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LEGISLATION TRACKER

Right of Children to Free and Compulsory Education Act, 2009

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CURATED & WRITTEN BY

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ACT NUMBER	YEAR ENACTED
Act No. 35 of 2009	2009

KEY PROVISIONS

- 1 Free and compulsory education for all children aged 6-14 years as a fundamental right under Article 21A
- 2 25% reservation in private unaided schools for economically weaker sections and disadvantaged groups
- 3 Pupil-Teacher Ratio of 1:30 at primary level and 1:35 at upper primary level
- 4 No child shall be held back, expelled, or required to pass a board examination till completion of elementary education
- 5 Prohibition of physical punishment, mental harassment, screening procedures for admission, and capitation fees
- 6 Schools must comply with infrastructure and teacher norms within 3 years of commencement
- 7 National Commission for Protection of Child Rights (NCPCR) to monitor implementation

BACKGROUND

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) was passed by Parliament on 4 August 2009, received Presidential assent on 26 August 2009, and came into force on 1 April 2010 — making India one of 135 countries to make education a fundamental right. The Act provides the legislative framework for Article 21A of the Constitution, which was inserted by the 86th Constitutional Amendment Act, 2002, declaring that “the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

The constitutional journey of education rights in India traces back to Article 45 of the Directive Principles, which originally directed the state to provide free and compulsory education for children up to age 14 within 10 years of the Constitution’s commencement (by 1960). This target was never achieved. The Unnikrishnan J.P. v. State of Andhra Pradesh (1993) judgment held that children’s right to free education flows from the right to life under Article 21. The 86th Amendment finally elevated this to a fundamental right.

The Act applies to all of India except Jammu & Kashmir (later extended after reorganisation). It covers children aged 6-14 years and mandates that every child has a right to full-time elementary education in a neighbourhood school. The act places the financial burden on both the Centre and states, with the Centre bearing approximately 60% of the cost (90% for north-eastern states).

KEY CONCEPTS

- **Elementary Education:** Education from Class I to Class VIII, covering the age group 6-14 years (Section 2(f))
- **Neighbourhood School:** A school established within the area or limits of neighbourhood as prescribed by the appropriate government — walking distance of 1 km for primary and 3 km for upper primary (Section 6, Rule 6)
- **Economically Weaker Section (EWS):** Children belonging to families whose annual income is below the poverty line or any higher threshold notified by the state government (Section 2(d))
- **Disadvantaged Group:** Children belonging to SC, ST, socially and educationally backward classes, or any other group with disadvantage owing to social, cultural, economic, geographical, linguistic, gender, or any other factor (Section 2(d))
- **Capitation Fee:** Any kind of donation, contribution, or payment other than the prescribed fee charged at the time of admission (Section 2(b)) — prohibited under the Act
- **School Management Committee (SMC):** Committee of 75% parents/guardians (50% women, proportional SC/ST/EWS representation) to monitor school functioning, prepare school development plan, and manage grants (Section 21)

IMPORTANT PROVISIONS

Section 3 — Right of Child to Free and Compulsory Education: Every child aged 6-14 has the right to free and compulsory education in a neighbourhood school till completion of elementary education. No child shall be liable to pay fees or charges that prevent access to education. Children with disabilities receive free education up to age 18 under the Rights of Persons with Disabilities Act, 2016.

Section 12(1)(c) — 25% Reservation: Every private unaided school (other than minority institutions) must admit at least 25% of the strength of Class I from children belonging to EWS and disadvantaged groups in the neighbourhood. The school is reimbursed by the state at per-child expenditure or prescribed amount, whichever is less.

Section 16 — No Detention Policy: No child admitted in a school shall be held back in any class or expelled from school till completion of elementary education. (Note: This was amended in 2019 — see Recent Amendments.)

Section 23 – Qualifications for Appointment of Teachers: Teachers must possess minimum qualifications laid down by the academic authority (NCTE). Existing teachers without prescribed qualifications were given 5 years to acquire them. Section 23(2) created the Teacher Eligibility Test (TET) requirement.

Section 25 – Pupil-Teacher Ratio: Schools must maintain prescribed PTR within 6 months of commencement. Schedule to the Act prescribes 1:30 for primary (Classes I-V) and 1:35 for upper primary (Classes VI-VIII). Teachers cannot be deployed for non-educational purposes other than census, elections, and disaster relief.

Section 29 – Curriculum and Evaluation: The academic authority (NCERT at central level, SCERT at state level) shall lay down the curriculum taking into account values enshrined in the Constitution, all-round development, building up child's knowledge and potential, development of physical and mental abilities, and learning through activities, discovery, and exploration in a child-friendly manner. Comprehensive and Continuous Evaluation (CCE) of understanding is mandated.

LANDMARK JUDGMENTS

Society for Un-aided Private Schools of Rajasthan v. Union of India (2012): The Supreme Court (by 2:1 majority) upheld the constitutional validity of Section 12(1)(c) requiring 25% reservation in private unaided schools. Justice S.H. Kapadia held that the obligation arises from Article 21A and the Act is a reasonable restriction under Article 19(1)(g). However, the Court held that the provision does not apply to minority institutions protected under Article 30(1).

Pramati Educational and Cultural Trust v. Union of India (2014): The Supreme Court held that the RTE Act is not applicable to minority institutions (both aided and unaided) as it would violate Article 30(1) which guarantees minorities the right to establish and administer educational institutions of their choice.

Unnikrishnan J.P. v. State of Andhra Pradesh (1993): Pre-RTE landmark where the Supreme Court held that children aged up to 14 years have a fundamental right to free education flowing from Article 21 (right to life). This judgment was the precursor to the 86th Amendment and the RTE Act.

Mohini Jain v. State of Karnataka (1992): The Supreme Court held that charging capitation fees for medical admissions was violative of Article 14 and that the right to education is a fundamental right. Though partly modified by Unnikrishnan, the principle against capitation fees was carried into the RTE Act.

RECENT AMENDMENTS / DEVELOPMENTS

RTE (Amendment) Act, 2019: Amended Section 16 to allow states to hold regular examinations in Classes V and VIII. If a child fails, they shall be given additional instruction and a re-examination within 2 months. If the child still fails in the re-exam, the state government may decide whether to hold back the child or promote them. This effectively diluted the no-detention policy, leaving it to state discretion. As of 2024, at least 18 states have reintroduced detention in Class V and/or Class VIII.

National Education Policy (NEP) 2020: Proposes restructuring school education from 10+2 to 5+3+3+4 (covering ages 3-18), which would require amending the RTE Act to extend coverage from 6-14 age group to 3-18 age group. Draft RTE (Amendment) Bill to align with NEP is under consideration.

25% Reservation Implementation: States have been inconsistent in reimbursement to private schools. The Supreme Court in 2023 noted that several states had arrears running into hundreds of crores. The per-child reimbursement amount varies widely – from Rs 3,000 in Bihar to over Rs 20,000 in Delhi.

UDISE+ Data (2023-24): India had approximately 14.72 lakh schools, 98.08 lakh teachers, and 24.80 crore students enrolled in school education. Total school enrolment declined from 25.6 crore in 2021-22 to 23.5 crore in 2023-24, a drop of 2.08 crore students (8.13%). Over 22,298 schools remain unrecognised under UDISE+ 2023-24 data, employing over 1.58 lakh teachers – a continuing challenge for RTE compliance.

15 Years of RTE (2025): The RTE Act completed 15 years on 1 April 2025. While near-universal enrolment has been achieved at the elementary level (GER exceeding 100%), quality of learning outcomes remains a concern. The draft RTE (Amendment) Bill to align with NEP 2020's 5+3+3+4 structure and extend coverage to ages 3-18 remains under consideration.

UPSC RELEVANCE

Age group covered (6-14), Article 21A, 86th Amendment, 25% reservation under Section 12(1)(c), PTR norms (1:30 primary, 1:35 upper primary), no-detention policy changes, neighbourhood school distance norms

Mains GS-2: *Right to education as a fundamental right, implementation challenges (teacher vacancies, infrastructure gaps, EWS reservation enforcement), NEP 2020 alignment, minority institution exemption, quality vs. access debate* **Interview:** *“Has the RTE Act achieved its objectives? What structural reforms are needed to ensure quality elementary education?”*

RELATED TERMS

[Fundamental Rights](#)
[Article 21a](#)



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