

Education and P.H.

(194 9) Department.

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MS.

SERIES.

G.O. NO. 1853 Edn.

Dated 6-6-49

(10)

[Despatch Abstract.]

E.E. Act- Amendment Acts of 1941 & 46- Reenactment- Notes ^{recorded} ~~regarded~~.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Note for the informal

meeting of the
Hon. Ministers.

E. & P. H. Dept.
Elementary (Amendment) Act
MADRAS ACTS XV OF 1941 and VIII OF 1946
RE-ENACTMENT.

Three

Two Acts were passed by His Excellency the Governor during the section 93 situation, amending the Madras Elementary Education Act, 1920, viz., Madras Acts XV of 1941 (and VIII of 1946).

Of these Acts ^{Act} XXVIII of 1943 was re-enacted permanently by the present Legislature and other two Acts (XV of 1941 and VIII of 1946) were re-enacted temporarily for a period of one year ending with 30-4-1949. The question permanent enactment of the two Amendment Acts (Act XV of 1941 and Act VIII of 1946) has been left over for consideration ~~(after the expiry of the temporary period of re-enactment)~~. The reasons for passing these ^{two} Acts are set out below.

2. Madras Act XV of 1941:- Under section 34 of the Madras Elementary Education Act, 1920, a municipality or district board had power, with the previous sanction of the Government, to levy within its area, an education tax at a rate not exceeding 25 per cent of the tax levied under ^(all or any of) the heads, property tax, tax on companies and profession tax, in the case of a municipality and under ^(all or any of) the heads, land-cess, profession tax and house-tax, in the case of a district board. Under section 37 of the Act, the Government were bound to contribute a sum which was not less than the proceeds of the tax levied by the municipality or district board under section 34. The imposition of the education tax by a local body thus involved the payment of an equivalent contribution to it by Government; and as the financial ^{position} provision of the Province did not always permit of the making of such contributions, Government found it necessary to protect themselves by withholding their sanction for the levy of the tax. Government, therefore, asked local bodies whether they would like to have power to levy the tax or to enhance the rates of the tax, even though an equivalent contribution

was not paid to them by Government. If the local bodies so desired, Government said that they would amend the Act so as to ~~vest~~ vest in themselves (Government) the discretion to make or withhold the contribution according to financial exigencies. Ten municipalities and four district boards favoured the amendment and 40 municipalities and 17 district boards were against it; the rest had no remarks to offer. The Advisers decided that the amendment should be made, and also that the limit of 25 per cent up to which alone an education tax ~~might~~ might be levied under section 34 should be removed. A Bill giving effect to these decisions was published for criticism in April 1941.

3. Objections were received from the Srirangam Municipal Council and certain associations. The Bill was also criticised in some newspapers. The main objection urged was that the responsibility for making elementary education compulsory and liquidating illiteracy was primarily that of the Government and that local bodies were quite unable to bear it. It was also said that the expectation of an equivalent Government contribution would be an incentive to local bodies to levy the education tax.

There was, however, no criticism in respect of the proposal to remove the statutory limit of 25 per cent.

4. The ~~Advisers~~ Advisers considered that the objection to the Bill should be overruled and it was accordingly enacted as Madras Act XV of 1941 without change. The ~~Advisers~~ Advisers pointed out that it was not as if Government divested themselves of all liability to pay contributions and that their obligation to pay existing contributions would continue to subsist.. *slip*

5. Madras Act VIII of 1946:- Under section 51 of the Elementary Education Act, the responsibility for enforcing in compulsory education areas the guardian's obligation to send a child to school was entrusted to the Commissioner of the Corporation of Madras, the chairmen of mufassal municipalities, and the presidents of district boards. In the opinion of the Director of Public Instruction, one

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The amendment Act of 1941 provided for the following:-

(1) Removal of the maximum limit up to which education tax can be levied.

(2) Limitation of Government liability for contribution in respect of ^{the proceeds of} education tax.

If the amendment Act is not re-enacted at all, the rate of education tax will have to be brought down to the old level and many local bodies will stand to lose an appreciable portion of their income under education tax as the level of the taxation by local bodies has gone up considerably in the last few years. If, on the other hand, the Act is re-enacted with (1) and removing (2), the Government's liability in respect of contribution towards education tax will increase. The additional liability will be more than a crore of rupees. The Government have been resisting requests by local bodies for payment of contribution equal to for the entire proceeds of the education tax. In the circumstances, it is essential that the Amendment Act should be re-enacted permanently as it is.

The Act was designed to remove an obstacle in the way of the successful working of the scheme of compulsory ^{edu.} edn. viz., the ^{reluctance of} authorities belonging to the local bodies to ^{enforce the} inform under penal provisions. This remains a live issue still.

So this Act also should be re-enacted permanently.

and "Taxes on professions, trades..."

of the main reasons for the poor attendance in schools in compulsory education areas was the reluctance of the chairmen and presidents of local bodies to enforce the penalties ^{provisions of} imposed by the Act against defaulting guardians, and he accordingly suggested that the power to impose penalties on the guardians should be transferred to District Educational Officers. The Post-War Education Sub-Committee endorsed this recommendation. A Bill giving effect to the recommendation and providing for an appeal to the Director of Public Instruction against the order of the District Educational Officer was accordingly published, inviting objections and suggestions.

7. Only two criticisms were received. The Commissioner of the Palacole Municipality (Sri S. Ramamurthi) suggested that the power to impose penalties should be vested in Commissioners and not in District Educational Officers. The Nellore municipal council recommended that not only the duty of imposing but also collecting the penalty should be transferred to the D.E.Os. The Advisers considered that these criticisms were not valid and the Bill was therefore enacted as Madras Act VIII of 1946. The Act ~~has not yet been~~ brought into force. ^{from 1.6.47}

8. Orders are solicited whether the two Acts should be re-enacted permanently. The legislation will fall under entries 17 ^{and 46} of the Provincial Legislative List, viz., "Education", and "Taxes on Lands and buildings" and will be intra vires the Provincial Legislature.

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EDUCATION AND PUBLIC HEALTH DEPARTMENT
(G.1.)

Copies of the U.O. Note on page 1 ante may be given to all sections in this department for information and necessary action.

E. & P.H.U.O. Note No.)
81905 G1/48-1 P.H.)
dated 18-11-48.)

T. GOVINDA MENON,
Deputy Secretary to Government.

To all Sections in Education and P.H. Department.

RP/19.11.

Forwarded-By Order

T. Ramachandran Rao

SUPERINTENDENT.

26.11.48

E & P.H. Dept (B2)

May be lodged

29.11.48

26.11.48

Subj:- Elementary Education Act.

The Madras Elementary Education Act 1920, was amended during the years 1941, 1943 and 1946 to provide for the following purposes:-

- (1) to withdraw from ^{the} liability to make a contribution in respect of taxation sanctioned after 1941 ~~Act XV of 1941~~ ^{& to remove the maximum being 25% laid down in the Act} ~~the maximum of 25% laid down in the Act~~ ^{As per Act XV of 1941}
- (2) to clear a doubt regarding interpretation of a section; (As per Act VIII of 1943)
- and (3) to provide for the transfer to D.E.Os. of the power to impose penalties on guardians of defaulting children in compulsory areas - (Act VIII of '46.)

The three Amendment Acts were enacted during the Advisers' regime. These Acts were held to be in force for a period of two years from the date from which the proclamation was withdrawn, i.e. till 29-4-1948. The question whether these three Amendment Acts might be re-enacted permanently by the present legislature was considered last year. The Amendment Act of 1943 was re-enacted permanently, while the other two Amendment Acts were re-enacted temporarily for a period of one year till 29-4-1949. The question of re-enacting the two acts beyond that date was left over for consideration to a later date. Please see page 8 n.f., to G.O. No.1331, Education, dated 26-5-48.

2. The question now arises whether the two Amendment Acts should be re-enacted on a permanent basis after 29-4-1949. The memorandum on pp.11-14 of G.O. No. 1331, Education, dated 26-5-48, explains the objects underlying the two Amendment Acts. The orders of Government on the proposals to re-enact the two Amendment Acts are on pp. 3 to 4 (b) of N.F. ^{with} the G.O. (1331, Education, dated 26-5-48). ^{As per Act XV of 1941} ~~re-enacted permanently~~ the result will be that the rate of 25% tax will have to be brought down to the rate ^{P.T.O.} ~~the~~ will cause loss of income to local bodies on an appreciable scale. ^{the maximum 5% or less contribution will}

Copy of U.O. Note No.12953/48-1 from the Legal Department dated the 1st November 1948.

Subject: LEGISLATION- Acts temporarily re-enacted for one year from 30-4-48- Further action.

The Joint Select Committee which considered the Repealing and Re-enacting Bills recommended that certain enactments which were of controversial nature should have their life extended by one year from 30-4-48 instead of being re-enacted permanently so that the Government might have time to bring in suitable amendments. The Third Schedule to the Madras Repealing and Re-enacting (No.1.) Act, 1948 (Madras Act VII of 1948) and the Third Schedule to the Madras Repealing and Re-enacting (No.2.) Act, 1948 (Madras Act VIII of 1948) contain the lists of Acts that have been temporarily re-enacted for a period of one year. It is presumed that the departments of the Secretariat would have taken or are taking necessary steps for re-enacting such of the enactments as are necessary, on a permanent basis. However, a copy of this note may be communicated to all departments for information.

/True copy/

p.t.o.

3. The L.A., Finance and Legal Departments may see for remarks before circulation. The case may be treated as specially urgent as the Legislature may meet in January next.

29.12.48

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This dept may agree with
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JAN 1949
SECRETARY TO GOVERNMENT
EDUCATION AND PUBLIC HEALTH DEPT.

para 32(2)
p 23, Business
Rules.

1. 20.12.48
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30.12.48

7.1.49
JAN 1949
SECRETARY TO GOVERNMENT
EDUCATION AND PUBLIC HEALTH DEPT.

Finance (Exp A)

Please see the note of E.P.H. on pp 3-4 above.

2. Finance also may agree with the views of the E.P.H. Secretary on p. 4 above.

31.1.49

E.P.H. Dept (B2)

Under the procedure outlined in the Secretariat instructions, a draft memo. explaining the need for the legislation should be put up and orders of H.M. (Edn), H.M. (C.A.), H.M. (Fin) and H.E. should first be obtained whether legislation should be undertaken to reenact the two amendment acts permanently. If it is decided that legislation is expedient, the file should again be circulated to all the Hon'ble Ministers and H.E. for orders.

2. In the present case, the decision previously taken was that the three amendment acts might be reenacted permanently. It was the Joint select Committee of the Legislature which suggested that two of the three amendment acts might be reenacted only temporarily for a period of one year. In the circumstances, it is for orders consideration whether usual procedure should be followed.

As the Legislature meets this month and as the Govt. have already decided to reenact the two amendment acts on a permanent basis, it is for orders whether usual procedure may be followed. A draft memo. is put up for approval.

3. Legal Dept may perhaps see before circulation.

31.1.49

The slight alterations indicated in red ink on the draft Memorandum may be made.

2. Attention is invited to this department u.o. note No. 10271/47-1, dated 23-9-1947 to the departments of the Secretariat. The intention is that proposals for legislation should come before the informal meeting of the Ministers twice i.e., when a proposal is brought up for consideration and a decision has to be taken on the merits of the proposal and again after a Bill has been prepared and approved by H.M. (Agri.) with regard to its drafting. These two stages correspond to the two stages of circulation provided for in Secretariat Instructions 32(2) and 32(6) respectively.

3. The usual procedure in regard to legislation laid down in the Secretariat Instructions will have to be followed unless the special permission contemplated in Instruction 120 is obtained in any particular case.

The file may now be circulated for orders whether legislative should be undertaken to re-enact the amendments Acts permanently.

(F)



The file may be sent to H.P. for reference at the meeting. (Copy of the N.O. have been circulated to all U.M.)

27.1.49

28/1/49

Principal Private Secy to H.P.

This subject has been included in the list of subjects awaiting discussion at the informal meeting of the council of ministers. I will call for the file when the subject is included in the agenda.

P.P.S. to H.Pr.

E. & P. H. (B2)

This file has been lying over from January 1949 with reference to K above. This Legislation has to become an Act before 30-4-1949 and the usual formalities have to be gone through in the meanwhile. This may be brought to the notice of P.P.S. to H.Pr. and he may be requested to place before an informal meeting of H.Ms. at once.

26/2/49

128/2/49 P.P.S. to H.Pr.

H.P. has ordered in another file that Re-enacting Acts do not need to be discussed at the informal meeting of the Council of Ministers.



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The Memorandum below may be circulated to H.Ms. as a 'note for their informal meeting' H.P. may see.

25/1/49

26/1/49

SPECIAL

GOVERNMENT OF MADRAS
Legal Department

U.O. Note No. 3252/49-2 dated 24-3-1949.

Subject: Acts - Re-enactment of certain Acts before
29-4-1949.

It is noticed that the files relating to the re-enactment of the Madras Elementary Education (Amendment) Act, 1941, and the Madras Elementary Education (Amendment) Act, 1946, have not yet been received in this Department for the drafting of the necessary Bills. In order to facilitate the re-enactment of the above Acts by the 29th of April it is proposed to publish the relevant Bills by 1st April at the latest.

E. & P.H. which is the administrative department concerned may kindly treat the above Bills as very special and expedite them.

K.V. RAJAGOPALAN,

Secretary to Government.

✓ To

The Education & Public Health Department.

Forwarded / By Order.

Superintendent.

NN/24.3.8

CM 88509 B2/48

The file relating to the re-enactment of the Madras Elementary Education (Amendment) Act, 1941 and the Madras Elementary Education (Amendment) Act, 1946, has not yet been received from the Principal Private Secy., to H.P. [sent to him on 28-2-49]. The Principal Private Secy., to H.P. may be requested to expedite the return of the

P/S file.

24.3.49

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25/3/49

Principal Private Secy. to H.P.

The file is returned herewith to

25.3.49

E.P.H. (22)

In view of the note of the P.P.S. at page 7 ante and in view of the note of Legal overleaf, this may now be sent to Legal w. for necessary further action.



Legal

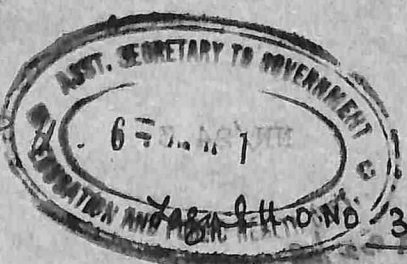
26.3.49

Legal Dept

The Madras Reenacting Bill, 1949 has been published in the G.O. Pt. IV-A Extraordinary dated 30.3.49.

Madras Acts XV of 1941 & VIII of 1946, to which this file relates, have been included in the First Schedule to the Bill, relating to the Acts to be reenacted permanently.

Legal
5.4.49



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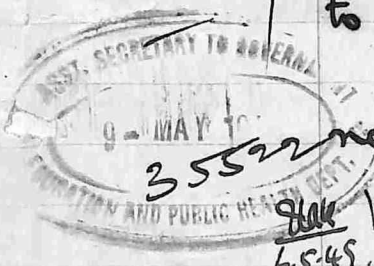
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Legal Dept

Madras Acts XV of 1941 and VIII of 1946 referred to on p.10 ante have been re-enacted temporarily for a period of one year from 30.4.1949 by the Madras Reenacting Act, 1949 (Madras Act X of 1949). Those two Acts will therefore be in force only up to 29.4.1950.

E.P.H. may therefore take the necessary action for the re-enactment of the Acts if the intention is not to allow them to lapse on 29.4.1950.

The file may now be returned to E.P.H. as it is no longer required.



6.5.49

6.5.49

J.S. 6/5/49

11/15/49

E.P.H. Dept

Legal U.O. No. 4319/49-1
7.5.49

W/6/49

1853 My 6/6/49

Elementary Act
Amendment Act
1941 Act
Reenactment
Not recorded

be recorded. Further action with reference to X above will be taken separately.

4/6/49

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Marshall Act XV of 1941 and XVI of 1941 are referred to
as if they have been re-enacted temporarily for a
period of one year from 30.4.48 until 29.4.49. The
Re-enactment Act, 1941 (Marshall Act XV of 1941) shall not
will therefore be in force only up to 29.4.49.
E.g. many therefore take the necessary action
for the re-enactment of the Act if the intention is not
to allow them to lapse on 29.4.49.
The file may now be returned to Dept. as it is
no longer required.

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