

Uttar Pradesh Basic Education Act, 1972**34 of 1972****[17 August 1972]**

CONTENTS

1. Short Title And Extent
2. Definitions
3. Constitution Of The Board
4. Function Of The Board
5. Conduct Of Business Of The Board
6. Officers And Other Employees Of The Board
7. Fund Of The Board
8. Account And Audits
9. Transfer Of Employees
10. Zila Basic Shiksha Samiti
11. Gaon Shiksha Samiti
12. Control Over Basic Schools
13. Control By The State Government
14. Power To Delegate
15. Protection Of Acts Done In Good Faith
16. Bar Of Jurisdiction Of Court
17. Power To Remove Difficulties
18. Amendment Of Acts Relating To Local Bodies
19. Power To Make Rules
20. Repeal Of U. P. Ordinance No. 14 Of 1972

Uttar Pradesh Basic Education Act, 1972**34 of 1972****[17 August 1972]**

An Act to provide for the establishment of a Board of Basic Education and for matters connected therewith It is hereby enacted in the Twenty-third year of the Republic of India as follows :

Statement of Objects and Reasons.--(1) The responsibility for primary education has so far rested with the Zila Parishad in rural areas and with Municipal Board and Mahapalika in urban areas. The administration of education at this level by the local bodies was not satisfactory, and it was deteriorating day by day. There was public demand for the Government to take immediate steps for improving

the education at this level. Hence for reorganizing, reforming and expanding elementary education it became necessary for the State Government to take over its control into its own hands. (2) Repeated demands has been made by all sections of the Legislature also for the take-over of the control of elementary education by the State Government from local bodies echoing this public demand, the Governor had also in his address to both the Houses of the Legislature on March 20, 1972, said that in order to strengthen the primary and junior high schools and to increase their usefulness Government was going to assume full responsibility (sic) control and management. (3) With is view to taking effective steps for securing the object of Art. 45 of the Constitution, and fulfilling the assurances given in the Governor's address and respecting the popular demand it was necessary to entrust the conduct and control of elementary education to a virile institution which may be expected to inject new life into it and to make it progressive. It was, therefore, decided by the Government to transfer the control of primary education from the local bodies to the Uttar Pradesh Board of Basic Education with effect from the educational session 1972-73. (4) The educational session had commenced and the Legislative Council was not in session and if immediate action had not been taken, the matter would have had to be postponed till the educational session 1973-74, with the result that the desired object would not have been achieved. Therefore, in order to implement the said decision immediately, the Uttar Pradesh Basic Education Ordinance, 1972, was promulgated. (5) The Uttar Pradesh Basic Education Bill, 1972, is being introduced to replace the said Ordinance. 1. Received the assent of the Governor on August 17, 1972, published in U.P. Gazette (Extra), dated August 19, 1972, pp. 8-14.

1. Short Title And Extent :-

(1) This Act may be called the Uttar Pradesh Basic Education Act, 1972. (2) It extends to the whole of Uttar Pradesh.

2. Definitions :-

In this Act, unless the context otherwise requires-- (a) "appointed day" means the date on which the Board is established; (b) "basic education" means education up to the eighth class imparted in schools other than high schools or intermediate colleges, and the expression "basic schools" shall be construed accordingly ; (c) "Board" means the Uttar Pradesh Board of Basic Education constituted under section 3 ; (d) "Director" and "District Basic

Education Officers" means officers appointed by the State Government as the 1[Director of Education], Uttar Pradesh and District Basic Education Officers respectively ; (e) "local body" means the Zila Parishad, Antarim Zila Parishad, Nagar Mahapalika, Municipal Board, Town Area Committee, or Notified Area Committee, as the case may be. 1. Substituted by U.P. Act 21 of 1975, vide Section 15, for the words "Director of Basic Education".

3. Constitution Of The Board :-

(1) With effect from such date as the State Government may, by notification in the Gazette, appoint, there shall be established a Board to be known as the Uttar Pradesh Board of Basic Education. (2) The Board shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and to hold property and may by its name sue and be sued. (3) The Board shall consist of the following members, namely-- (a) the Director, ex officio, who shall be the Chairman ; (b) two persons to be nominated by the State Government from amongst the Adhyakshas, if any, of Zila Parishads established under section 17 of the Uttar Pradesh Kshettra Samitis and Zila Parishads Adhiniyam, 1961; (c) one person to be nominated by the State Government from amongst the Nagar Pramukh, if any, if the Mahapalika constituted under section 9 of the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959 ; (d) one person to be nominated by the State Government from amongst the Presidents, if any, if the Municipal Boards established under the U.P. Municipalities Act, 1916 ; (e) the Secretary to the State Government in the Finance Department, ex officio; (f) the Principal, State Institute of Education, ex officio; 1[(f-1) the Secretary, Board of High School and Intermediate Education, Allahabad, ex officio ; (f-2) the President of the Uttar Pradesh Prathamik Shikshak Sangh, ex officio ;] (g) two educationists to be nominated by the State Government; (h) an officer not below the rank of Deputy Director of Education, to be nominated by the State Government, who shall be the Member Secretary. (4) An officer referred to in CI. (e) of sub-section (3) may instead of attending a meeting of the Board himself depute an officer of his department not below the rank of Deputy Secretary to the State Government to attend the meeting. The officer so deputed shall have the right to speak in and otherwise to take part in the proceedings of the meeting and shall also have the right to vote. (5) The members of the Board other than ex officio members shall ordinarily be entitled

to hold office for the period specified in the order of appointment, unless the appointment is terminated earlier by the State Government: Provided that any member, other than an ex officio member, may, at any time by notice in writing addressed to the State Government, resign his office. (6) During any vacancy in the membership of the Board the continuing members may act as if no vacancy had occurred. (7) No act or proceeding of the Board shall be deemed to be invalid by reason merely of any vacancy in or any defect in the Constitution of the Board. 1. Inserted by U.P. Act 21 of 1975, vide section 16.

4. Function Of The Board :-

(1) Subject to the provisions of this Act it shall be the function of the Board to organise, co-ordinate and control the imparting of basic education and teachers training therefor in the State, to raise its standards and to correlate it with the system of education as a whole in the State. (2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall, in particular, have power-- (a) to prescribe the courses of instruction and books for basic education and teachers training therefor; (b) to conduct the junior high school and basic training certificate examinations and such other examinations as the State Government may, from time to time by general or special order, assign to it and to grant diplomas or certificates to candidates successful at such examinations ; 1[(c) to lay down, by general or special orders in that behalf, norms relating to the establishment of institutions by the Zila Basic Shiksha Samitis or Nagar Basic Shiksha Samitis and to superintend the said Samitis in respect of the administration of institutions, for imparting instruction and preparing candidates for admission to examinations conducted by the Board; 2[(cc) to take over the management of all basic schools, which before the appointed day, belonged to any local body ;] (d) to exercise supervision and control over basic schools, normal schools, basic training certificate units and the State Institute of Education ; 3[(e) to accord approval (with or without modification) to the schemes prepared by the Zila Basic Shiksha Samiti or the Nagar Shiksha Samiti for the development, expansion and improvement of and search in basic education in any district or in the State or in any part thereof]; (f) to acquire, hold and dispose of any property, whether movable or immovable and, in particular, to accept gift of any building or equipment of any basic school or normal school on such conditions as it thinks fit: (g) to receive grants, subventions

and loans from the State Government; 4[(g-7) to have superintendence over the Zila Basic Shiksha Samitis and the Nagar Basic Shiksha Samitis in the performance of their functions under this Act, and subject to the control of the State Government, to issue directions to the Samitis which shall be binding on such Samitis ; (g-2) to constitute sub-committees (from amongst the members of the Zila Basic Shiksha Samitis and Nagar Basic Shiksha Samitis) for such purposes as the Board thinks fit;] (h) to take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power, or the discharge of any function or duty conferred or imposed on it by this Act: 5[Provided that the courses of instruction and books prescribed and institutions recognised before the commencement of this Act shall be deemed to be prescribed or recognised by the Board under this Act.] 6[(3) For the purposes of exercising powers of management, supervision and control over the basic schools under clause (cc) or clause (d) of sub-section (2), which before the appointed day belonged to a local body, the powers and functions of a local body in respect of such schools shall stand transferred to the Board.] 1. Substituted by U.P. Act 21 of 1975, vide section 17 (i). 2. Inserted by U.P. Act 5 of 1977. vide section 26 (a) (i). 3. Substituted by U.P. Act 21 of 1975, vide section 17 (ii). 4. Inserted by U.P. Act 21 of 1975, vide section 17 (iii). 5. Inserted by U.P. Act 5 of 1977, vide section 2 (a) (ii). 6. Inserted by U.P. Act 5 of 1977, vide section 26 (b)

5. Conduct Of Business Of The Board :-

(1) The business of the Board and each Zila Basic Shiksha Samiti referred to in section 10 and Goan Shiksha Samiti referred to in section 11 shall be conducted in accordance with such regulations as the Board may, with the previous approval of the State Government, make in that behalf. (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely-- (a) the summoning and holding of meetings of the board or of any Samiti referred to in sub-section (1), the conduct of business at such meetings and the number of members necessary to form a quorum thereat; (b) the powers and duties of the Chairman and of the Secretary and other officers of the Board; (c) 1[* * *] (d) the procedure for carrying out the functions of the Board or of any Samiti as aforesaid under this Act; (e) the management of the schools and other institutions held by or under the control of the Board. (3) Until any regulation is made by the Board under sub-

section (1), any regulation which may be made under that sub-section may be made by the State Government, and any regulation so made may be altered or rescinded by the Board in exercise of its power under sub-section (1). 1. Omitted by U.P. Act 12 of 1978, vide section 23.

6. Officers And Other Employees Of The Board :-

(1) For the purpose of enabling it efficiently to discharge its functions under this Act the Board may appoint such number of officers, teachers and other employees as it may, with the previous approval of the State Government, think fit. (2) 1[* * *] (3) 2[* * *] 1. Omitted by U.P. Act 12 of 1978, vide section 24. 2. Sub-section (3) omitted by U.P. Act 21 of 1975, vide section 18.

7. Fund Of The Board :-

(1) The Board shall have its own fund, and all receipts of the Board shall be carried thereto and all payments for the Board shall be made therefrom. (2) Subject to any general or special order of the State Government, the Board shall have the power, subject to the provisions of this Act, to spend such sum as it may think fit on objects or for purposes authorised by this Act.

8. Account And Audits :-

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as the State Government may, by general or special order, specify. (2) The Board shall prepare an annual financial statement (budget) and submit it to the State Government for its approval. (3) The accounts of the Board shall be audited by such authority as the State Government may, by general or special order, specify. (4) The accounts of the Board as certified by the audit authority together with the audit report thereon shall be forwarded annually to the State Government.

9. Transfer Of Employees :-

(1) On and from the appointed day every teacher, officer and other employees serving under a local body exclusively in connection with basic schools (including any supervisory inspecting staff) immediately before the said day shall be transferred to and become a teacher, officer or other employee of the Board and shall hold office by the same tenure, at the same remuneration and upon the same other terms and conditions of service as he would have held the same if the Board had not been constituted and shall continue to do so unless and until such tenure, remuneration and other

terms and conditions are¹[altered by rules made by the State Government in that behalf:] Provided that any service rendered under the local body by any such teacher, officer or other employee before the appointed day shall be deemed to be service rendered under the Board: Provided further that the Board may employ any such teacher, officer or other employees in the discharge of such functions under this Act as it may think proper and every such teacher, officer or other employee shall discharge those functions accordingly. (2) Nothing in sub-section (1) shall apply to any teacher, officer or other employee, who by notice in writing in that behalf to the State Government within a period of two months from the appointed day intimates his option for not becoming an employee of the Board, and where any employee gives such notice, his service under the local body shall stand determined with effect from the appointed day and he shall be entitled to compensation from the local body, which shall be as follows-- (a) in the case of a permanent employee, a sum equivalent to his salary (including all allowances) for a period of three months or for the remaining period of his service, whichever is less; (b) in the case of a temporary employee, a sum equivalent to his salary (including all allowances) for one month or for the remaining period of his service, whichever is less. (3) Notwithstanding anything in sub-section (1), any person referred to therein, who becomes an employee of the Board shall be liable to be transferred from the school or from the local area in which he was employed immediately before the appointed day to any other school or institution belonging to Board or, as the case may be, to any other local area at the same remuneration and on the same other terms and conditions of service as governed by him immediately before such transfer ²[until such tenure, remuneration and other terms and conditions are altered by the rules referred to in sub-section (1)]: Provided that no teacher of a basic school ³[which before the appointed day belonged to a local body] shall be transferred to a basic school belonging to any local body except with his consent. (4) If any question arises whether the services of any person stand transferred to the Board under sub-section (1) or as to the remuneration and other terms and conditions of service of such employee immediately before the appointed day, it shall be decided by the State Government whose decision shall be final. (5) Any provident fund maintained by any local body for the employees referred to in sub-section (1), alongwith all contributions of such employees as well as to the local body which ought to have been

put have not been deposited therein before the appointed day, shall be transferred by the local body to the Board, which shall hold it in trust for the employees concerned in accordance with the terms and conditions governing such fund. (6) The transfer of services of any employee to the Board under sub-section (1) shall not entitle any such employee to any compensation and no such claim shall be entertained by any court, tribunal or authority. 1. Substituted by U.P. Act 12 of 1978, vide section 25 (a), for the words "duly altered by the Board". 2. Inserted by U.P. Act 12 of 1978, vide section 25 (b). 3. Substituted by U.P. Act 5 of 1977, vide section 27, for the words "belonging to a local body".

10. Zila Basic Shiksha Samiti :-

1[(1) For the rural area in each district, there shall be established a Committee to be known as the Zila Basic Shiksha Samiti which shall consist of the following members, namely : (a) the Adhyaksha Zila Parishad, ex-officio, who shall be the Chairman of the Committee; (b) three persons to be nominated by the State Government from amongst the members of the Zila Parishad ; (c) the Additional District Magistrate (Planning), ex officio ; (d) the District Harijan and Social Welfare Officer, ex officio ; (e) the District Inspector of Schools, ex officio ; (f) the Additional Basic Shiksha Adhikari (Mahila), if any, and in her absence, the Deputy Inspectress of Schools, ex officio ; (g) the Zila Basic Shiksha Adhikari, ex officio ; who shall be the member-secretary of the Committee; (h) the Deputy Inspector of Schools, ex officio ; who shall be the Assistant Secretary of the Committee. (2) The members of the Committee, other than ex officio members, shall hold office on such terms and conditions as the State Government may, by general or special order, direct. (3) The Zila Basic Shiksha Samitis shall, subject to superintendence and directions of the Board, perform the following functions, namely: (i) to administer the basic school situate within the rural areas of the district; (ii) to establish new basic schools ; (iii) to prepare schemes for the development, expansion and improvement of such basic schools. 1. Substituted by U.P. Act 21 of 1975, vide section 19. Section

10A

- Nagar Basic Shiksha Samitis 1[(1) For each city, municipality, notified area or town area there shall be established a Committee to be known as Nagar Basic Shiksha Samiti which shall consist of the following members, namely : (a) the Nagar Pramukh of the Mahapalika, the President of the Municipal Board, the Notified Area

Committee or the Town Area Committee, as the case may be, ex officio, who shall be the Chairman ; (b) not more than three persons to be nominated by the State Government from amongst the members of the Mahapalika, Municipal Board, the Notified Areas Committee or the Town Area Committee, as the case may be; (c) the District Inspector of Schools, ex officio ; (d) the Zila Basic Shiksha Adhikari, ex officio ; (e) the Circle Sub-Deputy Inspector of Schools, having jurisdiction, ex officio ; (f) the Circle Assistant Inspectress of Girls Schools having jurisdiction, ex officio ; (g) the Superintendent of Girls Education, if any, ex officio ; (h) the Education Superintendent, if any, ex officio ; member-secretary ; and if there is no such officer, Circle Sub-Deputy Inspector of Schools having jurisdiction. (2) The provisions of sub-sections (2) and (3) of Section 10 shall mutatis mutandis apply to a Nagar Basic Shiksha Samiti as they apply to a Zila Basic Shiksha Samiti. 1. Inserted by U.P. Act 21 of 1975, vide section 19.

11. Gaon Shiksha Samiti :-

(1) For each village or group of villages for which a Goan Shabha is established under the U.P. Panchayat Raj Act, 1947, there shall be established a Committee to be known as Goan Shikhsa Samiti which shall consist of the following members, namely-- (a) the Pradhan of the Gaon Sabha, who shall be the Chairman ; (b) three guardians of students of Basic Schools (of whom one guardian must be a woman) to be nominated by the Sub-Deputy Inspector of Schools; (c) the head master of the basic school in that village or group of villages and if there are more than one such schools, the senior-most of the head masters thereof, who shall be member-Secretary thereof. (2) Subject to the provisions of this Act the Committee shall-- (a) make suggestions to the 1[Zila Basic Shiksha Samiti] for the improvement of basic school buildings and the equipment thereof, and (b) inspect and make report to the District Basic Education Officer about the punctuality and attendance of the teachers of such schools. 1. Substituted by U.P. Act 21 of 1975, vide section 20, for the words "Zila Parishad or Antarim Zila Praishad, as the case may be".

12. Control Over Basic Schools :-

(1) The Director may, from time to time, inspect or cause to be inspected any basic school 1[* * * *] and also the records and proceedings of the local body concerning or connected with the discharge of the functions of the local body in respect of basic education. 2[(2) The Director may direct the management of a basic school to remove any defect or deficiency found on inspection or otherwise. (3) If the management of a basic school fails to

comply with any direction made under sub-section (2) the Director may, after considering the explanation or representation, if any, given or made by the management, refer the case to the Board for withdrawal of recognition of such school. (4) On receipt of a recommendation under sub-section (3) in respect of any basic school.] 1. The words and brackets "(whether belonging to a local body or to any other person or body", omitted by U.P. Act 5 of 1977, vide section 28 (i). 2. Substituted by U.P. Act 5 of 1977, vide section 28 (ii). Section

12A

- Section 12A (1) Every member of a Zila Parishad, shall have power to inspect any basic school situate within the rural area of the district and to submit the inspection notes to the Adhyaksha or such Zila Parishad within two weeks from the date of such inspection. 1[(2) Every member of a Mahapalika, a Municipal Board, Notified Area Committee or Town Area Committee, as the case may be, shall have power to inspect any basic school situate within the limits of the local body of which he is a member, and to submit the inspection notes to the Nagar Pramukh or the President of such local body, as the case may be, within two weeks from the date of such inspection.] 1. Inserted by U.P. Act 21 of 1975, vide section 21.

13. Control By The State Government :-

(1) The Board shall carry out such directions as may be issued to it from time to time by the State Government for the efficient administration of this Act. (2) If in, or in the connection with the exercise of any of its powers and discharge of any of the functions by the Board under this Act, any dispute arises between the Board and the State Government, or between the Board and any local body, the decision of the State Government on such dispute shall be final and binding on the Board or the local body, as the case may be. (3) The Board or any local body shall furnish to the State Government such reports, returns and other informations, as the State Government may from time to time require for the purposes of this Act.

14. Power To Delegate :-

(1) The State Government may delegate any of its powers under this Act to the Director or to any other officer or authority subordinate to it subject to such conditions, if any, as may be specified. (2) The Board may, by general or special order, direct that any power exercisable by it under this Act, except the power to take regulations may also be exercised by its Chairman or by

such Committee or officer, in such cases and subject to such conditions, if any, as may be specified therein.

15. Protection Of Acts Done In Good Faith :-

No suit, prosecution or other legal proceeding shall lie against the State Government or the Board or any of its Committees or any member of the Board or of 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 order or direction made thereunder.

16. Bar Of Jurisdiction Of Court :-

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.

17. Power To Remove Difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act or by reason of anything contained in this Act the State Government may, as occasion requires, by notification in the Gazette, make such incidental or consequential provisions, including provisions for adapting or modifying any provisions of this Act or of any enactment by or under which any local body is constituted by not effecting in the substance as it may think necessary or expedient for the purposes of this Act. (2) No order under sub-section (1) shall be made 1[after December 31, 1977]. (3) Every order made under sub-section (1) shall be laid, as soon as may be, before both the Houses of the State Legislature. 1. Substituted by U.P. Act 5 of 1977, vide section 29, for the words "after the expiration of a period of one year from the commencement of this Act".

18. Amendment Of Acts Relating To Local Bodies :-

(1) With effect from the appointed day the enactments mentioned in sub-sections (2) and (3) shall stand amended as specified in the said sub-sections. (2) In the U.P. Kshetra Samitis and Zila Parishads Adhiniyam, 1961, in section 43, in sub-section (2), for the words "teachers and any other" the words "such other" shall be substituted and in such section (3), Cl (a) shall be omitted, and in the proviso thereto, for the words "the Shiksha Chunao Samiti or Chunao Samitis, as the case may be" the words "the Chunao Samiti" shall be substituted. (3) In the U.P. Municipalities Act, 1916-- (a) in section 68, for sub-section (1) the following sub-section shall be substituted namely: "(1) A board may, and if so

required by the State Government shall by special resolution, appoint the principal officers of its technical departments such as Civil Engineer, Assistant Civil Engineer, Assistant Waterworks Engineer, Electrical Waterworks Engineer, Assistant Electrical and Waterworks Engineer or Overseer and also Secretary where there is already an Executive Officer." 1[(b) Section 73 shall cease to apply in relation to basic schools; (c) in Sch. 1 for the entry in column (2) relating to section 68 the following entry shall be substituted, namely : "To appoint Civil Engineer, Assistant Civil Engineer, Electrical Engineer, Assistant Electrical Engineer, Waterworks Engineer, Assistant Waterworks Engineer, Electrical and Waterworks Engineer, Assistant Electrical and Waterworks Engineer, qualified Overseer or Sub-Overseer, Secretary." 1. Substituted by U.P. Act 5 of 1977, vide section 30. Section

18A

- Board to become tenant in respect of certain buildings 1[(1) Where any building or part thereof was on the appointed day occupied as tenant by any local body for the purpose of any basic school, the tenancy in respect of such building or part shall, with effect from the said day, stand transferred in favour of the Board. (2) Where any building or part thereof belonging to a local body was on the appointed day occupied by it for the purposes of any basic school, the Board shall, with effect from the said day, be deemed to have become licensee on behalf of the local body in respect of such building or part on such terms and conditions as the State Government may by general or special order determine. (3) The provisions of this section shall have effect, notwithstanding anything contained in any contract, lease or other instrument, or any law for the time being in force.] 1. Inserted by U.P. Act 5 of 1977, vide section 31.

19. Power To Make Rules :-

1[(1) The State Government may, by notification, 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 recruitment, and the conditions of service of persons appointed to the posts of officers, teachers and other employees under Section 6 ; (b) the tenure or service, remuneration and other terms and conditions of service of officers, teachers and other employees transferred to the Board under Section 9 ; (c) the recruitment, and the conditions of service of the persons appointed to the posts of teachers and other employees of basic schools recognised by the Board; (d) any other matter for which insufficient provision exists in

the Act and provision in the rules is considered by the State Government to be necessary ; (e) any other matter which is to be or may be prescribed.] 1. Substituted by U.P. Act 12 of 1978, vide section 26.

20. Repeal Of U. P. Ordinance No. 14 Of 1972 :-

The Uttar Pradesh Basic Education Ordinance, 1972 is hereby repealed.