

INTERMEDIATE EDUCATION ACT, 1921

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INTERMEDIATE EDUCATION ACT, 1921

2 of 1921

An Act for the establishment of a Board of High School and Intermediate Education Whereas it is expedient to establish a Board to take the place of the Allahabad University in regulating and supervising the system of High School and Intermediate Education in the United Provinces, and to prescribe courses therefor; It is hereby enacted as follows : 1. Received the assent of the Governor on 30th September, 1921 and of the Governor General on 10th December, 1921 and was published on 7th January, 1922.

1. Short title, extent and commencement :-

- (1) This Act may be called the Intermediate Education Act, 1921.
- (2) It shall extend to the whole of Uttar Pradesh. (3) It shall come into force on such date¹ as the State Government may, by notification in the official Gazette, direct. 1. This Act came into force on 1-4-1922, vide Notification No. 726/XV, dated 7th March, 1922 and published in the Gazette, 1922, Part I.

2. Definitions :-

In this Act, and in all regulations made hereunder, unless there is repugnant in the subject or context,-- (a) "Board" means the Board of High School and Intermediate Education; (aa) "Centre" means an institution or a place fixed by the Board for the purposes of holding its examinations and includes the entire premises attached

thereto; (aaa) "Director" means the Director of Education, Uttar Pradesh 1[and except for purposes of Section 3, includes an Additional Director of Education]; 2[(b) "Institution" means a recognised Intermediate College, Higher Secondary School or High School, and includes, where the context so requires, a part of an institution, and "Head of Institution" means the Principal or Head Master, as the case may be, of such institution;] 2[(bb) "Inspector" means the District Inspector of Schools, and in relation to an institution for girls, the Regional Inspectress of Girls Schools, as the case may be, and in each case includes an officer authorised by the State Government to perform all or any of the functions of the Inspector under this Act;] 3[(bbb) "Invigilator" means a person who assists the Superintendent of a Centre in conducting and supervising the examinations at Centre;] 4[(c) "Prescribed" means prescribed by regulations;] (d) "Recognition" means recognition for the purpose of preparing candidates for admission to the Boards Examinations; 5[(dd) "Regional Deputy Director, Education" means the Deputy Director of Education in charge of a region and includes an officer authorized by the State Government to perform all or any of the duties of a Regional Deputy Director;] (e) "Regulations" means regulations made by the Board under this Act; (f) "State Government" means the Government of Uttar Pradesh; (g) "Superintendent of a Centre" means a person appointed by the Board to conduct and supervise examinations of the Board and includes an Additional Superintendent and an Associate Superintendent. 1. Inserted by U. P. Act No. 1 of 1981. 2. Substituted by U. P. Act No. 26 of 1975. 3. Inserted by U. P. Act No. 6 of 1959. 4. Inserted by U. P. Act No. 26 of 1975. 5. Inserted by U. P. Act No. 35 of 1958

3. Constitution of the Board :-

1[(1) The Board shall consist of a Chairman (which office shall be held by the Director, ex-officio) and the following other members, namely : (a) two heads of the institution, maintained by the State Government nominated by the State Government; (b) two teachers of the institutions maintained by the State Government, nominated by the State Government; (c) the Director, State Council of Educational Research and Training, Uttar Pradesh, Lucknow or a representative nominated by him; (d) the Director, State Institute of Educational Management and Training, Uttar Pradesh, Allahabad or representative nominated by him; (e) the Additional Director of Education (Correspondence), Correspondence Education Institute,

Allahabad; (f) the Additional Director of Education (Vocational Education), Lucknow; (g) two persons related to Education, nominated by the State Government; (h) two women related to the Womens Education, nominated by the State Government; (i) the Director, State Institute of Science Education, Allahabad, ex-officio; (j) the Principal, State Institute of Education, Allahabad, ex-officio; (k) the Director, Bureau of Psychology, Allahabad, ex-officio; (l) the Secretary, Board of Secondary Sanskrit Education, Lucknow, ex-officio; (m) one District Inspector of Schools nominated by the State Government; (n) one Regional Joint Director of Education nominated by the State Government; (o) the Regional Officer, Central Board of Secondary Education, Allahabad, ex-officio; (p) the Principal, Government Physical Training College, Rampur, ex-officio; (q) one Professor of a Degree College affiliated to a University established by law in Uttar Pradesh nominated by the State Government; (r) one Professor of an Engineering College affiliated to an Engineering University established by law in Uttar Pradesh, nominated by the State Government; (s) one Professor of Agricultural University established by law in Uttar Pradesh, nominated by the State Government; (t) one Professor of a Medical College affiliated to a Medical University, nominated by the State Government; (2) The Secretary of the Board shall be the ex-officio member-secretary of the Board. (3) As soon as may be after the nomination of the Board has been completed, the State Government shall notify that the Board has been duly constituted.]

1. Substituted by U.P. Act No. 16 of 2008.

3A. Removal of member :-

1[The State Government may remove from the Board a member who in its opinion has so flagrantly abused his position as such member as to render his continuance on the Board detrimental to the public interest: Provided that State Government shall before removing a member as aforesaid give him an opportunity of explanation and shall place on record reasons for his removal.] 1. Inserted by U. P. Act No. 35 of 1958.

4. Terms of office of members :-

(1) Members other than 1[ex-officio members] shall hold office for a term of three years from the date of the notification published under 2[sub-section (3) of Section 3]: Provided that the State Government may, by notification in the Official Gazette, enlarge the term of office of all such members by a period not exceeding 2[six months] at a time, so however, that the enlargements so granted

shall not in the aggregate exceed 2[one year]. 1[(2) A member of the Board shall cease to be such member upon his ceasing to have the capacity in which he was 3[nominated], and his place shall thereupon become vacant.] 1. Substituted by U. P. Act No. 26 of 1975. 2. Substituted by U. P. Act No. 12 of 1978. 3. Substituted by U. P. Act No. 16 of 2008.

5. Filling of vacancies on expiry of term of office :-

1[The State Government shall take steps for the reconstitution of the Board, before the expiry of the term of office of members under Section 4.] 1. Substituted by U. P. Act No. 12 of 1978.

6. Section 6 :-

1[* * *]. 1. Omitted by U. P. Act No. 12 of 1978.

7. Powers of the Board :-

Subject to the provisions of this Act, the Board shall have the following powers, namely : 1[(1) to prescribe courses of instructions, text-books, other books and instructional material, if any, for the High School and Intermediate classes in such branches of education as it thinks fit; (1-A) to publish or manufacture, whether to the exclusion, complete or partial, of others or otherwise, all or any of such text-books, other books or instructional material;] (2) to grant diplomas or certificates to persons who-- (a) have pursued a course of study in an institution admitted to the privileges of recognition by the Board, or (b) are teachers, or (c) have studied privately under conditions laid down in the regulations, and have passed examinations of the Board under like conditions; (3) to conduct examination at the end of the High School and Intermediate Courses; (4) to recognize institutions for the purposes of its examinations; (5) to admit candidates to its examinations; (6) to demand and receive such fees as may be prescribed in the regulations; 2[(7) to publish or withhold publication of the results of its examinations wholly or in part;] (8) to co-operate with other authorities in such manner and for such purposes as the Board may determine; (9) to call for reports from the Director on the condition of recognized institutions or of institutions applying for recognition. (10) to submit to the State Government its views on any matter with which it is concerned; (11) to see the Schedules of new demands proposed to be included in the budget relating to institutions recognised by it and to submit if it thinks fit, its views thereon for the consideration of the State Government; (12) to do all such other acts and things as may be

requisite in order to further the objects of the Board as a body constituted for regulating and supervising High School and Intermediate Education. 1. Substituted by U. P. Act No. 26 of 1975 (be deemed always to have been substituted). 2. Substituted by U. P. Act No. 26 of 1975.

7A. Recognition of an institution in any new subject or for a higher class :-

1[Notwithstanding anything contained in clause (4) of Section 7-- (a) the Board may, with the prior approval of the State Government, recognize an institution in any new subject or group of subjects or for a higher class; (b) the Inspector may permit an institution to open a new section in an existing class.] 1. Inserted by U. P. Act No. 26 of 1975 and substituted by U. P. Act No. 18 of 1987.

7AA. Employment of part-time teachers or part-time instructors :-

1[(1) Notwithstanding anything contained in this Act, the management of an institution may, from its own resources, employ-- (i) as an interim measure part-time teachers for imparting instructions in any subject or group of subjects or for a higher class for which recognition is given or in any section of an existing class for which permission is granted under Section 7-A; (ii) part-time instructors to impart instructions in moral education or any trade or craft under socially useful productive work or vocational course. (2) No recognition shall be given and no permission shall be granted under Section 7-A, unless the Committee of Management furnishes such security in cash or by way of Bank guarantee to the Inspector as may be specified by the State Government from time to time. (3) No part-time teacher shall be employed in an institution unless such conditions as may be specified by the State Government by order in this behalf are complied with. (4) No part-time teacher or part-time instructor shall be employed unless he possesses such minimum qualifications as may be prescribed. (5) A part-time teacher or a part-time instructor shall be paid such honorarium as may be fixed by the State Government by general or special order in this behalf. (6) Nothing in this Act shall preclude a person already serving as a teacher in an institution from being employed as a part-time teacher or a part-time instructor under Section 7-AA.] 1. Inserted by U. P. Act No. 18 of 1987.

7AB. Exemption :-

Nothing in the Uttar Pradesh High School and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) Act, 1971 (U. P. Act No. 24 of 1971), or the Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982 (U. P. Act No. 5 of 1982), shall apply in relation to part-time teachers and part-time instructors employed in an institution under Section 7-AA.] 1. Inserted by U. P. Act No. 18 of 1987.

7B. Prohibition of unauthorised conferment of diplomas and certificates :-

1[No person shall confer, grant or issue or hold himself out entitled to confer, grant or issue any diploma or certificate or other document stating or implying that the holder, grantee or recipient has pursued a course of study in any institution or privately, and has passed the High School or Intermediate Examination or any examination described in a manner reasonably calculated to cause it to be believed to be the High School or Intermediate Examination.] 1. Inserted by U. P. Act No. 26 of 1975.

7C. Bar of charging any donation for admission to an institution :-

1[No person connected with the management of an institution and no Head of the institution or teacher or any other employee thereof shall directly or indirectly take or receive or cause to be taken or received any contribution, donation, fees or any other payment of any sort, either in cash or in kind, except the fees at the rates specified in any order issued by the State Government in this behalf from or on behalf of any student 2[as a condition for granting him admission to or permitting him after such admission to continue in such institution].] 1. Inserted by U. P. Act No. 26 of 1975. 2. Substituted by U. P. Act No. 5 of 1977.

7D. Penalty for contravention of Section 7-B or Section 7-C :-

1[Whoever contravenes the provisions of Section 7-B, or Section 7-C shall be punishable with imprisonment for a term which may extend to three years and also with fine which shall not be less than one thousand rupees and if the person so contravening is a society or any association of persons, every member of such society or association who knowingly and willingly authorises or permits such contravention shall be so punishable.] 1. Inserted by U. P. Act No. 26 of 1975.

7E. Proper utilization of donations :-

1[Where a contribution or donation, either in cash or in kind, is taken or received by an institution including an institution maintained exclusively by the State Government or a local authority, the contribution or donation so received shall be utilised only for the purpose for which it was given to it, and in the case of an institution maintained exclusively by the State Government, the cash contribution or donation shall be credited to the personal ledger account of such institution which shall be operated in accordance with the general or special orders of the State Government.] 1. Inserted by U. P. Act No. 5 of 1977.

8. Exemption of certain Universities from the operation of the Act :-

Nothing in the Act shall affect the constitution, powers or functions of the Banaras Hindu University, 1[or the Aligarh Muslim University] except with their consent recorded in writing. 1. Substituted by U. P. Act No. 12 of 1978.

9. Power of State Government :-

(1) The State Government shall have the right to address the Board with reference to any of the works conducted or done by the Board and to communicate to the Board its views on any matter with which the Board is concerned. 1[(2) The Board shall report to the State Government such action, if any, as it is proposed to take or has been taken upon its communication.] (3) If the Board does not, within a reasonable time, take action to the satisfaction of the State Government, the State Government may, after considering any explanation furnished or representation made by the Board, issue such directions consistent with this Act as it may think fit, and the Board shall comply with such directions. 2[(4) Whenever, in the opinion of the State Government, it is necessary or expedient to take immediate action, it may, without making any reference to the Board under the foregoing provisions, pass such order or take such other action consistent with the provisions of this Act as it deems necessary, and in particular, may by such order modify or rescind or make any regulation in respect of any matter and shall forthwith inform the Board accordingly. (5) No action taken by the State Government under sub-section (4), shall be called in question.]

10. Officers of the Board :-

The following shall be the officers of the Board : (1) The Chairman. (2) The Secretary. (3) Such other officers, as may be declared by the regulations, to be officers of the Board.

11. Powers and duties of Chairman :-

(1) It shall be the duty of the Chairman to see that this Act and the regulations are faithfully observed and he shall have been all powers necessary for this purpose. (2) The Chairman shall have powers to convene meetings of the Board and shall call a meeting, at any time after due notice, on a requisition signed by 1[not less than one-fourth of the total membership of the Board] and stating the business to be brought before the meetings. (3) In any emergency, arising out of the administrative business of the Board, which, in the opinion of the Chairman, requires that immediate action should be taken, the Chairman shall take such action as he deems necessary, and shall thereafter report his action to the Board at its next meeting. (4) The Chairman shall exercise such other powers as may be prescribed by the regulations.

12. Appointment, powers and duties of Secretary :-

(1) The Secretary shall be appointed by the State Government upon such conditions and for such period as the State Government may deem fit. 1[* * *] (2) The Secretary shall, subject to the control of the Board, be the administrative officer of the Board. He shall be responsible for the presentation of the annual estimates and statement of accounts. (3) He shall be responsible for seeing that all moneys are expended on the purpose for which they are granted or allotted. (4) He shall be responsible for keeping the minutes of the Board. 2[(4-A) He shall exercise such powers as are necessary for the conduct of the examinations.] (5) He shall exercise such other powers as may be prescribed by the regulations. (6)1[***].

13. Appointment and constitution of Committees :-

1[(1) The Board shall appoint the following Committees and different Committees may be appointed for different areas of the State, namely : (a) Curriculum Committee, (b) Examinations Committee, (c) Results Committee, (d) Recognition Committee, and (e) Finance Committee. 2[(2) Such Committees shall consist of the members of the Board only: Provided that no member of the Board shall be the member of more than one kind of Committee of these Committees and the members of the Committees shall hold office as such till they are members of the Board.] (3) In addition to the Committees mentioned in sub-section (1), the Board shall appoint such other Committees, if any, as may be prescribed and different such Committees may be appointed for different areas. (4) These additional Committees shall be constituted in such manner and the

term of members of such Committees shall be such as may be prescribed.] 1. Substituted by U. P. Act No. 26 of 1975. 2. Substituted by U. P. Act No. 16 of 2008.

14. Exercise of powers delegated by Board of Committees :-

All matters relating to the exercise by the Board of powers conferred upon it by this Act which have by regulation been delegated by Board to any one of its Committees shall stand referred to that Committee, and the Board before exercising any such powers, shall receive and consider the report of the Committee with respect to the matter in question.

14A. Section 14A :-

1[(1) A Superintendent of a Centre and Invigilator shall be deemed to be a public servant under Section 21 of the Indian Penal Code, 1860 (XLV of 1860), during the course of examination or examinations conducted by the Board and for a period of one month prior to the commencement of, and of two months immediately following, such examination or examinations. (2) An assault, on, or use of criminal force to a Superintendent of a Centre or an Invigilator during the period mentioned in sub-section (1) shall be deemed to be an obstruction voluntarily caused to a public servant in the discharge of his public functions and shall be a cognizable offence.] 1. Inserted by U. P. Act No. 35 of 1958.

15. Power of Board to make regulations :-

(1) The Board may make regulations for the purpose of carrying into effect the provisions of this Act. (2) In particular and without prejudice to the generality of foregoing powers, the Board may make regulations providing for all or any of the following matter, namely: (a) the constitution, powers and duties of Committees; (b) the conferment of diplomas and certificates; (c) the conditions of recognition of institutions for the purposes of its examinations; (d) the courses of study to be laid down for all certificates and diplomas; (e) the conditions under which candidates shall be admitted to the examinations of the Board and shall be eligible for diplomas and certificates; (f) the fees for admission to the examinations of the Board; (g) the conduct of examinations; (h) the appointment of examiners and their duties and powers in relation to the Boards examinations; (i) the election of members of the Board under 1[clause (c)] of sub-section (1) of Section 3; (j) the admission of institutions to the privileges of recognition and the withdrawal of recognition; (k) all matters which by this Act are to

be or may be provided for by regulations; (l) the conditions under which grants-in-aid shall be given to institutions recognized by the Board; 2[(m) the formation of parent-teacher association]. 1. Substituted by U. P. Act No. 12 of 1978. 2. Inserted by U. P. Act No. 5 of 1977.

16. Previous publication and sanction of regulations made by the Board :-

1[(1) Regulations under Section 15 shall be made only with the previous sanction of the State Government and shall be published in the Gazette. (2) The State Government may sanction any such regulation proposed by the Board either without modification or with such modification as it thinks fit.] 1. Substituted by U. P. Act No. 26 of 1975.

16A. Scheme of Administration :-

1[(1) Notwithstanding anything in any law, document, or decree, order of a Court or other instrument there shall be a Scheme of Administration (hereinafter referred to as the Scheme of Administration) for every institution, whether recognized before or after the commencement of the Intermediate Education (Amendment) Act, 1958. The Scheme of Administration shall amongst other matters provide for the constitution of a Committee of Management (hereinafter called the Committee of Management) vested with authority to manage and conduct the affairs of the institution. 2[The head of the institution] and two teachers thereof, who shall be selected by rotation according to seniority, in the manner to be prescribed by regulations, shall be ex-officio members of the Committee of Management with a right to vote. (2) No member of the Committee of Management shall either attend a meeting of the Committee or exercise his right to vote whenever a charge concerning his personal conduct is under discussion. (3) The Scheme of Administration shall also describe subject to any regulations, the respective powers, duties and functions of 2[the head of the institution] and Committee of Management in relation to the institution. (4) Where more than one recognized institution is maintained by a body or authority, there shall be a separate Committee of Management for each institution unless otherwise provided in the regulations for any class of institutions. (5) The Scheme of Administration of every institution shall be subject to the approval of the Director and no amendment to or change in the Scheme of Administration shall be made at any time without the prior approval of the Director : 3[Provided that where the

Management of an institution is aggrieved by an order of the Director refusing to approve an amendment or change in the Scheme of Administration, the State Government, on the representation of the Management, may, if it is satisfied that the proposed amendment or change in the Scheme of Administration is in the interest of the institution, order the Director to approve the same, and thereupon the Director shall act accordingly.] (6) Every recognised institution shall be managed in accordance with the Scheme of Administration framed under and in accordance with sub-section (1) to sub-section (5) and Sections 16-B and 16-C. 4[(7) Whenever there is dispute with respect to the Management of an institution, persons found by the Regional Deputy Director of Education, upon such enquiry as is deemed fit to be in actual control of its affairs may, for purposes of this Act, be recognized to constitute the Committee of Management of such institution until a court of competent jurisdiction directs otherwise: Provided that the Regional Deputy Director of Education shall, before making an order under this sub-section, afford reasonable opportunity to the rival claimants to make representations in writing Explanation.--In determining the question as to who is in actual control of the affairs of the institution, the Regional Deputy Director of Education shall have regard to the control over the funds of the institution and over the administration, the receipt of income from its properties, the Scheme of Administration approved under sub-section (5) and other relevant circumstances.]] 1. Inserted by U. P. Act No. 35 of 1958. 2. Substituted by U. P. Act No. 26 of 1975. 3. Inserted by U. P. Act No. 26 of 1975. 4. Inserted by U. P. Act No. 1 of 1981.

16B. Section 16B :-

1[(1) In the case of an institution already recognised at the date of the commencement of the Intermediate Education (Amendment) Act, 1958, a draft of the Scheme of Administration shall be prepared and submitted to the Director for his approval in accordance with Section 16-C within six months from the said commencement and in all other cases along with the application for recognition. (2) If an institution which is already recognized at the commencement of the Intermediate Education (Amendment) Act, 1958, fails to comply with the provision of sub-section (1) within the period provided therefor, the Director shall send a notice to such institution requiring it to submit the Scheme of Administration within a further period of three months : Provided that on a representation by the institution prior to the expiry of the extended

period, the Director may, in his discretion allow a further extension for a period of three months. (3) If the Scheme of Administration is not submitted within the time allowed, the Director shall take action in accordance with 2[sub-section (3) of Section 16-D].] 1. Inserted by U. P. Act No. 35 of 1958. 2. Substituted by U.P. Act No. 1 of 1981.

16C. Section 16C :-

1[(1) 2[Subject to the provisions of this Act] the Director shall, within such period of time as may be prescribed, either approve the Draft Scheme of Administration submitted under Section 16-B or suggest any alteration or modification therein. Whenever the Director shall so suggest any alteration or modification in the Scheme of Administration, he shall send a copy of the same to the institution giving his reasons therefor, and affording an opportunity to the institution to make a representation, within such period of time as may be prescribed : Provided that if the Director does not suggest any alteration or modification in the Draft Scheme of Administration within the period of time prescribed by the regulations, the Draft Scheme of Administration shall be deemed to have been approved. (2) The Director shall consider any representation made in accordance with the provision of sub-section (1) and may approve the Scheme of Administration in its original form or subject to the alteration and modification suggested under the said sub-section or with any other changes as may appear to him to be just and proper : Provided that where the Director proposes to make a new alteration or modification in the Scheme of Administration, he shall give an opportunity to the institution to make representation to him within such period of time as may be prescribed.] 1. Inserted by U. P. Act No. 35 of 1958. 2. Substituted by U. P. Act No. 1 of 1981.

16CC. Section 16CC :-

1[The Scheme of Administration in relation to any institution, whether recognised before or after the commencement of the Intermediate Education (Amendment) Act, 1980, shall not be inconsistent with the principles laid down in the Third Schedule.] 1. Inserted by U. P. Act No. 1 of 1981.

16D. Section 16D :-

1[(1) The Director may cause a recognised institution to be inspected from time to time. (2) The Director may direct a management to remove any defect or deficiency found on

inspection or otherwise. (3) If on the receipt of information or otherwise, the Director is satisfied that-- (i) the Committee of Management of an institution has failed to comply with the judgment of any court or any direction made under this Act or any other law for the time being in force; or (ii) the Committee has failed to appoint teaching staff possessing such qualifications as are necessary for the purpose of ensuring the maintenance of academic standard in the institution or has appointed or retained in service any teaching or non-teaching staff in contravention of the provisions of this Act or the Regulations; or (iii) any dispute with respect to the right claimed by different persons to be lawful office-bearers of the Committee of Management has affected the smooth and orderly administration of the institution concerned; or (iv) the Committee has persistently failed to provide the institution with such adequate and proper accommodation, library, furniture, stationery, laboratory equipment or other facilities as are necessary for the efficient administration of such institution; or (v) the Committee has substantially diverted, misapplied or misappropriated the property of the institution to its detriment or has transferred any property in contravention of the provisions of the Uttar Pradesh Educational Institutions (Prevention of Dissipation of Assets) Act, 1974 (U. P. Act No. 3 of 1975); or (vi) the draft of the Scheme of Administration has not been submitted within the time allowed therefor under Section 16-B, or that the Management of the institution is being conducted otherwise than in accordance with the Scheme of Administration or the affairs of the institution are being otherwise mismanaged; or (vii) the Scheme of Administration in relation to an institution, approved before the commencement of the Intermediate Education (Amendment) Act, 1980, is inconsistent with the provisions of this Act and the management of the institution has failed to alter or modify it within a reasonable time despite notice under Section 16-CCC, he may refer the case to the Board for withdrawal of recognition of such institution, or issue notice to the Committee of Management to show cause within thirty days from the date of receipt of such notice why an order under sub-section (4) should not be made. (4) Where the Committee of Management of an institution fails to show cause within the time allowed under sub-section (3) or within such extended time as the Directory may from time to time allow, or where the Director is, after considering the cause shown by the Committee of Management, satisfied that any of the grounds mentioned in sub-section (3) exists, he may recommend to the

State Government to appoint an Authorised Controller for that institution, and thereupon, the State Government may, by order, for reasons to be recorded, authorise any person (hereinafter referred to as the Authorised Controller) to take over, for such period not exceeding two years, as may be specified, the Management of such institution and its properties : Provided that if the State Government is of opinion that it is expedient so to do in order to continue to secure the proper management of the institution and its properties, it may, from time to time, extend the operation of the order, for such period, not exceeding one year at a time, as it may specify, so however, that the total period of operation of the order, including the period specified in the initial order, but excluding the period specified in sub-section (8), does not exceed five years: Provided further that if at the expiration of the said period of five years, there is no lawfully constituted Committee of Management of the institution, the Authorised Controller shall continue to function as such, until the State Government is satisfied that a Committee of Management has been lawfully constituted. (5) If on the receipt of information or otherwise, the State Government is of opinion that in relation to an institution, the ground mentioned in clause (iii) or clause (v) of sub-section (3) exists, and that the interest of the institution calls for immediate action, it may, notwithstanding anything contained in the said sub-section, issue notice to the Management of such institution to show cause within fifteen days from the date of receipt of such notice why an Authorised Controller be not appointed in respect of such institution. (6) Where the Committee of Management of the concerned institution fails to show cause within the time allowed under sub-section (5), or within such extended time as the State Government may, from time to time allow, or where the State Government is, after considering the cause shown by the Committee of Management, satisfied that any of the grounds mentioned in clause (iii) or clause (v) of sub-section (3) exists, it may, by order and for reasons to be recorded, appoint an Authorised Controller in respect of such institution, and thereupon, the provisions of sub-section (4) shall, mutatis mutandis apply. (7) Every notice issued by the Director under sub-section (3) on or before the service of the notice referred to in sub-section (5) and not finally disposed of on the date of such service shall, with effect from the said date, be deemed to have been placed in abeyance : Provided that nothing contained in this sub-section shall be deemed to prevent the Director to take action upon grounds

other than those mentioned in clauses (iii) and (v) of sub-section (3) in case the notice issued by the State Government under sub-section (5) is discharged. (8) If the State Government is of opinion that immediate suspension of the Committee of Management is also necessary or expedient in the interest of the institution concerned, it may, while issuing notice under sub-section (5), by order and for reasons to be recorded, suspend the Committee of Management and make such arrangement as it thinks proper for managing the affairs of the institution pending the order that may subsequently be made under sub-section (6): Provided that the suspension shall not remain in force for more than six months from the date it becomes effective. Explanation I.--For the removal of doubts it is hereby declared that in computing the period of time specified in sub-section (4) or sub-section (8), the time during which the operation of the order was suspended by the High Court in exercise of the powers under Article 226 of the Constitution shall be excluded. Explanation II.--Nothing in sub-section (4) or sub-section (6) shall preclude the State Government from revoking an order of appointment of an Authorised Controller appointed under any of the said provisions. (9) Nothing in this section shall be construed to confer on the Authorised Controller appointed under sub-section (4) or sub-section (8), the power to transfer any immovable property belonging to the institution (except by way of letting from month to month in the ordinary course of management) or to create any charge thereon (except as a condition of receipt of any grant-in-aid for the institution from the State Government or the Government of India). (10) Any order made under this section shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any instrument (including any Scheme of Administration relating to the management and control of the institution or its property): Provided that the property of the institution and any income therefrom shall continue to be applied for the purposes of the institution as provided in any such instrument. (11) The Director may give to the Authorised Controller such directions as he may deem necessary for the proper management of the institution or its properties, and the Authorised Controller shall carry out those directions. (12) No order made by the Board withdrawing recognition in pursuance of a reference made under sub-section (3) and no order made or direction given under this section by the Director or the State Government shall be called in question in any court, and no injunctions shall be granted by any court in respect of any action taken or to be taken in

pursuance of any power conferred by or under this section. (13) The powers conferred by this Section shall be in addition to, and not in derogation of any powers conferred on the State Government or the Authorised Controller under any other law for the time being in force. (14) Nothing contained in sub-sections (3) to (13) shall apply to all institutions established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India.]
1. Substituted by U.P. Act No. 1 of 1981.

16DD. Section 16DD :-

1[(1) Wherever an Authorised Controller is appointed under sub-section (4) or sub-section (8) of Section 16-D-- (a) he shall take over the Management of the concerned institution and its properties to the exclusion of its Committee of Management, and shall, subject to such restrictions, as the State Government may impose, have all such powers and authority as the Committee would have if the institution and its properties were not taken over under the said sub-sections; (b) every person in whose possession, custody or control over any property of the institution may be, shall deliver such property to the Authorised Controller forthwith. (2) Every person who on the date of the order referred to in sub-section (4) or sub-section (8) of Section 16-D has in his possession or control any books or other documents relating to the institution or its property shall be liable to account for the said books and other documents to the Authorised Controller, and shall deliver them to him or to such person as the Authorised Controller may specify in this behalf. (3) The Authorised Controller may apply to the Collector for delivery of possession and control over the institution or its properties or any part thereof, and the Controller may take all necessary steps for securing possession to the Authorised Controller of such institution or property, and in particular, may use or cause to be used such force as may be necessary. Explanation.--In this section and Section 16-D, unless the context otherwise, requires, property in relation to an institution includes all property, movable and immovable belonging to or endowed wholly or partly for the benefit of the institution including lands, buildings (including hostels), works, library, laboratory instruments, equipment, furniture, stationery, stores, automobiles and other vehicles, if any, and other things pertaining to the institution, cash in hand, cash at bank, income from fees, boys funds and Government grants, investments and book debts, and all other rights and interest arising out of such property as may

be in the ownership, possession, power of control of the institution and all books of accounts, registers and all other documents of whatever nature relating thereto, and shall also be deemed to include all subsisting borrowing, liabilities and obligations of whatever kind, of the institution.] 1. Inserted by U. P. Act No. 1 of 1981.

16E. Procedure for selection of teachers and Head of Institutions :-

1[(1) Subject to the provisions of this Act, the Head of Institution and teachers of an institution shall be appointed by the Committee of Management in the manner hereinafter provided. (2) Every post of Head of Institution or teacher of an institution shall except to the extent prescribed for being filled by promotion, be filled, by direct recruitment after intimation of the vacancy to the Inspector and advertisement of the vacancy containing such particulars as may be prescribed, in at least two newspapers having adequate circulation in the State. (3) No person shall be appointed as Head of Institution or teacher in an institution unless he possesses the minimum qualifications prescribed by the regulations: Provided that a person who does not possess such qualification may also be appointed if he has been granted exemption by the Board having regard to his education, experience and other attainments. (4) Every application for appointment as Head of Institution or teacher of an institution in pursuance of an advertisement published under sub-section (2), shall be made to the Inspector and shall be accompanied by such fee which shall be paid in such manner as may be prescribed 2[* * * *]. 3[(5) (i) After the receipt of applications under sub-section (4), the Inspector shall cause to be awarded, in respect of each such applications, quality-point marks in accordance with the procedure and principles prescribed, and shall thereafter, forward the applications to the Committee of Management. (ii) The applications shall be dealt with, the candidates shall be called for interview, and the meeting of the Selection Committee shall be held, in accordance with the Regulations.] (6) The Selection Committee shall prepare a list containing in order of preference the names as far as practicable of three candidates for each post found by it to be suitable for appointment and shall communicate its recommendations together with such list to the Committee of Management. (7) Subject to the provisions of sub-section (8) the Committee of Management shall on receipt of the recommendations of the Selection Committee

under sub-section (6) first offer appointment to the candidate given the first preference by the Selection Committee, and on his failure to join the post, to the candidate next to him in the list prepared by the Selection Committee under this section, and on the failure of such candidate also, to the last candidate specified in such list. (8) The Committee of Management shall, where it does not agree with the recommendations of the Selection Committee refer the matter together with the reasons of such disagreement to the Regional Deputy Director of Education in the case of appointment to the post of Head of Institution and to the Inspector in the case of appointment to the post of teacher of an institution, and his decision shall be final. (9) Where no candidate approved by the Selection Committee for appointment is available, a fresh selection shall be held in the manner laid down in this section. (10) Where the State Government, in case of the appointment of Head of Institution, and the Director in the case of the appointment of teacher of an institution, is satisfied that any person has been appointed as Head of Institution or teacher, as the case may be, in contravention of the provisions of this Act the State Government or, as the case may be, the Director may after affording an opportunity of being heard to such person, cancel such appointment and pass such consequential order as may be necessary. (11) Notwithstanding anything contained in the foregoing sub-sections, appointments in the case of a temporary vacancy caused by the grant of leave to an incumbent for a period not exceeding six months or 4[by death, termination or otherwise] of an incumbent occurring during an educational session, may be made by direct recruitment or promotion without reference to the Selection Committee in such manner and subject to the such conditions as may be prescribed]: 5[Provided that no appointment made under this sub-section shall, in any case, continue beyond the end of the educational session during which such appointment was made.] 1. Substituted by U. P. Act No. 26 of 1975. 2. Omitted by U. P. Act No. 12 of 1978. 3. Substituted by U. P. Act No. 12 of 1978 (be deemed always to have been substituted). 4. Substituted by U. P. Act No. 12 of 1978. 5. Inserted by U. P. Act No. 12 of 1978.

16EE. Absorption of retrenched employees :-

1[(1) Where any employee of an institution has been retrenched on or after July 1, 1974 but before the commencement of the Intermediate Education (Amendment) Act, 1980, and such employee possesses minimum qualifications prescribed therefor on

the date of initial appointment, the Regional Deputy Director of Education shall, on an application made in this behalf, direct that subject to the provisions of this section, such employee be absorbed against any permanent vacancy occurring in the same or any other institution situate in any district within his jurisdiction : Provided that in the case of an employee retrenched on or after the date of such commencement, the Regional Deputy Director of Education may issue directions under this section without any application from the employee concerned. (2) Every application referred to in sub-section (1) shall be made within six months from the date of commencement of the Intermediate Education (Amendment) Act, 1980. (3) Where any direction is issued by the Regional Deputy Director of Education under sub-section (1) the following consequences shall ensue, namely: (i) The Committee of Management of the institution concerned shall be bound to comply with every such direction, and the employee in whose favour such direction is issued shall be deemed to be an employee of such institution from the date of the order of appointment issued by the Committee to him or from the expiry of a period of two months from the date of service of the direction on the Committee of Management under sub-section (1), whichever is earlier. (ii) The period of substantive service rendered by such employee in any institution before the date of his retrenchment shall be counted for the purposes of his seniority and pension. (iii) Where the employee concerned fails to join the post within the time allowed therefor, the benefits of this section shall not be available to him. (4) Any person aggrieved by the direction issued under sub-section (1) may make a representation to the Director within one month from the date of service on him of such direction, and the order of the Director thereon shall be final. (5) The provisions of this section shall have effect notwithstanding anything contained in any other provisions of this Act or any other law for the time being in force. 2[(6) Nothing in this Section shall apply to an institution established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India.] Explanation.--For the purposes of this section-- (a) employee in relation to an institution means a teacher, head of institution or other employee thereof holding a permanent post on the date immediately preceding the date of retrenchment; (b) institution includes a training institution recognised by the State Government or the Director; (c) retrenchment in relation to an employee of an institution means the termination of his services for any reason other than resignation,

retirement or removal by way of punishment inflicted in disciplinary proceedings.] 1. Inserted by U. P. Act No. 1 of 1981. 2. Inserted by U. P. Act No. 9 of 1981.

16F. Selection Committee :-

1[(1) For the selection of candidates for appointment as Head of an Institution, there shall be a Selection Committee consisting of-- (i) the President or any member of the Committee of Management nominated by the Committee by resolution in that behalf, who shall be the Chairman; (ii) a member of the Committee of Management other than the one referred to in clause (i), nominated by it in this behalf; (iii) three experts nominated by the Regional Deputy Director of Education from persons not belonging to the district in which the institution is situated, out of the panel of names prepared under this section. (2) For the selection of candidates for appointment as teacher in an institution, there shall be a Selection Committee consisting of-- (i) the President or any member of the Committee of Management, nominated by the Committee by resolution in that behalf, who shall be the Chairman; (ii) the Head of such institution; (iii) three experts nominated by the Inspector from persons not belonging to the district in which the institution is situated, out of the panel of names prepared under this Section. (3) In respect of any institution for which Authorised Controller has been appointed under this Act, the Authorised Controller shall, in relation to such institution be deemed substituted, for the person referred to in clauses (i) and (ii) of sub-section (1) or clause (i) of sub-section (2), as the case may be. (4) A panel of experts for every region shall be drawn by the Director in such manner as may be prescribed and shall be revised once every three years. (5) The business of the Selection Committee shall be conducted in such manner as may be prescribed : Provided that the majority of the total membership of any Selection Committee shall form the quorum of such Committee : Provided further that no recommendation made by the Selection Committee in respect of any candidate shall be valid, unless two of the experts referred to in clause (iii) of sub-section (1) or sub-section (2), as the case may be, have agreed to it. (6) No proceeding of the Selection Committee shall be invalid by reason only of a defect in its constitution or vacancy among its members.] 1. Substituted by U. P. Act No. 26 of 1975.

16FF. Minority savings as to minority institutions :-

1[(1) Notwithstanding anything in sub-section (4) of Section 16-E,

and Section 16-F, the Selection Committee for the appointment of a Head of Institution or a teacher of an institution established and administered by a minority referred to in clause (1) of Article 30 of the Constitution shall consist of five members (including its Chairman) nominated by the Committee of Management: Provided that one of the members of the Selection Committee shall-- (a) in the case of appointment of the Head of an Institution, be an expert selected by the Committee of Management from a panel of experts prepared by the Director; (b) in the case of appointment of a teacher, be the Head of the Institution concerned. (2) The procedure to be followed by the Selection Committee referred to in sub-section (1) shall be such as may be prescribed. (3) No person selected under this section shall be appointed, unless-- (a) in the case of the Head of an Institution the proposal of appointment has been approved by the Regional Deputy Director of Education; and (b) in the case of a teacher such proposal has been approved by the Inspector. (4) The Regional Deputy Director of Education or the Inspector, as the case may be, shall not withhold approval for the selection made under this section where the person selected possesses the minimum qualifications prescribed and is otherwise eligible. (5) Where the Regional Deputy Director of Education or the Inspector, as the case may be, does not approve of a candidate selected under this section, the Committee of Management may, within three weeks from the date of receipt of such disapproval, make a representation to the Director in the case of the Head of Institution, and to the Regional Deputy Director of Education in the case of a teacher. (6) Every order passed by the Director or the Regional Deputy Director of Education on a representation under sub-section (5) shall be final.] 1. Substituted by U. P. Act No. 26 of 1975.

16FFF. Provisions for assistance during examination :-

1[(1) For the conduct of Boards Examinations, evaluation of answer-books in such Examination and preparation of result thereof, the Committee of Management, Head of Institution, every teacher and other employee in relation to an institution, shall render such assistance, perform such duties and discharge such functions as may be required, entrusted or assigned to it or him by or under this Act. (2) Where the Director is satisfied that any such Committee, Head of Institution, teacher or employee has failed to carry out any direction issued under sub-section (1) he may, for the conduct of Boards Examination, evaluation of answer-books in such

examination or preparation of result thereof, take such measures (including requisition and taking possession of the building, furniture or any other property of the institution) and for such period as appears to him to be necessary therefor.] 1. Substituted by U. P. Act No. 26 of 1975.

16G. Conditions of service of Head of Institutions, teachers and other employees :-

1[(1) Every person employed in a recognized institution shall be governed by such conditions of service as may be prescribed by regulations and any agreement between the management and such employee insofar as it is inconsistent with the provisions of this Act or with the regulations shall be void. (2) Without prejudice to the generality of the powers conferred by sub-section (1), regulations may provide for-- (a) the period of probation, the conditions of confirmation and the procedure and conditions for promotion and punishment 2[(including suspension pending or in contemplation of inquiry or during the pendency of investigation, inquiry or trial in any criminal case for an offence involving moral turpitude)] and the emoluments for the period of suspension and termination of service with notice; (b) the scales of pay and payment of salaries; (c) transfer of service from one recognized institution to another; (d) grant of leave and Provident Fund and other benefits; and (e) maintenance of record of work and service. (3) (a) No Principal, Headmaster or teacher may be discharged or removed or dismissed from service or reduced in rank or subject to any diminution in emoluments, or served with notice of termination of service except with the prior approval in writing of the Inspector. The decision of the Inspector shall be communicated within the period to be prescribed by regulations. (b) The Inspector may approve or disapprove or reduce or enhance the punishment or approve or disapprove of the notice for termination of service proposed by the management: Provided that in the cases of punishment, before passing orders, the Inspector shall give an opportunity to the Principal, the Headmaster or the teacher to show cause within a fortnight of the receipt of the notice why the proposed punishment should not be inflicted. 3[(c) Any party may prefer an appeal to the Regional Deputy Director, Education, against an order of the Inspector under clause (b), whether passed before or after the commencement of the Uttar Pradesh Intermediate Education (Sanshodhan) Adhiniyam, 1966, within one month from the date of communication of the order to that party, and the Regional Deputy

Director may, after such further enquiry, if any, as he considers necessary, confirm, set aside or modify the order, and the order passed by the Regional Deputy Director shall be final. In case the order under appeal was passed by the very person holding the Office of Regional Deputy Director while acting as Inspector, the appeal shall be transferred by the order of the Director to some other Regional Deputy Director for decision, and the provisions of this clause shall apply in relation to decision by that other Regional Deputy Director as if the appeal had been preferred to himself.]

3[(d) All appeals preferred under clause (c), as it stood before the date of commencement of the Intermediate Education (Sanshodhan) Adhiniyam, 1966, and pending decisions immediately before the said date shall be decided by the Regional Deputy Director, Education, in accordance with clause (c) as substituted by the said Adhiniyam.] (4) An order made or decision given by the competent authority under sub-section (3) shall not be questioned in any Court and the parties concerned shall be bound to execute the directions contained in the order or decision within the period that may be specified therein. 2[(5) No Head of Institution or teacher shall be suspended by the management, unless in the opinion of the management-- (a) the charges against him are serious enough to merit his dismissal, removal or reduction in rank; or (b) his continuance in office is likely to hamper or prejudice the conduct of disciplinary proceedings against him; or (c) any criminal case for an offence involving moral turpitude against him is under investigation, inquiry or trial. (6) Where any Head of Institution or teacher is suspended by the Committee of Management, it shall be reported to the Inspector within thirty days from the date of the commencement of the Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, in case the order of suspension was passed before such commencement, and within seven days from the date of the order of suspension in any other case, and the report shall contain such particulars as may be prescribed and be accompanied by all relevant documents. (7) No such order of suspension shall, unless approved in writing by the Inspector, remain in force for more than sixty days from the date of commencement of the Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, or as the case may be, from the date of such order, and the order of the Inspector shall be final and shall not be questioned in any Court. (8) If, at any time, the Inspector is satisfied that disciplinary proceedings against the Head of Institution or teacher are being delayed, for no fault of the Head of

Institution or the teacher, the Inspector may, after affording opportunity to the Management to make representation revoke an order of suspension passed under this section. (9) All appeals pending before the Deputy Director of Education (Women) immediately before the commencement of this sub-section shall be transferred to the Joint Director of Education (Women) for disposal : Provided that where the Deputy Director of Education (Women) has already commenced the hearing of any such appeal before the commencement of this sub-section, the appeal shall be disposed of by the Deputy Director of Education (Women) herself. Explanation.-For the purposes of this section, the expression "Regional Deputy Director of Education" shall, in relation to a girls institution mean the "Joint Director of Education (Women)".]] 1. Inserted by U.P. Act No. 35 of 1958. 2. Substituted by U.P. Act No. 26 of 1975. 3. Substituted by U. P. Act No. 7 of 1966.

16GG. Regularization of appointment of ad hoc teachers :-

1[(1) Notwithstanding anything contained in Sections 16-E, 16-F and 16-FF, every teacher of an institution appointed between August 18, 1975 and September 30, 1976 (both dates inclusive) on ad hoc basis against a clear vacancy and possessing prescribed qualifications or having been exempted from such qualifications in accordance with the provisions of this Act, shall, with effect from the date of commencement of this section, be deemed to have been appointed in a substantive capacity, provided such teacher has been continuously serving the institution from the date of his appointment up to the commencement of this Section. Explanation.--For the purposes of this sub-section, the period during which any break in service of teacher has occurred between the date of his ad hoc appointment and the date of commencement of this section for any reason not arising out of his misconduct or his own violation shall be disregarded: Provided that nothing in this section shall be construed as entitling such teacher to any pay or allowance for any such period of break in his service. (2) Every teacher deemed to have been appointed in a substantive capacity under sub-section (1) shall be deemed to be on probation from the date of commencement of this section. (3) Nothing in this section shall be construed to entitle any teacher to-- (a) substantive appointment on any post if on the date of commencement of this section, such post has already been filled or selection for such post has already been made in accordance with this Act or the regulations made thereunder; or (b) substantive appointment if

such teacher was related to any member of the Committee of Management or the Principal or Headmaster of the institution concerned. Explanation.--For the purposes of this sub-section, a person shall be deemed to be related to another if-- (a) they are members of a Hindu undivided family; or (b) they are husband and wife; or (c) the one is related to the other in the manner indicated in the 2[Second Schedule].] 1. Inserted by U. P. Act No. 5 of 1977. 2. Substituted by U. P. Act No. 12 of 1978.

16H. Exemption of certain classes of institutions from the operation of certain Sections :-

1[(1) The provisions of Sections 16-A, 16-B, 16-C, 2[sub-section (2) to sub-section (13)] of Section 16-D and Sections 16-E, 16-F and 16-G shall not apply to recognised institutions maintained by the State Government or the Central Government. (2) In the case of recognised institutions maintained by a local body, the State Government may declare that all or any of the provisions referred to in sub-section (1) shall not apply or shall apply subject to such alterations, modifications or additions as it may make 3[and the provisions, if any, so made applicable, shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force].] 1. Inserted by U. P. Act No. 35 of 1958. 2. Substituted by U. P. Act No. 1 of 1981. 3. Inserted by U. P. Act No. 5 of 1977.

16I. Section 16I :-

1[Subject to the approval of the State Government, the Director may, by a notification in the Official Gazette, delegate all or any of the powers conferred upon him by or under this Act, except the powers which he exercises as Chairman of the Board, to an officer or officers of the Education Department not lower in rank than a "Deputy Director of Education.] 1. Inserted by U. P. Act No. 35 of 1958.

17. Deleted :-

1[Deleted]. 1. Omitted by U. P. Act No. 5 of 1941.

18. Casual vacancies :-

All casual vacancies among the members (other than ex-officio members) of the Board or of a Committee appointed by the Board shall be filled, as soon as conveniently may be, by the person or body who 1[elected or nominated] the member whose place has become vacant and the person 1[elected or nominated] to a casual vacancy shall be a member of the Board or Committee for the

residue of the term for which the person whose place he fills would have been a member. 1. Substituted by U. P. Act No. 26 of 1975.

19. Proceedings not invalidated by reason of vacancies :-

No Act or proceedings of the Board or of a Committee appointed by it shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

20. Power of Board and Committees to make bye-laws :-

(1) The Board and its Committees may make bye-laws consistent with this Act and the Regulations-- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum; (b) providing for all matters which consistently with this Act and the Regulations are to be prescribed by bye-laws; and (c) providing for all other matters solely concerning the Board and its Committees and not provided for by this Act and the Regulations. (2) The Board and its Committees shall make bye-law providing for the giving of notice to the members of the Board or Committee of the dates of meetings, and of the business to be considered at meetings, and for the keeping of a record of the proceedings of meetings. (3) The Board may direct amendment or rescissions of any bye-law made by a Committee under this section, and the Committee shall give effect to any such direction.

21. Protection for acts done, etc., in good faith :-

1[No suit, prosecution or other legal proceeding shall lie against the State Government, the Board or any of its Committees or any member of the Board or a Committee or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made thereunder.] 1. Inserted by U. P. Act No. 7 of 1966.

22. Bar of jurisdiction of Courts :-

1[No order or decision made by the Board or any of its Committees in exercise of the powers conferred by or under this Act shall be called in question in any Court.] 1. Inserted by U. P. Act No. 7 of 1966.

SCHEDULE 1

FIRST SCHEDULE

Election of members of the Board under Clause (c) of Section 3 (1)

1[*****]

"FIRST SCHEDULE

Election of members of the Board under clause (c) of Section 3 (1)

1. Officers.--

For the purpose of the election of the members of the Board under clause (c) of sub-section (1) of Section 3, the following shall be the officers :

(a) The Secretary of the Board shall be the Mukhya Shikshak Nirvachan Adhikari;

(b) The Regional Deputy Director of Education shall be the Shikshak Nirvachan Adhikari;

(c) The District Inspector of Schools shall be the Sahayak Shikshak Nirvachan Adhikari.

2. Qualification of voters.--

The Heads of Institutions and teachers shall be elected by the members of an electoral college consisting of,--

(i) such Heads of institutions as are confirmed as such on August 1, immediately preceding the date of election, and

(ii) such teachers of High Schools and Intermediate Colleges, as are confirmed as such on August 1, immediately preceding the date of election.

Explanation.--(i) Permanent incumbents of the posts of Heads of Institutions or teachers who are on leave, shall be eligible for inclusion in the electoral college.

(ii) In the case of a High School which has been recognised as Intermediate College after August 1 preceding the date of election, if the Headmaster of such school is holding the post of Principal or teacher in such college otherwise than in a permanent capacity, such person shall, if otherwise qualified in that behalf, be entitled to be included in the electoral college.

3. Disqualification for being an elector.--

No person in respect of whom an order of suspension duly approved by the Inspector under sub-section (7) of Section 16-G is in force on the relevant date referred to in Paragraph 2, shall be registered as a member of the electoral college.

4. Eligibility for being elected.--

(1) No Head of Institution shall be eligible for election unless he has not less than five years experience in the aggregate as such Head of Institution, on thirtieth day of June preceding the date of election.

(2) No teacher shall be eligible for election unless he has not less than ten years experience in the aggregate as such teacher on thirtieth day of June preceding the date of election.

Explanation.--For the purposes of this paragraph, the period during which such Head of Institution or teacher, as the case may be, was holding the post in a temporary capacity shall also be counted.

5. Constituencies.--

(1) The constituencies for the purpose of election shall be the educational regions.

(2) Only one Head of Institution and one teacher shall be elected from each such constituency.

Explanation.--For the purposes of this paragraph the expression "educational region" means the educational region comprising such districts as may be placed by the State Government under the charge of a Deputy Director of Education.

6. Electoral roll.--

(1) The electoral roll for every constituency shall consist of the electoral rolls for the districts comprised within that constituency.

(2) The electoral roll for every district shall be prepared by the Sahayak Shikshak Nirvachan Adhikari in such form as the Mukhya Shikshak Nirvachan Adhikari may direct.

7. Power of Sahayak Shikshak Nirvachan Adhikari to call for information.--

For the purpose of preparing any electoral roll or deciding any claim or objection in respect of an electoral roll, the Sahayak Shikshak Nirvachan Adhikari and any person appointed by him in this behalf shall have access to any register, record or document of any institutions and it shall be the duty of every person having control over or associated with the administration of the affairs of such institution to furnish to the said Adhikari or person such information as he may require.

8. Publication of draft electoral roll.--

As soon as the electoral roll has been prepared, the Sahayak Shikshak Nirvachan Adhikari shall publish the draft roll and make it available for inspection--

(i) at his office;

(ii) at the office of the Shikshak Nirvachan Adhikari;

(iii) at such other place or places as the Mukhya Shikshak Nirvachan Adhikari may direct.

9. Claims and objections in respect of entries in electoral rolls.--

(1) Every claim for inclusion of a name in the electoral roll and every objection to any entry made therein shall be made to the Sahayak Shikshak Nirvachan Adhikari within a period of ten days from the date of the publication of the draft electoral roll under paragraph 8 :

Provided that every objection to the inclusion of the name in the electoral roll or to any particular in an entry therein shall be preferred by a person whose name is already included in that roll.

(2) Every such claim or objection shall be in writing signed by the person making it.

10. Rejection of claims and objections not received in time.--

Any claim or objection which is not lodged within the time specified in paragraph 9 or is lodged by a person not entitled to make the same, shall be rejected.

11. Disposal of claims and objections.--

(1) The Sahayak Shikshak Nirvachan Adhikari shall fix a date for the disposal of every claim or objection which has not been rejected under paragraph 10 and shall give notice of such date,--

(a) in the case of a claim, to the person making it;

(b) in the case of an objection to the inclusion of a name in the electoral roll, to the person preferring the objection and to the person in respect of whose name such objection has been made;

(c) in the case of an objection to the particulars in an entry in the electoral roll, to the person preferring the objection and to the person affected by such objection.

(2) On the date fixed under sub-paragraph (1) the Sahayak Shikshak Nirvachan Adhikari shall hold a summary inquiry into every claim or objection and shall record his decision thereon.

(3) During the enquiry, the claimant or, as the case may be, the objector and any person to whom notice has been issued under sub-paragraph (1) shall be entitled to appear and to be heard.

(4) The Sahayak Shikshak Nirvachan Adhikari may in his discretion,--

(a) require any such claimant, objector or person to appear in person before him;

(b) require that the evidence tendered by any such claimant, objector or person shall be on oath and administer oath to him for that purpose.

(5) The Sahayak Shikshak Nirvachan Adhikari shall, after the conclusion of inquiry, prepare a list of amendments to carry out his decisions under sub-paragraph (2) and shall incorporate the same in the draft electoral roll published under paragraph 8.

(6) Subject to the provisions hereinbefore contained, the Sahayak Shikshak Nirvachan Adhikari may correct any clerical, type-written or printing error or inaccuracy in the electoral roll.

12. Representation against order of Sahayak Shikshak Nirvachan Adhikari.--

(1) Any person aggrieved from the decision of the Sahayak Shikshak Nirvachan Adhikari under sub-paragraph (2) of paragraph 11 may, within one week from the date of communication, make a representation against such decision to the Shikshak Nirvachan Adhikari and his order on such representation shall be final.

(2) The Sahayak Shikshak Nirvachan Adhikari shall give effect to the order passed under sub-paragraph (1).

13. Notification for election.--

The Mukhya Shikshak Nirvachan Adhikari shall, by notification call upon the members of the electoral college to elect Heads of Institutions and teachers in accordance with the provisions of the Act and the provisions contained in this Schedule.

14. Fixation of dates in respect of election.--

As soon as may be after the publication of the notification under paragraph 13, the Mukhya Shikshak Nirvachan Adhikari shall, by notification, appoint--

(a) the last date for making nominations which shall not be less than a fortnight from the date of publication of the notification under paragraph 13;

(b) the date for the scrutiny of nominations which shall not be later than the fifth working day after the last day for making nominations;

(c) the last date for the withdrawal of candidature which shall not be later than the seventh working day after the date for the scrutiny of nominations;

(d) the date or dates on which poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the fifteenth day after the last date for the withdrawal of candidature.

15. Nomination of candidates for election.--

Any Head of Institution or teacher, as the case may be, may propose any person other than himself for election as a member, provided that such person is willing to stand for election and possesses the qualifications laid down in this Act and provided further that the names of the proposer and the proposed occur in the electoral roll of the constituency concerned.

16. Presentation of nomination paper and requirements for valid nominations.--

(1) On or before the date appointed under clause (a) of paragraph 14, each candidate or his proposer shall, either in person or through registered post deliver or cause to be delivered in a sealed cover to the Shikshak Nirvachan Adhikari in his office between the hours of 11 O'clock in the forenoon and 4 O'clock in the afternoon, a

nomination paper completed in the prescribed form (to be had from the Shikshak Nirvachan Adhikari) and signed by the candidate and his proposer :

Provided that a candidate shall not be deemed to be duly nominated for election from a constituency, unless he deposits or causes to be deposited,--

(i) in the case of a person, who is a member of a Scheduled Caste or Scheduled Tribe, a sum of one hundred rupees;

(ii) in any other case, a sum of two hundred rupees :

Provided further that where a candidate has been nominated by more than one nomination papers for election in the same constituency, not more than one deposit shall be required of him.

(2) Nothing in these paragraphs shall prevent any candidate from being nominated by more than one nomination papers.

(3) Any deposit made under sub-paragraph (1) shall be repayable to the candidate who is declared to be elected in accordance with the provisions hereinafter contained.

17. Endorsement to be made on the nomination papers.--

On receipt of any nomination paper, the Shikshak Nirvachan Adhikari shall endorse on such nomination paper, the date and time of receipt and the name of the person, if any, by whom it is presented and shall publish the list of nomination papers in the form and manner approved by the Mukhya Shikshak Nirvachan Adhikari.

18. Scrutiny of nominations.--

(1) The scrutiny of nomination papers received in the manner prescribed in paragraph 16, shall be made by the Shikshak Nirvachan Adhikari.

(2) On the date fixed for the scrutiny of nominations under paragraph 14, the candidate or his proposer or any other person, duly authorised in writing by the candidate, may be present at the time of scrutiny of nomination papers and the Shikshak Nirvachan Adhikari shall give him all reasonable facilities for examining any nomination paper.

(3) The Shikshak Nirvachan Adhikari shall, after examining all nomination papers, record his decision thereon and decide all objections which may be made against any nomination and may, either on such objection or of his own motion, after such summary inquiry, if any, as is considered necessary, reject any nomination paper.

(4) The nomination of any candidate shall not be rejected on the ground of any irregularity in respect of a nomination paper, if the

candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(5) Immediately after the nomination papers have been scrutinised and decisions accepting or rejecting the same have been taken, the Shikshak Nirvachan Adhikari shall prepare a list of candidates whose nominations are found to be valid, and cause it to be affixed to the notice boards in his office and in the offices of the Deputy Director of Education and the Regional Inspectress of Girl Schools and the Inspector. A copy of the list shall also be sent to the Mukhya Shikshak Nirvachan Adhikari.

(6) The decisions of the Shikshak Nirvachan Adhikari shall be final in respect of the validity or otherwise of the nominations.

19. Withdrawal of candidature.--

(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form (to be obtained from the Shikshak Nirvachan Adhikari) to be given by him to the Shikshak Nirvachan Adhikari, not later than the last date appointed under clause (c) of paragraph 14.

(2) No person who has given a notice of withdrawal of his candidature under sub-paragraph (1) shall be allowed to cancel his notice of withdrawal.

20. Conditions for taking of polls.--

(1) If after the expiry of the period within which candidature may be withdrawn under paragraph 19,--

(a) the number of candidates who have been validly nominated and have not withdrawn their candidatures in the manner and within the time specified in this Schedule does not exceed the number of candidates to be elected from the constituency, the Shikshak Nirvachan Adhikari shall declare such candidates to be duly elected;

(b) the number of candidates who have been duly nominated and have not so withdrawn their candidatures exceeds the number of candidates to be elected from such constituency, the Shikshak Nirvachan Adhikari shall prepare in the form approved by the Mukhya Shikshak Nirvachan Adhikari a list containing the names in alphabetical order of the contesting candidates as given in the nomination paper together with their designations.

(2) Such list shall be prepared separately for Heads of Institutions and teachers and shall be sent to the Mukhya Shikshak Nirvachan Adhikari and Sahayak Shikshak Nirvachan Adhikari immediately for printing of the ballot papers.

(3) The Mukhya Shikshak Nirvachan Adhikari shall send to the

Sahayak Shikshak Nirvachan Adhikari ballot papers in sufficient numbers along with the list of contesting candidates.

21. Recording of votes.--

(1) The votes shall be cast in a secret manner in the polling booths fixed by the Sahayak Shikshak Nirvachan Adhikari between the hours of 8 O'clock in the morning and 5 O'clock in the evening.

(2) An elector desiring to cast vote shall be required to go in person to the polling booth fixed in this behalf and cast his vote there.

(3) After the close of the poll the Sahayak Shikshak Nirvachan Adhikari shall seal the ballot boxes and keep them in such a safe place as may be determined by the Mukhya Shikshak Nirvachan Adhikari. Counting of votes shall commence immediately thereafter.

(4) The Sahayak Shikshak Nirvachan Adhikari may permit the candidate or his authorised agent to present in the polling booth during the hours of polling and at the place of counting during the hours of counting. The approval of the appointment of agent shall be obtained from the Sahayak Shikshak Nirvachan Adhikari by the candidate at least an hour before the commencement of the polling.

22. Adjournment of poll.--

(1) If at an election, it is not possible to take the poll at any place fixed for the recording of votes, on account of any natural calamity or any other sufficient cause, the poll may be adjourned to a date to be notified later.

(2) Where the poll is adjourned under sub-paragraph (1) the circumstances shall be immediately reported to the Mukhya Shikshak Nirvachan Adhikari and the Shikshak Nirvachan Adhikari.

(3) The Shikshak Nirvachan Adhikari shall with the previous approval of the Mukhya Shikshak Nirvachan Adhikari, appoint the day on which the poll shall recommence and shall not declare the result of election until such adjourned poll has been completed and the votes cast at such poll have been duly counted.

23. Counting of votes.--

(1) The boxes containing the ballot papers shall be opened in the presence of the Sahayak Shikshak Nirvachan Adhikari. The votes polled shall then be counted under the supervision of the Sahayak Shikshak Nirvachan Adhikari with the help of Gazetted Officers of Education Department. If the voter records more than the required number of votes, his ballot paper shall be declared invalid. The decision of the Sahayak Shikshak Nirvachan Adhikari in this behalf shall be final.

(2) As soon as the counting of votes is over, the Sahayak Shikshak

Nirvachan Adhikari shall send forthwith to the Shikshak Nirvachan Adhikari the following :

- (1) statement of counting of votes in a sealed cover;
- (2) original used ballot papers in a separate sealed cover;
- (3) unused ballot papers in separate sealed cover;
- (4) marked electoral rolls in a separate sealed cover; and
- (5) statement of used and unused ballot papers in sealed cover.

24. Declaration of result.--

(1) The Shikshak Nirvachan Adhikari shall consolidate the statement of counting of votes received under paragraph 23 and shall declare such candidate to be duly elected as has secured the largest number of votes.

(2) In the event of two or more candidates securing an equal number of votes, the Shikshak Nirvachan Adhikari shall, in the presence of the candidates or such of them as desire to be present, decide between those candidates by lot and declare to be duly elected the candidate on whom the lot falls.

25. Information of result.--

(1) As soon as may be after the result of an election has been declared, the Shikshak Nirvachan Adhikari shall report the result to the Mukhya Shikshak Nirvachan Adhikari as well as to the State Government in such form as may be prescribed.

(2) Shikshak Nirvachan Adhikari shall also inform all the successful candidates individually by registered post about the result of such election.

26. Preservation of voting papers.--

The voting papers and all other connected documents and materials shall be preserved in the office of the Mukhya Shikshak Nirvachan Adhikari for one year from the date of declaration of result under paragraph 24.

27. Powers of the Sahayak Shikshak Nirvachan Adhikari.--

The Sahayak Shikshak Nirvachan Adhikari shall have the power to appoint the necessary staff for conducting the election in his district or to make any change or remove any person from the working staff as per directions of the Mukhya Shikshak Nirvachan Adhikari.

28. Powers of the Chairman in matters not provided for.--

Any matter concerning the election for which there is no provision under the Act shall be regulated by the orders of the Chairman whose decision in the matter shall be final and conclusive."

1. The First Schedule omitted by U. P. Act No. 16 of 2008.

SCHEDULE 2

SECOND SCHEDULE

[See Section 16-GG)

List of Relatives

1. Father.
 2. Mother (including step-mother).
 3. Son (including step-son).
 4. Sons wife.
 5. Daughter (including step-daughter).
 6. Fathers father.
 7. Fathers mother.
 8. Mothers mother.
 9. Mothers father.
 10. Sons son.
 11. Sons sons wife.
 12. Sons daughter.
 13. Sons daughters husband.
 14. Daughters husband.
 15. Daughters son.
 16. Daughters sons wife.
 17. Daughters daughter.
 18. Daughters daughters husband.
 19. Brother (including step-brother).
 20. Brothers wife.
 21. Sister (including step-sister).
 22. Sisters husband.
 23. Wifes (or husbands) brother.
 24. Wifes (or husbands) father.
 25. Wifes (or husbands) sister.
 26. Brothers son.
 27. Brothers daughter.]
1. Inserted by U. P. Act No. 5 of 1977 and renumbered as "Second Schedule" by U.P. Act No. 12 of 1978 (be deemed always to have been renumbered).

SCHEDULE 3

THIRD SCHEDULE

(See Section 16-GG)

Principles on which approval to a Scheme of Administration shall be accorded

Every Scheme of Administration shall,--

- (1) provide for proper and effective functioning of the Committee of Management;
- (2) provide for the procedure for constitution of the Committee of Management by periodical elections;
- (3) provide for the qualifications and disqualifications of the members and office-bearers of the Committee of Management and the term of their offices :

Provided that no such Scheme shall contain provisions creating monopoly in favour of any particular person, caste, creed 2[* * *] or family;

- (4) provide for the procedure of calling meetings and the conduct of business at such meetings;
- (5) provide that all the decisions shall be taken by the Committee of Management and powers of delegation, if any, shall be limited and clearly defined;
- (6) ensure that the powers and duties of the Committee of Management and its office-bearers are clearly defined;
- (7) provide for the maintenance and security of property belonging to the institution and also for the utilisation of its funds and for the regular checking and auditing of accounts]

1. Inserted by U. P. Act No. 1 of 1981.

2. Omitted by U. P. Act No. 9 of 1981 (be deemed to have been omitted from 11-2-1981).