

**Bill No. 166 of 2017**

**THE RIGHT OF CHILDREN TO FREE AND COMPULSORY  
EDUCATION (SECOND AMENDMENT) BILL, 2017**

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**BILL**

*further to amend the Right of Children to Free and Compulsory Education Act, 2009.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Right of Children to Free and Compulsory Education (Second Amendment) Act, 2017.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification  
5 in the Official Gazette, appoint.

35 of 2009.

**2.** In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), for section 16, the following section shall be substituted, namely:—

Substitution of new section for section 16.

10 “16. (1) There shall be a regular examination in the fifth class and in the eighth class at the end of every academic year.

Examination and holding back in certain cases.

(2) If a child fails in the examination referred to in sub-section (1), he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.

(3) The appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2):

Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education. 5

(4) No child shall be expelled from a school till the completion of elementary education.”.

Amendment of section 38.

**3.** In section 38 of the principal Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:—

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“(fa) the manner and the conditions subject to which a child may be held back under sub-section (3) of section 16;”.

## STATEMENT OF OBJECTS AND REASONS

The Right of Children to Free and Compulsory Education Act, 2009 (the Act) provide for free and compulsory education to all children of the age of six to fourteen years.

2. Section 16 of the Act provides that no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education. This provision was made in the said Act because examinations are often used for eliminating children who obtain poor marks, which compels children either to repeat the same grade or leave the school altogether. It was felt that compelling a child to repeat a class is both de-motivating and discouraging.

3. In recent years, States and Union territories have been raising the issue of adverse effect on the learning levels of children as section 16 does not allow holding back of children in any class till the completion of elementary education. Therefore, in order to improve the learning outcomes in the elementary classes and after wide deliberations with all the stakeholders, it is proposed to substitute section 16 so as to empower the appropriate Government to take a decision as to whether to hold back a child in the fifth class or in the eighth class or in both classes, or not to hold back a child in any class, till the completion of elementary education.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 8th August, 2017.*

PRAKASH JAVADEKAR

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to substitute a new section for section 16 of the Right of Children to Free and Compulsory Education Act, 2009, relating to prohibition of holding back and expulsion. Sub-section (3) of the proposed section 16 seeks to empower the appropriate Government to make rules to provide for the manner and the conditions subject to which a child may be held back in the fifth class or in the eighth class or in both classes if he fails in the re-examination.

2. The matters in respect of which the rules may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

*ANNEXURE*

EXTRACT FROM THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

(35 OF 2009)

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16. No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education. Prohibition of holding back and expulsion.

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**BILL**

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Act, 2009.

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*(Shri Prakash Javadekar, Minister of Human Resource Development)*