

**THE WEST BENGAL  
PRIMARY EDUCATION ACT, 1973  
WEST BENGAL ACT XLIII OF 1973**

*[ Passed by the West Bengal Legislature.]*

*[ Assent of the President was first published  
in the Calcutta Gazette, Extraordinary of the 20th  
September, 1974 ]*

*( 20th September, 1974 )*

An Act to make better provision for the development, expansion, management and control of primary education with a view to making it universal, free and compulsory.

Whereas it is expedient to make better provision for the development, expansion, management and control of primary education with a view to making it universal, free and compulsory ;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows :

**PART—I**

**CHAPTER—I**

**Preliminary**

**S.1 Short title, extent and commencement**

(1) This Act may be called the West Bengal Primary Education Act, 1973

(2) It extends to the whole of West Bengal.

(3) It shall come into force in such areas and on such dates as the State Government may, by notification, appoint and different dates may be appointed for different areas or for different provisions of this Act.

**S.2 Definitions—In this Act, unless there is anything repugnant in the subject or context,—**

i) "attendance" at a school means presence for instruction at a primary school for so many days in a school year and at such time or times on each day of attendance as may be required by the prescribed educational authority ;

- ii) "Board" means the West Bengal Board of Primary Education established under this Act ;
- iii) "Calcutta" means Calcutta as defined in the Calcutta Municipal Corporation Act, 1980 ; 2(a)
- iv) "Chairman" means the Chairman of a Primary School Council,
- v) "Child" means a boy or a girl who has completed five but not eleven years of age on the date of commencement of a school year, and includes an boy or girl who completes five years of age within ninety days from the date of commencement of school year ; 2(b)
- vi) "Director" means the Director of School Education, West Bengal ;
- vii) "District" shall ordinarily mean a revenue District and shall also mean and include part of District declared by the State Government as "Educational District" by notification published in the Official Gazette ;" 2(c)
- viii) "District Inspector of Schools (Primary Education)", "District Officer for Physical Education and Youth Welfare" "District Special Officer for Scheduled Castes and Tribes Welfare" mean the respective officers designated as such by the State Government ;
- ix) "District School Board" means a District School Board established under the Bengal (Rural) Primary Education Act, 1930 ;
- x) "Division" means the following geographical divisions of the state—
  - a) the Presidency Division comprising the districts of Howrah, North 24-Parganas, South 24-Parganas, Nadia and Murshidabad, 2(d)(i)
  - b) the Burdwan Division comprising the districts of Hooghly, Midnapore, Birbhum, Bankura, Bardhaman and Purulia,
  - c) the Jalpaiguri Division comprising the districts of Malda, Uttar Dinajpur, Dakshin Dinajpur, Cooch Behar, Jalpaiguri and Darjeeling, 2(d)

- ix) "guardian" means any person to whom the care, nurture or custody of any child falls by law or by natural right of recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care or custody of any child has been entrusted by any lawful authority,
- x) "hill area" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988, 2(e)
- xi) "Primary Teachers' Training Institute" includes a Primary Training School and a Senior Teachers' Training School for woman recognised by the Director, 2(f)
- xii) "linguistic minority community" means a community whose mother tongue is any language other than Bengali,
- xiii) "Municipal area" means any area— 2(g)
  - a) Constituted as
    - A) a municipal area under section 6, or
    - B) a notified area under section 378, of the West Bengal Municipal Act, 1993, or
  - b) Within the jurisdiction of
    - A) the Howrah Municipal Corporation Act, 1980, or
    - B) the Calcutta Municipal Corporation Act, 1980, or
    - C) the Siliguri Municipal Corporation Act, 1990, or
    - D) the Asansol Municipal Corporation Act, 1990, or
    - E) the Chandernagore Municipal Corporation Act, 1990, or
    - F) the Durgapur Municipal Corporation Act, 1994,
- xiv) [Omitted] 2(h)
- xv) "notification" means a notification published in the Official Gazette,
- xvi) "President" means the President of the West Bengal Board of Primary Education,

- xvii) "primary education" means such elementary education as is imparted through a primary school, 2(i)
- xviii) "primary school" means a school or a department of a school set up under this Act for imparting such primary education as the State Government may prescribe and includes a primary school or a junior basic school recognised under this Act and in existence on the date of coming into force of the West Bengal Primary Education (Amendment) Ordinance, 1996, 2(i)
- xix) "Primary School Council" means a Primary School Council established under this Act and includes the Primary School Council for the subdivision of Siliguri, 2(j)
- xx) "prescribed" means prescribed by rules made or notifications or orders issued, as the case may be, by the State Government under this Act, 2(k)
- xxi) "school year" means the year beginning with such date as the Board may, with the previous approval of the State Government, fix,
- xxia) "teacher" means a person who holds a teaching post in a primary school or in a Primary Teachers' Training Institute on a regular and whole time basis and is paid either wholly or in part from the funds under the control of the State Government in the Education Department, 2(l)
- xxii) "specified Municipality" means a Municipality or a group of two or more Municipalities specified by the State Government by notification for the purposes of this Act,
- xxia) "Staff" means— 2(m)
- i) in relation to the West Bengal Board of Primary Education, the employees appointed by the Board against posts sanctioned by the State Government, and
- ii) in relation to a Primary School Council, the employees appointed by the Council against posts sanctioned by the State Government.
- xxiii) [Omitted], 2(n)

xxiv) [Omitted], 2(n)

xxv) "year" means a year beginning on the first day of April.

**PART—II**  
**CHAPTER—II**  
**The Board**

**S.3 Establishment and incorporation of the West Bengal Board of Primary Education.**

(1) The State Government shall, by notification, establish, with effect from such date as may be specified in the notification, a Board to be called the West Bengal Board of Primary Education.

(2) The Board shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

**S.4 Composition of the Board—**

The Board shall consist of the following members :—

- (a) President to be appointed by the State Government, 3(a)
- (aa) the Director, ex-officio, 3(a)
- (b) the President of the West Bengal Board of Secondary Education, ex-officio,
- (c) two teachers of Primary Teachers' Training Institute of whom one shall be the head of one such Institute elected in the prescribed manner by the teachers of Primary Teachers' Training Institute from among themselves, 3(b)
- (d) twelve teachers of Primary Schools of whom four shall be elected from each Division in the prescribed manner by the members of the Primary School Councils, who are representatives of Primary School teachers in the Primary School Councils of the concerned Divisions,
- (e) two teachers of Primary School elected in the prescribed manner by the members of the Calcutta Primary School Council, who are representatives of Primary School Teachers in the Calcutta Primary School Council,

(f) one person elected in the prescribed manner by the Councillors of Calcutta Municipal Corporation from amongst themselves, 3(b)

g) three persons, one from the each Division, elected in the prescribed manner by the Councillors of the municipal areas of the concerned Division from amongst themselves, 3(c)

h) three persons one from each Division, elected in the prescribed manner by the members of the Zilla Parishads of the concerned Division from amongst themselves,

i) six persons from amongst the members of the West Bengal Legislative Assembly elected in the prescribed manner by the members of the Assembly,

j) seventeen persons interested in education nominated by the State Government of whom at least—3(b)

(i) four shall be woman,

(ii) one shall be a member of the Anglo-Indian community,

(iii) one shall be a member of a Scheduled Caste,

(iv) one shall be a member of a Scheduled Tribe,

(v) one shall be a member of any of the linguistic minority communities in the State other than Nepali,

(vi) one shall be a Nepali inhabitant of the hill areas,

(vii) one shall be a College or University teacher,

(viii) two shall be teachers of secondary schools,

(ix) three shall be Chairmen of Primary School Councils,

(x) two persons to whom—3(c)

a) one shall be from the employees of the Board within the meaning of section 17 and

b) one shall be from the members of the staff (other than officers) within the meaning of section 56,

### **Appointment in default of election—**

If by such date as may be fixed by the State Government in this behalf any of the authorities fails to elect a member or members as provided in section 4, the State Government shall appoint member or members qualified for election by such authority,

Provided that in the case of the State Legislative Assembly, if the said Assembly has been dissolved, the State Government shall appoint six suitable persons to be members to hold office until the said Assembly is reconstituted and six representatives are elected by the members thereof. 4

A person appointed under this section shall be deemed to be a member of the Board duly elected under section 4.

### **Publication of names of members of the Board—**

The name of every person elected, nominated or appointed under section 4 or appointed under section 5 as a member of the Board shall be published by the State Government in the Official Gazette as soon as may be after the election, nomination or appointment, as the case may be. 5

### **Term of office of members of the Board—**

Subject to the provisions of this Act, every elected, nominated or appointed member of the Board shall hold office for a term of four years from the date of the first meeting of the Board at which a quorum is present and may, on expiration of such term, be re-elected, re-nominated or re-appointed.

Notwithstanding the expiration of the term of four years mentioned in sub-section (1), every elected, nominated or appointed member of the Board shall continue to hold office until the first meeting of the newly-formed Board at which a quorum is present.

### **Casual vacancies—**

If any member of the Board dies or resigns his office or ceases to be a member for any other reason the vacancy shall be filled up by fresh election, nomination or appointment under section 4 and the member so elected, nominated or appointed shall hold office for the unexpired portion of the term of the member whose place he fills, 6

Provided that no election shall be held to fill a vacancy of a member occurring within six months from the date on which the term of the office of the member expires.

**S.9 President of the Board—**

(1) The President shall be appointed by the State Government. 7(a)

(2) The President shall hold office for a term of four years mentioned in section 7. 7(a)

(3) The President shall receive such pay or allowances or both as may be fixed by the State Government. 7(b)

(4) The President may resign his office by giving notice in writing to the State Government and when such resignation is accepted by the State Government the President shall be deemed to have vacated his office.

(5) Omitted, 7(c)

**S.10** Omitted, 8

**S.11 Discharge of President's functions in certain contingencies—**

(1) If the President dies or resigns his office or ceases to hold office or is by reason of leave, illness or other cause, temporarily unable to exercise the powers or perform the duties of his office, the Secretary to the Board shall forthwith send a report to the State Government in this behalf. And the State Government shall on receipt of the report as aforesaid authorise a member of the Board to exercise the powers and perform the duties of the President until a new President is appointed or the President resumes office as the case may be. 9(a)

(2) Omitted, 9(b)

(3) A President appointed to fill a casual vacancy shall hold office for the unexpired portion of the term of the President whose place he fills. 9(c)

**S.12 Disqualifications for membership—**

(1) A person shall be disqualified for being elected, nominated or appointed a member of the Board if he—

(a) has been adjudged by a competent Court to be of unsound mind,

- (b) is an undischarged insolvent,
- (c) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part,
- (d) has been convicted by a Court of an offence involving moral turpitude,
- (e) directly, or indirectly by himself or his partner—
  - (i) has or had any share or interest in any text book approved by the Board or published by or under the authority of the Board, or
  - (ii) has any interest in any work done by order of, or in any contract entered into on behalf of the Board.

(2) If an elected, nominated or appointed member of the Board becomes after his election, nomination or appointment, as the case may be, subject to any of the disqualifications specified in sub-section (1), his membership shall thereupon cease with effect from such date as the State Government may direct.

#### **S.13 Resignation and removal of members—**

(1) A member of the Board may resign his office by giving notice in writing to the President and when such resignation is accepted by the Board such member shall be deemed to have vacated his seat.

(2) The State Government may, by notification, remove any member if he—

- (a) refuses to act or becomes incapable of acting as a member of the Board, or
- (b) acts in a manner prejudicial to the interests of the Board, or
- (c) without obtaining the consent of the President is absent from four consecutive meetings of the Board,

Provided that before such removal the member concerned shall be given an opportunity of being heard.

#### **S.14 Meetings of the Board—**

(1) The Board shall meet at least three times a year.

(2) Every meeting of the Board shall be convened by the Secretary to the Board under instructions of the President,

Provided that the President shall, when required in writing by one-third of the members of the Board to convene a meeting, direct the Secretary to do so within seven days from the date of receipt of the requisition and if no meeting is convened within the said period the members aforesaid may convene a meeting after giving seven clear days' notice to the President and other members of the Board.

**S.15 Conduct of meetings—**

(1) The President or in his absence one of the members of the Board elected from amongst those present shall preside at the meeting of the Board and the President or such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes. 10

(2) Subject to the provisions of sub-section (1), the Board shall have the power to regulate the procedure for the conduct of its business.

**S.16 Restriction of voting—**

(1) No member of the Board shall vote in any matter in which he has any personal or pecuniary interest or if it relates to any primary school of which he is either a teacher or a member of the Managing Committee.

(2) The President or the member presiding at a meeting of the Board shall decide any question arising under sub-section (1) and his decision thereon shall be final. 11

**S.17 Secretary, Finance Officer and other persons in the service of the Board—**

(1) The Board shall have a Secretary who shall be appointed by the State Government.

(2) The State Government may, if it so thinks fit, appoint a Finance Officer for the Board.

(3) The Board may, subject to the prior approval of the State Government, create such posts of officers and employees as it considers necessary for carrying out the purposes of this Act,

Provided that no officer or employee shall be appointed to any post carrying a monthly salary of three hundred rupees or more without the prior approval of the State Government.

(4) The terms and conditions of service and the scales of pay and allowances, if any, shall, as respect the Secretary, the Finance Officer, if any, and other officers and employees, be such as may be fixed by the State Government.

(5) The pay and allowances of the Secretary and the Finance Officer, if any, shall be paid out of the fund of the Board.

(6) Subject to the general control and supervision of the President, the Secretary shall be the principal administrative officer of the Board. He shall be entitled to attend and speak at any meeting of the Board, but shall not be entitled to vote.

(7) The Finance Officer shall perform such functions and discharge such duties as may be prescribed.

(8) Subject to prescribed conditions, the Board may award any punishment including dismissal or removal of the members of its staff other than the Secretary and the Finance Officer.

#### **S.18 Travelling allowance—**

Such members of the Board or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Board, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Board such allowances and at such rates as may be prescribed.

#### **S.18A "Adhoc Committee—**

(1) The State Government may, by notification appoint an Adhoc Committee for such period, not exceeding one year at a time, as may be specified in the notification. 12

(2) The Committee shall consist of such number of members as the State Government may think fit to appoint.

(3) The Committee shall exercise all the powers and perform all the functions of the Board and the Committees of the Board to be constituted under this Act."

## CHAPTER—III

### **Powers and functions of the Board and the President**

#### **S.19 Powers and functions of the Board—**

(1) Subject to any general or special orders of the State Government, the provisions of this Act and any rules made thereunder, the Board shall have generally the power to guide, supervise and control primary education and in particular the power—

- a) to prepare and maintain a register of primary schools ;
- b) to provide by regulations, after considering the recommendations, if any, of the Curriculum Committee, the syllabus, the courses of studies to be followed and the books to be studied in primary schools and for examinations conducted by the Primary School Councils ;
- c) to maintain and publish, from time to time, lists of books approved for use in primary schools and for examinations conducted by the Primary School Councils and to remove the name of any such book from any such list ;
- d) to institute with the approval of the State Government such examinations as it may think fit, and to make regulations on all aspects connected with such examinations ;
- e) to make regulations regarding the conditions to be fulfilled by candidates presenting themselves for examinations conducted by the Primary School Councils ;
- f) to exercise general supervision and control over the work of the Primary School Councils and for that purpose to issue such instructions to the Primary School Councils relating to primary education as it may think fit and to call for reports from the Primary School Councils on matters relating to primary education ;

- g) to administer the West Bengal Board of Primary Education Fund ;
- h) to institute and administer such provident funds as may be prescribed,;
- i) to make regulations relating to the conduct, discipline and appeal in respect of the members of the staff of the Board ;
- j) to make regulations relating to the conduct and discipline in respect of teachers and non-teaching staff of primary schools under the Primary School Councils and in respect of the staff of the Primary School Councils ; 13(a)
- k) to transfer any teacher or non-teaching staff from a primary school within the jurisdiction of one Primary School Council to a primary school within the jurisdiction of another Primary School Council ;
- kk) to transfer any officer or employee, other than the Secretary and the Finance Officer, from one Primary School Council to another Primary School Council or to the Board or from the Board to a Primary School Council, 13(b)
- l) to make regulations determining the mode of teaching and the medium of instruction to be followed in primary schools,
- m) to make regulations for deciding any dispute relating to primary schools but not relating to teaching or non-teaching staff of such schools,
- n) to determine, with the approval of the Director, the hours of instruction and the number and duration of vacations,
- o) [Omitted],
- p) to advise the State Government on all matters relating to primary education referred to it by the State Government,
- q) to grant financial aids to Primary School Councils for the development of primary education or for any other purpose,

qq) to consider and recommend the budget estimates of the Primary School Councils to the Director, 13(c)

r) to perform such other functions and discharge such other duties as may be prescribed.

(2) Subject to the provisions of sub-section (1), the Board shall have the power to make regulations in respect of any matter for the proper exercise of its powers under this Act,

Provided that no regulation shall be valid unless it is approved by the State Government.

(3) The State Government may, in according the approval referred to in the proviso to sub-section (2), make such additions, alterations and modifications therein as it thinks fit,

Provided that before making any such additions, alterations or modifications the State Government may, if it thinks fit, give the Board an opportunity to express its views thereon within such period as may be specified by the State Government.

(4) All regulations approved by the State Government shall be published in the Official Gazette.

## **S.20 Powers and duties of the President—**

(1) The President shall be responsible for carrying out and giving effect to the decisions of the Board and of any Committee thereof.

(2) The President may, in any emergency, exercise any of the powers of the Board, provided, however, that he shall not act contrary to any decision of the Board, and shall within one month, report to the Board the action taken by him together with reasons therefor.

(3) The President shall—

a) exercise general supervision and control over the Secretary, the Finance Officer, if any, and the staff appointed by the Board and post and transfer the members of the staff,

- b) sanction all claims of travelling allowance,
- c) take such other action not inconsistent with any decision of the Board as he considers necessary for the proper functioning of the Board under this Act.

**S.21 Omitted, 14**

**CHAPTER—IV**

**Committees of the Board**

**S.22 Committees—**

Within such time as may be prescribed after the Board is established, the Board shall constitute the following Committees, namely—

- a) the Curriculum Committee,
- b) the Evaluation Committee,
- c) the Development Committee,
- d) the Finance Committee,

**S.23 Curriculum Committee—**

(1) The Curriculum Committee shall consist of the following members, namely—

- a) the President,
- b) an officer not below the rank of a Deputy Director of School Education, Government of West Bengal, 15(a)
- c) the Director, State Council of Educational Research and Training, West Bengal, 15(b)
- d) one of the two members of the Board referred to in clause (c) of section 4 elected in the prescribed manner by the Board, 15(c)
- e) three teachers of primary schools elected in the prescribed manner by the Board,
- f) one teacher of a secondary school elected in the prescribed manner by the West Bengal Board of Secondary Education,
- g) two persons having special knowledge of science, art, crafts or primary education, who may or

may not be members of the Board, nominated by State Government,

b) two out of six members of the Board referred to in clause (i) of section 4 elected in the prescribed manner by the Board. 15(d)

(2) The President shall be the Chairman of the Curriculum Committee and the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Curriculum Committee to—

a) advise the Board about the syllabus and courses of studies to be followed in primary schools as well as for examinations instituted or conducted by the Board or the Primary School Councils,

b) advise the Board on any matter relating to the syllabus, courses of studies or books to be studied, as may be referred to it by the Board.

(4) The Curriculum Committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-section (3) and it shall not be necessary for any member of such a Sub-Committee to be a member of the said Committee or the Board.

#### **S.24 Evaluation Committee—**

(1) The Evaluation Committee shall consist of the following members, namely—

a) the President,

b) an officer not below the rank of a Deputy Director of School Education, Government of West Bengal to be nominated by the State Government. ✓

16(a)

c) the Director, State Council of Educational Research & Training, West Bengal, 16(a)

d) Omitted, 16(b)

e) one of the two members of the Board referred to in clause (c) of section 4 elected in the prescribed manner by the Board,

f) Omitted,

- g) one teacher of a High School elected in the prescribed manner by the West Bengal Board of Secondary Education,
  - h) three teachers of primary schools elected in the prescribed manner by the Board,
  - i) three persons having special knowledge in primary education or evaluation, who may or may not be members of the Board, nominated by the State Government,
  - j) two out of six members of the Board referred to in clause(i) of section 4 elected in the prescribed manner by the Board.
- (2) The President shall be the Chairman of the Evaluation Committee and the Secretary to the Board shall be the Secretary to the said Committee.
- (3) It shall be the duty of the Evaluation Committee—
- a) to assess from time to time the standard of instruction in a primary school with reference to the norms and objectives set by the Board and to suggest improvement on the basis of such assessment.
  - b) to advise the Board on such other matter relating to progress, improvement and development of the academic aspect of primary education as may be assigned to it by the Board.
- (4) The Evaluation committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-section (3) and not more than half of the total members of such Sub-Committee may consist of persons who are not members of the said Committee or the Board.

#### **S.25 Development Committee—**

- (1) The Development Committee shall consist of the following members, namely—
- a) the President,
  - b) an officer of the Education Department, Government of West Bengal, nominated by the State Government,

- c) a woman officer of the Education Department, Government of West Bengal, nominated by the State Government,
  - d) one officer of the Directorate of Health Services, Government of West Bengal, not below the rank of a Deputy Director, nominated by the Director of Health Services, Government of West Bengal
  - e) three of the twelve members of the Board referred to in clause (d) of section 4 elected in the prescribed manner by the Board. 17
  - f) the member of the Board referred to in clause (f) of section 4, 17
  - g) one of the three members of the Board referred to in clause (h) of section 4 elected in the prescribed manner by the Board, 17
  - h) one of the three members of the Board referred to in clause (h) of section 4 elected in the prescribed manner by the Board, 17
  - i) two out of the six members of the Board referred to in clause (i) of section 4 elected in the prescribed manner by the Board, 17
  - j) two persons who may or may not be members of the Board nominated by the State Government.
- (2) The President shall be the Chairman of the Development Committee and the Secretary to the Board shall be the Secretary to the said Committee.
- (3) It shall be the duty of the Development Committee to—
- a) advise the Board in the matter of improvement and development of primary schools in all aspects, including schemes for universal, free and compulsory education, construction of building, welfare of students and teachers and other staff, good relationship between guardians, teachers and students, community participation in schools, meals supplied in schools and the health of the students in schools,
  - b) advise on any other matter assigned to it by the Board relating to progress, development and improvement of primary education excepting those allotted to the Curriculum or the Evaluation Committee.

**S.26 Finance Committee—**

(1) The Finance Committee shall consist of the following members, namely—

- a) the President,
- b) the Secretary of the Board,
- c) two persons having knowledge in financial matters nominated by the State Government,
- d) two members of the Board elected in the prescribed manner by the members of the Board of whom one shall be a teacher of a Primary School.

(2) The President shall be the Chairman of the Finance Committee and the Finance Officer, or if there is no Finance Officer, the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Finance Committee to prepare the budget of the Board, to advise the Board on all financial matters and to perform such other functions as may be prescribed.

**S.27 Power to constitute other Committees—**

(1) The Board may, with the approval of the State Government and subject to such directions as the State Government may issue in this behalf, constitute such other Committee or Committees as it may think fit and any such Committee may be composed wholly or in part of members of the Board.

(2) The Board may, with the approval of the State Government, delegate to any such Committee any of its powers or functions and may in like manner withdraw from it any such power or function.

**S.28 Terms of office of members of the Committees—**

(1) An elected, a nominated or an appointed member of any Committee, who is also a member of the Board, shall continue to hold office until he ceases to be a member of the Board.

(2) An elected, a nominated or an appointed member of any Committee who is not a member of the Board, shall hold office for such term, as may be prescribed and may on expiration of such term, be re-elected, re-nominated or re-appointed,

Provided that notwithstanding the expiration of the said term, an elected, a nominated or an appointed member of a Committee shall continue to hold office until the vacancy caused by the expiration of the said term has been filled in accordance with the provisions of this Act.

(3) The provisions of section 5 and of sections 8, 12 and 13 shall apply, *mutatis mutandis*, to members of any Committee as if reference to the Board or the President were references to such Committee or the Chairman of such Committee.

**S.29 Power of the State Government to dissolve Committee—**

The State Government may, on the recommendations of the Board, if it so thinks fit, dissolve any of the Committees of the Board and may direct the Board to take steps for the reconstitution of the Committee so dissolved.

**CHAPTER—V**  
**Finance and Audit**

**S.30 Annual report and budget estimate—**

(1) The President shall place before the annual meeting of the Board held in the year following the year in which it is established and before every annual meeting thereafter to be held in the month of August in each year a report on the working of the Board during the last preceding year, together with a budget estimate showing in such form as may be prescribed, the anticipated income and expenditure of the Board during the year immediately succeeding the one in which such annual meeting is held.

(2) The report shall be forwarded to the State Government within one month of the presentation thereof before the annual meeting of the Board together with such comments thereon as the Board may think fit to make.

(3) The budget estimate shall after confirmation by the Board be forwarded to the State Government within such time as may be prescribed.

(4) The State Government shall within two months of the receipt of the budget estimate either accord its approval

to the same or return it to the Board with such comments and suggestions as it deems necessary if in its opinion such estimate—

- a) is not reasonably accurate with reference to ascertainable facts or shows a deficit in the closing balance,
- b) includes new items of recurring expenditure which are likely to impose upon the Board in the future financial liabilities which the Board is not likely to be able to meet from its income, or
- c) includes provisions for expenditure which are not in accordance with the provisions of this Act.

(5) If the budget estimate is returned under sub-section (4), the Board shall consider the comments and suggestions made by the State Government and may, if it thinks fit, revise the said estimate. The Board shall then resubmit the budget estimate as so revised to the state Government, or, the Board shall, if it does not think fit to revise the estimate, resubmit it in its original form to the State Government within one month of receiving it together with its replies on the comments and suggestions made by the State Government.

(6) If the State Government does not approve of the budget estimate as revised by the Board or if the budget estimate is returned by the Board without revision, the State Government may amend the budget estimate by making,

- a) such modifications as are in its opinion necessary to render the estimate reasonably accurate with reference to ascertainable facts or to balance the income and the expenditure,
- b) additions, alterations or modifications in any provision relating to new expenditure of a recurring nature,
- c) any alteration or modification in any provision for expenditure which, in its opinion, is not in accordance with the provisions of this Act,

and shall approve the budget estimate so amended and forward it to the Board.

(7) Omitted, 18

**S.31 Payment to the Board by the State Government—**

The State Government may, after considering the budget estimate, the accounts of the Board and such other reports as it may call for, make such annual or periodical grants to it as may think fit.

**S.32 West Bengal Board of Primary Education Fund—**

(1) The Board shall have a Fund to be called the West Bengal Board of Primary Education Fund to which shall be credited—

- a) all sums which may be paid by the State Government,
- b) all sums representing income from endowments or from property owned or managed by the Board, and
- c) all other sums received by or on behalf of the Board from any other source whatsoever.

(2) The Fund shall vest in the Board and shall be under its control and shall be held by it in trust for the purposes of this Act.

(3) All monies payable to the credit of the fund shall forthwith be paid into the Reserve Bank of India or into the State Bank of India or any branch thereof to the credit of the Fund, and all cheques drawn on the Fund shall be signed by the President or by such other persons as he may authorise in writing in this behalf. 19

(4) The Fund shall be maintained, administered and used in the manner prescribed.

**S.33 Application of the West Bengal Board of Primary Education Fund—**

No expenditure shall be incurred from the Fund except for the purposes of this Act, and unless such expenditure is provided for in the budget as approved under this Act or can be met by reappropriation sanctioned in the prescribed manner.

**S.34 Accounts—**

The Board shall keep an account of all its receipts and expenditure in the manner prescribed.

### **S.35 Audit—**

(1) The accounts of the Board shall be examined and audited annually in such manner as may be prescribed, by an auditor or auditors appointed by the State Government.

(2) For the purpose of examination and audit under sub-section (1) the auditor may—

a) require in writing the production before him of any document relating to the Board or the assets thereof which he considers to be necessary for the proper conduct of the audit,

Provided that the Board shall not be bound to submit to the auditor documents, in original, of expenditure in connection with any anti-corruption work and of expenditure for printing of question papers and certificates, but shall, if so required by the auditor, furnish extracts of such documents duly certified by the President as correct after withholding such portion of the documents as will, in the opinion of the President, tend to disclose either the identity or the sources of such expenditure,

b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such documents to answer any question relating thereto, and

c) require any person so appearing before him to submit a statement in writing in respect of any such document.

(3) It shall be the duty of the Board and of every member thereof, and of the secretary, the Finance Officer, if any, and the members of the staff in the service of the Board, to afford to the auditor every facility for the examination and audit of the accounts of the Board and to comply with any requisition made by the auditor under sub-section (2) and with the requirement of any rule made in this behalf.

(4) Any person who wilfully neglects or refuses to comply with a requisition made under sub-section (2) or with the requirement of any rule made in this behalf shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(5) No complaint in respect of any offence punishable under sub-section (4) shall be made except with the previous sanction of the State Government.

(6)\* No Magistrate other than a Presidency Magistrate or a Magistrate of the first or second class shall try an offence punishable under sub-section (4).

**S.36 Audit Report—**

(1) Not more than fourteen days after completion of the audit, the auditor shall submit to the State Government a report on the accounts audited, and shall send a copy thereof to the Board which shall forward it to the State Government together with its observations thereon, within thirty days from the date of receipt of the audit report,

(2) The State Government shall take such action on the audit report as it thinks fit.

**PART—III**

**CHAPTER—VI**

**The Primary school Councils**

**S.37 District Primary School Councils—**

(1) The State Government shall, by notification, establish for each district excluding the hill areas and the areas included in Calcutta, with effect from such dates as may be specified in the notification,\* a District Primary School Council bearing the name of the district and for the sub-division of Siliguri, Siliguri Primary School Council, 20(a)

Provided that the State Government shall, by notification, establish for the sub-division of Siliguri excluding such mouzas of the sub-division as are comprised in the hill areas with effect from such date as may be specified in the notification, a Primary School Council bearing the name of the sub-division. 20(a)

(2) A District Primary School Council shall consist of the following members, namely—

a) the District Inspector of Schools, in charge of primary education,

b) the District Special Officer, Scheduled Castes and Tribes Welfare or where no such officer is posted, the District Tribal Welfare Officer,

c) the District Social Education Officer,

d) one member for each sub-division, elected in the prescribed manner by the members of Panchayet Samities within the sub-division from amongst themselves. 20(b)

Provided that the number shall in no case be less than three,

e) three members, elected in the prescribed manner by the Councillors of the municipal areas within the districts from amongst themselves, 20(b)

Provided that in the district of 24-Parganas, four members shall be elected by such Municipalities,

f) three members, elected in the prescribed manner by the members of Zilla Parishad of the district from amongst themselves, 20(b)

g) one teacher of a Primary Teachers' Training Institute in the district, elected in the prescribed manner by the teachers of such Institutions in the district, 20(c)

h) three teachers elected in the prescribed manner by the teachers of primary schools in each sub-division from amongst themselves,

[Proviso omitted] 20(c)

i) not exceeding fifty percent of the members of the West Bengal Legislative Assembly, subject to a maximum of six, not being ministers, representing the constituencies comprised within the territorial jurisdiction of the district concerned, elected from amongst themselves in the manner prescribed, 20(d)

[Proviso omitted] 20(d)

ii) one member from the staff of the Primary School Council elected in the prescribed manner by the members of the staff of the District Primary School Council from amongst themselves,

j) six persons interested in education, nominated by the State Government of whom— 20(b)

- (i) one shall be a woman,
- (ii) one shall be a member of a Scheduled Caste,
- (iii) one shall be a member of a Scheduled Tribe,
- (iv) one shall be a member of linguistic minority,
- (v) one shall be a college teacher,
- (vi) one shall be a secondary school teacher.

k) the Chairman to be appointed by the State Government. 20(e)

(2A) The Siliguri Primary School Council for the sub-division of Siliguri shall consist of the following members, namely— 20(f)

- a) the District Inspector of Schools in charge of primary education,
- b) the Special Officer, Scheduled Castes and Tribes Welfare or, where no such officer is posted, the Tribal Welfare Officer-in-charge of the matters concerning the Scheduled Castes and the Scheduled Tribes of the sub-division,
- c) the District Social Education Officer,
- d) three members elected in the prescribed manner by the members of the Panchayat Samities within the sub-division from amongst themselves,
- e) two members elected in the prescribed manner by the Councillors of the municipal areas within the sub-division from amongst themselves,
- f) two members elected in the prescribed manner by the members of the Mahakuma Parishad for the sub-division from amongst themselves,
- g) one teacher of a Primary Teachers' Training Institute in the sub-division elected in the prescribed manner by the teachers of such Institutes in the sub-division,

h) three teachers elected in the prescribed manner by the teachers of primary schools in the subdivision from amongst themselves,

i) two members of the West Bengal Legislative Assembly, not being Ministers, elected in the prescribed manner by the members of the Legislative Assembly, representing the constituencies comprised within the territorial jurisdiction of the subdivision, from amongst themselves,

j) one member from the staff of the Primary School Council elected in the prescribed manner by the members of the staff of the Siliguri Primary School Council from amongst themselves,

k) four persons interested in education nominated by the State Government of whom—

(i) one shall be a woman,

(ii) one shall be a member of the Scheduled Caste or Scheduled Tribe,

(iii) one shall be a member of linguistic minority and

(iv) one shall be a secondary school teacher.

(3) A District Primary School Council or, as the case may be, Siliguri Primary School Council shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purpose of this Act, and shall by its corporate name sue or be sued. 20(g)

### B.38 Calcutta Primary School Council—

(1) The State Government shall, by notification, establish for Calcutta with effect from such date as may be specified in the notification, a Primary School Council to be called the Calcutta Primary School Council.

(2) The Calcutta Primary School Council shall consist of the following members, namely—

a) the District Inspector of Schools (Primary Education), Calcutta,

aa) the District Social Education Officer, Calcutta, 21(a)

aaa) the Deputy Director of School Education (Anglo-Indian Schools), 21(a)

b) the Chairman, Calcutta Metropolitan Development Authority or any person nominated by him,

c) six persons elected in the prescribed manner by the Councillors of the Calcutta Municipal Corporation from amongst themselves, 21(b)

d) nine teachers elected in the prescribed manner by the teachers of Primary Schools in Calcutta from amongst themselves, 21(b)

e) Omitted, 21(c)

f) Omitted, 21(c)

g) six members of the West Bengal Legislative Assembly, not being Ministers, elected in the prescribed manner by the members of the Legislative Assembly representing constituencies comprised within the territorial jurisdiction of the Calcutta Municipal Corporation from amongst themselves, 21(d)

gg) one teacher of a Primary Teachers' Training Institute of Calcutta elected in the prescribed manner by the teachers of the Primary Teachers' Training Institutes of Calcutta from amongst themselves, 21(d)

ggg) one member from the staff of the Primary School Council, Calcutta elected in the prescribed manner from amongst themselves, 21(d)

h) six persons interested in education nominated by the State Government, of whom-

(i) one shall be a woman,

(ii) one shall be a member of the Anglo-Indian community,

(iii) one shall be a member of the linguistic minority communities in Calcutta, 21(d)

(iv) one shall be a member of a Schedule Caste, 21(d)

(v) one shall be a secondary teacher,

(vi) one shall be a college teacher,

i) The Chairman to be appointed by the State Government.

(3) The Calcutta Primary School Council shall be a body corporate having perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

**S.39** Omitted. 22

**S.40 Appontment in default of election—**

(1) If by such date, as may be fixed by the State Government in this behalf, any of the authorities fails to elect a member or members as provided in section 37 or section 38 the State Government shall appoint member or members qualified for election by such authority, 23

(2) A person appointed under this section shall be deemed to be a member of the Primary School Council duly elected by the authority concerned.

**S.41 Publication in the Official Gazette—**

The name of every member elected, nominated or appointed under section 37 or section 38 or appointed under section 40 as a member of a Primary School Council shall be published by the State Government in the Official Gazette as soon as may be after his election, nomination or appointment, as the case may be. 24

**S.42 Term of office of members—**

(1) Subject to the provisions of this Act, every elected, nominated or appointed member of a Primary School Council shall hold office for a term of four years from the date of the first meeting of the Primary School Council at which a quorum is present and may on expiration of such term be re-elected, re-nominated or re-appointed.

(2) Notwithstanding the expiration of the term of four years mentioned in sub-section (1), every elected, nominated or appointed member of a Primary School Council shall continue to hold office until the first meeting of the newly formed Primary School Council at which a quorum is present.

**S.43 Casual vacancies—**

If any member of a Primary School Council dies or resigns his office or ceases to be a member for any other reason, the vacancy shall be filled up by fresh election, nomination or appointment under section 37 or section 38 as the case may be and the member so elected, nominated or appointed shall hold office for the unexpired portion of the term of the member whose place he fills, 25

Provided that no election shall be held to fill a vacancy of a member occurring within four months from the date on which the term of the office of the member expires.

**S.44 Chairman of a Primary School Council— 26(a)**

(1) There shall be a Chairman of a Primary School Council, 26(a)

(2) The Chairman shall hold office for a term of four years mentioned in section 42, 26(b)

(3) The Chairman shall receive such pay or allowances or both as may be fixed by the State Government, 26(c)

(4) The Chairman may resign his office by giving notice in writing to the State Government and when such resignation is accepted by the State Government the Chairman shall be deemed to have vacated his office, 26(d)

(5) Omitted, 26(e)

**S.45 Omitted, 27**

**S.46 Discharge of Chairman's functions in certain contingencies—**

(1) If the Chairman dies or resigns his office or ceases to hold office or is by reason of leave, illness or other cause, temporarily unable to exercise the powers or perform the duties of his office, the Secretary to the Primary School Council shall forthwith send a report to the State Govern-

ment in this behalf. And the State Government shall, on receipt of the report as aforesaid authorise a member of the Primary School Council to exercise the powers and perform the duties of the Chairman until a new Chairman is appointed or the Chairman resumes office, as the case may be, 28(a)

(2) Omitted, 28(b)

(3) A Chairman appointed to fill a casual vacancy shall hold office for the unexpired portion of the term of the Chairman whose place he fills. 28(c)

**S.47 Disqualifications for membership—**

The provisions of section 12 shall mutatis mutandis apply in the case of a member of a Primary School Council.

**S.48 Resignation of members—**

A member of a Primary School Council may resign his seat by giving notice in writing to the Chairman and when such resignation is accepted by the Chairman such member shall be deemed to have vacated his seat.

**S.49 Meetings of the Primary School Council—**

(1) Every Primary School Council shall meet at least three times a year.

(2) Every meeting of the Primary School Council shall be convened by the Secretary to the Primary School Council under instructions of the Chairman,

Provided that the Chairman shall, when required in writing by one-third of the members of the Primary School Council to convene a meeting, direct the Secretary to do so within seven days from the receipt of the requisition and if no meeting is convened within the said period the members aforesaid may convene a meeting after giving seven clear days' notice to the Chairman and other members of the Primary School Council.

**S.50 Conduct of meetings—**

(1) The Chairman or in his absence one of the members of the Primary School Council elected from amongst those present shall preside at the meeting of the Primary School

Council and the Chairman or such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes. 29

(2) Subject to the provisions of sub-section (1), the Primary School Council shall have the power to regulate the procedure for the conduct of its business.

#### **S.51 Restriction on voting—**

(1) No member of a Primary School Council shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any Primary School of which he is either a teacher or a member of the Managing Committee.

(2) The Chairman or the member presiding at a meeting of a Primary School Council shall decide any question arising under sub-section (1) and his decision thereon shall be final. 30

#### **S.52 Removal—**

The State Government may, by notification remove the Chairman or a member of Primary School Council, if he—

- a) refuses to act or becomes incapable of acting as Chairman, or member of the Primary School Council 31
- b) acts in a manner prejudicial to the interest of the Primary School Council, or
- c) without obtaining the consent of the Primary School Council is absent from six consecutive meetings of the Primary School Council ;

Provided that before such removal the Chairman, or the member concerned shall be given an opportunity of being heard. 31

#### **S.53 Duties of the Chairman—**

(1) The Chairman shall be responsible for carrying out and giving effect to the decisions of the Primary School Council and of any Committee thereof.

(2) The Chairman may, in any emergency, discharge any of the duties of the Primary School Council, provided, however, that he shall not act contrary to any decision of the

Primary School Council, and shall within one month report the Primary School Council the action taken by him together with reasons therefor.

(3) The Chairman shall—

- a) exercise general supervision and control over the Secretary, the Finance Officer and the staff appointed by the Primary School Council and post and transfer the members of the staff,
- b) sanction all claims of travelling allowances,
- c) take such other action not inconsistent with any decision of the Primary School Council as he considers necessary for the proper functioning of the Primary School Council under the Act.

**S.54 Omitted, 32**

**S.55 Secretary and Finance Officer of Primary School Council—**

(1) Every Primary School Council shall have a Secretary and a Finance Officer.

(2) The Secretary shall be appointed by the State Government and the terms and conditions of service of the Secretary and his pay and allowances shall be such as the State Government may determine.

(3) Subject to the general control and supervision of the Chairman, the Secretary shall be the principal administrative officer of the Primary School Council.

(4) The State Government shall appoint a person possessing such qualification as may be prescribed as the Finance Officer upon such terms and conditions and on such pay and allowances as the State Government may determine. 33

(5) The Finance Officer shall be in charge of the matters relating to finance and accounts of the Primary School Council and shall perform such functions as may be prescribed.

(6) The pay and allowances of the Secretary and the Finance Officer shall be paid out of the fund of the Primary School Council.

(7) The Secretary and the Finance Officer shall be entitled to attend and speak at any meeting of the Primary School Council but shall not be entitled to vote.

**S.56 Other staff of the Primary School Council—**

(1) Subject to the prescribed conditions and with prior approval of the State Government, a Primary School Council may appoint such officers and other staff as may be considered necessary for carrying out the duties under the Act..

(2) The scale of pay and allowances in respect of such officers and other staff and other terms and conditions of their appointment shall be such as may be determined by the State Government from time to time.

(3) Subject to the prescribed conditions, a Primary School Council may award any punishment including dismissal or removal on the members of its staff other than the Secretary and the Finance Officer,

Provided that no punishment other than censure of a teacher or a School Mother of Primary School be awarded except on the recommendation of the Discipline Committee.

**S.57 Travelling Allowance—**

Such members of the Primary School Council or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Primary School Council, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Primary School Council such allowances and at such rates as may be prescribed.

**S.58 Control by Board—**

If at any time, it appears to the Board that a Primary School Council has made default in discharging any duty imposed upon it by or under this Act, the Board may after giving the Primary School Council an opportunity of being heard, fix, by an order in writing, a period within which such duty is to be discharged.

(6) The pay and allowances of the Secretary and the Finance Officer shall be paid out of the fund of the Primary School Council.

(7) The Secretary and the Finance Officer shall be entitled to attend and speak at any meeting of the Primary School Council but shall not be entitled to vote.

#### **S.56 Other staff of the Primary School Council—**

(1) Subject to the prescribed conditions and with prior approval of the State Government, a Primary School Council may appoint such officers and other staff as may be considered necessary for carrying out the duties under the Act..

(2) The scale of pay and allowances in respect of such officers and other staff and other terms and conditions of their appointment shall be such as may be determined by the State Government from time to time.

(3) Subject to the prescribed conditions, a Primary School Council may award any punishment including dismissal or removal on the members of its staff other than the Secretary and the Finance Officer,

Provided that no punishment other than censure of a teacher or a School Mother of Primary School be awarded except on the recommendation of the Discipline Committee.

#### **S.57 Travelling Allowance—**

Such members of the Primary School Council or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Primary School Council, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Primary School Council such allowances and at such rates as may be prescribed.

#### **S.58 Control by Board—**

If at any time, it appears to the Board that a Primary School Council has made default in discharging any duty imposed upon it by or under this Act, the Board may after giving the Primary School Council an opportunity of being heard, fix, by an order in writing, a period within which such duty is to be discharged.

**S.59 Supersession of Primary School Council and appointment of an Administrator—**

(1) If at any time, on receipt of a report from the Board or otherwise, it appears to the State Government that a Primary School Council is not competent to perform, or persistently makes default in the performance of the duties imposed upon it by or under this or any other Act, or exceeds or abuses its powers, the State Government may, after giving the Primary School Council an opportunity of being heard by an order in writing specifying the reasons for so doing, remove all members of such Primary School Council and direct that the vacancies shall thereupon be filled by election, nomination or appointment, as the case may be, in respect of elected, nominated or appointed members,

Provided that when the State Government proposes to make an order under this sub-section otherwise than on a report from the Board the State Government shall ask the Board to give its opinion in the matter within a date to be fixed by the State Government and an order under this subsection shall be made after considering the opinion of the Board, if any, received within the date so fixed.

(2) From the date of an order under sub-section (1) and until the vacancies are filled—

- a) all powers and duties of the Primary School Council shall be exercised and performed by, and
- b) all property vested in Primary school Council shall vest in,

such person and in such manner, as the State Government may direct.

**S.60 Duties of the Primary School Council—**

(1) It shall be the duty of every Primary School Council—

- a) to prepare and maintain in such manner and containing such particulars as may be prescribed, a register showing all primary schools within its jurisdiction, together with the teachers thereof and the accommodation available therein,

- b) to maintain in such manner and containing such particulars as may be prescribed a register of teaching and non-teaching staff of all primary schools under its management,
- c) to maintain in such manner and containing such particulars as may be prescribed a service record of teaching and non-teaching staff of all primary schools under its management,
- d) to tabulate such further information and to prepare such plans or maps as may be necessary to enable the Primary School Council to frame an estimate of the existing provisions for primary education and of the further provisions necessary to place primary education within the reach of all children,
- e) to prepare in the prescribed manner schemes for the extension of primary education and to make adequate provisions for facilities for the free primary education of all children to whom such schemes apply,
- f) to arrange, in the prescribed manner and with the prior approval of the Board, for the opening of additional primary schools and expansion of existing primary schools with a view to giving effect as funds permit to such schemes,
- g) to provide for the welfare of the children attending primary schools,
- h) to maintain an adequate number of primary schools within its jurisdiction,
- i) to carry on propaganda for expansion of primary education,
- j) to construct, repair and manage, either directly or through any local authority, all primary schools under public management,
- k) subject to the prescribed conditions, to appoint teachers and other staff in primary schools, to transfer any such teacher or other staff from one primary school to another primary school within the

jurisdiction of the same Primary School Council and to pay to teachers and other staff salaries and allowances, if any, at such rates as may be fixed by the State Government;

kk) to set up new primary Schools subject to fulfilment of terms and conditions and observance of the guidelines laid down in this behalf by the State Government from time to time, 34(a)

l) i) to withdraw recognition of any primary school on such ground and following such procedure, as the State Government may prescribe, and

ii) to grant financial aid to a recognised primary school or to withdraw financial aid to recognised primary school on such ground, and in such manner, as the State Government may prescribe, 34(b)

ll) to amalgamate two or more primary schools into one primary school, to split a primary school into two or more primary schools, and to shift a primary school from one site to another, 34(c)

m) to make grants in the prescribed manner for scholarships and stipends,

n) to prepare and transmit to the Director proposals for increasing the supply of trained and certified teachers,

o) to comply with such instructions as may be issued by the Board under clause (f) of sub-section (1) of section 19,

p) to advise upon and to supply all information with respect to matters relating to primary education, referred to the Primary School Council by the Director or the Board,

q) subject to the prescribed conditions-

i) to grant pensions and gratuities to,

ii) to form and manage provident or an annuity fund for,

- iii) to compel contributions to such fund from, and
  - iv) to supplement the contributions to such fund of the establishment of the Primary School Council and teachers in primary schools,
  - r) to exercise supervision and control over the primary schools and the work of the Welfare Committees, and
  - s) to perform such other duties as may be prescribed.
- (2) The register referred to in clause (a) of sub-section (1) shall be maintained and the information referred to in clause (d) thereof shall be tabulated separately for each prescribed area.

**S.61 Reports to be made by the Primary School Council—**

- (1) Every Primary School Council shall in each financial year—
- a) frame and transmit to the Director, by such date and in such form as he may direct, a statement showing for the area within its jurisdiction—
    - i) the names of primary schools for which grants have been sanctioned for that year, and
    - ii) the amount of the grant which has been sanctioned for each such school,
  - b) furnish a report to the Director, by such date and in such form as he may direct, exhibiting the grants which it has distributed to schools within its jurisdiction.
- (2) A copy of such statement and of such report shall be sent to the Board.

**S.62 Primary School Council to furnish other prescribed reports—**

Every Primary School Council shall prepare and transmit to the Director and the Board such further reports and statements as the State Government may from time to time determine.

**S.63 Compulsory acquisition of land for the purpose of the Act—**

The State Government may, at the request of the Chairman of a Primary School Council, acquire, under the provisions of any law for acquisition of land for the time being in force, any land required for the purpose of this Act.

*Explanation*—"Land" in this section has the same meaning as in clause (b1) of section 2 of the West Bengal Land (Requisition and Acquisition) Act, 1948.

**S.64 Transfer of primary schools under the control of the Calcutta Municipal Corporation— 35(a)**

With such date as may be fixed by the State Government by notification,—

a) such primary schools in Calcutta as may be mentioned in the notification in consultation with the Calcutta Municipal Corporation, together with their lands, buildings, and other properties, movable or immovable, vested in or under the control of the Calcutta Municipal Corporation immediately before such date, shall stand transferred to the Calcutta Primary School Council ; 35(b)

b) the primary schools referred to in clause (a) shall be under the control and management of the Calcutta Primary School Council ;

c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Calcutta Primary School Council and the terms and conditions of their service shall be such as may be determined by the State Govt.

**S.65 (1) Omitted 36(a)**

(2) With effect from such date as may be fixed by the State Government by notification—

a) such primary schools in a municipal area in a district as may be mentioned in the notification in consultation with the Commissioners of such mu-

municipal area together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the Commissioners of such municipal area immediately before such date, shall stand transferred to the Primary School Council established for the district, 36(b)

b) the primary schools referred to in clause (a) shall be under the control and management of the Primary School Council established for such district,

c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Primary School Council established for the district and the terms and conditions of their service shall be such as may be determined by the State Government.

**S.66 Transfer of primary school under scheme sanctioned under West Bengal Act XXVIII of 1963-**

(1) Notwithstanding anything contained in section 65, all primary schools in a municipal area under scheme sanctioned under the West Bengal Urban Primary Education Act, 1963 shall, with effect from such date as may be fixed by the State Government by notification together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the Councillors of such municipal area immediately before such date, stand transferred to and all teachers and other staff employed in such primary schools and continuing in office immediately before such date shall be deemed to be employed by— 37(a)

a) Omitted, 37(b)

b) the Primary School Council established for the district, 37(c)

(2) The terms and conditions of service of such teachers and other staff shall be such as may be determined by the State Government.

## CHAPTER—VII

### Committees of the Primary School Council

#### **S.67 Committees—**

(1) As soon as may be after a Primary School Council is established it shall constitute the following Committees, namely—

- a) Omitted, 37A
- b) the Staff Selection Committee,
- c) the Finance Committee,
- d) the Discipline Committee,
- e) the Appeal Committee,
- f) the Development Committee.

(2) The constitution, powers and functions of a Committee shall be such as may be prescribed.

#### **S.68 Power to constitute Committees—**

(1) A Primary School Council may, with the approval of the State Government and subject to such directions as the State Government may issue in this behalf, constitute such other Committee or Committees as it may think fit and any such Committee may be composed wholly or in part of members of the Primary School Council.

(2) A Primary School Council may, with the approval of the State Government, delegate to any such Committee any of its powers and functions and may in like manner withdraw from it any such power or function.

(3) A Primary School Council may, with the approval of the State Government, dissolve any of the Committees referred to in sub-section (1) of section 67 or constituted under sub-section (1) of this section.

## CHAPTER—VIII

### Finance and Audit

#### **S.69 Budget—**

(1) Every Primary School Council shall in each year prepare in the prescribed form a budget estimate of income and expenditure of the Primary School Council for the ensuing financial year, and shall submit the budget estimate to the Director through the Board on or before the thirtieth day of November. 38(a)

(2) Director may either approve of the budget estimate as it stands, or approve of it after making such alterations, if any, as it may think fit or may cause it to be returned to the Primary School Council for such modifications as the Director may think necessary, and when such modifications have been made, the budget estimate shall be re-submitted for approval to the Director. 38(a)

(3) Omitted. 38(b)

#### **S.70 Primary School Council Fund—**

(1) Every Primary School Council shall have a fund to be called the Primary School Council Fund to which shall be credited—

a) all sums granted by the State Government or the Board for the payment of grants for primary education ;

b) all sums granted by the State Government or the Board for the maintenance of primary school and for payment to the teachers and other staff in primary schools;

c) all sums granted by the State Government or the Board for scholarships for children in primary schools ;

d) the proceeds of the education cess levied under this Act within its areas ;

e) all sums representing income from endowments or from property owned or managed by the Primary School Council ;

f) the amount of all fines and penalties imposed under this Act other than fines and penalties levied by Magistrates ;

g) all school fees and fines, if any, collected in primary schools maintained by the Primary School Council, and

h) all other sums received by the Primary School Council from any other sources whatsoever ;

(2) The fund shall vest in the Primary School Council, shall be under its control and shall be held by it in trust for the purposes of this Act.

**S.71 Application of the Primary School Council Fund-**

No expenditure shall be incurred from the Primary School Council Fund unless such expenditure is provided for in the budget as approved under this Act or by reappropriation sanctioned in the prescribed manner.

**S.72 Expenditure from Primary School council Fund-**

Except as otherwise provided in this Act, the Primary School Council Fund shall be applied in connection with the following objects and in the following order, namely-

first, payment of interest upon any loan obtained by the Primary School Council for any of the purposes connected with this Act and for the formation of a sinking fund when required ;

secondly, payment of the prescribed percentage of the cost of the establishment maintained by the Collector under section 91 of the Cess Act, 1880 ;

thirdly, payment of the cost of audit ;

fourthly, payment of the salaries, allowances and all other expenses in connection with the establishment of the Primary School Council and all teachers in primary schools, and subject to the prescribed conditions, of pensions, family pensions, gratuities and grants made for submitting contribution to the provident fund in connection with the establishment of the Primary School Council and of teachers in primary schools ;

fifthly, payment of travelling allowance to members of the Primary School Council ;

sixthly, payment of expenses incurred by the Primary School Council in connection with the construction and maintenance of houses for primary schools and providing equipments to such schools ;

seventhly, carrying out any other purposes under this Act.

**S.73    Accounts—**

Every Primary School Council shall keep an account of all its receipts and expenditure in the manner prescribed.

**S.74    Audit—**

(1)    The accounts of every Primary School Council shall be examined and audited annually in such manner as may be prescribed by an auditor or auditors appointed by the State Government.

(2)    The provisions of section 35 and section 36 shall apply mutatis mutandis in respect to the audit of the accounts of every Primary School Council.

(3)    The State Government may by an order appoint an officer to examine the accounts of a Primary School Council for any period and the Primary School Council and its members and officers and other staff shall afford to the officer every facility for the examination of the accounts as may be required by him in terms of the order of the State Government.

**PART—IV**

**CHAPTER—IX**

**Contributions**

**S.75    Contribution from State revenues—**

The State Government shall every year provide such sum from the State revenue as it may think fit for expenditure on primary education.

**S.76 Contributions from Calcutta Municipal Corporation and Municipalities— 39**

Notwithstanding anything contained in any law for the time being in force, the Calcutta Municipal Corporation shall pay to the Primary School Council established for Calcutta and the municipal authority of a municipal area shall pay to the Primary School Council established for the municipal area, in each year in the prescribed manner an amount equal to the amount spent by them on primary education during the year immediately preceding the year in which this Act comes into force in Calcutta or in such Municipality, as the case may be,

**Explanation—**

In this section "municipal authority" shall mean—

- (i) the Municipality referred to in clause (a) of section 12 or the Notified Area Authority referred to in section 379 of the West Bengal Municipal Act, 1993 or
- (ii) the Corporation referred to in—
  - a) clause (a) of section 3 of the Howrah Municipal Corporation Act, 1980, or
  - b) clause (a) of section 3 of the Calcutta Municipal Corporation Act, 1980, or
  - c) clause (a) of section 3 of the Siliguri Municipal Corporation Act, 1990, or
  - d) clause (a) of section 3 of the Asansol Municipal Corporation Act, 1990, or
  - e) clause (a) of section 3 of the Chandernagore Municipal Corporation Act, 1990, or
  - f) clause (l) of section 2, read with section 4, of the Durgapur Municipal Corporation Act, 1994.

## CHAPTER—X

### Taxes and Cesses

#### **S.77 Tax on property—**

(1) For the purpose of providing resources for promoting primary education the State Government may impose a tax on property within Calcutta and other municipal areas, 39A(a)

(2) The tax referred to in sub-section (1) shall be imposed—

a) in Calcutta, on lands and buildings at a rate not exceeding three per cent of the annual value of the lands and buildings determined under the Calcutta Municipal Corporation Act, 1980, for the purpose of assessment of the consolidated rates, 39A(b)

and

b) in any other municipal area, on the holding at a rate not exceeding three percent of the annual value of the holdings or lands and buildings determined under the law applicable to municipal area for the purposes of assessment of rates. 39A(b)

(3) The tax referred to in sub-section (1) shall be levied and collected in such manner as may be prescribed.

#### **S.78 Education cess—**

(1) All immovable properties in which road and public works cesses are assessed according to the provisions of the Cess Act, 1880, shall be liable to the payment of education cess.

(2) The rate of the education cess shall be determined by the State Government by notification and shall not exceed—

a) in respect of lands, ten paise on each rupee of the annual value thereof,

b) in respect of coal mines, fifty paise on each tonne of coal on the annual despatches therefrom,

c) in respect of quarries and mines other than coal mines twelve paise on each rupee of the annual net profit thereof.

(3) The proceeds of the education cess in each district shall be paid by the Collector into the Primary School Council Fund established for the district.

(4) The provisions of the Cess act, 1880 shall apply as far as possible to the assessment, levy and recovery of the education cess.

*Note :* Section 78 has come into force in the whole of West Bengal with effect from 1.4.81 vide Notification No. 227-Edn. (P) 1A-2/81 dated 27.3.1981.

## CHAPTER—XI

### **Free and Compulsory Primary Education**

#### **S.79 Preparation of scheme—**

Every Primary School Council shall prepare, in accordance with such directions, as may be given by the Director in this behalf, a scheme for the entire area within the jurisdiction of the Primary School Council or any part thereof to provide compulsory primary education for children ordinarily resident within such area and shall submit the scheme to the Board which shall send it with its observations to the Director within such time as may be specified by him.

#### **S.80 Particulars of scheme—**

The scheme referred to in section 79 shall be in such form as may be prescribed and shall contain the following particulars, namely—

- a) the area in which primary education shall be compulsory with population ascertained at the last preceding census,
- b) the approximate number of children in such area classified according to age, sex and mother tongue,
- c) a list showing therein the number of existing primary schools classified according to the lan-

guage in which instruction is given in such schools, the location of such school and the number of teachers and students in each such school and the accommodation available for enrolment therein,

d) a list showing therein the number of new primary schools proposed to be opened classified according to the language in which instruction is proposed to be given in such schools, the location of the proposed schools, the number of teachers and other staff that would be required and the accommodation that would be available in such schools,

e) the recurring and non-recurring expenditure of the scheme,

f) a sketch map of the area to be covered by the scheme indicating therein the area of each thana or ward, location of existing primary schools and of the proposed new primary schools,

g) such other particulars as may be prescribed.

#### **S.81 Sanction of State Government to the scheme—**

(1) The State Government may, after such enquiry as it may consider necessary, sanction with or without modification the scheme submitted under section 79 and the scheme so sanctioned shall be published by notification and shall come into force from such date as may be specified by the State Government in the notification.

(2) Every scheme of free and compulsory education sanctioned under the West Bengal Urban Primary Education Act, 1963, and in force in any area immediately before the coming into force of this Act in such area shall, unless otherwise directed by the State Government, be deemed to be a scheme sanctioned under this Act.

#### **S.82 Modification, etc., of sanctioned scheme—**

(1) A scheme sanctioned under section 81 may, from time to time, be modified by the State Government or, with the approval of the State Government, by the Primary School Council having jurisdiction over the area covered by

the scheme and when a scheme is so modified, the modified scheme with reasons for making the modification shall be published by notification.

(2) The State Government may by order in writing stating the reason for so doing temporarily suspend a sanctioned scheme.

(3) When a sanctioned scheme is temporarily suspended by an order under sub-section (2) the State Government shall give the Primary School Council concerned an opportunity of stating its views on the order and after considering the views of the Primary School Council the State Government, may revoke the order temporarily suspending the scheme or withdraw the scheme and direct the Primary School Council to prepare a fresh scheme.

### **S.83 Primary education to be free—**

(1) When a scheme sanctioned by the State Government comes into force in any area no fee shall be charged in respect of any child attending a primary school in such area managed or aided by the Primary School Council.

(2) Primary education shall continue to be compulsory and no fee shall be charged by any primary school under public management in the area in which primary education was declared compulsory under the Bengal (Rural) Primary Education Act, 1930.

### **S.84 List of children—**

(1) It shall be the duty of a Primary School Council to cause to be prepared, within a period of three months from the date of coming into force of a scheme and in such manner as may be prescribed, a list of children in the area covered by the scheme and the Primary School Council shall cause the list to be revised at such interval as may be prescribed.

(2) The State Government may, by order, extend the period for the preparation of the list referred to in sub-section (1).

(3) It shall be the duty of the teachers and other staff of all primary schools managed or aided by the Primary

School Council to assist in the preparation or revision of the list referred to in sub-section (1) in the manner indicated by the Primary School Council. The Primary School Council may, with the approval of the State Government, also appoint other persons including Inspecting Officers and other employees of the State Government including teachers for the preparation or revision of such list.

#### **S.85 Welfare Committee—**

(1) There shall be a Welfare Committee for each primary school. The Welfare Committee shall be constituted by the Primary School Council and shall consist of the following members, namely—

- a) the head teacher of the primary school,
- b) one assistant teacher of the primary school elected by the teachers other than the head teacher thereof from amongst themselves,
- c) four guardians elected in the prescribed manner by guardians of the students reading in the primary school from amongst themselves,
- d) one person interested in education nominated by the Primary School Council concerned, and
- e) where the primary school is situated within the jurisdiction of—
  - i) a Gram Panchayat, one person elected in the prescribed manner by the members of such Gram Panchayat from amongst themselves,
  - ii) a municipal authority, one person elected in the prescribed manner by the municipal authority from amongst the persons residing within a distance of sixteen hundred metres from the premises of the school, 39B(a)

#### *Explanation—*

In this clause, the expression "municipal authority" shall have the same meaning as in section 76. 39B(b)

(2) There shall be a Chairman and a Secretary of the Welfare Committee elected from amongst the member referred to in clause (c), (d) and (e) of sub-section (1).

(3) The head teacher of the school concerned shall be the Assistant Secretary of the Welfare Committee.

(4) If a Welfare committee is not formed within six months from the date on which the Act comes into force in any area in which the primary school is situated, the Primary School Council shall appoint an ad-hoc Welfare committee with four nominated guardians and the head teacher as members. Such ad-hoc Committee shall function until a Welfare Committee is formed in the manner laid down in sub-section (1).

(5) The Welfare Committee shall hold office for a term of four years.

(6) It shall be the duty of the Welfare committee to advise on matters relating to the administration, development and improvement of the school, promotion of cordial relationship among guardians, teachers and students, the health of the students, books and the meals, if any, to be supplied in such school.

(7) The Welfare Committee shall perform such other functions and discharge such other duties as are mentioned in this Act or as may be prescribed.

(8) The Welfare Committee shall perform its functions and discharge its duties under the supervision and control of the Primary School Council.

(9) The Primary School Council shall have the power to dissolve any Welfare Committee if it so thinks fit and appoint an ad-hoc Welfare Committee in its place in the same manner as laid down in sub-section (4) which shall function until a new Committee is constituted under sub-section (1).

#### **S.86 Guardians to furnish information—**

Any person engaged in the preparation or revision of the list referred to in section 84 or any member of the Welfare Committee may put such question to any guardian or require any guardian to furnish such information about his child as such person or such member may consider necessary and such guardian shall be bound to answer such question or to furnish such information, as the case may be to the best of his knowledge and belief.

**S.87 Duty of guardian to send his child to a primary school—**

(1) In any area where a scheme sanctioned by the State Government comes into force it shall be the duty of the guardian of every child residing within such area to cause the child to attend a primary school, unless, in the opinion of the Welfare Committee, there is a reasonable excuse for non-attendance of the child.

(2) Any of the following circumstances shall be deemed to be a reasonable excuse within the meaning of this section, namely—

a) that there is no primary school within a distance of sixteen hundred metres from the residence of the child measured by the shortest route, which the child can attend,

b) that the child is prevented from attending the school by reason of sickness or infirmity or mental defect,

c) that the child is receiving education in some other manner declared to be satisfactory by the State Government or by an officer authorised by it in this behalf,

d) that the child has already completed primary education up to the class or standard available in any primary school situated within a distance of sixteen hundred metres from his residence,

dd) that the child belonging to a minority community, whether based on religion or language, is receiving education in an educational institution established and administered by the minority community and standard of education in the educational institution is considered to be satisfactory by the State Government. 40

e) such other circumstances as may be prescribed.

**S.88 Attendance order—**

(1) Whenever the Welfare Committee has reason to believe that the guardian of a child has failed to cause the

child to attend a primary school without any reasonable excuse within the meaning of sub-section (2) of section 87 it shall, after causing such enquiry as it considers necessary, make an order directing the guardian to cause such child to attend a primary school on and from the date specified in the order.

(2) A guardian aggrieved by an order under sub-section (1) may, within thirty days from the date of the order, appeal in the prescribed manner to the District Inspector of Schools (Primary Education) who may confirm or rescind the order. 41

**S.89 Penalty for failure to obey order for causing attendance of a child in a primary school—**

(1) Any guardian who fails to comply with an order passed under sub-section (1) of section 88, unless such order is rescinded in an appeal made under sub-section (2) of that section, shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees, and if so ordered also a recurring fine not exceeding one rupee for each day after the first during which he continues to so offend.

**S.90 Cognisance of offence—**

No Magistrate shall take cognisance of any offence under this Chapter except on the complaint of an officer of the State Government not below the rank of an Assistant Inspector of Schools authorised by the State Government in this behalf.

**PART—VI**

**CHAPTER—XII**

**Tribunal**

**S.91 Tribunal—**

(1) There shall be a Tribunal which shall consist of a person who is or has been a judicial officer, not below the rank of a Subordinate Judge, appointed by the State Government.

(2) The Tribunal shall decide—

- i) every appeal filed by a teacher or a member of the non-teaching staff of a Primary School or an employee of a Primary School against the decision

of the Appeal Committee constituted under section 67, in cases where the punishment awarded is dismissal, removal or reduction in rank or such other punishment as may be prescribed, 42 and

ii) every dispute concerning,—

a) the eligibility of any person for election as a member of the Board or any Primary School Council or any Committee of the Board or the Primary School Council under this Act, or

b) the manner in which such election was held, or

c) the qualification of any member of the Board or any Primary School Council or any Committee of the Board or the Primary School Council, to continue as such member.

#### **S.92 Procedure to be followed by a Tribunal—**

(1) The time within which an appeal shall be filed or a dispute shall be referred under section 91 and the procedure to be followed by the Tribunal in deciding such appeal or dispute shall be such as may be prescribed.

(2) The decision of the Tribunal under sub-section (2) of section 91 shall be final and no suit or proceeding shall lie in any court in respect of any matter which has been or may be referred to or has been decided by the Tribunal.

### **CHAPTER—XIII**

#### **Transitional provisions**

#### **S.93 Ad-hoc Cmmittee to discharge the functions of Primary School Council until it is established— 43(a)**

(1) Upon the appeal of the enactments referred to in sub-section (1) of section 105 and until a Primary School Council is established for any area, the State Government shall, by notification, appoint, for such period not exceeding one year at a time as may be specified in the notification, an ad-hoc committee consisting of such number of members as the State Government may think fit to appoint which shall exercise, perform and discharge in relation to such area, all

the powers, functions and duties of a Primary School Council under this Act, 43(b)

Provided that the ad-hoc committee appointed in relation to any area shall vacate its office on the establishment of the Primary School Council for such area. 43(b)

(2) All things done and all actions taken by the adhoc committee under sub-section (1) shall be deemed to have been done or taken by the Primary School Council as if the Primary School Council was established. 43(c)

**S.94 Matter to be provided by regulation may be provided by orders of State Government—**

Every matter or thing required to be provided by rules and regulations under this Act may, until such rules and regulations are made, be provided by orders made by the State Government in this behalf. 44

**S.95 Provisions for removing difficulty—**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing such difficulty.

**S.96 Filling of vacancy when a member ceases to be a member of the category electing him—**

If any member of the Board, any Primary School Council or any Committee constituted under this Act elected, nominated or appointed thereto from a particular category ceases to be a member of such category, he shall, with effect from the date he ceases to be a member of such category, automatically cease to be a member of the Board, such Primary School Council or such Committee, as the case may be.

**S.97 Appointment when electing body is superseded—**

If any elected body from which a member is to be elected, appointed or nominated to the Board, any Primary School Council or any Committee constituted under this Act, stands superseded and it is not possible to elect, nominate or appoint the member from such elected body,

the Administrator or the executive officer of such elected body shall be the ex-officio member of the Board, Primary School Council or the Committee, as the case may be. He shall cease to be such member as soon as the elected body is reconstituted and the election is held or the appointment or nomination, as the case may be, is made.

**S.98 [Omitted]** 45

#### CHAPTER—XIV

##### Miscellaneous

#### **S.99 Power of State Government to suspend proceedings—**

(1) The State Government may, by an order in writing specifying the reasons thereof, temporarily suspend the execution of any resolution or order of the Board or a Primary School Council or of any Committee of the Board or the Primary School Council or temporarily prohibit the doing of any act by it which is purported or intended to be done under this Act, if the State Government is of opinion that such resolution, order or act is in excess of the powers conferred by or under this Act, upon the Board, the Primary School Council or the Committee, as the case may be.

(2) When any order is made under sub-section (1), the State Government shall give the Board, the Primary School Council or the Committee of the Board or the Primary School Council an opportunity to express its views on such order and after considering the views of the Board, the Primary School Council or the Committee, as the case may be, revoke or confirm such order.

#### **S.100 Enquiry into the affairs of the Board and the Primary School Council—**

(1) The State Government may, from time to time cause enquiry to be made by any person in regard to the Board or a Primary School Council on matters connected with primary education or any matter with respect to which the sanction, approval, consent or order of the State Government is required by or under this Act.

(2) The person holding such enquiry shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witness and the production of documents for the purpose of enquiry.

(3) The State Government may make orders as to the cost of enquiry made under sub-section (1) and as to the party by whom and the funds out of which such costs shall be paid and such orders may on the application of the State Government or the person named therein be executed as if it were a decree of a Civil Court.

**S.101 Certain persons to be deemed to be public servants—**

The members of the Board, the Primary School Councils, or the Committees of the Board or the Primary School Councils, persons in the service of the Board, the Primary School Councils or such Committees and any person appointed under this Act to audit the accounts of the Board or of a Primary School Council or to perform any other duties under this Act or the rules and regulations made thereunder shall be deemed, when acting or purporting to act in the discharge of their duties or the exercise of their powers under this Act or under the rules and regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

**S.102 Indemnity—**

No suit, prosecution or other legal proceeding whatsoever shall lie against any person for anything in good faith done or intended to be done under this Act.

**S.103 Savings—**

No act or proceeding taken under this Act by the Board or a Primary School Council or a Committee of the Board or the Primary School Council shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

**S.104 Delegation—**

(1) The State Government may by notification delegate, subject to such conditions as it may specify, all or any

of its powers under this Act to any officer or authority subordinate to it.

(2) Nothing in sub-section (1) shall derogate from the right of the State Government to exercise any of the powers delegated by it under that sub-section.

**S.105 Repeal and continuance—**

(1) The Bengal (Rural) Primary Education Act, 1930, the West Bengal Urban Primary Education Act, 1963, and the West Bengal (Rural) Primary Education (Temporary Provisions) Act, 1969, are hereby repealed.

(2) Upon such repeal

a) all properties and assets vested in the District School Board established for a district shall vest in, and all rights, liabilities and obligations acquired or incurred by such District School Board before such repeal shall stand transferred to, the Primary School Council established for the District,

Provided that until such Primary School Council is established such properties and assets shall be deemed to be vested in, and such rights, liabilities and obligations shall be deemed to be transferred to the adhoc committee appointed under section 93 in relation to the district, 46(a)

b) all legal proceedings instituted or remedies enforceable by or against the District School Board established for a district before such repeal may be continued or enforced, as the case may be, by or against the Primary School Council established for the district and until such Primary School Council is established, by or against the ad-hoc committee appointed under section 93 in relation to the district, 46(b)

c) all officers, teachers and other staff of primary schools employed by the District School Board established for a district and continuing in office or primary schools immediately before such repeal shall be deemed to be employed by the Primary School Council established for the district on such

terms and conditions as may be determined by the State Government,

Provided that until such Primary School Council is established such officers and other persons shall be deemed to be employed by the adhoc Committee appointed under section 93 in relation to the district. 46(c)

(3) All primary schools recognised under the Bengal (Rural) Primary Education Act, 1930 or the West Bengal Urban Primary Education Act, 1963 and all primary schools under private ownership which receive salary for the approved teachers from the State fund and which were recognised by the competent authorities in terms of the orders issued by the Education Department or the Director of Public Instruction from time to time otherwise than the provisions of the said repealed Acts, shall continue to be recognised under this Act until the expiration of the period of recognition subject, however, to the power of the Primary School Council having jurisdiction to withdraw recognition in accordance with the provisions of this Act. 46(d)

(4) Notwithstanding the repeal of the Bengal (Rural) Primary Education Act, 1930, all rules, orders and notifications made or issued from time to time under the said Act, applicable to a District School Board and continuing in force immediately before such repeal shall continue in force in so far as they are not inconsistent with the provisions of this Act, until they are repealed or amended.

#### **S.106 Power of the State Government to make rules—**

(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act. 47

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

a) the manner of election of the members of the Board referred to in clauses (c), (d), (e), (f), (g), (h) and (i) of section 4,

- b) the allowances, and the rates of allowances, referred to in section 18,
- c) the form of the budget estimate of the Board referred to in sub-section (1) of section 30,
- d) the manner of keeping an account of the Board referred to in section 34, and the manner of examination and audit of accounts of the Board referred to in sub-section (1) of section 35,
- e) the manner of election of the members of the District Primary School Council referred to in clauses (d), (e), (f), (g) and (h) of sub-section (2) of section 37 and clauses (c), (d), (g), (gg) and (ggg) of sub-section (2) of section 38,
- f) the form of the budget estimate of the Primary School Council referred to in sub-section (1) of section 69,
- g) the manner of reappropriation to be sanctioned under Section 71, the manner of keeping an account of a Primary School Council referred to in section 73 and the manner of examination and audit of accounts of a Primary School Council referred to in section 74,
- h) the manner in which the tax referred to in section 77 shall be levied and collected,
- i) the form of the scheme referred to in, and the particulars referred to in clause (g) of section 80,
- j) the time of filing an appeal or referring a dispute, and the procedure to be followed by the Tribunal referred to in sub-section (1) of section 92,
- k) any other matter which may be, or is required to be, prescribed.

**S.107 Power of State Government to issue notification or order in place of making rules—**

Notwithstanding anything contained in section 106 or elsewhere in this Act, the State Government may—

- a) issue any notification or order for carrying out any of the purposes of this Act for which that

Government does not consider it necessary to make rules, or

b) issue any notification or order, not inconsistent with the provisions of this Act, in place of making rules under this Act if that Government considers it necessary so to do.