

WEST BENGAL BOARD OF SECONDARY EDUCATION ACT, 1963

5 of 1963

[20th February, 1963]

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WEST BENGAL BOARD OF SECONDARY EDUCATION ACT, 1963

5 of 1963

[20th February, 1963]

An Act to establish a Board of Secondary Education in the State of West Bengal, to define the powers and functions of such Board and to provide for certain other matters connected therewith. It is

hereby enacted as follows

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the West Bengal Board of Secondary Education Act, 1963.

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

1 Provided that any institution situated in any other State or in any Union Territory may also, with the sanction of the Government of such State or Union Territory, as the case may be, apply to the Board for recognition and the Board may, subject to such conditions or restrictions as it may, with the approval of the State Government, think fit to impose, grant recognition to such institution.

(3) It shall come into force on such date as that State Government may, by notification in the Official Gazette, appoint.

1. Proviso added by W. B. Act 9 of 1977.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "Board" means the West Bengal Board of Secondary Education established under this Act; **1**(aa) "by-law" means a by-law made by the Executive Committee under this Act;

(B) "Head of Institution" means the head of the teaching staff of an Institution, by whatever name he or she may be designated ;

2 (c) "Institution" means a Secondary School or an educational Institution or part or department of such school or Institution imparting instruction in Secondary Education ;

(d) "Managing Committee" used in reference to an Institution includes the Governor or the Governing Body of such an Institution;

(e) "notification" means a notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "President" means the President of the Board;

(h) "Primary Education" means education imparted in a primary school as defined in any Bengal Act or West Bengal Act or education equivalent thereto;

(i) "recognised" with its grammatical variations, used with reference to Institutions, means recognised under this Act or within the meaning of the West Bengal Secondary Education Act, 1950;

(j) "regulation" means a regulation made by the Board under this Act;

(k) "rule" means a rule made by the State Government under this Act;

(l) "Secondary Education" means general education above the primary education stage provided for students with a view to qualifying them for admission to a certificate, diploma or degree course instituted by a University or by Government 3a[or by a Statutory Body] and includes, subject to any general or special order of the State Government,

(i) technical education,

(ii) agricultural education,

(iii) commercial education,

(iv) education for the physically handicapped,

(v) education for the mentally retarded and defectives,

(vi) education in Reformatory schools and jails, or

(vii) any other type of education which the State Government may, in consultation with the Board, specify.

1. This clause ins. by W. B. Act 32 of 1979.

2. This clause subs, by W. B. Act 32 of 1979.

CHAPTER 2

The Board

3. Establishment and incorporation of the West Bengal Board of Secondary Education :-

(1) The State Government shall, as soon as

(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 do all other things

necessary for the purposes of this Act, and shall by its name sue and be sued.

4. Composition of the Board :-

The Board shall consist of the following members:

(1) the President;

(2) the President of the West Bengal Council of Higher Secondary Education, ex officio;

¹(3) the Director of School Education, Government of West Bengal, ex officio ;

²(4)* * * * *

(5) the Director of Technical Education, Government of West Bengal, ex officio;

(6) the Deputy Director of Secondary Education (for women), Government of West Bengal, ex officio;

(7) the Deputy Director of Secondary Education (1), Government of West Bengal, ex officio;

(8) two persons elected in the manner prescribed from amongst the teaching staff of training colleges for teachers of Secondary schools affiliated to or recognised by any of the Universities in West Bengal;

(9) the Dean of the Faculty of Arts and the Dean of the Faculty of Science of the Calcutta University, ex officio;

(10) the Dean of the Faculty of Engineering and Technology, Jadavpur University, ex officio;

(11) the Adhyaksha, Kala Bhaban, Viswa Bharati, Santiniketan, ex officio;

(12) a Dean nominated by each of the Universities of Burdwan, Kalyani and North Bengal and the Bidhan Chandra Kriishi Viswa Vidyalaya;

(13) one person nominated by the Madrasha Education Board from amongst the members of the Madrasha Education Board;

(14)

(a) two heads of recognised Secondary Schools nominated by the

State Government.

3(b) thirty-four whole-time and permanent teachers of recognised secondary schools, whose appointment has been approved in accordance with the rules and of whom one shall be from the hill areas, elected in the manner prescribed.

Explanation. "Hill areas" shall have the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;

4 (c) three whole-time and permanent members of the non-teaching staff of recognised Secondary Schools, elected in the manner prescribed, of whom

(a) one shall be from the Presidency Division,

(b) one shall be from the Burdwan Division, and

(c) one shall be from the Jalpaiguri Division;

(15) two representatives of the West Bengal Legislative Assembly elected in the manner prescribed;

(16) five persons interested in education nominated by the State Government, one of whom shall be a woman and at least one shall be a member of the Managing Committee of a recognised Institution;

(17) one person elected by the employees of the Board from amongst themselves in the manner provided by regulations; and

(18)

(a) one wholetime and permanent member of the teaching staff of primary schools recognised by the District School Board or the Director of Public Instruction or the Director of Primary Education, nominated by the State Government;

(b) one wholetime and permanent member of the teaching staff of colleges affiliated to any of the Universities in West Bengal nominated by the State Government.

1. Clause (3) subs, by W. B. Act 10 of 1984.

2. Clause (4) om. by W. B. Act 10 of 1984.

3. At first sub-clause (b) subs, by W. B. Act 27 of 1983, then again subs, by W. B. Act 16 of 1988 and finally subs, by W.B. Act 34 of 1997.

4. Sub-clause (c) ins. by W. B. Act 20 of 1990.

5. Appointment in default of election :-

(1) If by such date as may be prescribed any of the authorities, other than State Government, fails to elect or nominate a member or members as provided in section 4, the State Government shall appoint member or members qualified for election of nomination 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 a suitable person to be a member to hold office until the said Assembly is reconstituted and a representative is elected by members thereof.

(2) A person appointed under this section shall be deemed to be a member of the Board duly elected or nominated under section 4.

6. Publication of the names of elected, nominated or appointed members of the Board :-

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

7. Term of office of elected, nominated or appointed member of the Board :-

(1) Subject to the provisions of this Act, an elected, nominated or appointed member of the Board shall hold office for a term of five years from the date on which his name is published under section 6, and may, on expiration of such term, be re-elected, re-nominated or re-appointed.

(2) Notwithstanding the expiration of the term of five years specified in sub-section (1), an elected, nominated or appointed member of the Board 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.

8. Casual vacancies :-

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

9. Appointment, term of office, salary and allowances of the President :-

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

1 (2) The term of office of the President shall be five years from the date of his appointment.

(3) The President shall cease to hold office if at any time he becomes subject to any of the disqualifications referred to in sub-section (1) of section 11.

(4) The President may resign his office by giving notice in writing to the State Government.

(5) The President shall receive such salary and allowances, if any, from the West Bengal Board of Secondary Education Fund as the State Government may determine.

1. At first sub-sec. (2) subs, by W. B. Act 37 of 1963. thereafter finally this sub-sec, subs, by W. B. Act 24 of 1994.

10. Temporary and acting arrangement for the office of the President :-

(1) If the President dies or resigns his office or ceases to hold office or is temporarily absent the State Government shall authorise a member of the Board to exercise the powers and perform the duties of the office of the President until the President resumes office or a new President is appointed, as the case may be.

(2) A President appointed to fill a casual vacancy, under sub-section (1), shall hold office for the unexpired portion of the term of the President whose place he fills.

11. 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 which is declared by the State Government to an offence involving moral turpitude, unless

(i) such disqualification is condoned by the State Government, or

(ii) the term of his sentence of imprisonment, or a period of five years from the date of his conviction, whichever is longer, has expired;

(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 :

Provided that a person who had any share or interest in any text-book referred to in sub-clause (i) shall not be deemed to have incurred the disqualification under the said sub-clause if five years have elapsed from the date of the publication or republication of such text-book.

(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.

12. Disputes relating to the eligibility or the manner of election of members :-

(1) If any question arises relating to

(i) the eligibility of any person for election as a member of the Board, of any Committee or of a 10[Kegional Council] under this Act, or

(ii) the manner in which any such election has been held, or

(iii) the disqualification of any member of the Board, of any Committee or of a 10[Regional Council] continuing as such member, such question shall be referred for decision to a Tribunal consisting of a Judicial Officer not below the rank of a District Judge or an Additional District Judge, appointed by the State Government.

(2) The procedure to be followed by the Tribunal shall be such as may be prescribed.

(3) The decision of the Tribunal under sub-section (1) shall be final and no suit or proceeding shall lie in any Civil or Criminal Court in respect of any matter which has been or may be referred to, or has been decided by, the Tribunal under that sub-section.

13. Resignation and removal of members :-

(1) An elected, nominated or appointed member of the Board may resign his seat 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, and after giving the member concerned an opportunity of being heard, remove any elected, nominated or appointed member of the Board if, without obtaining the consent of the President, he is absent from three consecutive meetings of the Board.

14. Conduct of meetings :-

The President, or in his absence, one of the members of the Board elected from amongst those present, shall preside at meetings 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.

15. Restriction on voting :-

(1) No member of the Board shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any Institution 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.

16. Persons in the service of the Board :-

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

(2) The Board may appoint such other officers and servants as it considers necessary for carrying out the purposes of this Act.

1(3) The method of recruitment and the conditions of service (including the scales of pay and allowances, if any) shall,

(a) as respects the Secretary, be such as may be prescribed, and

(b) as respects the other officers and servants, be such as may, subject to the approval of the State Government, be determined by regulations published in the Official Gazette.

2 (3A) Anything done or any action taken under sub-section (3) before the publication of the West Bengal Board of Secondary Education (Amendment) Act, 1990, in the Official Gazette, shall be deemed to have been validly done or taken under sub-section (3) as amended by the West Bengal Board of Secondary Education (Amendment) Act, 1990, as if the West Bengal Board of Secondary Education (Amendment) Act, 1990, were in force when such thing was done or such action was taken.

(4) 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 meetings of the Board, but shall not be entitled to vote.

1. Sub-sec. (3) subs, by W. B. Act 20 of 1990.

2. Sub-sec. (3A) ins. by W. B. Act 20 of 1990.

17. Travelling allowance :-

Such members of the Board or of any Committee, Sub-Committee or Council constituted under this Act 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, Sub-Committee or Council, 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.

CHAPTER 3

Committees and [Regional Councils.]

18. Committees :-

As soon as may be after the Board is established the Board shall constitute the following Committees, namely :

(a) the Recognition Committee;

1 (aa) the Executive Committee;

- (b) the Syllabus Committee;
- (c) the Examinations Committee;
- (d) the Appeal Committee;
- (e) the Finance Committee.

1. Clause (aa) ins by W. B. Act 32 of 1979.

19. Recognition Committee :-

1(1) The Recognition Committee shall consist of the following members:

(a) the President;

2(b) the Director of School Education, Government of West Bengal, ex officio;"

(c) four persons elected by the Board in the manner provided by regulations from amongst the members referred to in clause (14), clause (15) and clause (16) of section 4;

(d) the Deputy Director of Secondary Education (for women), Government of West Bengal, ex officio; and

(e) the Deputy Director of Secondary Education (I), Government of West Bengal, ex officio.

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

(3) It shall be the duty of the Recognition Committee to advise 17[the Executive Committee] on all matters concerning the recognition of Institutions and **3** [the Executive Committee] shall not accord recognition to any Institution except on the recommendation of the Recognition Committee.

1. Sub-sec. (1) subs, by W. B. Act 32 of 1979.

2. Clause (b) subs, by W. B. Act 10 of 1984.

3. Words subs, by W. B. Act 32 of 1979.

19A. Executive Committee :-

1

(1) The Executive Committee shall consist of the following members:

(a) the President;

2(aa) the President, West Bengal Council of Higher Secondary Education, ex officio;

(b) the Director of Secondary Education, Government of West Bengal, ex officio;

(c) the Director of Primary Education, Government of West Bengal, ex officio;

(d) the Deputy Director of Secondary Education (I), Government of West Bengal, ex officio;

(e) the Deputy Director of Secondary Education (for Women), Government of West Bengal, ex officio;

(f) five persons elected by the Board in the manner provided by regulations from amongst the members referred to in clauses (8), (9), (10), (11), and (12) of section 4;

(g) five persons elected by the Board in the manner provided by regulations from amongst the members referred to in clause (14) of section 4;

(h) one person elected by the Board in the manner provided by regulations from amongst the members referred to in clause (15) of section 4;

(i) two persons elected by the Board in the manner provided by regulations from amongst the members referred to in clause (16) and clause (18) of section 4;

(j) member referred to in clause (17) of section 4;

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

(3)³[Subject to any general or special orders of the State Government, the provisions of this Act and any rules or regulations made thereunder, the Executive Committee shall have the power] to

(a) advise the Board on all matters relating to development of Secondary Education;

4(b) the Director of School Education, Government of West Bengal,

ex officio; **5*** * * * *

(d)

(i) amalgamate two or more Institutions into one Institution.

(ii) split one Institution into two or more Institutions, and

(iii) shift an Institution from one site to another **6**[, * * * * *].

(e) (i)supervise the functions of the managing committees,

(ii) approve or withhold approval of the constitution of the managing committees,

(iii) approve special constitution of the managing committees **23**[* * * * *]

(iv) supersede a managing committee and appoint Administrator **7**[or ad hoc committee] to manage the affairs of an Institution;

(f) maintain a register of recognised Institutions;

8(g) provide, after considering the recommendations, if any, of the Syllabus Committee, the syllabus, the courses of studies to be followed and the books to be studied in recognised institutions and for examinations instituted by the Board;

(h) undertake, if necessary, with the approval of the State Government, the preparation, publication or sale of text-books and other books for use in recognised Institutions;

9(i)

(a) approve or prescribe books either for being studied in recognised institutions or for examination instituted by the Board or for both, and

(b) publish list of books so approved or prescribed and revised such list from time to time;

(j) **10**[Set down] the conditions to be fulfilled by candidates presenting themselves for examinations instituted by the Board;

11(k) provide, after considering the recommendations, if any, of the Examinations Committee and the Regional Councils and with the approval of the State Government, the rates of remuneration to be paid to paper-setters, moderators, tabulators, examiners,

invigilators, supervisors and other persons employed in connection with the examinations instituted by the Board and the rates of fees to be paid by candidates for such examinations;

(l)

(i) grant permission to candidates to appear at the examinations instituted by the Board, and

(ii) refuse or withdraw such permission, if it thinks fit, 28[stating the reasons of such refusal or withdrawal.]

(4) The Executive Committee shall submit to the Board 29[half-yearly] reports on the action taken by it on matters specified in this section and such other reports, returns, statements and information on any matter relating to the duties of the Executive Committee as the Board may require from time to time.

12 (5) The Executive Committee may, if it thinks necessary, make bylaws, not inconsistent with this Act or the rules or the regulations made thereunder, for discharging its functions under this Act:

Provided that any decision or action taken or any order made by the Executive Committee in the discharge of its functions under this Act shall not be invalid merely on the ground that no by-law has been made under this sub-section.

(6) No by-law shall be valid unless it is approved by the State Government. The Executive Committee shall submit by-law to the Board and the Board shall examine the same and submit the by-law to the State Government with its report. The State Government, after considering the report of the Board, may approve the by-law and, if necessary, make such additions, alterations or modifications as it thinks fit.

(7) All by-laws approved by the State Government shall be published in the Official Gazette.

1. Sec. 19A ins. by W. B. Act 32 of 1979.
2. Clause (ad) ins. by W. B. Act 13 of 1982.
3. Words subs, by W. B. Act 13 of 1982.
4. Clause (b) subs, by W. B, Act 10 of 1984.
5. Clause (c) om. by W. B. Act 10 of 1984.
6. Words om. by W. B. Act 13 of 1982
7. Words ins. by W. B. Act 13 of 1982.
8. Clause (g) subs, by W. B. Act 13 of 1982.
9. Sub-Clause (i) subs, by W. B. Act 27 of 1983.

10. Words subs, by W. B. Act 13 of 1982.
11. Clause (W subs, by W. B. Act 13 of 1982.
12. Sub-sec. (5) at first subs, by W.B Act 13 of 1982. then finally subs, by W. B. Act 27 of 1983.

20. Syllabus Committee :-

1(1) The Syllabus Committee shall consist of the following members:

(a) the President;

2(aa) the President, West Bengal Council of Higher Secondary Education, ex officio,

(b) the Dean of the Faculty of Arts of the University of Calcutta, ex officio ;

(c) the Dean of the Faculty of Science of the University of Calcutta, ex officio;

(d) a Dean nominated by each of the Universities of Burdwan, Kalyani and North Bengal;

(e) the Dean of the Faculty of Engineering, Jadavpur University, ex officio;

(f) one person elected by the Board in the manner provided by regulations from amongst the members referred to in clause (8) of section 4;

(g) five persons elected by the Board in the manner provided by regulations from amongst the members referred to in clause (14) of section 4;

(h) three persons having special knowledge of scientific or technical education on, who may or may not be members of the Board, elected by the Board in the manner provided by regulations.

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

(3) It shall be the duty of the Syllabus Committee to

(a) advise **3**[, by way of recommendation], about the syllabus and courses of studies to be followed and the books to be studied in recognised Institutions as well as for examinations instituted by

⁴[the Executive Committee];

(b) advise ⁵[, by way of recommendation], on any matter relating to the syllabus, courses of study or books to be studied, as may be referred to it by ⁶ [the Executive Committee].

(4) The Syllabus 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 Executive Committee].

1. Sub-sec. (1) subs, by W. B. Act 32 of 1979.

2. Clause (aa) ins. by W. B. Act 13 of 1982.

3. Words ins. by W. B. Act 13 of 1982.

4. Words subs, by W. B. Act 32 of 1979.

5. Words ins. 'by W. B. Act 13 of 1982.

6. Words subs, by W. B. Act 32 of 1979.

21. Examinations Committee :-

1(1) The Examinations Committee shall consist of the following members:

(a) the President;

35a(b) the Director of School Education, Government of West Bengal, ex officio;

(c) one person nominated by the State Government from amongst the members of the Board referred to in clauses (9), (10), (11) and (12) of section 4;

(d) one person elected by the Board in the manner provided by regulations from amongst the members referred to in clauses (9), (10), (11) and (12) of section 4;

(e) the Director of Technical Education, Government of West Bengal, ex officio; and

(f) the Deputy Director of Secondary Education (I), Government of West Bengal, ex officio.

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

(3) It shall be the duty of the Examinations Committee to

- (a) arrange for the holding of examinations instituted by the Board including the fixing of centers for such examinations;
- (b) appoint Paper-setters and Moderators for such examinations;
- (c) appoint Examiners, Tabulators, Supervisors and Invigilators for such examinations;
- (d) consider, approve and publish the results of such examinations; and
- (e) disqualify candidates for presenting themselves at examinations for any reason considered to be adequate or for being declared as having passed any such examination on the ground of misconduct.

2 (4) The Examinations Committee shall advise

(a) the Executive Committee on

(i) the rates of remuneration to be paid to the paper-setters, moderators, tabulators, examiners, invigilators, supervisors and other persons employed in connection with examinations,

(ii} the fees to be paid by the candidates for examinations; and

(b) the Board on any matter relating to examinations which may be referred to it for advice by the Board.

(5) The Examinations Committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-sections (3) and (4) and it shall not be necessary for any member of such a Sub-Committee to be a member 37[of the Examinations Committee or the Executive Committee or the Board].

1. Sub-sec. (1) subs, by W. B. Act 32 of 1979.

2. Sub-sec. (4) subs, by W. B. Act 32 of 1979.

22. Appeal Committee :-

38(1) The Appeal Committee shall consist of the following members:

(a) three persons elected by the Board in the manner provided by regulations from amongst the members referred to in clause (14) of section 4;

39(b) a person, who is or has been a member of the judicial service of the State Government, nominated by the State Government;

40(c) the Director of School Education, Government of West Bengal, ex officio;

(d) a member of a managing committee of a recognised Institution nominated by the President.

(2) ¹[The person referred to in clause (b) of sub-section (1)] shall be the Chairman of the Appeal Committee and the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Appeal Committee to hear and decide appeals by teachers ² [and other employees] against decisions of Managing Committees of Institutions adversely affecting them, in accordance with regulations made in this behalf.

(4) The decision of the Appeal Committee under sub-section (3) shall be final and no suit or proceeding shall lie in any Civil or Criminal Court in respect of any matter which has been or may be referred to, or has been decided by, the Appeal Committee.

43(5) The honorarium or remuneration, if any, of the member nominated under clause (b) of sub-section (1) may be fixed by the State Government by an order made in this behalf.

1. Words subs, by W. B. Act 32 of 1979.

2. Words, ins. by W. B. Act 2 of 1978.

23. Finance Committee :-

(1) The Finance Committee shall consist of the following members:

(a) the President;

44(b) the Director of School Education, Government of West Bengal, ex officio;

(c) two members of the Board elected by the Board in the manner provided by regulations; and

(d) one person having knowledge of, or experience in, financial matters, appointed by the State Government.

(2) The President shall be the Chairman of the Finance Committee and 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 and to perform such other functions as the

Board may direct.

24. Other Committees :-

(1) The Board may, with the approval of the State Government, 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.

25. Regional Council :-

1

(1) The Board may, with the approval of the State Government, constitute such Regional Council or Councils as it may deem fit. The number, composition and territorial jurisdiction of a Regional Council shall be determined by the Board with the approval of the State Government.

(2) The Board may, with the approval of the State Government, delegate to a Regional Council such powers or duties of the Board, the Executive Committee or the Examinations Committee, conferred or imposed by or under this Act, except those referred to in clause (b) of sub-section (3), clause (b) of sub-section (4), and sub-section (5), of section 21, as it may deem fit, and may at any time withdraw from such Regional Council the powers or duties so delegated and dissolve the Regional Council.

1. Sec. 25 subs, by W. B. Act 13 of 1982.

26. Term of office of members of the Committees and Councils :-

(1) An elected, nominated or appointed member of any Committee or Council constituted under this Act, 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, nominated or appointed member of any Committee or Council constituted under this Act, who is not a member of the Board, shall hold office for such term as may be 46[specified by the Board,] 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, nominated or appointed member of a Committee or Council 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, 11 and 13 shall apply mutatis mutandis to members of any Committee or of a 47[Regional Council] constituted under this Act as if references to the Board or the President were references to such Committee or 47[Regional Council] or the Chairman of such Committee or 47[Regional Council].

CHAPTER 4

Powers and 48[duties] of the Board and President.

27. Powers and duties of the Board :-

1

(1) It shall be the duty of the Board to advise the State Government on all matters relating to Secondary Education referred to it by the State Government.

(2) 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 direct, supervise and control Secondary Education, and in particular the power

2(a) to lay down the general policy for development of Secondary Education in West Bengal ;

2(b) to conduct periodical survey to assess the educational needs of West Bengal with particular reference to such needs of the Scheduled Castes, the Scheduled Tribes and other backward communities and of the hill areas in West Bengal;

4[* \ * \ * \ *]

2(d) to institute Secondary Examinations and such other examinations as it may think fit and to make regulations in this behalf

2(e) to administer the West Bengal Board of Secondary Education Fund;

2(f) to institute and administer such Provident Funds as may be prescribed ;

2(g) to make regulations relating to the conduct, discipline and appeal in respect of the members of its staff ;

9(h) to decide any appeal preferred against any decision of the Executive Committee or, subject to the provisions of this Act, any other Committee constituted under this Act; and

4(i) to award diplomas, certificates, prizes and scholarships in respect of any examinations instituted by the Board.

11 (3) Subject to the provisions of sub-section (2), the Board may, if it thinks necessary, make regulations in respect of any matter for the proper exercise of its powers under this Act : Provided that any decision or action taken or any order made by the Board in exercise of its power, under this Act shall not be invalid merely on the ground that no regulation had been made under this subsection.

1. Words subs, by W. B. Act 32 of 1979.

2. Present clauses (a) to (i) subs, for previous clauses (a) to (m) subs, by W. B. Act 32 of 1979.

4. Clause (c) om. by W. B. Act 13 of 1982.

9. Present clauses (a) to (i) subs, for previous clauses (a) to (m) subs, by W. B. Act 32 of 1979.

11. Sub-sec. (3) subs, by W. B. Act 27 of 1983.

28. Powers and duties of President :-

(1) The President shall be responsible for carrying out and giving effect to the decisions of the Board and of any Committee or Council constituted under this Act.

1(2) The President may, in any emergency, exercise any of the powers of the Board or the Executive Committee provided however that he shall not act contrary to any decision of the Board or the Executive Committee and shall, as soon thereafter as may be, place a full report before the Board or the Executive Committee as the case may be, of the action taken by him stating reasons therefor.

(3) The President shall

(a) exercise general supervision over the Secretary and the staff appointed by the Board 57[or the Executive Committee], and post and transfer the members of the staff:

(b) sanction all claims of travelling allowance; and

(c) take such other action not inconsistent with any decisions of the Board ²[or the Executive Committee] as he considers necessary for the proper functioning of the Board ² [or the Executive Committee] under this Act.

1. Sub-sec. (2) subs, by W. B. Act 32 of 1979.

2. Words ins. by W. B. Act 32 of 1979.

CHAPTER 5

Meetings

29. Meetings of the Board :-

¹[and the Executive Committee].

(1) The annual meeting of the Board shall be held in the month of July in each year.

²(2) The Board shall meet at such other times, not less than twice a year, as may be appointed by the President on the advice of the Executive Committee.

(3) The President shall, except in the case of an emergency meeting referred to in sub-section (6), give to each member not less than seven days' notice of each meeting including the annual or a special meeting:

Provided that the President shall, on receipt of a requisition signed by not less than ³[twenty] members of the Board, call a meeting within fifteen days from the date of receipt of such requisition and no business other than that on account of which the requisition has been received shall be transacted at such a meeting.

(4) On receipt of a requisition signed by not less than ⁴[fifteen] members of the Board, the President shall place before a meeting of the Board for discussion any decision of ⁵[any Committee other than the Executive Committee] constituted under this Act to which such requisition relates, and the Board may revise any such decision if not less than two-thirds of the total number of the Board are in favour of such revision.

(5) No matter which has been decided by the Board shall, within the period of six months from the date of such decision, be reconsidered except at a special meeting of the Board convened for the purpose upon the requisition of 62a [twenty] members and

unless not less than two-thirds of the total number of members of the Board vote in favour of such reconsideration.

(6) In case of emergency, the President may call a meeting, after giving not less than clear two days' notice thereof.

(7) No business shall be transacted at any meeting of the Board unless a quorum of ⁶[twenty] members is present.

7(8)

(a) The Executive Committee shall meet at least once in every two months and at least six times a year.

(b) The President shall give to each member not less than seven days' notice of each meeting:

Provided that the President may call an emergency meeting after giving not less than two days' notice to each member.

8 (c) No business shall be transacted at any meeting of the Executive Committee unless there is a quorum of fifty per cent, of the existing members of the Executive Committee, fraction, if any, being computed as one.

1. Words ins. by W. B. Act 32 of 1979.
2. Sub-sec. (2) subs, by W. B. Act 32 of 1979.
3. Words subs., by W. B. Act 32 of 1979.
4. Word subs, by W. B. Act 32 of 1979.
5. Words subs, by W. B. Act 32 of 1979.
6. Word subs, by W. B. Act 32 of 1979.
7. Sub-sec (8) ins, by W. B. Act 32 of 1979.
8. Clause (c) subs, by W. B. Act 27 of 1983.

30. Meetings of Committees and Regional Councils :-

1.The Board shall make regulations relating to meetings of 62[any Committee other than the Executive Committee] or of any ¹[Regional Council] constituted by it and the procedure to be followed at such meetings.

1. Words subs, by W. B. Act 32 of 1979.

CHAPTER 6

Finance and Audit

31. 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 constituted

and before every annual meeting thereafter a report on the working of the Board during the last preceding financial year ¹[* * *].

(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.

2(3)

(a) The Board shall hold a special meeting by the 31st October of every financial year and shall place before the said meeting a budget estimate showing, in such form as may be prescribed, the anticipated income expenditure of the Board for the next financial year.

(b) The budget estimate as aforesaid shall, after confirmation by the Board, be forwarded to the State Government by the 30th November of the financial year in which the special meeting referred to in clause (a) is held.

(4)

(a) The State Government shall ³[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

(i) is not reasonably accurate with reference to ascertainable facts or shows a deficit in the closing balance;

(ii) 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

(iii) includes provisions for expenditure which are not in accordance with the provisions of this Act.

(b) If the budget estimate is returned under clause (a), 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 the one month of receiving it together with its

replies on the comments and suggestions made by the State Government.

(c) 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

(i) 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;

(ii) additions, alterations or modifications in any provision relating to new expenditure of a recurring nature;

(iii) any alternation or modification in any provision for expenditure which, in its opinion, is not in accordance with the provisions of this Act; and shall forward the budget estimate as so amended to the Board.

4(5) If the State Government does not accord its approval to the budget estimate under clause (b) of sub-section (3) within two months of the receipt thereof, or if the State Government does not communicate its approval of the budget estimate to the Board under clause (c) of sub-section (4) within the 31st March of the financial year immediately preceding the financial year to which the budget estimate relates, the budget estimate as forwarded to the State Government by the Board under clause (6) of sub-section (3) or as resubmitted to the State Government by the Board under clause (b) of sub-section (4), as the case may be, shall be deemed to have been approved by the State Government and shall be the budget estimate of the Board for the financial year to which it relates.

5 (6) Notwithstanding anything contained in the foregoing provisions of this section, the budget estimate of the Board for the financial year 1986-87 shall be submitted to the State Government and the approval or otherwise of the said estimate shall be accorded by the State Government in accordance with the provisions of this Act as in force immediately before the coming into force of the West Bengal Board of Secondary Education (Amendment) Act, 1986.

1. Words om. by W. B. Act 15 of 1986.

2. Sub-sec. (3) subs, by W. B. Act 15 of 1986.

3. Words, subs, by W. B. Act 15 of 1986.
4. Sub-sec (5) subs, by W. B. Act 15 of 1986.
5. Sub-sec. (6) ins. by W. B. Act 15 of 1986.

32. Payment to the Board by the State Government :-

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

33. West Bengal Board of Secondary Education Fund :-

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

(a) all sums which may be paid by the State Government under section 32;

(b) all fees realised under any of the provisions of this Act;

(c) all sums representing income from endowments or from property owned or managed by the Board; and

(d) 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 purpose of this Act.

(3) All monies payable to the credit of the Fund shall forthwith be paid into the Reserve Bank of India ¹[or into the State Bank of India or any branch thereof] ² [or into the United 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 person as he may authorise in writing in this behalf.

1. Words ins. by W. B. Act 9 1977.

2. Words ins. by W. B. Act 20 of 1990.

34. Application of the West Bengal Board of Secondary 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.

35. Accounts :-

The Board shall keep an account of all its receipts and expenditure

in the manner prescribed.

36. 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) an auditor appointed under that sub-section 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;

(b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document 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, 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 subsection (4).

37. 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.

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

CHAPTER 7

Supplemental Provisions

38. Board to furnish information :-

The Board shall furnish to the State Government such reports, returns and statements as may be prescribed and such further information on any matter relating to the Board, as the State Government may require.

39. Power of State Government to suspend proceeding :-

The State Government may, by order in writing specifying the reasons thereof, suspend the execution of any resolution or other of the Board of any committee or any 72a [Regional Council] constituted under this Act and prohibit the doing of any act which purports to be done 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 or the Committee or the Council, as the case may be.

40. Certain persons to be deemed to be public servants :-

The members of the Board of every Committee or Council constituted under this Act, persons in the service of the Board and any person appointed under this Act to audit the accounts of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

41. Indemnity :-

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

42. Power of Tribunals :-

A Tribunal appointed under this Act shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, and enforcing the attendance of witnesses and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure.

43. Saving :-

No act or proceeding taken under this Act shall be invalid on the ground merely of

(a) the existence of any vacancy in or ¹[defects in the initial or subsequent constitution of,] the Board or any Committee or any ²[Regional Council] constituted under this Act,

(b) any member of the Board having voted on any matter in contravention of the provisions of section 15, or

(c) any defect or irregularity not affecting the merits of the case.

1. Words subs, by W. B. Act 32 of 1979.

2. Words subs, by W. B. Act 32 of 1979.

44. Transitory provisions :-

Every matter or thing required to be provided by regulations under this Act shall, until such regulations are made, be provided by rules made under this Act.

45. Power of State Government to make rules :-

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

(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, namely:

(a) the acquisition, possession and disposal of property by the Board, the conditions of such acquisition, possession and disposal, and the performance by the Board of any function referred to in subsection (2) of section 3;

(b) the manner of election of the members of the Board specified in ¹[clause (8) and sub-clause (b) of clause (14)] of section 4, the constitution of electorates for such elections and the dates by which such elections shall be held;

(c) the manner of election of the members of the Board specified in ²[clause (15)] of section 4 and the dates by which such election shall be held;

(d) the 76a[composition, powers and functions of] Managing Committee of Institutions;

(e) the procedure to be followed by a Tribunal in determining disputes referred to in sub-section (1) of section 12 ;

- (f) the terms and conditions of appointment, the scale of pay and the rules of discipline relating to the Secretary of the Board;
- (g) the rates at which the Board shall pay travelling allowance to persons referred to in section 17 ;
- (h) the Provident Fund referred to in ³ [clause (e)] of sub-section (2) of section 27 as may be instituted and administered by the Board ;
- (i) the form in which the budget estimate of the Board shall be prepared ;
- (j) the manner in which all payments to and from the West Bengal Board of Secondary Education Fund shall be made ;
- (k) the manner of reappropriation under section 34;
- (l) the manner and form in which accounts or receipts and expenditure shall be kept under section 35 ;
- (m) the manner in which examination and audit of the accounts of the Board shall be made ;
- (n) the reports, returns and statements to be furnished by the Board under section 38 and the forms of such reports, returns and statements ;
- (o) any other matter required to be prescribed or provided or made by rules.

1. Words and figures subs, by W. B. Act 32 of 1979.
2. Words, figures and brackets subs, by W. B. Act 32 of 1979.
3. Words, letter and brackets subs, by W. B. Act 32 of 1979.

46. Repeal and continuance :-

(1) The West Bengal Secondary Education Act, 1950 (hereinafter referred to as the said Act), and the West Bengal Secondary Education (Temporary Provisions) Act, 1954, are hereby repealed.

(2) Upon such repeal,

(a) all property and assets vested in the Board of Secondary Education and all rights, liabilities and obligations acquired or incurred by such Board before the commencement of this Act shall stand transferred to the State Government:

Provided that the State Government may by order made in this

behalf retransfer all or any of such property or assets to the Board and thereupon such property or assets shall vest in the Board.

(b) all legal proceedings or remedies, instituted or enforceable by or against the Board of Secondary Education before the commencement of this Act may be continued or enforced, as the case may be, by or against the Board, or until the Board is established by or against such officer or authority as the State Government may by order specify.

(c) all officers and other persons in the employment of the Board of Secondary Education immediately before the commencement of this Act shall, until other provision is made, continue in the service of the Board.

(d) all recognised schools shall be deemed to have been recognised under this Act until the expiration of the period of recognition subject, however, to the power of the Board to withdraw recognition in accordance with the provisions of this Act.

(e) all syllabuses, courses of studies and text-books in force shall, until other provision is made under this Act, continue to be followed, and

(f) all appeals, referred to in sub-section (3), of section 30 of the said Act and pending immediately before the commencement of this Act, shall be continued and be heard and determined by the Appeal Committee constituted under section 18 of this Act, and, until such Appeal Committee is constituted, by the Director of Public Instruction, Government of West Bengal and for the purpose of disposal of such appeals the regulations made under the said sub-section (3) of section 30 of the said Act shall be deemed to continue in force.

47. Board to be guided by directions of the State Government :-

The Board shall, in exercising its powers and performing its duties under this Act, be guided by such directions, as the State Government may by notification in the Official Gazette give from time to time, regarding the scope and content of Secondary Education.

48. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such thing, not

inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

49. Supersession of the Board :-

1

(1) If in the opinion of the State Government the Board

(a) has persistently made default in the performance of the duties imposed upon it, or

(b) has exceeded or abused its powers, the State Government may, by an order published in the Official Gazette and stating the reasons therefor, supersede the Board, for such period not exceeding two years, as may be specified in the order and take such steps as may be necessary to re-establish the Board immediately on the expiry of the period of supersession.

(2) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession of the Board subject to the condition that the aggregate period of such supersession shall in no case exceed three years.

1. Secs. 49 and 50 ins. by W. B. Act 9 of 1977.

50. Consequences of supersession :-

1

2(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, with effect from the date of an order of supersession made under section 49,

(a) all the members of the Board, the Committees and the Sub-Committees constituted under this Act, and the President shall vacate their offices,

(b) all the powers, duties and functions which under the provisions of this Act or any rule or regulation made thereunder or of any law for the time being in force, may be exercised or performed by the Board or any of the Committees or Sub-Committees or the President, shall be exercised or performed by an Administrator to be appointed by the State Government in this behalf: Provided that an Administrator appointed under this clause may delegate any of his powers, duties or functions to such person as he may think fit or to such body as may be constituted by him,

(c) the representatives of the Board on every body, statutory or otherwise, shall vacate their offices as such representatives and the Administrator may nominate such person or persons, as he may think fit, to represent the Board on that body.

3 (2)*****

(3) The State Government may, by an order published in the Official Gazette, cancel an order made under section 49 and re-establish the Board.

(4) On the re-establishment of the Board under sub-section (3) the Administrator shall cease to exercise his powers and perform his duties.

(5) The terms and conditions of service of the Administrator shall be such as may be fixed by the State Government by order made in this behalf.

1. Secs. 49 and 50 ins. by W. B. Act 9 of 1977.
2. Sub-sec. (1) subs, by W. B. Act 2 of 1978.
3. Sub-sec. (2) om. by W. B. Act 2 of 1978.

51. Board to continue as a body corporate :-

1 . For the avoidance of doubts it is hereby declared that an order or supersession made under section 49 shall not effect or imply in any way the dissolution of the Board as a body corporate.

1. Sec. 51. ins. by W. B. Act 2 of 1978.

52. Re-establishment of the Board :-

1

(1) The State Government shall, by an order published in the Official Gazette, specify the date on which the Board is re-established in accordance with the provisions of section 4.

(2) The State Government shall, by an order published in the Official Gazette, specify the dates by which the authorities (other than the State Government) shall elect or nominate members referred to in section 4. If such member or members are not elected or nominated, as the case may be, by the specified dates members from amongst persons qualified for such election or nomination, as the case may be.

(3) Until **2** [* * * * *] election of members referred to in section 4, the State Government shall appoint such member or members from

amongst persons qualified for election under clause (8) and sub-clause (b) of clause (14) of section 4 84[is held].

85(4)

(i) Members, appointed under sub-section (2) shall hold office until nomination of members under section 4 is made;

(ii) members appointed under sub-section (3) shall hold office until election of members referred to in section 4 is held and the result of such election is published in the Official Gazette in this behalf.

1. Sec. 52 add. by W. B. Act 32 of 1979.

2. Words om. by W. B. Act 13 of 1982.