



KARNATAKA LEGISLATIVE ASSEMBLY
FIFTEENTH LEGISLATIVE ASSEMBLY
SIXTH SESSION

**THE KARNATAKA STATE CIVIL SERVICES (REGULATION OF
TRANSFER OF TEACHERS) BILL, 2020**
(LA Bill No. 17 of 2020)

A Bill to provide for regulation of transfer of teachers so as to ensure the availability of teachers in Government Primary schools and Government High schools.

Whereas it is expedient to provide for regulation of transfer of teachers so as to ensure the availability of teachers in Government Primary Schools and Government High schools and for the matters connected therewith or incidental thereto;

Be it enacted by the Karnataka State Legislature in the seventyfirst year of the Republic of India, as follows:-

1.Short title and commencement.-(1) This Act may be called the Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2020.

(2) It shall come into force on such date as the State Government may by notification, appoint.

2.Definitions.-In this Act, unless the context otherwise requires,-

(a) "**Appointment**" means appointment by direct recruitment, by absorption or by promotion;

(b) "**Appointing authority**" means the authority competent to make appointment to the post of a teacher;

(c) "**Competent authority**" means the authority competent to make orders of transfer of teachers as may be prescribed;

(d) "**Minimum period of service**" means a continuous service of three years in a school including service rendered in a school from where he has been re-deployed.

(e) "**Order of priority**" means priority list of teachers prepared based on weighted score obtained by the teacher as per the criteria as may be prescribed, for the purpose of counselling;

(f) "**Re-deployment**" means re-deployment of any post from a school where it is excess, to any school where it is deficit as per pupil-teacher ratio and other norms specified by the State Government;

(g) "**Schedule**" means the schedule appended to this Act;

(h) "**Specified posts**" means posts of Cluster resource person, Block resource person, Educational co-ordinator, Technical Assistant, Block resource co-ordinator, Assistant project Co-ordinator, Subject Inspector and Assistant Director (mid day meal); and such other posts as may be notified by the State Government in this behalf;

(i) "**Teacher**" means a person appointed to a category of posts of a teacher in a primary school or a high school or composite high school or composite junior college or such other posts belonging to the State Civil Services as specified in the Schedule;

(j) "**Transfer**" means posting of a teacher from one place of working to another place of working in the same cadre;

(k) "**Unit of seniority**" means for primary school teachers the Unit of Seniority is an Educational district and for high school teachers, the unit of seniority is a Revenue division; and

(l) "**Zone**" means Zone-A, Zone-B and Zone-C as defined and prescribed by the State Government.

3. Compulsory appointment of a teacher to Zone-C.- (1) Every appointing authority while giving first posting on initial appointment or promotion of a teacher shall ensure that vacancies in Zone-C shall be filled in the first instance. Preferably the taluks with more than twenty percent vacancies shall be filled on priority.

(2) If no vacancy is available for posting on initial appointment or promotion in Zone-C, vacancy may be created by transfer of willing teachers working in Zone-C who have completed minimum period of service to Zone-B in the order of priority and from Zone B-to Zone-A:

Provided that, posting of a teacher to Zone-C on initial appointment or promotion shall not apply to a teacher who has been appointed to a unit of seniority which does not comprise any area under Zone-C:

Provided further that, if no vacancies are available in Zone-C even after undertaking process under sub-sections (1) to (2), then a teacher may be posted to a school in order of Zone-B or Zone-A:

Provided also that, if a teacher who has already served more than ten years in Zone-C continuously or fifteen years in Zone-C cumulatively, such teacher on promotion may be posted to a school in the order to Zone-B or Zone-A through counselling subject to availability of such vacancies.

4. Rationalisation of Teachers.-(1) Every alternate year the sanctioned posts and the teachers working thereof in a school shall be rationalized based on the Pupil-Teacher ratio fixed by the State Government from time to time.

(2) After rationalisation the excess posts of a teacher in any school shall be redeployed to any school where it is deficit. The excess teachers so determined shall be transferred through counselling based on the order of priority, subject to such other conditions as may be prescribed.

5. Zonal Transfers.-Every alternate year,-

(i) every teacher who has not served minimum ten years in Zone-C and has served more than ten years continuously in Zone-A shall be transferred to Zone-C or Zone-B subject to such conditions as may be prescribed by the State Government.

(ii) if no vacancy is available for posting of a teacher transferred under sub-clause (i) to Zone-C, vacancy may be created by transfer of willing teachers working in Zone-C or Zone-B who have completed minimum period of service to Zone A in the order of priority.

6. Request transfer.-A teacher who has served minimum period of service in a school shall be offered an option to seek transfer subject to availability of vacancies and such other conditions as may be prescribed:

Provided that, in case of transfer of teacher from one school to another consequent upon rationalisation or zonal transfer the service rendered in previous school shall be reckoned for the purpose of calculation of minimum service in a school.

Provided further that, a teacher working in any of the six districts of Kalyana Karnataka region, in addition to all other eligibility conditions shall also have completed a minimum of ten years of service in the region, for seeking transfer outside of Kalyana Karnataka region.

7. Transfer by counselling.-(1)The transfer of teachers under sections 4, 5 and 6 shall ordinarily be done during the General transfer in the month of April and May, in a year through a process of computerized counselling conducted in such manner as may be prescribed:

Provided that, the transfer may be made even after the month of April and May in special circumstances for the reasons to be recorded in writing on direction of the State Government:

Provided further that, where no teacher has opted for a place in the process of counselling and it is required to be filled in the public interest based on the pupil-teacher ratio, the State Government may transfer any teacher to such place who has completed minimum period of service, subject to such other conditions as may be prescribed:

Provided also that, a teacher undergoing a major penalty under the Karnataka Civil Service (Classification, Control and Appeal) Rules, 1957 or facing criminal charges in Court of Law shall be transferred to any vacancy in 'Zone-C' even if he has not completed minimum period of service:

Provided also that, the total number of transfers made under sections 5 and 6 under this Act in a year, for any cadre and in any unit of seniority shall not exceed fifteen percent or such lower limit as notified by the State Government:

Provided also that, the limit prescribed in the fourth proviso, shall not be applicable to mutual transfers and transfers made under special categories as defined in clause (i) to (iv) of sub-section (1) of section 10.

(2) The mutual transfer to a place outside the unit of seniority shall be permitted not more than once in-service subject to condition that both teachers must have completed minimum seven years of service; must be otherwise eligible to be transferred to that zone and must have minimum five years of leftover service. He shall not be eligible for protection of seniority and be subject to such other conditions as may be prescribed.

Provided that, in respect of mutual transfer of a teacher within the unit of seniority he shall be otherwise eligible for transfer to that post.

(3) The competent authority shall ensure that as far as possible the percentage of vacancies in all the districts are distributed equally.

8. Transfer of teachers to specified posts.-(1) All specified posts shall be filled only through counselling by posting of a teacher based on merit list prepared through the examination specified for such posts:

Provided that, the State Government may in its discretion, post any teacher to a specified post, who has passed the prescribed examination and has fulfilled eligibility norms.

(2) The minimum and maximum periods of posting to such posts shall be three years and five years respectively.

9. Redressal of grievances during transfers.-The departmental Officer not below the rank of a Joint Director of Public Instruction shall be designated as the Grievance Redressal Officer to oversee all transfer process under his jurisdiction and hear any written complaints and pass orders within seven days. The appeal against the order passed by the Grievance Redressal Officer shall lie with Additional Commissioner of Public Instruction, Dharwad for Belagavi division; Additional Commissioner of Public Instruction, Kalaburagi for Kalaburagi division and Director (Transfer Cell), Commissioner of Public Instruction office, Bengaluru in respect of Bengaluru and Mysuru Division. In case of violation of any provision of the Act or the rules made there under by any officer, the same shall be reported to the concerned Disciplinary Authority.

10. Exemptions from rationalization, zonal transfers and priority for request transfers.-(1) The exemptions from rationalization, zonal transfers and priority for request transfers are as follows, subject to conditions specified in sub-sections (2) to (5),-

- (i) teacher or spouse or children suffering from terminal illness or serious ailments for which treatment is not available within the taluk in which teacher is working;
- (ii) teacher or spouse or children with bench mark disability as defined in clause (r) of section 2 of the Rights of persons with disabilities Act, 2016 (Central Act 49 of 2016);

- (iii) widow or widower or a divorcee teacher with dependent children; below the age of 12 years;
- (iv) teacher with spouse being a working soldier or retired or permanently disabled or deceased soldier of Indian Defence Forces or Para-Military Forces;
- (v) teacher with spouse working with the State or Central Government or aided educational institution;
- (vi) teachers above the age of fifty years in case of female teachers and fifty five years in case of male teachers; and
- (vii) pregnant teacher or a female teacher with a child of less than one year.

(2) The categories falling under clauses (i) to (iv) are eligible for both exemptions under rationalization and zonal transfers and also priority under request transfers. The priorities shall be claimed only once during the service of a teacher.

(3) The categories falling under clauses (i) to (iv) are classified as special categories. The transfers made under these categories shall not be counted under fifteen percent transfer limits specified under section 7.

(4) The categories falling under clause (vi) and (vii) are eligible only for exemptions under rationalization and zonal transfers.

(5) The teachers falling under category (v) shall be given priority during request transfer. If the teacher is working in a different taluk as that of the spouse is allowed to seek transfer to the working taluk of the spouse only. If both are working in the same taluk then they are not eligible to make application under priority:

Provided that, during rationalization and zonal transfers the excess teacher shall be posted within the working taluk of the spouse.

11. Prohibition of manual counselling.- The carrying out of transfers through manual counselling is prohibited. If transfers are done through manual counselling they shall be considered as null and void and officers who are responsible for such transfers are liable for disciplinary action.

12. Penalties.- If any officer or staff acts or makes an order in contravention of the provisions of this Act or the rules made thereunder,

such officer or staff as the case may be, shall be liable for disciplinary action under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

13. Cognizance of offences.- No Court shall take cognizance of any offence under this Act except on a complaint made in writing by an officer authorized by the State Government by notification published in this behalf in the Official Gazette.

14. An Act to override other laws.- The provisions of this Act shall have an over-riding effect on anything inconsistent therewith contained in any other law for the time being in force.

15. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the State Government if it is necessary and expedient for removing the difficulty, may by order published in the official Gazette make provisions not inconsistent with the provisions of this Act:

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

16. Power to amend the Schedule.- The State Government may, by notification, add, alter or remove any of the entries specified in the Schedule.

17. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against any officer of the State Government for anything done in good faith or intended to be done under this Act.

18. Power to make rules.- (1) The State Government may by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) Any rule made under this Act may be made with retrospective effect and when such a rule is made, the reasons for making the rule shall be specified in a statement to be laid before both Houses of the State Legislature and subject to any modification made under sub-section (3). Every rule made under this Act shall have effect as if it is enacted under this Act.

(3) Every rule made or notification issued under this Act, shall be laid, as soon as may be, after it is made before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification, in the rule or notification or decide

that any rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

19. Transitory provisions.- Any rule, notification, order or appointment, made or issued under the Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2007 (Karnataka Act 29 of 2007) and Rules made there under or otherwise providing for or relating to any of the matters for the furtherance of which this Act is enacted, before the date of commencement of this Act and in force on the date of commencement of this Act, to the extent they are not inconsistent with the provisions of this Act, shall continue to be in force and effective as if they are made or issued or appointed under the corresponding provisions of this Act unless and until superseded by anything done or any action taken or any rules, notification, order or appointment made under this Act.

20. Repeal and savings.- Except the provisions relating to transfer of Lecturer or Principal of Pre-University college, the Karnataka State Civil Services (Regulation of transfer of teachers) Act, 2007 (Karnataka Act 29 of 2007) is hereby repealed:

Provided that, such repeal shall not affect,-

- (a) anything done or any action taken under the said Act; or
- (b) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (c) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (d) any penalty or punishment incurred in respect of any offence committed under the said Act:

Provided further that, the provisions of section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899) shall be applicable in respect of repeal of the said Act.

SCHEDULE

(see section 2 and 16)

Sl. No.	Cadre of teachers
I	Posts in Government Primary Schools.-
1.	Head master/Head mistress in Government Higher Primary school
2	Senior Headmaster/Head mistress in Model higher primary school/ Higher Primary School
3	Primary school Assistant master/mistress consisting of the following categories .- (i) Primary School Teachers (for class 1 to 5) (ii) Graduate Primary Teachers (for class 6 to 8)
4	Music teacher
5	Physical education teacher
6	Drawing Teacher in Government Higher primary school/Model Higher primary school / any other special teachers.
II)	Posts in Government High schools :
1	Head Master/Head Mistress in Government High schools by whatever name called including Head Master/Mistress of Government Higher Secondary / Multipurpose High School and Head Master/Head Mistress of Government High School / Vice Principal of composite Pre-University college/ Karnataka Public School / Composite High school consisting of the following categories of posts
2	Secondary school assistant (Grade - I)
3	Secondary school assistant (Grade - II)
4	Graduate Assistant Master/Mistress in Government High school, composite Pre-University college, Composite High school, consisting of the following categories of posts, namely:- (i) Assistant Master Arts in Kannada, English, Urdu, Hindi, Marathi, Tamil and Telugu mediums of instruction; (ii) Assistant Master in Physical Science in Kannada, English, Urdu, Hindi, Marathi, Tamil and Telugu mediums of instruction; (iii) Assistant Master in Biological Science in Kannada, English, Urdu, Hindi, Marathi, Tamil and Telugu mediums of instruction; (iv) Language Assistant in Kannada, English, Urdu, Hindi, Marathi, Tamil, Telugu and Sanskrit languages.
5	Physical Education Teacher in Government High Schools and Composite Pre-University Colleges
6	Drama Teacher
7	Dance Teacher
8	Drawing Teacher
9	Music Teacher
10	All Special Teachers

STATEMENET OF OBJECTS AND REASONS

It is considered necessary to partially repeal the Karnataka Civil Services (Regulation of transfer of teachers) Act, 2007 (Karnataka Act 29 of 2007) excluding matters pertaining to PUC teachers and principals and to bring new Legislation to regulate transfer of teachers in Government Primary Schools and Secondary schools in order to ensure transparency and equitable opportunities in transfers. It also aims at ensuring availability of teachers in rural areas. The teachers working continuously in 'C' and 'B' zone schools are to be provided an opportunity to opt for a school 'A' zone.

It also provides for rationalisation of posts and redeployment process at regular intervals to provide teachers to the schools as per the prescribed pupil: teacher ratio. It is also considered necessary to streamline the process of transfer and posting of teachers, by providing options and flexibility to teachers to seek postings of their preference.

The new legislation proposes a teacher friendly approach in the matter of transfer and rationalisation of the teacher resource with all the exemptions and priorities for various categories of teachers.

The salient features of the proposed Legislation are as follows, namely:-

- (1) It intends to specify minimum period of service of three years in a school to seek transfer;
- (2) Zonal transfers to achieve rotation of teachers from across Zones with exemptions;
- (3) To provide for exemptions to teachers with benchmark Disability as defined in Rights of personswith Disabilities Act, 2016 (Central Act 49 of 2016);
- (4) To provide exemption from Zonal transfers for teachers aged 50 in case of female and 55 in case of male; and
- (5) Certain other matters connected therewith or incidental thereto.

Hence the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed legislative measure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2:	<p>Sub-clause (c), empowers the State Government to make rules regarding the authority competent to make orders of transfer of teachers;</p> <p>Sub-clause (e), empowers the State Government to make rules regarding the criteria according to which the priority list of teachers prepared based on weighted score for the purpose of counselling.</p>
Clause 4:	Sub-clause (2), empowers the State Government to make rules regarding the conditions for the transfer of excess teachers through counselling on the order of priority, after rationalisation
Clause 5:	Item (i), empowers the State Government to make rules regarding the conditions for the transfer of teacher who has not served minimum ten years in zone-c and has served more then ten years continues the zone A
Clause 6:	Empowers the State Government to make rules regarding the conditions for transfer of teachers subject to availability of vacancies, for teacher who has served minimum period of service in a school.
Clause 7:	<p>Sub-clause (1), empowers the State Government to make rules regarding the manner in which the process of computerised counselling is conducted during the general transfer.</p> <p>Proviso to sub-clause (1) empowers the State Government to make rules regarding the conditions for transfer of teacher by the State Government to such place where no teacher has opted for a place in the process of counselling.</p> <p>Sub-clause (2) empowers the State Government to make rules regarding the conditions for mutual transfer of teacher to a place outside the unit of seniority.</p>
Clause 18:	Sub-clause (1), empowers the State Government to make rules by notification after previous publication for carrying out the purposes of the Act.

The proposed delegation of Legislative power is normal in character.

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