

No.728/Vidhayee & Sansadiya Karya/2006

Dated Dehradun, April 22, 2006

NOTIFICATION**Miscellaneous**

In pursuance of the provision of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttaranchal School Education Bill, 2006 (Uttaranchal Adhiniyam Sankhya 08 of 2006).

As passed by the Uttaranchal Legislative Assembly and assented to by the Governor on 22-04-2006.

THE UTTARANCHAL SCHOOL EDUCATION ACT, 2006

(ACT No. 08 OF 2006)

WHEREAS, it is expedient to establish a Board to regulate and supervise the system and process of School Education, Teacher Education and Departmental Training within the unified structure of Elementary and Secondary Education in Uttaranchal, and to prescribe curriculum therefore--

AN

ACT

IT IS HEREBY enacted by the Uttaranchal State Assembly in the 57th Year of the Republic of India as follows :

1- Short title, Extent and Commencement:-

- (1) This Act may be called the Uttaranchal School Education Act, 2006
- (2) It extends to the whole of the Uttaranchal State.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2- Definitions:- In this Act unless there is repugnant in the subject or context -

- (a) "Board" means the Board of School Education, Uttaranchal;
- (b) "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;
- (c) "Director" means the Director of Education, Uttaranchal;
- (d) "District Education Officer" means the District Education Officer incharge of the district;
- (e) "Employee" of an institution receiving Maintenance grant from the State funds means a non-teaching employee in respect of whose employment maintenance grant is paid by the State Government to the Institution;
- (f) "Head of Institution" means the Principal or Head master, as the case may be, of an institution;
- (g) "Institution" means a recognized Intermediate College, High school, Junior High School and Primary School;
- (h) "Institution receiving Maintenance grant from the State funds" means a recognized institution receiving maintenance grant from State Government;
- (i) "Invigilator" means a person who assists the Superintendent of a Center in conducting and supervising the examinations at Centre;
- (j) "Local Bodies" means the Zila Panchyat, Municipal Corporation, Municipal Council or Nagar Panchyat respectively;

(k) "Maintenance grant" means such grant-in-aid of an institution, as the State Government by the general or special order in that behalf direct to be treated as maintenance grant appropriate to the level of the institution;

(l) "Management" in relation to any institution, means the Committee of Management constituted in accordance with the Scheme of administration, if any, and includes the Manager or other person vested with the authority to manage and conduct the affairs of the institution;

(m) "Prescribed" means prescribed by Regulations under this Act;

(n) "Property" in relation to a recognized institution, includes all immovable properties belonging to or endowed wholly or purely for the benefit of the institution, including lands, buildings and all other rights and interests arising out of such property as may be in the ownership, possession, power or control of the Management;

(o) "Recognition" means recognition for the purpose of adopting the curriculum prescribed by the Board, and for preparing candidates for admission to the Board's Examinations;

(p) "Regional Additional Director, Education" means the Additional Director of Education of the region;

(q) "Regulation" means regulations made by the Board under this Act;

(r) "Salary" of teacher or employee of an institution receiving maintenance grant from the State Government means the aggregate of the emoluments including dearness or any other allowance, for the time being payable to him at the rates approved for the purpose of payment of maintenance grant;

(s) "State Government" means the State Government of Uttaranchal;

(t) "Center Superintendent" means a person appointed by the Board to conduct and supervise examinations of the Board and includes an Additional Superintendent and Associate Superintendent.

(u) "Teacher" of an institution receiving Maintenance grant from the State funds means a Principal, Headmaster or other teacher in respect of whose employment maintenance grant is paid by the State Government to the institution and includes any other teacher employed according to rules in fulfillment of the conditions of recognition of the institution or as a result of the opening with the approval of the District Education Officer of a new section in an existing class;

3- Departmental structure of the School Education, functions and powers-

(1) The State Government may establish Block Resource Center, Nyay Panchyat Resource Center and Vidyalya Sankul Kendra respectively to provide the School Education for planning, implementation, control, administration, direction, monitoring and financial management in addition Director School Education, Director State Council of Educational Research and Training, Regional Additional Director and District Education officer .

(2) The Government Shall appoint such officers and employees for the Block Resource Center, Nyay Panchyat Resource Center and Vidyalya Sankul Kendra, as the State Government may deem fit.

(3) The officers and employees appointed under sub-section (2) shall discharge such functions and exercise powers, as may be prescribed in the rule.

4- Functions of the State Council of Educational Research and Training -

(1) The Developmental functions regarding curriculum, syllabus, teaching and training material, teacher education, educational support and educational quality in the school education system shall be performed by the State Council of Educational Research and Training.

(2) The State Government may post Director/Additional Director for the State Council of Educational Research and Training.

(3) Without prejudice to the generality of the preceding power, the following functions shall be discharged by the officers posted under sub-section (2)-

(a) To prepare, modify or revise curriculum and syllabus for different stages of school education;

(b) To prepare text-books, reading material and other instructional material;

(c) To prepare, modify and revise curriculum, syllabus and training material for teacher education;

(d) To prepare curriculum and material for Departmental examinations;

(e) To send curriculum, syllabus, reading material and other material for the consideration of the Board;

(f) To conduct researches of different kinds, or get them conducted, in the field of School Education and Teacher Education;

(g) To publish curriculum, syllabus, reading material, other material, research work;

(h) To extend material and different publications regarding School Education and Teacher Education;

(i) To determine evaluation process for different stages of School Education, Teacher Education and Departmental Examination;

(j) To evaluate educational quality;

(k) To conduct pre service and in service training programmes;

(l) To induct new educational technology in the field of education and training;

(m) To administer general control over District Institutes of Education and Training;

(n) To prepare annual estimates and accounts for carrying out activities related to its functions and functions related to teacher education;

(o) To conduct and get conducted different projects;

(p) To establish coordination with Uttaranchal Sabhi Ke Liye Shiksha Parishad, Sarva Shiksha Abhiyan and other projects to be conducted in the field of education;

(q) To cooperate with other authorities at National and Regional level in educational plans;

(r) To establish coordination with State Institute of Educational Management and Training, Institute of Advanced Studies in Education and College of Teacher Education;

- (s) To provide educational support and guidance at all levels of school education;
- (t) To submit to Board/State Government suggestions for educational improvement.

5. Establishment of the Board- With effect from such date as the State Government may, by notification in the Official Gazette, appoint, there shall be a Board to be known as the Uttaranchal Board of School Education.

6- Constitution of the Board- (1) The Board shall consist of a Chairman and the following members, namely:

- (a) Director, School Education- Chairman, ex officio;
- (b) three heads of secondary institutions nominated by the State Government, one from a Government (boys) institution, one from private institution and one from girls' institution;
- (c) three heads of institutions of primary school and junior high school level, nominated by the State Government, one from a Government (primary) institution, one from private institution and one from girls' institution;
- (d) three teachers of secondary institutions nominated by the State Government, one from a Government (boys) institution, one from private institution and one from girls' institution, and three teachers of institutions of primary school and junior high school level, nominated by the State Government, one from a Government (primary) institution, one from private institution and one from girls' institution;
- (e) one teacher each of Universities (other than an Agricultural or Engineering University) established by law in Uttaranchal or of any collage affiliated of associated thereto, nominated by the State Government;
- (f) one teacher imparting education in agriculture and serving in a University or any college affiliated or associated thereto, nominated by the State Government;
- (g) one teacher imparting education in engineering and serving in a University or any college affiliated or associated thereto, nominated by the State Government;
- (h) one Professor of a Medical Collage, nominated by the State Government;
- (i) two members of the State Legislative Assembly, nominated by the speaker of the State Legislative Assembly, from its members;
- (j) four persons connected with education, nominated by the State Government;
- (k) one persons connected with Sanskrit education, nominated by the State Government;
- (l) one persons connected with Urdu education, nominated by the State Government;
- (m) one representative of industries, nominated by the State Government;
- (n) the Director of Technical Education, Uttaranchal, ex officio;
- (o) one representative of finance department, nominated by the State Government;
- (p) one psychologist, nominated by the State Government;

- (q) one District Education Officer, nominated by the State Government;
- (r) one Principal, and two teachers of District Institutes of Education, nominated by the State Government;
- (s) one Principal of Rajiv Gandhi Navodaya Vidyalaya, nominated by the State Government;
- (t) the Principal, Maharana Pratap Sports College, Dehradun, ex officio;
- (u) the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, or one representative nominated by him, ex officio;
- (v) Additional Director, State Council of Educational Research and Training, Uttaranchal, ex officio;
- (w) Additional Director of Education, School Education Directorate, Uttaranchal, ex officio;
- (x) one representative of the National Council of Educational Research and Training, New Delhi; nominated by it;
- (y) one representative of the National Council of Teacher Education, nominated by it;
- (z) one representative of the National Institute of Open Schooling, nominated by it;
- (za) the Secretary of the Board, ex officio; who shall be Member Secretary of the Board.

(2) The State Government may nominate not more than four persons connected with education to be the Members of the Board to secure the representation of minorities (whether based on religion or language). Scheduled Castes and Scheduled Tribes, not otherwise adequately represented.

(3) The State Government shall notify that the Board has been duly constituted.

7. Removal of Members:- (1) The State Government may remove from the Board any Member who, in its opinion-

- (a) refuses to act,
- (b) has become incapable to act,
- (c) has so abused his office as to render his continuance in office detrimental to the public interest, or
- (d) is otherwise unsuitable to continue as a member.

(2) No order of removal under this section shall be made unless the member concerned has been given an opportunity to submit his explanation to the State Government and when such order is passed, the seat of the member removed shall be declared vacant.

(3) A member who has been removed under this section shall not be eligible for a re-appoint as a member or in any capacity under the Board.

8. Term of office of members :- (1) Members other than ex officio members shall hold office for a term of three years as specified by the State Government;

Provided that the members shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

9. Filling of casual vacancies :- All casual vacancies among the members (other than ex officio members) of the Board or of a Committee nominated by the Board shall be filled, as soon as conveniently may be, by the person or body who nominated the member whose place has become vacant and the person nominated to a casual vacancy shall be a member of the Board for the residue of the term for which the person whose place he fills would have been a member.

10- Powers of the Board :- Subject to the provisions of this Act, the Board shall have following powers, namely :

(a) To prescribe curriculum, syllabus, evaluation process, text-book, other books and instructional material, if any, at Intermediate, High School, Junior High School, Primary School level, Teacher Education and training of officers and employees in such branches of education as it thinks fit;

(b) To publish or manufacture, whether to the exclusion, complete or partial, of others or otherwise, all or any such text-books, other books or instructional material;

(c) To request the State Council of Educational Research and Training for the preparation, modification or revision of curriculum, syllabus and teaching and training material;

(d) To grant diplomas or certificates to persons who-

(i) have perused a course of study in an institution admitted to the privileges or recognition by the Board, or

(ii) are teachers, or

(iii) have studied privately under conditions laid down in the regulations and have passed the examinations of the Board under like conditions.

(f) To recognize institutions for the purpose of adopting its curriculum and its examinations;

(g) To conduct examinations at the end of different stages of school education, and to conduct teacher training examinations and departmental examinations;

(h) To admit candidates to its examinations;

(i) To demand and receive such fee as may be prescribed in the regulations;

(j) To publish or withhold publication of the results of its examination wholly or in part;

(k) To call for reports form the Director on the condition of recognized institutions or of institutions applying for recognition;

(l) To take action on representations and appeals regarding recognition preferred by institutions;

(m) To establish coordination with Uttaranchal Sabhi Ke Liye Shiksha Parishad, Sarva Shiksha Abhiyan and other projects conducted in the field of Education;

(n) To co-operate with other authorities at National and Regional level in Educational plans;

(o) To establish coordination with State Institute of Educational Management and Training, Institute of Advanced Studies in Education and College of Teacher Education;

(p) To co-operate with other authorities in such manner and for such purpose as the Board may determine;

(q) To conduct researches of different kinds, or get them conducted, in the field of School Education, Teacher Education and Evaluation;

(r) To publish curriculum, syllabus, reading material, other material, research work;

(s) To extend material and different publications regarding School Education and Teacher Education;

(t) To determine evaluation process for School Education, Teacher Education and Departmental Examination;

(u) To submit to the State Government its views on any matter with which it is concerned;

(v) To see the schedules of new demands proposed to be included in the budget relating to institutions recognized by it and to submit, if it thinks fit, its views thereon for the consideration of the State Government;

(w) 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 Intermediate, High School, Junior High School, Primary Education and Teacher Education.

(x) To exercise any other power by, or under this Act or any other law for the time being in force.

11- Recognition of an institution in any new subject or for a higher class:- Notwithstanding anything contained in Clause (e) of Section 10

(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 District Education Officer may permit an institution to open a new section in an existing class.

12- Employment of part-time teachers or part-time instructors.- (1) Notwithstanding anything contained in this Act, the management of an institutions may, from its own resource, 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 10 (e);

(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 11 unless the Committee of Management furnishes such security in cash or by way of Bank guarantee to the District Education Officer 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 12.

13- Exemption:- Nothing of section 42 to 51 of this Act shall apply in relation to part-time teachers and part-time instructors employed in an institution under Section 12.

14- Prohibition of unauthorized conferment of Diplomas and Certificates:- No person shall confer, grant or issue or hold himself entitled to confer, grant or issue any diploma or certificate or document stating or implying that the holder, grantee or recipient has pursued a course of study in any institution privately, or has passed the Intermediate, High School, Junior High School, Primary or Teacher Education examination or any examination described in manner reasonably calculated to cause it to be believed to be the Intermediate, High School, Junior High School, Primary or Teacher Education examination.

15. Bar of charging any donation for admission to an Institution.- 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 as a condition for granting him admission to or permitting him after such admission to continue in such institution.

16. Penalty of contravention of Section 14 or Section 15- Whoever contravenes the provisions of Section 14 or Section 15 Shall be punishable with imprisonment for a term which may extend to three years and also with fine which may be up to five thousand rupees or with both 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 authorizes or permits such contravention shall be so punishable.

17- Proper utilization of donations.- 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 utilized 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 account of such institution which shall be operated in accordance with the general or special orders of the State Government.

18. Powers of the 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.

(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 an 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.

(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 provision, 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 subsection (4) shall be called in question.

19- 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 :

20- 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 all powers necessary for this purpose.

(2) The Chairman shall have power to convene meetings of the Board, shall call a meeting at any time after due notice, on a requisition signed by 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.

21- Appointment, powers and duties of Secretary:- (1) The Secretary shall be appointed by the State Government upon such conditions and for such period as prescribed in the rules .

(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.

(5) He shall exercise such powers as are necessary for the conduct of the examinations.

(6) He shall exercise such other powers and discharge functions as may be prescribed by the regulations.

22- Constitution of Committees:- (1) The Board shall constitute the following committees as prescribed in the regulations. Different committees may be constituted for different areas.

(2) The following shall be the committees of the Board, namely -

- (a) Curriculum Committee,
- (b) Syllabus Committee,
- (c) Examinations Committee,
- (d) Results Committee,
- (e) Recognition Committee, and
- (f) Finance Committee.

(3) Aforesaid Committees shall consist of the members of the Board only and such Committees shall be constituted in such a way that as far as possible at least one member from each of the following classes are presented in each of the Committees-

- (a) heads of institutions mentioned in Clauses (b) and (c) of sub-section (1) of Section 6;
- (b) teachers mentioned in Clauses (d) of sub-section (1) of Section 6;
- (c) teachers and professors mentioned in Clauses (e), (f), (g) and (h) of sub-section (1) of Section 6;
- (d) Legislators mentioned in Clauses (i) of subsection 6;
- (e) persons mentioned in Clauses (j), (k), (l) and (m) of subsection (1) and subsection (2) of Section 6;
- (f) persons mentioned in Clauses (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y) and (z) of sub-section (1) of Section 6;

Provided that no Member of the Board shall serve on more than one of such Committees, and the term of members of the committee shall cease with the cessation of the membership of the Board.

(4) In addition to the Committees mentioned in sub-section (1), the Board shall appoint such other committees, if any, as may be prescribed and such different Committees may be appointed for different areas.

(5) Aforesaid Committees shall be constituted in such manner and the terms of members of such Committees shall be such as may be prescribed.

23- Exercise of powers delegated by Board to 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 the Board to any one of it's committee the Board before exercising any such powers, shall receive and consider the report of the committee with respect to the matter in question.

24- Power to make Regulations of the Board:- (1) The Board may make regulations to provide for all or any of the following matters, 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;
- (g) the conduct of examinations;
- (h) the appointment of examiners and their duties and powers in relation to the Board's examinations;
- (i) the admission of institution to the privileges of recognition and the withdrawal of recognition;
- (j) appointment of committees at village, nyaya panchyat, block, district and region level for inspection, supervision, management and recognition of institutions, and delegation of powers to them;
- (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;
- (m) the formation of parent-teachers association.

(2) No regulation under sub-section (1) shall be made except prior approval of the State Government.

25- Power of Board to make bye-laws:- (1) Subject to the provisions of this Act the Board may make bye-laws to provide for all or any of the following matters, namely-

- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;
- (b) such matters which are not provided for in this Act and regulations.

(2) The State Government may issue direction to amend or rescind of any bye-laws made under this section by the Board or its Committee.

26- Proceedings nor invalidated by reasons of vacancies.- No act or proceedings of the Board shall be called in question or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Board.

27- Officers and Staff of the Board and its Committee to be public servant:- Officers and Staff of the Board or its committee shall be deemed to be public servant with in the meaning of section 21 of the Indian Penal Code.

28- Provisions for assistance during examination.- (1) For the conduct of Board's 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 Board's Examinations, 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 therefore.

29. Scheme of Administration.- (1) Notwithstanding anything in any law, document, or decrees or order of a Court of other instrument there shall be Scheme of administration (hereinafter referred to as the Scheme of Administration) for every recognized institution, which shall be submitted alongwith the application for recognition for the sanction of the Director. 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. 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 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 separate Committee of Management for each institution unless otherwise provided in the Regulations for any class of institution.

(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.

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 of the same, and thereupon the Director shall act accordingly.

(6) Every recognized 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 30 and 31.

(7) Whenever there is dispute with respect to the Management of an institution, persons found by the Regional Additional Director of Education upon such enquiry as is deemed fit to be in actual control of its affair may, for purpose 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 Additional 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 Additional 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.

30. Scheme of Administration not to be inconsistent with the Schedule:- The Scheme of Administration in relation to any institution, whether recognized before or after the commencement of this Act shall not be inconsistent with the principles laid down in the First Schedule.

31. Scheme of Administration to be Presented for sanction before the Director:- Where in relation to any institution, the Scheme of Administration has been or deemed to have been approved under Section 29 at any time before the commencement of the this Act and such Scheme of Administration is inconsistent with the provisions of this Act, the Institution shall submit, within a period of Six months from such commencement, a fresh Scheme of Administration Consistent with the principals laid down in the first schedule for the approval of the Director.

32. Requirement of Amendment or Alteration in the Scheme of Administration:- (1) While making any suggestion in the Scheme of Administration submitted under section 29 or 31 the Director shall send, within such period of time as may be prescribed, a notice to such institution suggesting any alteration or modification therein and requiring the institution to submit a fresh Scheme of Administration or to amend or alter the existing Scheme.

(2) While making any suggestion in the Scheme of Administration, the Director shall give his reasons therefore and shall also afford an opportunity to the institution to make a representation within such period as may be specified in the notice.

(3) The Director shall consider any representation made in accordance with sub-section (2) and may approve the Scheme of Administration in its original form or subject to any alteration or modification suggested under sub-section (1) or with any other changes as may appear to him to be just proper :

Provided that where the Director proposes to make any new alteration or modification in the Scheme of Administration, he shall give an opportunity to the institution to make a representation within such period as may be specified by him.

(4) 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 29 or section 31, or suggest any alteration or modification in the Scheme of Administration.

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 regulations the Draft Scheme of Administration shall be deemed to have been approved.

33. Term of Management Committee:- In the Scheme of Administration framed under Section 29 of this Act, the term of office of the Committee of Management shall not be prescribed for a period exceeding three years.

34. Inspection of the recognized Institution and removal of defect:- (1) The Director may inspect a recognized institution or cause it to be inspected by the departmental officers 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 to maintenance of academic standard in the institution or has appointed or retained in service any teaching or non-teaching staff in contravention of the provision 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 for three years 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; or

(vi) the draft of the Scheme of Administration had not been submitted within the time allowed therefore under Section 31, 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;

(vii) the Scheme of Administration in relation to an institution, approved before the commencement of this Act, 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 32, he may refer the case to 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 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 Director 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 authorized Controller for that institution and thereupon, the State Government may, by order, for reasons to be recorded, authorize any person (hereinafter referred to as the authorized 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 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 authorized 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 authorized 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 authorized 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 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 authorized controller appointed under any of the said provisions.

(9) Nothing in the section shall be construed to confer on the authorized 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 courses of management) or to create any charge thereon (except as a condition of receipt of any grant-in-aid for 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 authorized Controller such directions as he may deem necessary for the proper management of the institution or its properties, and the authorized 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 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 powers conferred by or under this section.

(13) The power conferred by this section shall be in addition to, and not in derogation of any powers conferred on the State Government or the authorized Controller under any other law for the time being in force.

(14) Nothing contained in sub-section (3) to (13) shall apply to institutions established and administered by a minority referred to in Clause (1) of Article 30 of the Constitution of India.

35. Appointment of Authorized Controller:- (1) wherever an authorized controller is appointed under sub-section (4) or sub-section (8) of Section 34 -

(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 power and authority as the Committee would have if the institution and its properties were not taken over under the said sub-section.

(b) Every person in whose possession, custody or control any property of the institution may be, shall deliver such property to the authorized Controller forthwith.

(2) Every person who on the date of the order referred to in sub-section (4) of sub-section (8) of section 34 has in his possession or control any books or other documents relating to the institution to its property shall be liable to account for the said books and other documents to the authorized Controller, and shall deliver them to him or to such person as the authorized Controller may specify in this behalf.

(3) The authorized Controller may apply to the Collector for delivery of possession and control over the institution or its properties or any part thereof, and the Collector may take all necessary steps for securing possession to the authorized 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 34, unless the context otherwise requires, "property" in relation to an institution, includes properties, movable and immovable belonging to or endowed wholly or partly for the benefit of the institution including lands, building (including hostels), works, library, laboratory, instruments, equipments, furniture, stationary, 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, grants, investments and book debts, all other rights and interests arising out of such property as may be in the ownership, possession, power or 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 borrowings, liabilities and obligations of whatever kind, of the institution.

Appointment of teachers and employees

36. Procedure for selection of teachers and heads of institutions.- Subject to the provisions of this Act, the Head of Institution and teachers of an institution 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 recruitments after intimation of the vacancy to the District Education Officer and obtaining approval of the District Education Officer for advertising and advertisement of the vacancy containing such particulars as may be prescribed, in at least two daily newspapers having wide circulation in the State.

(3) No person shall be appointed as Head of Institution or teacher in an institution unless he possesses qualification prescribed by the Regulation.

(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 District Education Officer and shall be accompanied by such fee which shall be paid in such manner as may be prescribed.

(5) (i) After the receipt of application under sub-section (4), the District Education Officer shall cause to be awarded, in respect of each such application, quality- point marks in accordance with the procedure and principles prescribed, and shall, forward the applications to the Committee of the Management.

(ii) The applications shall be dealt with, 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 possible of three candidates for a 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 the 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, 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 Additional Director of Education in the case of appointment to the post of Head of Institution and to the District Education Officer 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 the section.

(10) Where the State Government, in case of the appointment of Head of Institution, and the Director in the case of 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 shall, after affording an opportunity of being heard to such person, cancel such appointment and pass such consequential order as may be necessary.

(11) No male candidate shall be eligible for appointment to the post of Head of Institution or teacher in a girls institution, but the provision of this sub-section shall not apply in the context of the following-

(a) appointment by promotion on a higher post other than the post of Head of Institution in that institution in case of a candidate already working in a girls institution as a permanent teacher, or

(b) appointment of a blind teacher as a teacher of music.

(12) The selection process for the appointment of clerical (ministerial) or group-D employee shall be as prescribed.

37. Constitution of Selection Committees- (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 to the Committee of Management other than the one referred to in Clause (i), nominated by it in this behalf;

- (b) the scale 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 subjected to any diminution in emoluments, or served with notice of termination of service except with the prior approval in writing of the District Education Officer. The decision of the District Education Officer shall be communicated within the period to be prescribed by regulations.

(b) The District Education Officer 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, District Education Officer 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.

(c) Any party may prefer an appeal to the Regional Additional Director, Education, against an order of the District Education Officer under Clause (b), within one month from the date of communication of the order to that party, and the Regional Additional 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 Additional Director shall be final. In the case the order under appeal was passed by the very person holding the office of Regional Additional Director while acting as District Education Officer, the appeal shall be transferred by the order of the Director to some other Regional Additional Director for decision, and the provisions of this clause shall apply in relation to decision by that other Regional Additional Director as if the appeal had been preferred to himself.

(4) An order made or decision given by the competent authority under subsection (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.

(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 District Education Officer within seven days from the date of the order of suspension and the report shall contain such particulars as may be prescribed and accompanied by all relevant documents.

(7) No such order of suspension shall, unless approved by the District Education Officer, shall remain in force for more than sixty days from the date of such order, and the order of the District Education Officer shall be final and shall not be questioned in any court.

(8) If, at any time, the District Education Officer 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 District Education Officer may, after affording opportunity to the Management to make representation revoke an order of suspension passed under this section.

(9) A person will not be eligible for appointment in an Institution, 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 purpose 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 Second Schedule.

40. Regularization of appointment of ad hoc teachers- (1) Any such teacher shall be appointed in a substantive capacity, who

(a)(i) was appointed by promotion or by direct recruitment in lecturers grade or trained graduate on or after August 7, 1993 but not after March 24, 1999 against short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Board (Removal of difficulties) (Second) Order 1981, as amended from time to time, and as applicable in the Uttaranchal such vacancy was subsequently converted into a substantive vacancy.

(ii) was promoted on ad hoc basis in the post of a Head Master/ Principal on or after August 6, 1993 but not after January 26, 2005 in accordance with the provisions of section 18 of the Uttar Pradesh Secondary Education Services Selections Boards Act, 1982 (as applicable in the Uttaranchal).

(iii) was appointed by promotion or by direct recruitment in lecturers grade or trained graduate on or after August 7, 1993 but not after January 26, 2005 against substantive vacancy in accordance with the provisions of section 18 of the Uttar Pradesh Secondary Education Services Selections Boards Act, 1982 (as applicable in the Uttaranchal).

(b) possesses the qualifications prescribed under, or is exempted from such qualifications in accordance with the provisions of the Uttar Pradesh Intermediate Education Act, 1921 (as applicable in the Uttaranchal),

(c) has been continuously serving the institution from the date of such appointment up to the date of the commencement of this Act,

(d) has been found suitable for appointment in a substantive capacity by a selection committee constituted for regularization.

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

(d) Specifically, and without prejudice to the generality of the consequences specified for that reason, the State Government shall not be liable for the payment of salary of any teacher after such date or time specified in such direction notwithstanding anything contained in section 50.

(4) The management, or on its committing default, the District Education Officer shall be competent to appoint in substantive capacity, any person who possesses qualification prescribed for carrying out the duties of the post of a teacher, notwithstanding anything contrary in this Act or in regulations for the time being in force regarding selection, appointment or approval of appointment.

45. Procedure for payment of salary in the case of certain institutions receiving maintenance grant from the State Government. – (1) The management of every institution receiving maintenance grant from the State Government shall for the purposes of disbursement of salaries to its teachers and employees open in a scheduled bank or a co-operative bank a separate account to be operated jointly by a representative of the management and by the District Education Officer or such other officer as may be authorized by the District Education Officer in that behalf :

Provided that after the account is opened the District Education Officer may, if he is, subject to any rules made under this Act, satisfied that it is expedient in the public interest to do so, instruct the bank that the account shall be operated by the representative of the management alone, and may at any time revoke such instruction:

Provided further that in the case referred to in the proviso to subsection (2), or where a difficulty arises in the disbursement of salaries due to any default of the management the District Education Officer may instruct the bank that the account shall be operated only by himself or by such other officer as may be authorized by him in that behalf and may at any time revoke such instruction.

(2) The management shall deposit in the said account by such date as may be specified by general or special orders by the District Education Officer, eighty percent or where the state government or an officer authorized by the state government having regard to the money required to be disbursed, directs a higher percentage, then such higher percentage as it or he may direct of the amount received from students, as fees which in accordance with the general or special orders of the state government in that behalf [and for so long as such orders are not made in, accordance with the directions of the District Education Officer] form part of the maintenance fund :

Provided that where the said percentage of fees is not deposited as aforesaid the District Education Officer may by order prohibit the management from making any realization of fees from the students, there upon the District Education Officer may recover the fees (either through the teachers of the institutions or in such other manner as he thinks fit) directly from the students and shall deposit the fees so recovered in the said account.

(3) The entire amount of the maintenance grant and the amount of eighty percent or such higher percentage as the state government or an officer authorized by the state government may by general or special order in that behalf determine, of the grants, for reimbursement of freeships and other similar concession shall also be paid by the state government into the said account.

(4) No money credited to the said account shall be applied for any purpose except the following, namely: -

(a) payment of the said salaries falling due for any period from the date of the commencement of this Act.

(b) credit of the institution's contribution, if any, to the provident fund accounts of the teachers and employees;

(c) such other expenditure for the purposes of the institution receiving maintenance grant from the State Government as may be directed by the State Government or an officer authorized by it in that behalf.

And such portion of the balance in the account at the end of the month of July each year as exceeds the aggregate of one months salary of the teachers and employees of the institution receiving maintenance grant from the State Government after meeting the liability for payment of their salaries for the period for which fees have been realized from the students shall be made over to the management for expenditure on the institution receiving maintenance grant from the State Government.

(5) The salary of a teacher or employee shall be paid by transfer of the amount from the said account to his account, if any, in the same bank, or if he has no account in that bank, then by cheque.

(6) In respect of a place where there is no scheduled bank or a co-operative bank the provision of this section shall apply with such modifications as the State Government may by notification in the Gazette specify and the references in this section to bank shall in that case be construed as references to a post office savings bank.

46. Enforcement of provisions and directions. - (1) Where the District Education Officer on the basis of an inspection of an institution receiving maintenance grant from the State Government or its records or otherwise is satisfied that its management has committed default in complying with any direction given under Section 44 or with any provision of Section 43 or Section 45 he may recommend to the Regional Additional Director of Education, that action be taken against the institution under sub-section (2).

(2) On receipt of a recommendation under sub-section (1), the Regional Additional Director of Education, may call upon the management to comply with the said direction or provision or to show cause within a week why the management should not be suspended.

(3) Where the management fails to comply as aforesaid or to show cause, or the Regional Additional Director of Education considers the cause shown to be insufficient, he may by order supersede the management for such period not exceeding one year as may be specified in the order, and authorize any person (hereinafter referred to as the Authorized Controller) to take over the

management of the institution receiving maintenance grant from the State Government for the said period:

Provided that the Regional Additional Director of Education, may where he considers it necessary or expedient so to do,-

- (i) extend the said period from time to time, so however, that the period so extended does not exceed five years in the aggregate; or
- (ii) revoke the order at any time;

Provided further that nothing in Clause (ii) of the preceding proviso shall bar the passing of a fresh order under this section.

(4) On an order being made under sub-section (3) the Authorized controller shall, to the exclusion of the management and subject only to the directions, if any, of the Regional Additional Director of Education the Director or the State Government, exercise all the powers and perform all the functions of the management, including management of the property belonging to or vested in the institution receiving maintenance grant from the State Government, and in particular, operate singly the bank account referred to in section 45:

Provided that nothing in this section shall be construed to confer on the Authorized Controller the power to transfer any such property (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 an grant-in-aid of the institution from the State Government).

(5) Any order made or direction given under this section shall have effect notwithstanding anything inconsistency therewith contained in any other enactment or instrument relating to the management and control of the institution receiving maintenance grant from the State Government (including any scheme of administration) or relating to the property belonging to or vested in the institution.

47. Appeal. – An appeal against the order of the Regional Additional Director of Education, superseding the management under section 46 may be preferred to the Director within one month from the date on which the order is communicated to the management and the Director may after such further inquiry, if any, as he considers necessary either set it aside or confirm or modify it, and pending the disposal of appeal may stay the operation of the order on such terms, if any, as he thinks fit.

48. Revision. – The State Government may call for and examine the record of any appeal decided by the Director under section 47 for the purpose of satisfying itself as to the correctness or propriety of any order passed by him, and it may pass such order thereon as it thinks fit:

Provided that no order superseding the management of an institution receiving maintenance grant from the State Government or extending the period of supersession thereof shall be passed under this section unless an opportunity has been given to the management to show cause against the proposed order.

49. Approval for post. – No institution receiving maintenance grant from the State Government shall create a new post of teacher or other employee except with the previous approval of the Director, or such other officer as may be empowered in that behalf by the Director.

50. Liability in respect of salary. – (1) The State Government shall be liable for payment of salaries of teachers and employees of every institution receiving maintenance grant from the State Government due in respect of any period from the date of the commencement of this Act.

(2) The State Government may recover any amount in respect of which any liability is incurred by it under sub-section (1) by attachment of the income from the property belonging to or vested in the institution as if that amount were an arrear of land revenue due from the institution receiving maintenance grant from the State Government.

(3) Nothing in this section shall be deemed to derogate from the liability of the institution for any such dues to the teacher or employee.

51. Penalties and Procedure. – (1) If any default is committed in complying with any direction under Section 44 or with the provisions of Section 43 or Section 45, every person who at the time the default was committed was Manager or any other person vested with the authority to manage and conduct the affairs of the Institution receiving maintenance grant from the State Government shall, unless he proves that the default was committed without his knowledge or that he exercised all due diligence to prevent the commission of the default, be punishable, in the case of a default in complying with the provisions of Section 43 with fine which may extend to one thousand rupees and in case of any other default, with imprisonment which may extend to six months or fine which may extend to one thousand rupees or with both.

(2) No court shall take cognizance of any offence punishable under this section except with the previous sanction of the Regional Additional Director, Education.

(3) Every offence under this section shall be cognizable, but no police officer below the rank of a Additional Superintendent shall investigate any such offence without the order of a Magistrate of the first class or make arrest therefore without a warrant.

(4) No Court below the rank of a Magistrate of the first class shall take cognizance of an offence under this section.

52- Exemption of certain classes of institutions from the operation of certain sections.– (1) The provisions of sections 29, 30 31, sub-section (2) to sub-section (14) of section 34 and sections 35 to 51 shall not apply to recognized institutions run and maintained by the State Government or the Central Government.

(2) In the Case of recognized 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 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.

53. Delegation of Powers by the Director- 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 exercise as Chairman of the Board to an officer or officers of the Education Department not lower in rank than an 'Additional Director of Education.'

54. Protection for acts done in good faith:- No suit, prosecution or other legal proceeding shall lie against the State Government, the Board or any of its Committees or any other person or any person authorized by the State Government, the Board or any of its Committees in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

55. Bar of Jurisdiction of Courts- No order or decision made by the Board or any of its Committee in exercise of the powers conferred by or under this Act shall be called in question in any Court.

56- Power to remove difficulties- (1) If any difficulty arises in giving effect to the provisions of this Act or by reason or anything contained in this Act, the State Government may, by notification in the Gazette, remove the difficulty by making such incidental or consequential provisions, not affecting the substance.

Provided that no order shall be made after the expiration of the period of two years from the date of commencement of this Act.

Provided further that such every order as soon as shall be laid, before the State Legislative Assembly.

57- Application of Provision of Panchayati Raj Act- Notwithstanding anything contained in this Act, the provisions of Panchayati Raj Act, as far as they are related to the management of education, shall apply.

58- The services of teachers and employees of Basic Shiksha Parishad to be under the control of State Government- All the teachers, officers and employees of Basic Shiksha Parishad, including any supervising or inspecting officer or employee working immediately before the date of the commencement of this Act, shall be transferred to the State Government and they shall become teachers, officers and employees of the State Government, and their services shall be governed by the service rules prescribed by the State Government.

59- Position with regard to the property of Basic Shiksha Parishad or a local body- (1) the properties of Basic Shiksha Parishad immediately before the date of the commencement of this Act, shall become the properties of the State Government.

(2) Where any building or part thereof, on the date immediately before the date of the commencement of this Act, was occupied as tenant by Basic Shiksha Parishad for the purpose of any basic school, the tenancy in respect of such building or part, with effect from the date of the commencement of this Act, shall stand transferred in favour of the State Government.

(3) Where any building or part thereof belonging to a local body, on the date immediately before the date of the commencement of this Act, was occupied by Basic Shiksha Parishad for the purposes of any basic school, the State Government shall, with effect from the date of the commencement of this Act, 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.

(4) 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.

60- Repeal and Savings- (1) The Uttaranchal (The Uttar Pradesh Intermediate Education Act, 1921) Adaptation and Modification Order 2002, The Uttaranchal (The Uttar Pradesh Basic Education Act, 1972) Adaptation and Modification Order 2002, The Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries of Teachers and Other Employees) Act, 1971 and The Uttar Pradesh Junior High School (Payment of Salaries of Teachers and Other Employees) Act, 1978 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Principal Acts referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the Act as if the provisions of the Act were in force at all material times.

SCHEDULE-ONE

(See Section 30)

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 constituting 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, cast, creed or family;

- (4) provide for the procedure of calling of 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 utilization of its funds and for the regular checking and auditing of accounts.

SCHEDULE-TWO
(See Section 39 and 40)
List of Relatives

1. Father
2. Mother (including step-mother)
3. Son (including step-son)
4. Son's wife.
5. Daughter (including step-daughter)
6. Father's father.
7. Father's mother.
8. Mother's mother.
9. Mother's father.
10. Son's son.
11. Son's son's wife.
12. Son's daughter.
13. Son's daughter's husband.
14. Daughter's husband.
15. Daughter's son.
16. Daughter's son's wife.
17. Daughter's daughter.
18. Daughter's daughter's husband.
19. Brother (including step-brother).
20. Brother's wife.
21. Sister's (including step-sister).
22. Sister's husband.
23. Wife's (or husband's) brother.
24. Wife's (or husband's) father.
25. Wife's (or husband's) sister.
26. Brother's son.
27. Brother's daughter.

By Order,

U. C. DHYANI,
 Secretary.