

**Uttar Pradesh Secondary Education Services Commission
And Selection Boards (Amendment) Act, 1992**

1 of 1993

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**Uttar Pradesh Secondary Education Services Commission
And Selection Boards (Amendment) Act, 1992**

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AN ACT

further to amend the Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982.

It is hereby enacted in the Forty-third Year of the Republic of India

as follows :-

1. Short title and commencement :-

(1) This Act may be called the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992.

(2) It shall come into force on such date as the State Government may, by notification, appoint in this behalf and different dates may be appointed for different provisions.

2. Amendment of long title of U.P. Act no. 5 of 1982 :-

In the long title of the Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982, hereinafter referred to as the principal Act, the words "Commission and" shall be omitted.

3. Amendment of section 1 :-

In section 1 of the principal Act, in sub-section (1), the words "Commission and" shall be omitted.

4. Amendment of Section 2 :-

In section 2 of the principal Act,-

(a) clauses (b) and (c) shall be omitted;

(b) after clause (d), the following clause shall be inserted, namely-
"(d-1) Inspector means the District Inspector of Schools and in relation to an institution for girls, the Regional Inspectress of Girls Schools ;" ;

(c) for clause (g), the following clause shall be substituted, namely-
"(g) member means a member of the Board and includes the President ;";

(d) clauses (i) and (j) shall be omitted ;

(e) after clause (k), the following clause shall be inserted, namely-
"(1) year of recruitment means a period of twelve months commencing from first day of July of a calendar year."

5. Omission of Chapter II :-

Chapter II containing sections 3 to 11 of the principal Act shall be omitted.

6. Amendment of section 12 :-

In section 12 of the principal Art,-

(a) in sub-section (1), for the words "Six or more" the word "four" shall be substituted ;

(b) for sub-sections (3), (4) and (5) the following sub-sections shall be substituted, namely-

"(3) Every such Board shall consist of a President and not more than four other members, to be appointed by the State Government, on the recommendation made in the prescribed manner by a Selection Committee comprising,-

(i) Chief Secretary to the Government of Uttar Pradesh.

(ii) Secretary to the Government of Uttar Pradesh-Member in the Judicial Department.

(iii) Secretary to the Government of Uttar Pradesh incharge of the Secondary Education Department.-Member/Secretary/Convenor

(4) A person shall not be qualified for appointment as President unless,-

(a) he holds or has held any of the following posts or a post equivalent thereto, namely-

(i) District Judge ;

(ii) District Magistrate ;

(iii) Director of Education ; or

(b) he is, in the opinion of the State Government an, eminent educationist having made valuable contribution in the field of education.

(5) A person shall not be qualified for appointment as a member unless,-

(a) he holds or has held any of the following posts or a post equivalent thereto, namely-

(i) Additional District Judge ;

(ii) Additional District Magistrate ;

(iii) Additional Director of Education ;

(iv) Professor in any University established by law in Uttar Pradesh ;

(v) Principal or Reader of any College recognised by or affiliated to, any such University for a period of not less than ten years ;

(vi) Principal of any Institution for a period of not less than fifteen years ; or

(b) he is, in the opinion of the State Government, an eminent educationist having made valuable contribution in the field of education."

7. Insertion of new sections 12-A, 12-B and 12-C :-

After section 12 of the principal Act, the following sections shall be inserted, namely-

"12A Term of office and conditions of service of members.

(1) Subject to the provisions of this Act, every member shall hold office for a term of three years.

(2) No person shall be a member of the Board for more than two consecutive terms.

(3) A member of the Board may resign his office by writing under his hand to the State Government, but he shall continue in office until his resignation is accepted by the State Government.

(4) The office of the members shall be whole time and the terms and conditions of their services shall be such as the State Government may, by order, direct.

(5) Notwithstanding anything contained in this section or section 12, no person shall be appointed as a member, if he is below fifty five years of age, or be appointed or continue as member, if he has attained the age of sixty two years.

12B. Power of state Government to remove a member

(1) The State Government may, by order remove from office any member, if he,-

(a) is adjudged an insolvent, or

(b) engages, during his term of office, in any paid employment outside the duties of his office, or

(c) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or of proved misconduct, or

(d) incurs any disqualification under this Act or the rules made thereunder.

Explanation-Where a member becomes in any way concerned or interested in any contract or agreement made by or on behalf of any institution or participates in any way in the profits thereof or in any benefit or emolument arising therefrom, otherwise than as a member, he shall for the purpose of clause (c), be deemed to be guilty of misconduct.

(2) The procedure for the investigation and proof of misconduct under this section shall be such as may be prescribed.

12C. Power to associate

The Board may associate with itself, in such manner and for such purposes as may be prescribed, any person whose assistance or advice it may desire to have, in carrying out any of the provisions of this Act."

8. Amendment of section 13 :-

In section 13 of the principal Act, in sub-section (1), the following proviso shall be inserted in the end, namely-

"Provided that the Secretary of the Board shall be appointed by the State Government on deputation."

9. Amendment of section 14 :-

In section 14 of the principal Act,-

(a) in sub-section (1), the brackets and words "(other than a teacher specified in the Schedule)" shall be omitted;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3),-

(i) for the words and figures "sub-sections (1) and (2)," the words and figures "sub-section (1)," shall be substituted ;

(ii) in clause (a), the words "to conduct examinations where considered necessary or" shall be omitted;

(iii) in clause (b), the words "and to appoint examiners" shall be omitted;

(iv) in clause (c) the words "and examiners" shall be omitted ;

(v) after "clause (e), [the [following clauses shall be inserted, namely-

"(f) to make recommendation regarding the appointment of selected candidates and their promotion ;

(g) to advise the management in matters relating to dismissal, removal or reduction in rank of the teachers or reduction in their emoluments or withholding of their increment;

(h) to obtain the periodical returns or other informations from institutions regarding strength of the teaching staff and the appointment, promotion, dismissal, removal, termination or reduction in rank of teachers."

10. Substitution of section 15 :-

For section 15 of the principal Act, the following sections shall be substituted, namely :-

"15 Procedure for selection of teachers

(1) For the purposes of making appointment of a teacher, the Management shall determine the number of vacancies existing or likely to fall vacant during the year of recruitment and in the case of any post, other than the post of head of Institution, also the number of vacancies to be reserved for the candidate belonging to

the Scheduled Castes, Scheduled Tribes and other categories of persons in accordance with the rules or orders issued by the Government in this behalf in regard to the institution and notify the vacancies to the Board in such manner and through such officer or authority as may be prescribed.

Provided that the Board shall, with a view to inviting talented persons, give wide publicity in the State to the vacancies notified under sub-section (1).

15-A. Panel of candidates selected by Board.

(1) The Board shall, as soon as possible, after the notification of vacancies under section 15, hold interview of the candidates and prepare and forward to the officer or authority referred to in sub-section (1) of section 15 in the prescribed manner, a panel of those found suitable for appointment.

(2) On receipt of such panel the officer or authority concerned shall, in the prescribed manner, intimate the Management of the Institution, in respect of which the vacancy was notified the name of the selected candidate.

(3) The Management shall, within a period of one month from the date of receipt of such intimation, issue appointment letter to such selected candidate.

(4) Where such selected candidate fails to join the post in such Institution within the time allowed in the appointment letter or within such extended time as the Management may allow in this behalf, or where such candidate is otherwise not available for appointment, the officer or the authority concerned may, on the request of the Management, intimate in the prescribed manner, fresh name or names from the panel forwarded by the Board under sub-section (1).

(5) The panel prepared under sub-section (1) shall remain in force for one year.

15-B. Special provision for reserve quota backlog

Where after regularisation of appointment of teachers under section 33-B, it is found that in any Institution persons belonging to the Scheduled Castes, Scheduled Tribes and other categories referred to in sub-section (1) of section 15 are not holding such number of posts as should have been held by persons of such category according to the posts reserved for them, then notwithstanding anything to the contrary contained in any other provision of this Act appointments in such Institution in the vacancies arising after the commencement of the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992 shall be

so made that the first and every alternate vacancy is filled by the person of such category until the number of post reserved for such category is filled by persons belonging to such category."

11. Substitution of section 16 :-

For section 16 of the principal Act. the following section shall be substituted, namely-

"16. Appointment to be made only on the recommendation of the Board

(1) Notwithstanding anything to the contrary contained in the Intermediate Education Act, 1921 or the regulations made thereunder but subject to the provisions of section 21-B, 21-C, 21-D, 33, 33-A and 33-B, every appointment of a teacher, shall, on or after the date of commencement of the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992, be made by the Management only on the recommendation of the Board:

Provided that in respect of retrenched employees, the provisions of section 16-EE of the Intermediate Education Act, 1921, shall mutatis mutandis apply:

Provided further that the appointment of a teacher by transfer from one Institution to another, may be made in accordance with the regulations made under clause (c) of sub-section (2) of section 16-G of the intermediate Education Act, 1921.

(2) Any appointment made in contravention of the provisions of sub-section (1) shall be void."

12. Amendment of section 17 :-

In section 17 of the principal Act,-

(a) in sub-section (1), for the words "Chapter II or Chapter III, as the case may be", the words, "Chapter III" shall be substituted ;

(b) in sub-section (2) for the words "on receipt" the words "As far as may be within one month from the date of receipt" shall be substituted.

13. Omission of section 18 :-

Section 18 of the principal Act, shall be omitted.

14. Substitution of section 19 :-

For section 19 of the principal Act, the following section shall be

substituted, namely-

"19. Power to call for information etc.

The Board may required the Management of an Institution to furnish such information or return regarding the matters referred to in section 14, as it thinks fit, and the Management shall be bouad to comply with the same."

15. Amendment of section 20 :-

In section 20 of the principal Act, for the words "The Secretary of the Commission or any other person authorised by the Commission or the Board", the wotds "Any person authorised in this behalf by the Board" shall be substituted.

16. Substitution of section 21 :-

For section 21 of the principal Act, the following section shall be substituted, namely-

"21. Restriction on dismissal etc. of teachers.

The Management shall not, except with the prior approval of the Board, dismiss any teacher or remove him from service, or serve on him any notice of removal from service, or reduce him in rank or reduce his emoluments or with hold his increment for any period (whether temporarily or permanently) and any such thing done without such prior approval shall be void.

17. Amendment of section 22 :-

In section 22 of the principal Act, for the words "the Cammission or the Board, as the case may be," the words "the Board" shall be substituted,

18. Amendment of sections 23 and 26 :-

In sections 23 and 26 of the principal Act, the words "the Commission or" wherever they occur, shall be omitted.

19. Amendment of section 27 :-

In section 27 of the principal Act, sub-section (1) shall be omitted.

20. Amendment of section 28 :-

In section 28 of the principal Act, for the words, "the Commission or Board", the words "the Board" shall be substituted.

21. Ommission of section 29 :-

Section 29 of the principal Act shall be omitted.

22. Amendment of section 32 :-

In section 32 of the principal Act, for the words "or the rules or regulations made hereunder," the words "or the rules made hereunder" shall be substituted.

23. Amendment of section 33 :-

In section 33 of the principal Act, in sub-section (1), for the proviso the following proviso shall be substituted, namely :-

"Provided that no such order shall be made after two years from the date of commencement of the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1922."

24. Insertion of new section 33-B :-

After section 33-A of the principal Act, the following section shall be inserted, namely-

"33-B. Regularisation of certain other appointments.

(1) Any teacher, other than the Principal or Headmaster, who-

(a) (i) was appointed by promotion or by direct recruitment in the lecturer grade or Trained Graduate grade on or before May 14, 1991 or in the Certificate of Teaching grade on or before May 13, 1989 against a short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Second) Order, 1981 and such vacancy was subsequently converted into a substantive vacancy, or (ii) was appointed by direct recruitment on or after July 14, 1981 but not later than June 12, 1985 on ad hoc basis against a substantive vacancy in the Certificate of Teaching grade through advertisement and such appointment was approved by the Inspector, or

(iii) was appointed by promotion or by direct recruitment on or after July 31, 1988 but not later than May 14, 1991 on ad hoc basis against a substantive vacancy in accordance with section 18, as it stood before its omission by the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992;

(b) possesses the qualifications prescribed under, or is exempted

from such qualifications in accordance with, the provisions of the Intermediate Education Act, 1921 ;

(c) has been continuously serving the Institution from the date of such appointment up to the date of the commencement of the Act referred to in sub-clause (iii) of clause (a) ;

(d) is not related to any member of the Management or the Principal or Head Master of the Institution concerned in the manner specified in the explanation to sub-section (3) of section 33-A ;

(e) has been found suitable for appointment in a substantive capacity by a Selection Committee constituted under sub-section (2), shall be given substantive appointment by the Management.

(2) (a) For each region, there shall be a Selection Committee comprising-

(i) Regional Deputy Director of Education of that region, who shall be the Chairman,

(ii) One officer holding a Group A post (specified as such by the State Government from time to time) in any department other than Education Department, to be nominated by the State Government,

(iii) Regional Inspectress of Girls School of that region : Provided that the Inspector of the district shall be co-opted as a member while considering the cases for regularisation of that district.

(b) The Selection Committee constituted under clause (a) shall consider the case of every such teacher and on being satisfied about his eligibility and suitability in view of the provisions of sub-section (1) shall, subject to the provisions of sub-section (3) recommend his name to the Management for appointment under sub-section (1) in a substantive vacancy.

(3) (a) The names of the teachers shall be recommended for substantive appointment in order of seniority as determined from the date of their appointment.

(b) If two or more such teachers are appointed on the same date, the teacher who is elder in age shall be recommended first.

(4) Every teacher appointed in a substantive capacity under subsection (1) shall be deemed to be on probation from the date of such substantive appointment.

(5) A teacher who is not found suitable under sub-section (1) and a teacher who is not eligible to get a substantive appointment under that sub-section shall cease to hold the appointment on such date as the State Government may by order specify, referred to in sub-clause (iii) of clause (a) of sub-section (1), such vacancy had already been filled or selection for such vacancy has already been made in accordance with this Act."

25. Omission of section 34 :-

Section 34 of the principal Act shall be omitted.

26. Omission of the Schedule :-

The Schedule to the principal Act shall be omitted.

27. Transitory Provisions :-

The Uttar Pradesh Secondary Education Services Commission constituted as a body corporate under section 3 of the principal Act as it stood immediately before the commencement of this Act, shall upon such commencement stand dissolved, and upon such dissolution-

(a) all properties and assets of that Commission and all debts liabilities and obligations of that Commission whether contractual or otherwise shall stand transferred to such Board established under section 12 of the principal Act as the State Government may, by notification specify in that behalf;

(b) all persons serving on deputation in that Commission shall revert to their parent departments;

(c) the services of every whole time employee of that Commission shall stand transferred to such Board established under section 12 of the Principal Act as the State Government may, by notification, specify in that behalf;

(d) any matter pending before that Commission under Chapter II of the principal Act as it stood before the commencement of this Act and any reference pending before that Commission under section 21 of the principal Act as it stood immediately before such commencement shall stand transferred to the Board established under section 12 of the principal Act, having jurisdiction.