipality where the school is situated | - Member |
| (d) | One person nominated by School Management Committee from among local intellectuals or educationists | - Member |
| (e) | One person nominated by School Management Committee from among the founders of the school or donors to the school | - Member |
| (f) | One person selected by the concerned school teachers from among themselves | -Member |
| (g) | Headmaster of the school | Member-secretary |
- (2) In the School Management Committees of such Secondary schools as offer courses on Technical or vocational Subjects or conduct training on the same, two Members will be represented from the District Level Industry and Commerce and Trade Unions.
- (3) The School Supervisors and the Resource Persons related to the concerned school will be invited to attend the School Management Committee Meetings as observers.
- (4) For every Institutional School, a School Management Committee consisting of the following Members will be constituted for its operation, supervision and management: -
- | | | |
|-----|--|--------------|
| (a) | One person nominated by the District Education Officer on the recommendation of concerned school from the Founder or the Investor of the school. | -Chairperson |
| (b) | One person nominated by School Management Committee from among the | - Member |

+ Inserted by the Seventh Amendment

♣ Amended by Seventh Amendment.

- parents.
- (c) The Ward President of the concerned Ward of the Village Development Committee or Municipality where the school is situated - Member
 - (d) One person from among the local intellectuals or educationists nominated by the Village Development Community or Municipality - Member
 - (e) School supervisor of the concerned area - Member
 - (f) One person selected by the concerned school teachers from among themselves - Member
 - (g) The Headmaster of the school - Member-Secretary

(5) The tenure of the office of the Presidents or Members selected or nominated as per Sub-Clause (1) and (4) will be two years. The selecting or nominating parents, authority or units can dismiss the President or Members thus selected or nominated from their post provided that the latter's conduct is found improper to the post.

But before they are terminated from their post, they will not be deprived of the opportunity to absolve themselves from the charge.

(6) The functions, rights, and duties of the School Management Committee for the Community Schools will be as follow: -

- (a) To mobilize the resources and means available for the operation of the school,
- (b) To maintain or arrange for maintaining the records of both the movable and immovable property belonging to the school and protecting the same,
- (c) To maintain and update the records of the academic, physical and financial of the school,
- (d) To sanction the annual school budget and inform the Village Education Committee and District Education Office of the same,
- (e) To prevent different elements from polluting the environment of the school on the grounds of politics, religion, communality in order to maintain the academic environment of the school conducive,
- (f) To join the teacher appointed by the District Education Officer to the school and assign duties to him/her,
- (g) To get the auditing of the annual budget of the school accomplished by the auditor appointed by the District Education Office,
- (h) To take necessary action in accordance with the auditor's report and submit the report on the same before the District Education Officer,
- (i) To carry out orders and instructions issues by the District Education Committee and District Education Office,
- (j) To appoint such candidates as have obtained Teaching License from the Commission and who are eligible candidates for the

post for the teacher as per the prevalent law on the basis of open competition and arrange for the remuneration, facilities and the promotion of the teachers thus appointed,

- (k) To form Parent-Teacher Association as specified in order to enhance the academic standards.

(7) The functions, duties and rights of the School Management Committee of the Institutional School will be as follow: -

- (a) To mobilize the resources and means available for the operation of the school,
- (b) To make arrangement for the essential physical facilities for the school,
- (c) To keep environment of the school favorable,
- (d) To implement the curriculum and the textbooks approved by His Majesty's Government compulsorily and to acquire approval from the Curriculum Development Center if other supplementary textbooks are regarded essential,
- (e) To appoint those candidates to the post of the teacher who have obtained License from the Commission and who are eligible for the post as per the prevalent law to the post of teacher,
- (f) To pay them salary not less than the scale fixed by His Majesty's Government,
- (g) To take action in cases of the breach of discipline by teachers,
- (h) To carry out directions issued by His Majesty's Government,

(8) Other functions, rights, and duties and the procedures of meetings of the School Management Committee will be as prescribed.

≡12a. **Dissolution of the School Management Committee:** (1) In cases where the School Management Committee of any School becomes unable to fulfill its prescribed responsibility, the District Education Officer may, stating the reasons thereof, dissolve the School Management Committee of the Pre-primary School and Primary School, and the Regional Education Director may, stating the reasons thereof, dissolve the School Management Committee of the Lower Secondary School and Secondary School.

Provided that prior to its dissolution, an opportunity of clearance shall be given to such School Management Committee.

(2) After the dissolution of the School Management Committee pursuant to Sub-section (1) and till another School Management Committee is constituted or owing to any other reason, till a School Management Committee is constituted, the District Education Officer may in respect of the School Management Committee of a Pre-primary School and the Primary School and the Regional Education Director in respect of the School Management Committee of Lower Secondary and Secondary School, constitute a temporary School Management Committee in order to perform the functions of the School Management Committee.

+12B **Rural Education Development Fund:** (1) A central level Rural Education development Fund will be instituted to assist in the development of the Community Schools run in the rural areas and also to enhance their academic standards.

≡ Inserted by the Third Amended and amended by the Fifth Amendment.

+ Inserted by the Seventh Amendment.

(2) The fund as of Sub-Clause (1) will consist of the following amounts:

- (a) Grants obtained from His Majesty's Government,
- (b) The sum obtained from the Institutional Schools – which amounts to not less than one and half percent of the net annual income of such schools as are specified,
- (c) The amount obtained through donation,
- (d) The amount obtained through other sources.

+12C. **The Fund Management Committee:** (1) In order to operate the Rural Education Development Fund, a Fund Management Committee consisting of the Members as follow will be constituted:-

- (a) Secretary, Ministry of Education and Sports - Chairperson
- (b) Representative, Ministry of Finance - Member
- (c) Representative, Ministry of Local Development - Member
- (d) Joint-Secretary (Educational Administration Division), Ministry of Education and Sports - Member
- (e) Director General, Department of Education - Member
- (f) Representative, Office of the Auditor General - Member
- (g) Two members elected by the Ministry of Education and Sports from among the presidents of the central level organizations of the Institutional Schools - Member
- (h) The Head of the School Administration Section under the Ministry of Education and Sports - Member-Secretary

(2) Other functions, duties, rights and procedures of the meeting of the Fund Management Committee instituted as per Sub-clause (1) will be as specified.

13. **District Education Fund:** (1) A District Education Fund shall be established in each district, which shall consist the amount as follows:

- (a) Contribution obtained from His Majesty's Government,
- √ (a1) Contribution obtained from the District Development Committee,
- (b) ≠
- (c) Amount collected from education tax,
- (d) Amount obtained from donation, and
- (e) Amount obtained from other sources.

(2) The Fund established pursuant to Sub-section (1) shall be operated as prescribed.

⌘ (2).....

√ Inserted by the Fourth Amendment and Amendment by the Fifth Amendment.

≠ Deleted by the Third Amendment.

⌘ The Fourth Amendment has deleted proviso clause.

∇(3) The Fund established pursuant to Sub-section (1) shall be audited by the Department of Auditor General of the Kingdom of Nepal.

∇13a. **Fund of the School:** (1) A School Fund shall be established in each School, which shall consist the amount as follows:

- (a) Contribution obtained from His Majesty's Government,
- √ (a1) Contribution obtained from District Education Fund,
- ↔ (a2) Contribution obtained from Village Development Committee or Municipality,
- (b) Amount to be collected from fees,
- (c) Amount to be obtained from donation or gift, and
- (d) Amount to be obtained from other sources.

(2) The Fund established pursuant to Sub-section (1) shall be operated and audited as prescribed.

•14. **His Majesty's Government May Give Directives:** (1) His Majesty's Government may, as per necessity, give directives to the District Education Committee < and School Management Committee.

(2) It shall be the duty of each District Education Committee and <... .. School Management Committee to obey the directives given pursuant to Sub-section (1).

15. **Power of His Majesty's Government to Transfer, Merge, Re- name or Close any School:** ΨHis Majesty's Government or the prescribed authority may, upon recommendation of the District Education Committee, transfer any existing School from one place to another or merge two or more Schools into one School or rename the School or close such School, ≈ or open a new School at the prescribed place or area or give permission or approval to operate the School with addition of classes.

♣16. **Properties of the School:** (1) The property under the right of Community School will be considered as public property. The amount obtained through the sale of the property of such Community Schools as got their permission cancelled or are merged into any other school by His Majesty's Government as per the existing law provided that the property is of no use for other schools, will be deposited to the concerned District Education Fund.

(2) The property of those Institutional Schools that run as Education Trust will be in the name of the same school. But such property will be considered public property provided that such a school is closed for some reason. His Majesty's Government can utilize such property in the work of any Community School or sell the same and deposit the amount obtained in this way in District Education Fund.

∇ Inserted by the Third Amendment.
√ Inserted by the Fourth Amendment.
↔ Inserted by the Fourth Amendment and Amendment by the Fifth Amendment.
• Amended by Third Amendment.
< Deleted by Sixth Amendment.
Ψ Amended by Fourth Amendment.
≈ Inserted by the Second Amendment.
♣ Amended by Seventh Amendment.

(3) The property of those Institutional Schools that run as Company will be in the name of that company.

(4) Before receiving any kind of movable or immovable property from some person or organization, the Institutional School should obtain approval for the same from the concerned District Education Committee.

(5) The property obtained under Sub-Clause (4) cannot be sold without any permission from His Majesty's Government.

(6) The school should hold the meeting of the parents at least once a year and present particulars of the income, expenditure and academic achievement of the previous year and the details of the academic calendar for the next year publicly.

▲16A. **Rebet and facility for the school:** (1) Despite whatever is written in the existing law, no registration fees shall be exacted on the registration of any kind of deeds written in the names of Community School, and Institutional Schools conducted in the form of Educational Trust.

(2) Apart from what is written under Sub-Clause (1), His Majesty's Government can give rebet in the rate as specified in the registration of deeds in the names of other schools.

(3) The rate of rebet and concession to be accorded to the Community Schools and the Institutional Schools conducted as Education Trust will be as specified."

+16B **Cancellation of permission or approval:** The concerned authority shall cancel the permission or approval accorded to the Institutional School provided that it fails to furnish the report as per Sub-Clause (4) of Clause (3), or having it found to act against this Act, or other laws enacted under this.

But before canceling the permission or approval, the concerned school will not be deprived of the opportunity to absolve itself from the charge.

+16C **Classification of schools:** Schools will be classified as per the rules prescribed.

+16D **Rules of fee structure:** (1) The education provided by Community Schools up to the Primary level will be free, and the students enrolled in such schools will be provided free of cost textbooks by His Majesty's Government.

(2) The rate of the fees charged on the students receiving Lower Secondary and Secondary level education at Community Schools will be decided as specified.

However a provision of free education will be made for girl children and the students from the dalits and the tribal class that fall below the poverty line.

(3) Once the schools charge admission fees to the students while getting admitted to a particular grade, the same school cannot collect any kind of tax from the same student while getting readmitted to another grade.

(4) The school will not be allowed to collect any kind of fees towards building the physical infrastructure of the school from the students.

(5) The fees that a school is to collect from the students should be decided only with the permission of His Majesty's Government or the person authorized. The permission of the fee structure will be based on the classification of schools.

(6) The concerned authority must make the school return the fee provided that the school has collected fees from the students against this Act.

(7) The concerned authority can punish the school with a fine of up to Rupees twenty five thousand provided that the school has collected fees against this act.

▲ Amended by Seventh Amendment.

+ Inserted by the Seventh Amendment.

- +16E. **Teachers' Union, teachers' conduct and other provisions:** (1) There will be a Teachers' Union formed to promote the professional rights and welfares of the teachers.
- (2) The Teachers' Union can be formed both at the central as well as district levels.
- (3) The election of the Teachers' Union will be as specified.
- (4) The teacher cannot participate in any kind of election held for any political party, he should not serve in any post of any political party, nor should he represent any political party.

But this Sub-Clause does not contradict their right to exercise their voting right entitled to them as per the existent law.

- (5) A teacher will be dismissed from his post under the following conditions: -
- (a) If he acts against Sub-Clause (4),
 - (b) If he fails to fulfill the duty expected of the post,
 - (c) If he remains absent for more than 15 days at a stretch without any information,
 - (d) If it is proved that he attends the schools having drunk liquors,
 - (e) If he is found to have been punished by court on criminal charges.

- +16F. **Academic qualifications:** The qualifications required of the school teachers' post will be as prescribed.

- +16G. **Provision of reappointment by the order of the court:** (1) The teacher who has been dismissed from the job followed by the departmental action or discharged of his duty can be reappointed to his post only as per order or the decision issued by the court.

(2) The teacher thus reappointed as per Sub-Clause (1) will be entitled to draw full salary, allowance, raised salary if any, for the period between his dismissal from the job and reinstatement to it.

- +16H. **Teachers' transfer:** (1) The teacher seeking transfer should fill in the form as specified and apply before the concerned District Education Office.

(2) The District Education Committee can transfer such a teacher provided that an application as per Sub-Clause (1) is received, the position is vacant and the subject matching.

But every year, more than twenty five percent of the vacant positions will not be filled through transfer from other districts.

(3) Despite whatever written under Sub-Clause (2) if such conditions prevail under which the transfer of some teacher becomes unavoidable, the District Education Officer can, within the district, transfer the teacher; the Regional Education Director can do so within his region and the Department of education can do so within the whole kingdom of Nepal.

(4) While transferring the teacher as per the Sub-Clause (3), the District Education Officer should obtain pre-acceptance from the Regional Education Director; the Regional Education Director from the Department of Education and the Department of Education from the Ministry of Education and Sports, and this should also be accompanied by the recommendation of the concerned school.

+16I. **This does not apply to the Institutional Schools:** Apart from what has been mentioned in this Act, the conditions mentioned under Clauses 11J, 15, 16C, 16G, 16H and the Sub-Clause (1) of Clause 17 and Sections (A), (D) and (E) of Sub-Clause (2) will not be applicable to Institutional Schools.

*17. **Penalty:** ♣(1) If anybody embezzles or causes damage/loss to the property of the school, the concerned authority will collect the claimed amount and punish him with a fine of up to Rupees twenty-five thousand.

‡(1a.) If someone is found to do or make someone to do, or assist someone to do the following, the concerned authority will punish the person charged of this with a fine of Rupees up to one lakh or sentence six months' imprisonment or both depending upon the fault or crime.

- (a) If the secrecy of question papers is disclosed,
- (b) In case of negligence or irresponsible activity found in checking answer scripts,
- (c) If one is found trying to enter the Examination Center without the permission of the concerned authority, or is found to enter to do immoral deeds taking the Center under control,
- (d) If irregularity is found in the publication of examination results,
- (e) If someone is found appearing examinations on the behalf of others,
- (f) If he is found to do anything that is likely to break the rule of examinations.

‡(1b.)In connection with the fault as per (1B) Sub-Clause (1) and (1A), if case is sued against any teacher or the staff of the school, in the court, he will be suspended from the post from the day the case is sued in this way until the case has been finalized. The teacher or staff, if found at a fault, will be given departmental punishment as per this Act."

(2) ♣Except what is written in Sub-Clause (1) and (1a.), the prescribed authority may punish any person who contravenes the provision of this Act or the Rules made hereunder in the manner as follows:

- (a) To impose disciplinary actions on teachers and employees of the Schools,
- (b) To expel any student from School, hostel or examination,
- ^(c) To impose fine from one thousand rupees to up to twenty five thousand rupees,
- (d) To reduce, suspend or cancel the governmental assistance,
- (e) To cancel the permission or approval given to the School.

‡17A. **Investigation and prosecution of Cases Relating to Property:** (1) Notwithstanding anything contained in the Governmental Cases Act, 2017 (1960), any case relating to

* Amended by the First Amendment.

♣ Amended by Seventh Amendment.

+ Inserted by the Seventh Amendment

^ Amended by the Sixth Amendment.

the offence punishable under Sub-section (1) of Section 17 shall be investigated by the prescribed authority, and after the investigation is completed such case shall be filed with the Adjudicating Authority in the name of the concerned School.

(2) During the process of investigation and filing of the case under Sub-section (1), the prescribed authority may seek legal opinion from the Public Prosecutor.

÷17B. **Adjudicating Authority**: The cases relating to the offence punishable pursuant to Sub-section (1) of Section 17 shall be tried and decided by the Chief District Officer.

♣17C. **His Majesty's Government will be plaintiff**: (1) In cases filed as per Sub-Clauses (1) and (1A) of the Clause 17, His Majesty's Government will be the plaintiff."

(2) The cases filed as per sub-clause (1A) of Clause 17 will be considered included under Schedule-1 of State cases act, 2049"

*18. **Appeal**: (1) An appeal against the order of punishment made by the Chief District Officer pursuant to Section 17b may be filed at the Appellate Court within thirty five days.

(2) An appeal against the orders of the prescribed authority pursuant to Sub-section (2) of Section 17, except the order expelling a student from examination, may be filed at ⊗the Appellate Court within thirty five days.

19. **Rules May be Framed**: (1) His Majesty's Government may frame Rules in order to execute the objectives of this Act.

(2) Without prejudice to the generality of powers vested by Sub-section (1), such Rules may in particular make provisions on the following:

- (a) Flag, emblem and prayers of the Schools,
- Ψ(b) Fee to be chargeable on students and its realization,
- Ψ(c) Grants to be given to the Schools,
- (d) Examination of Schools,
- ÷(d1) Relating to determination of equivalency of School Leaving Certificate Examination,
- ÷(d2) Relating to National Teachers Service Commission,
- ÷(d3) Relating to Teachers Registration Office of the Schools,
- (e) Determination of extra-activities and programme of the School,
- Ψ(f) Relating to oath of teacher and employee of the school,
- (g) Methods of admission of students in Schools and the number of students,
- (h) Protection of properties of Schools,
- (i) Operation of hostel of Schools,
- (j) Checking of income and expenditure of Schools,

÷ Inserted by the First Amendment.

♣ Amended by Seventh Amendment.

* Amended by the First Amendment.

⊗ Amended by the Judicial Reform (Fourth Amendment) Act, 2043 (1986).

Ψ Amended by Fourth Amendment.

- (k) Methods of preparing and keeping of records, ledgers and other documents of Schools,
- Ψ (l) Curriculum, textbook and reference materials of Schools,
- (m) Code of conduct of teachers and students,
- (n) Library and reading rooms of Schools,
- (o) Co-education,
- (p) Teachers training programme,
- ♣(p1) Training on Teaching and School Management,
- (q) Powers and duties of Headmasters,
- Ψ(r) Relating to terms of service of teachers of Schools,
- Ψ(s) Teaching ♣Permission letter, identity card and pass of the teachers of Schools,
- Ψ(t) Special education,
- ♣(u) Non-formal Education,
- ‡(u1) Distance Education
- (v) Constitution of Teacher's Service,
- (w) District Education Fund,
- (x) Student counseling and guidance service ×.....
- (y) Other necessary matters,
- ≈(z) Operation of Residential Schools,
- ≈(z1) Relating to ♣Institutional Schools,
- ♦(z2) Relating to coaching class, language teaching class and teachers training class operated in private sector,

20. **Powers to Remove Difficulties:** If any difficulty or hindrance is encountered in executing the purposes of this Act, His Majesty's Government may, in order to remove such difficulty or hindrance, issue an order by a notification in the Nepal Gazette, and such order shall be treated as incorporated in this Act.

21. **Savings and Exemption:** (1) The provision of ♣this Act or under this Act, the Rules framed thereto shall prevail on matters provided herein or therein, and in all other matters the prevailing Nepal laws shall apply.

‡(1a) Nothing contained in this Act shall prevent His Majesty's Government to take action pursuant to Corruption Prevention Act, 2017 (1960).

Ψ Amended by Fourth Amendment.
♣ Amended by Seventh Amendment.
+ Inserted by the Seventh Amendment
× Deleted by the Second Amendment.
≈ Inserted by the Second Amendment and Amendment by the Fifth Amendment.
♦ Inserted by the Fifth Amendment.
♣ Amended by Seventh Amendment.
‡ Inserted by the First Amendment.

(2) The provisions of Education Act, 2025 (1968) and Education Regulations, 2027 (1972) shall not apply in the areas where this Act has come into force.

- Notable: (1) Words translated by the District Development Act, 2048 (1992):
The word "District Panchayat" has been substituted by the word "District Development Committee".
- (2) The following words used in the various places of this Act and Rules framed there under have been substituted by the following words by the Education (Fifth Amendment) Act, 2049 (1992):
1. "Office of the Regional Education Inspector" have been substituted by "Regional Education Directorate".
 2. "Regional Education Inspector" have been substituted by "Regional Education Director".
 3. "Office of the District Education Inspector" have been substituted by "District Education Office".
 4. "District Education Inspector" have been substituted by "District Education Officer".
 5. "School Operation Committee" have been substituted by "School Management Committee".
 6. "Zonal Court" have been substituted by "Appellate Court".

Volume 53 Extraordinary Issue 63 Date: 2060-10-14 (28-2-2004 A.D.)

NEPAL GAZETTE

PART -2

His Majesty's Government

Ministry of Law, Justice and Parliamentary Affairs

The following Ordinance issued by His Majesty's the King Gyanendra Bir Bikram Shahdev has been published for information of general public.

Ordinance No. 21 of 2060

An Ordinance to Amend to the Education Act, 2028

Preamble: Whereas, it is expedient to amend to the Education Act, 2028 (1971) immediately and there is no session of Parliament going now;

Now, therefore, His Majesty's the King Gyanendra Bir Bikram Shahdev has issued this Ordinance pursuant to Article 72 of the Constitution of the Kingdom of Nepal, 2047 (1990).

1. **Short Title and Commencement:** (1) The name of this Ordinance is "(the) Education (Eighth Amendment) Ordinance, 2060 (2004).

(2) This ordinance shall come into force at once.

2. **Amendment to Section 3 of the Education Act, 2028:** Sub-section (4) of Section 3 of the Education Act, 2028 has been substituted by the following sub-section (4):-

"(4) The schools which have been operated as institutionalized schools prior to 25th of Magha of the Year 2058 Vikram Samvat (Feb. 7, 2002 A.D.) but not incorporated as a company or an educational trust or which have not submitted application to get incorporated as such shall, within six months from the date of commencement of this Ordinance, submit application to the prescribed authority having stated the details prescribed with regard to how is such school is to be operated either as a company or an educational trust."

Date of Royal Assent: 2060-10-14-4 B.S. (Jan. 28, 2004)

By order of
(Hariprasad Neupane)
Acting Secretary to
His Majesty's Government