

West Bengal Act XLIII of 1973

THE WEST BENGAL PRIMARY EDUCATION ACT, 1973.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 20th September, 1974.]

[20th September, 1974.]

An Act to make better provision for the development, expansion, management and control of primary education with a view to making it universal, free and compulsory.

WHEREAS it is expedient to make better provision for the development, expansion, management and control of primary education with a view to making it universal, free and compulsory;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

PART I

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Primary Education Act, 1973.

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

(3) It shall come into force in such areas and on such dates as the State Government may, by notification, appoint and different dates may be appointed for different areas or for different provisions of this Act.

Short title,
extent and
commen-
ment.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(i) "attendance" at a school means presence for instruction at a primary school for so many days in a school year and at such time or times on each day of attendance as may be required by the prescribed educational authority;

(ii) "Board" means the West Bengal Board of Primary Education established under this Act;

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (iii) "Calcutta" means Calcutta as defined in the Calcutta Municipal Act, 1951; West Ben. Act XXXIII of 1951.
- (iv) "Chairman" means the Chairman of a Primary School Council;
- (v) "child" means a boy or girl who has completed six but not eleven years of age at the beginning of a school year:
- Provided that a boy or girl who completes six years of age within ninety days from the beginning of a school year shall be deemed to be a child;
- (vi) "Director" means the Director of Public Instruction, Government of West Bengal;
- (vii) "District Inspector of Schools (Primary Education)", "District Officer for Physical Education and Youth Welfare", "District Social Education Officer" and "District Special Officer for Scheduled Castes and Tribes Welfare" mean the respective officers designated as such by the State Government;
- (viii) "District School Board" means a District School Board established under the Bengal (Rural) Primary Education Act, 1930; Ben. Act VII of 1930.
- (ix) "guardian" means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care or custody of any child has been entrusted by any lawful authority;
- (x) "hill area" means the area included within the district of Darjeeling excluding the Siliguri Sub-division;
- (xi) "Junior Basic Training Institution" includes a Primary Training School and a Senior Teachers' Training School for women recognised by the Director;
- (xii) "linguistic minority community" means a community whose mother tongue is any language other than Bengali;
- (xiii) "municipality" means any place in which the Bengal Municipal Act, 1932 or the Chandernagore Municipal Act, 1955 or the Howrah Municipal Act, 1965 is in force and includes an area constituted by the State Government as a notified area under section 93A of the Bengal Municipal Act, 1932; Ben. Act XV of 1932.
West Ben. Act XVIII of 1955.
West Ben. Act XVII of 1965.
- (xiv) "non-specified municipality" means a municipality other than a specified municipality;
- (xv) "notification" means a notification published in the *Official Gazette*;

(Part II.—Chapter II.—The Board.—Sections 3, 4.)

- (xvi) "President" means the President of the West Bengal Board of Primary Education;
- (xvii) "primary education" means education in such subjects and up to such standard as may be prescribed;
- (xviii) "primary school" means a school or a department of a school giving instruction in primary education recognised or deemed to be recognised as a primary school under this Act;
- (xix) "Primary School Council" means a Primary School Council established under this Act;
- (xx) "prescribed" means prescribed by rules made by the State Government under this Act;
- (xxi) "school year" means the year beginning with such date as the Board may, with the previous approval of the State Government, fix;
- (xxii) "specified municipality" means a municipality or a group of two or more municipalities specified by the State Government by notification for the purposes of this Act;
- (xxiii) "Vice-Chairman" means the Vice-Chairman of the Primary School Council;
- (xxiv) "Vice-President" means the Vice-President of the West Bengal Board of Primary Education;
- (xxv) "year" means a year beginning on the first day of April.

PART II

CHAPTER II

The Board

3. (1) The State Government shall, by notification, establish, with effect from such date as may be specified in the notification, a Board to be called the West Bengal Board of Primary Education.

Establishment and incorporation of the West Bengal Board of Primary Education.

(2) The Board shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

4. The Board shall consist of the following members, namely:—

Composition of the Board.

- (a) an officer not below the rank of a Deputy Director of Public Instruction, Government of West Bengal, to be nominated by the State Government;

(Part II.—Chapter II.—The Board.—Section 4.)

- (b) two teachers of Junior Basic Training Institutions, of whom one shall be the head of one such Institution, elected in the prescribed manner by the teachers of Junior Basic Training Institutions from amongst themselves;
- (c) eight teachers of primary schools of whom at least two shall be women, elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the members of the Primary School Councils who are representatives of teachers of primary schools in Primary School Councils;
- (d) one person elected in the prescribed manner by the Councillors of the Calcutta Corporation;
- (e) four persons elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the Commissioners of municipalities;
- (f) three persons elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the members of the *Zilla Parishads*;
- (g) two members from each of the districts of Midnapore and 24-Parganas and one member from each of the other districts, from among the members of the West Bengal Legislative Assembly elected in the prescribed manner by the members of the Assembly from that district and one member from Calcutta elected by the members of the Assembly from Calcutta;
- (h) twelve persons interested in education nominated by the State Government of whom at least—
 - (i) one shall be a woman;
 - (ii) one shall be a member of the Anglo-Indian Community;
 - (iii) one shall be a member of a Scheduled Caste;
 - (iv) one shall be a member of a Scheduled Tribe;
 - (v) one shall be a member of any of the linguistic minority communities in the State;
 - (vi) one shall be an inhabitant of a hill area;
 - (vii) one shall be a medical practitioner;
 - (viii) one shall be a member of the West Bengal Board of Secondary Education.

(Part II.—Chapter II.—The Board.—Sections 5-9.)

5. (1) If by such date as may be fixed by the State Government in this behalf any of the authorities fails to elect a member or members as provided in section 4, the State Government shall appoint member or members qualified for election by such authority:

Appointment
in default
of election.

Provided that in the case of the State Legislative Assembly, if the said Assembly has been dissolved, the State Government shall appoint sixteen suitable persons to be members to hold office until the said Assembly is reconstituted and sixteen representatives are elected by the members thereof.

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

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

Publication
of names of
members of
the Board.

7. (1) Subject to the provisions of this Act, every elected, nominated or appointed member of the Board shall hold office for a term of four years from the date of the first meeting of the Board at which a quorum is present and may, on expiration of such term, be re-elected, re-nominated or re-appointed.

Term of
office of
members of
the Board.

(2) Notwithstanding the expiration of the term of four years mentioned in sub-section (1), every elected, nominated or appointed member of the Board shall continue to hold office until the first meeting of the newly-formed Board at which a quorum is present.

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

Casual
vacancies.

Provided that no election shall be held to fill a vacancy of a member occurring within six months from the date on which the term of the office of the member expires.

9. (1) There shall be a President and a Vice-President of the Board.

President
and Vice-
President of
the Board.

(2) The President and the Vice-President shall be elected by the members of the Board from among themselves in such manner as may be prescribed and shall, subject to the provisions of section 10, hold office for a term of four years mentioned in section 7:

(Part II.—Chapter II.—The Board.—Sections 10, 11.)

Provided that until a President is elected by the members of the Board for the first time the State Government may appoint a person to be the President of the Board and the person so appointed shall hold office until a President is elected by the members of the Board and assumes office.

(3) The President and the Vice-President shall receive such pay or allowances or both as may be fixed by the State Government.

(4) The President may resign his office by giving notice in writing to the State Government and when such resignation is accepted by the State Government the President shall be deemed to have vacated his office.

(5) The Vice-President may resign his office by giving notice in writing to the President and when such resignation is accepted by the President the Vice-President shall be deemed to have vacated his office.

Removal of
the President
and the
Vice-
President.

10. If at a meeting of the Board specially convened for the purpose a resolution is passed against the President or the Vice-President by a majority of the then members of the Board and by a majority of not less than two-thirds of the members of the Board present and voting such resolution shall have the effect of removing the President or the Vice-President, as the case may be, from his office as from the date on which the resolution is so passed.

Discharge of
President's
functions
in certain
contingencies.

11. (1) (a) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, or

(b) when the President is unable to discharge his functions, owing to absence, illness or any other cause,

the Vice-President shall exercise the powers, perform the functions and discharge the duties of the President until a new President is elected and assumes office or until the President resumes his duties, as the case may be.

(2) In the event of the occurrence of vacancies in the offices of both the President and the Vice-President the State Government may appoint a member of the Board to exercise the powers, perform the functions and discharge the duties of the President until a President or a Vice-President is elected and assumes office.

(3) A President elected to fill a casual vacancy shall hold office for the unexpired portion of the term of the President whose place he fills.

(Part II.—Chapter II.—The Board.—Sections 12-14.)

12. (1) A person shall be disqualified for being elected, nominated or appointed a member of the Board if he—

Disqualifications for membership.

(a) has been adjudged by a competent Court to be of unsound mind;

(b) is an undischarged insolvent;

(c) being a discharged insolvent, has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part;

(d) has been convicted by a Court of an offence involving moral turpitude;

(e) directly, or indirectly by himself or his partner,—

(i) has or had any share or interest in any text-book approved by the Board or published by or under the authority of the Board, or

(ii) has any interest in any work done by order of, or in any contract entered into on behalf of, the Board.

(2) If an elected, nominated or appointed member of the Board becomes, after his election, nomination or appointment, as the case may be, subject to any of the disqualifications specified in sub-section (1), his membership shall thereupon cease with effect from such date as the State Government may direct.

13. (1) A member of the Board may resign his office by giving notice in writing to the President and when such resignation is accepted by the Board such member shall be deemed to have vacated his seat.

Resignation and removal of members.

(2) The State Government may, by notification, remove any member if he—

(a) refuses to act or becomes incapable of acting as a member of the Board, or

(b) acts in a manner prejudicial to the interests of the Board, or

(c) without obtaining the consent of the President is absent from four consecutive meetings of the Board:

Provided that before such removal the member concerned shall be given an opportunity of being heard.

14. (1) The Board shall meet at least three times a year.

Meetings of the Board.

(2) Every meeting of the Board shall be convened by the Secretary to the Board under instructions of the President:

Provided that the President shall, when required in writing by one-third of the members of the Board to convene a meeting, direct the Secretary to do so within seven days from the date of receipt of the requisition and if no meeting is convened within the said period the members aforesaid may convene a meeting after giving seven clear days' notice to the President and other members of the Board.

(Part II.—Chapter II.—The Board.—Sections 15-17.)

Conduct of
meetings.

15. (1) The President or in his absence the Vice-President shall preside at a meeting of the Board and in the absence of both the President and the Vice-President one of the members of the Board elected from amongst those present shall preside at the meeting of the Board, and the President or the Vice-President or such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes.

(2) Subject to the provisions of sub-section (1), the Board shall have the power to regulate the procedure for the conduct of its business.

Restriction
on voting.

16. (1) No member of the Board shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any primary school of which he is either a teacher or a member of the managing committee.

(2) The President or the Vice-President or the member presiding at a meeting of the Board shall decide any question arising under sub-section (1) and his decision thereon shall be final.

Secretary,
Finance
Officer
and other
persons in
the service
of the
Board.

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

(2) The State Government may, if it so thinks fit, appoint a Finance Officer for the Board.

(3) The Board may, subject to the prior approval of the State Government, create such posts of officers and employees as it considers necessary for carrying out the purposes of this Act:

Provided that no officer or employee shall be appointed to any post carrying a monthly salary of three hundred rupees or more without the prior approval of the State Government.

(4) The terms and conditions of service and the scales of pay and allowances, if any, shall, as respect the Secretary, the Finance Officer, if any, and other officers and employees, be such as may be fixed by the State Government.

(5) The pay and allowances of the Secretary and the Finance Officers, if any, shall be paid out of the fund of the Board.

(6) Subject to the general control and supervision of the President, the Secretary shall be the principal administrative officer of the Board. He shall be entitled to attend and speak at any meeting of the Board, but shall not be entitled to vote.

(7) The Finance Officer shall perform such functions and discharge such duties as may be prescribed.

(Part II.—Chapter II.—The Board.—Section 18.—Chapter III.—Powers and functions of the Board and the President.—Section 19.)

(8) Subject to prescribed conditions, the Board may award any punishment including dismissal or removal of the members of its staff other than the Secretary and the Finance Officer.

18. Such members of the Board or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Board, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Board such allowances and at such rates as may be prescribed.

Travelling allowance.

CHAPTER III

Powers and functions of the Board and the President

19. (1) Subject to any general or special orders of the State Government, the provisions of this Act and any rules made thereunder, the Board shall have generally the power to guide, supervise and control primary education, and in particular the power—

Powers and functions of the Board.

- (a) to prepare and maintain a register of primary schools;
- (b) to provide by regulations, after considering the recommendations, if any, of the Curriculum Committee, the syllabus, the courses of studies to be followed and the books to be studied in primary schools and for examinations conducted by the Primary School Councils;
- (c) to maintain and publish, from time to time, lists of books approved for use in primary schools and for examinations conducted by the Primary School Councils and to remove the name of any such book from any such list;
- (d) to institute with the approval of the State Government such examinations as it may think fit, and to make regulations on all aspects connected with such examinations;
- (e) to make regulations regarding the conditions to be fulfilled by candidates presenting themselves for examinations conducted by the Primary School Councils;
- (f) to exercise general supervision and control over the work of the Primary School Councils and for that purpose to issue such instructions to the Primary School Councils relating to primary education as it may think fit and to call for reports from the Primary School Councils on matters relating to primary education;

*(Part II.—Chapter III.—Powers and functions of the Board
and the President.—Section 19.)*

- (g) to administer the West Bengal Board of Primary Education Fund;
- (h) to institute and administer such provident funds as may be prescribed;
- (i) to make regulations relating to the conduct, discipline and appeal in respect of the members of the staff of the Board;
- (j) to make regulations relating to the conduct and discipline in respect of teachers and non-teaching staff of primary schools under the Primary School Councils;
- (k) to transfer any teacher or non-teaching staff from a primary school within the jurisdiction of one Primary School Council to a primary school within the jurisdiction of another Primary School Council;
- (l) to make regulations determining the mode of teaching and the medium of instruction to be followed in primary schools;
- (m) to make regulations for deciding any dispute relating to primary schools but not relating to teaching or non-teaching staff of such schools;
- (n) to determine, with the approval of the Director, the hours of instruction and the number and duration of vacations;
- (o) to hear appeal in the prescribed manner from the decision of a Primary School Council granting or refusing to grant recognition to any primary school;
- (p) to advise the State Government on all matters relating to primary education referred to it by the State Government;
- (q) to grant financial aids to Primary School Councils for the development of primary education or for any other purpose;
- (r) to perform such other functions and discharge such other duties as may be prescribed.

(2) Subject to the provisions of sub-section (1), the Board shall have the power to make regulations in respect of any matter for the proper exercise of its power under this Act:

Provided that no regulation shall be valid unless it is approved by the State Government.

(3) The State Government may, in according the approval referred to in the proviso to sub-section (2), make such additions, alterations and modifications therein as it thinks fit:

Provided that before making any such additions, alterations or modifications the State Government may, if it thinks fit, give the Board an opportunity to express its views thereon within such period as may be specified by the State Government.

(Part II.—Chapter III.—Powers and functions of the Board and the President.—Sections 20, 21.—Chapter IV.—Committees of the Board.—Sections 22, 23.)

(4) All regulations approved by the State Government shall be published in the *Official Gazette*.

20. (1) The President shall be responsible for carrying out and giving effect to the decisions of the Board and of any Committee thereof.

Powers and duties of the President.

(2) The President may, in any emergency, exercise any of the powers of the Board, provided, however, that he shall not act contrary to any decision of the Board, and shall within one month, report to the Board the action taken by him together with reasons therefor.

(3) The President shall—

- (a) exercise general supervision and control over the Secretary, the Finance Officer, if any, and the staff appointed by the Board and post and transfer the members of the staff;
- (b) sanction all claims of travelling allowance;
- (c) take such other action not inconsistent with any decision of the Board as he considers necessary for the proper functioning of the Board under this Act.

21. The Vice-President shall exercise such powers, perform such functions and discharge such duties as may be delegated to him by the President in writing with the approval of the Board.

Powers and duties of the Vice-President.

CHAPTER IV

Committees of the Board

22. Within such time as may be prescribed after the Board is established, the Board shall constitute the following Committees, namely:—

Committees.

- (a) the Curriculum Committee;
- (b) the Evaluation Committee;
- (c) the Development Committee;
- (d) the Finance Committee.

23. (1) The Curriculum Committee shall consist of the following members, namely:—

Curriculum Committee.

- (a) the President;
- (b) an officer not below the rank of a Deputy Director of Public Instruction, Government of West Bengal, to be nominated by the State Government;

(Part II.—Chapter IV.—Committees of the Board.—Section 24.)

- (c) the Principal, State Institute of Education;
- (d) one of the two members of the Board referred to in clause (b) of section 4 elected in the prescribed manner by the Board;
- (e) three teachers of primary schools elected in the prescribed manner by the Board;
- (f) one teacher of a secondary school elected in the prescribed manner by the West Bengal Board of Secondary Education;
- (g) two persons having special knowledge of science, art, crafts or primary education, who may or may not be members of the Board, nominated by State Government.
- (h) two out of sixteen members of the Board referred to in clause (g) of section 4 elected in the prescribed manner by the Board.

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

(3) It shall be the duty of the Curriculum Committee to—

- (a) advise the Board about the syllabus and courses of studies to be followed in primary schools as well as for examinations instituted or conducted by the Board or the Primary School Councils;
- (b) advise the Board on any matter relating to the syllabus, courses of studies or books to be studied, as may be referred to it by the Board.

(4) The Curriculum Committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-section (3) and it shall not be necessary for any member of such a Sub-Committee to be a member of the said Committee or the Board.

Evaluation
Committee.

24. (1) The Evaluation Committee shall consist of the following members, namely:—

- (a) the President;
- (b) an officer not below the rank of a Deputy Director of Public Instruction, Government of West Bengal, to be nominated by the State Government;
- (c) the Principal, State Institute of Education;
- (d) the Principal of a Post-Graduate Basic Training College, elected in the prescribed manner by the Board;

(Part II.—Chapter IV.—Committees of the Board.—Section 25.)

- (e) one of the two members of the Board referred to in clause (b) of section 4 elected in the prescribed manner by the Board;
 - (f) the Evaluation Officer attached to the Bureau of Educational and Psychological Research or any other officer of the State Government having knowledge of evaluation, nominated by the Director;
 - (g) one teacher of a High School elected in the prescribed manner by the West Bengal Board of Secondary Education;
 - (h) three teachers of primary schools elected in the prescribed manner by the Board;
 - (i) three persons having special knowledge in primary education or evaluation, who may or may not be members of the Board, nominated by the State Government;
 - (j) two out of sixteen members of the Board referred to in clause (g) of section 4 elected in the prescribed manner by the Board.
- (2) The President shall be the Chairman of the Evaluation Committee and the Secretary to the Board shall be the Secretary to the said Committee.
- (3) It shall be the duty of the Evaluation Committee—
- (a) to assess from time to time the standard of instruction in a primary school with reference to the norms and objectives set by the Board and to suggest improvement on the basis of such assessment;
 - (b) to advise the Board on such other matter relating to progress, improvement and development of the academic aspect of primary education as may be assigned to it by the Board.
- (4) The Evaluation Committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-section (3) and not more than half of the total members of such Sub-Committee may consist of persons who are not members of the said Committee or the Board.

25. (1) The Development Committee shall consist of the following members, namely:—

Development
Committee.

- (a) the President;
- (b) an officer of the Education Department, Government of West Bengal, nominated by the State Government;
- (c) a woman officer of the Education Department, Government of West Bengal, nominated by the State Government;

(Part II.—Chapter IV.—Committees of the Board.—Section 26.)

- (d) one officer of the Directorate of Health Services, Government of West Bengal, not below the rank of a Deputy Director, nominated by the Director of Health Services, Government of West Bengal;
 - (e) three of the eight members of the Board referred to in clause (c) of section 4 elected in the prescribed manner by the Board;
 - (f) the member of the Board referred to in clause (d) of section 4;
 - (g) one of the four members of the Board referred to in clause (e) of section 4 elected in the prescribed manner by the Board;
 - (h) one of the three members of the Board referred to in clause (f) of section 4 elected in the prescribed manner by the Board;
 - (i) two out of the sixteen members of the Board referred to in clause (g) of section 4 elected in the prescribed manner by the Board;
 - (j) two persons who may or may not be members of the Board nominated by the State Government.
- (2) The President shall be the Chairman of the Development Committee and the Secretary to the Board shall be the Secretary to the said Committee.
- (3) It shall be the duty of the Development Committee to—
- (a) advise the Board in the matter of improvement and development of primary schools in all aspects, including schemes for universal, free and compulsory education, construction of building, welfare of students and teachers and other staff, good relationship between guardians, teachers and students, community participation in schools, meals supplied in schools and the health of the students in schools;
 - (b) advise on any other matter assigned to it by the Board relating to progress, development and improvement of primary education excepting those allotted to the Curriculum or the Evaluation Committee.

Finance
Committee.

26. (1) The Finance Committee shall consist of the following members, namely:—

- (a) the President;
- (b) the Secretary to the Board;
- (c) two persons having knowledge in financial matters nominated by the State Government;
- (d) two members of the Board elected in the prescribed manner by the members of the Board of whom one shall be a teacher of a Primary School.

(Part II.—Chapter IV.—Committees of the Board.—Sections 27-29.)

(2) The President shall be the Chairman of the Finance Committee and the Finance Officer, or if there is no Finance Officer, the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Finance Committee to prepare the budget of the Board, to advise the Board on all financial matters and to perform such other functions as may be prescribed.

27. (1) The Board may, with the approval of the State Government and subject to such directions as the State Government may issue in this behalf, constitute such other Committee or Committees as it may think fit and any such Committee may be composed wholly or in part of members of the Board.

Power to constitute other Committees.

(2) The Board may, with the approval of the State Government, delegate to any such Committee any of its powers or functions and may in like manner withdraw from it any such power or function.

28. (1) An elected, a nominated or an appointed member of any Committee who is also a member of the Board, shall continue to hold office until he ceases to be a member of the Board.

Term of office of members of the Committees.

(2) An elected, a nominated or an appointed member of any Committee who is not a member of the Board, shall hold office for such term, as may be prescribed and may on expiration of such term, be re-elected, re-nominated or re-appointed:

Provided that notwithstanding the expiration of the said term, an elected, a nominated or an appointed member of a Committee shall continue to hold office until the vacancy caused by the expiration of the said term has been filled in accordance with the provisions of this Act.

(3) The provisions of section 5 and of sections 8, 12 and 13 shall apply, *mutatis mutandis*, to members of any Committee as if reference to the Board or the President were references to such Committee or the Chairman of such Committee.

29. The State Government may, on the recommendations of the Board, if it so thinks fit, dissolve any of the Committees of the Board and may direct the Board to take steps for the reconstitution of the Committee so dissolved.

Power of the State Government to dissolve Committee.

(Part II.—Chapter V.—Finance and audit.—Section 30.)

CHAPTER V

Finance and audit

Annual
report and
budget
estimate.

30. (1) The President shall place before the annual meeting of the Board held in the year following the year in which it is established and before every annual meeting thereafter to be held in the month of August in each year a report on the working of the Board during the last preceding year, together with a budget estimate showing in such form as may be prescribed, the anticipated income and expenditure of the Board during the year immediately succeeding the one in which such annual meeting is held.

(2) The report shall be forwarded to the State Government within one month of the presentation thereof before the annual meeting of the Board together with such comments thereon as the Board may think fit to make.

(3) The budget estimate shall after confirmation by the Board be forwarded to the State Government within such time as may be prescribed.

(4) The State Government shall within two months of the receipt of the budget estimate either accord its approval to the same or return it to the Board with such comments and suggestions as it deems necessary if in its opinion such estimate—

- (a) is not reasonably accurate with reference to ascertainable facts or shows a deficit in the closing balance;
- (b) includes new items of recurring expenditure which are likely to impose upon the Board in the future financial liabilities which the Board is not likely to be able to meet from its income; or
- (c) includes provisions for expenditure which are not in accordance with the provisions of this Act.

(5) If the budget estimate is returned under sub-section (4), the Board shall consider the comments and suggestions made by the State Government and may, if it thinks fit, revise the said estimate. The Board shall then resubmit the budget estimate as so revised to the State Government, or, the Board shall, if it does not think fit to revise the estimate, resubmit it in its original form to the State Government within one month of receiving it together with its replies on the comments and suggestions made by the State Government.

(6) If the State Government does not approve of the budget estimate as revised by the Board or if the budget estimate is returned by the Board without revision, the State Government may amend the budget estimate by making—

(Part II.—Chapter V.—Finance and audit.—Sections 31-34.)

- (a) such modifications as are in its opinion necessary to render the estimate reasonably accurate with reference to ascertainable facts or to balance the income and the expenditure;
- (b) additions, alterations or modifications in any provision relating to new expenditure of a recurring nature;
- (c) any alteration or modification in any provision for expenditure which, in its opinion, is not in accordance with the provisions of this Act,

and shall approve the budget estimate so amended and forward it to the Board.

(7) If the State Government does not accord its approval to the said estimate within two months of the receipt thereof for such approval or within two months of the resubmission thereof with or without revision, the said estimate shall be deemed to have been approved by the State Government.

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

Payment to the Board by the State Government.

32. (1) The Board shall have a Fund to be called the West Bengal Board of Primary Education Fund to which shall be credited—

West Bengal Board of Primary Education Fund.

- (a) all sums which may be paid by the State Government;
- (b) all sums representing income from endowments or from property owned or managed by the Board; and
- (c) all other sums received by or on behalf of the Board from any other source whatsoever.

(2) The Fund shall vest in the Board and shall be under its control and shall be held by it in trust for the purposes of this Act.

(3) All monies payable to the credit of the Fund shall forthwith be paid into the Reserve Bank of India to the credit of the Fund, and all cheques drawn on the Fund shall be signed by the President or by such other persons as he may authorise in writing in this behalf.

(4) The Fund shall be maintained, administered and used in the manner prescribed.

33. No expenditure shall be incurred from the Fund except for the purposes of this Act, and unless such expenditure is provided for in the budget as approved under this Act or can be met by reappropriation sanctioned in the prescribed manner.

Application of the West Bengal Board of Primary Education Fund.

34. The Board shall keep an account of all its receipts and expenditure in the manner prescribed.

Accounts.

(Part II.—Chapter V.—Finance and audit.—Section 35.)

Audit.

35. (1) The accounts of the Board shall be examined and audited annually in such manner as may be prescribed, by an auditor or auditors appointed by the State Government.

(2) For the purpose of examination and audit under sub-section (1) the auditor may—

- (a) require in writing the production before him of any document relating to the Board or the assets thereof which he considers to be necessary for the proper conduct of the audit:

Provided that the Board shall not be bound to submit to the auditor documents, in original, or expenditure in connection with any anti-corruption work and of expenditure for printing of question papers and certificates, but shall, if so required by the auditor, furnish extracts of such documents duly certified by the President as correct after with-holding such portion of the documents as will, in the opinion of the President, tend to disclose either the identity or the sources of such expenditure;

- (b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such documents to answer any question relating thereto; and
- (c) require any person so appearing before him to submit a statement in writing in respect of any such document.

(3) It shall be the duty of the Board and of every member thereof, and of the Secretary, the Finance Officer, if any, and the members of the staff in the service of the Board, to afford to the auditor every facility for the examination and audit of the accounts of the Board and to comply with any requisition made by the auditor under sub-section (2) and with the requirement of any rule made in this behalf.

(4) Any person who wilfully neglects or refuses to comply with a requisition made under sub-section (2) or with the requirement of any rule made in this behalf shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(5) No complaint in respect of any offence punishable under sub-section (4) shall be made except with the previous sanction of the State Government.

(6) No Magistrate other than a Presidency Magistrate or a Magistrate of the first or second class shall try an offence punishable under sub-section (4).

(Part II.—Chapter V.—Finance and audit.—Section 36.—Part III.—
Chapter VI.—The Primary School Councils.—Section 37.)

36. (1) Not more than fourteen days after completion of the audit, the auditor shall submit to the State Government a report on the accounts audited, and shall send a copy thereof to the Board which shall forward it to the State Government together with its observations thereon, within thirty days from the date of receipt of the audit report. Audit report.

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

PART III

CHAPTER VI

The Primary School Councils

37. (1) The State Government shall, by notification, establish for each district excluding the areas included in Calcutta and specified municipalities, with effect from such dates as may be specified in the notification, a District Primary School Council bearing the name of the district. District Primary School Councils.

(2) A District Primary School Council shall consist of the following members, namely:—

- (a) the District Inspector of Schools, in charge of primary education;
- (b) the District Special Officer, Scheduled Castes and Tribes Welfare or where no such officer is posted, the District Tribal Welfare Officer;
- (c) the District Social Education Officer;
- (d) one member for each sub-division, elected in the prescribed manner by the members of *Anchal Panchayats* within the sub-division;

Provided that the number shall in no case be less than three;

- (e) three members, elected in the prescribed manner by the Commissioners of non-specified municipalities within the district;

Provided that in the district of 24-Parganas, four members shall be elected by such municipalities;

- (f) three members, elected in the prescribed manner by the members of *Zilla Parishad* of the district;

(Part III.—Chapter VI.—The Primary School Councils.—Section 38.)

- (g) one teacher of a Junior Basic Training Institution in the district, elected in the prescribed manner by the teachers of such institutions in the district;
- (h) three teachers of whom one shall be a woman, elected in the prescribed manner by the teachers of primary schools in each sub-division from amongst themselves;

Provided that the number shall in no case be less than six;

- (i) the members of the West Bengal Legislative Assembly, not being Ministers, representing the constituencies comprised within the territorial jurisdiction of the district concerned;
- (j) three persons interested in education, nominated by the State Government.

(3) A District Primary School Council shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purpose of this Act, and shall by its corporate name sue and be sued.

Calcutta
Primary
School
Council.

38. (1) The State Government shall, by notification, establish for Calcutta, with effect from such date as may be specified in the notification, a Primary School Council to be called the Calcutta Primary School Council.

(2) The Calcutta Primary School Council shall consist of the following members, namely:—

- (a) the District Inspector of Schools (Primary Education), Calcutta;
- (b) the Chairman, Calcutta Metropolitan Development Authority or any person nominated by him;
- (c) four persons elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the Councillors of the Calcutta Corporation;
- (d) five teachers other than head teachers of whom at least two shall be women, elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the teachers of primary schools in Calcutta from amongst themselves;
- (e) one head teacher elected in the prescribed manner by the head teachers of primary schools in Calcutta from amongst themselves;

(Part III.—Chapter VI.—The Primary School Councils.—Section 39.)

- (f) one teacher elected in the prescribed manner by the teachers of secondary schools in Calcutta from amongst themselves;
- (g) the members of the West Bengal Legislative Assembly, not being Ministers, representing constituencies comprised within the territorial jurisdiction of the Calcutta Corporation;
- (h) six persons interested in education nominated by the State Government, of whom—
 - (i) one shall be a woman;
 - (ii) one shall be a member of the Anglo-Indian community;
 - (iii) two shall be members of the linguistic minority communities in Calcutta.

(3) The Calcutta Primary School Council shall be a body corporate having perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

39. (1) The State Government shall, by notification, establish in each specified municipality, with effect from such date as may be specified in the notification, a Municipal Primary School Council bearing the name of the municipality. Municipal
Primary
School
Council.

(2) A Municipal Primary School Council shall consist of the following members, namely:—

- (a) the District Inspector of Schools, in charge of Primary Education;
- (b) the District Social Education Officer;
- (c) the Chief Medical Officer of Health of the District or any other Medical Officer of the District nominated by him;
- (d) the District Officer for Physical Education and Youth Welfare or any other officer of the Education Department, Government of West Bengal, nominated by the State Government;
- (e) four persons elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the Commissioners of the municipality concerned;
- (f) five teachers of whom one shall be a woman, elected in the prescribed manner in accordance with the system of proportional representation by means of the single transferable vote by the teachers of primary schools within the municipality concerned from amongst themselves;

(Part III.—Chapter VI.—The Primary School Councils.—Sections 40-42.)

- (g) the members of the West Bengal Legislative Assembly, not being Ministers, representing the constituencies comprised within the territorial jurisdiction of the municipality concerned;
- (h) four persons interested in education nominated by the State Government, of whom—
 - (i) one shall be a woman;
 - (ii) one shall be a member of a Scheduled Caste or a Scheduled Tribe;
 - (iii) one shall be a member of any of the linguistic minority communities in the district;
- (i) the Chairman of the municipality concerned.

Explanation.—In this clause the expression "Chairman" shall include "Mayor" in the case of the Municipal Corporation of Chandernagore.

(3) A Municipal Primary School Council shall be a body corporate having perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

Appointment
in default
of election.

40. (1) If by such date, as may be fixed by the State Government in this behalf, any of the authorities fails to elect a member or members as provided in section 37, section 38 or section 39, the State Government shall appoint member or members qualified for election by such authority.

(2) A person appointed under this section shall be deemed to be a member of the Primary School Council duly elected by the authority concerned.

Publication
in the
*Official
Gazette.*

41. The name of every member elected or nominated under section 37, section 38 or section 39 or appointed under section 40 as a member of a Primary School Council shall be published by the State Government in the *Official Gazette* as soon as may be after his election, nomination or appointment, as the case may be.

Term of
office of
members.

42. (1) Subject to the provisions of this Act, every elected, nominated or appointed member of a Primary School Council shall hold office for a term of four years from the date of the first meeting of the Primary School Council at which a quorum is present and may on expiration of such term be re-elected, re-nominated or re-appointed.

*(Part III.—Chapter VI.—The Primary School Councils.—
Sections 43-45.)*

(2) Notwithstanding the expiration of the term of four years mentioned in sub-section (1), every elected, nominated or appointed member of a Primary School Council shall continue to hold office until the first meeting of the newly-formed Primary School Council at which a quorum is present.

43. If any member of a Primary School Council dies or resigns his office or ceases to be a member for any other reason the vacancy shall be filled up by fresh election or nomination under section 37, section 38 or section 39, as the case may be, and the member so elected or nominated shall hold office for the unexpired portion of the term of the member whose place he fills:

Casual
vacancies.

Provided that no election shall be held to fill a vacancy of a member occurring within four months from the date on which the term of the office of the member expires.

44. (1) There shall be a Chairman and a Vice-Chairman of a Primary School Council.

Chairman
and Vice-
Chairman
of a
Primary
School
Council.

(2) The Chairman and the Vice-Chairman shall be elected by the members of the Primary School Council from among themselves in such manner as may be prescribed and shall, subject to the provisions of section 45, hold office for a term of four years mentioned in section 42:

Provided that until a Chairman is elected by the members of the Primary School Council for the first time the State Government may appoint a person to be the Chairman of the Primary School Council and the person so appointed shall hold office until a Chairman is elected by the members of the Primary School Council and assumes office.

(3) The Chairman and the Vice-Chairman shall receive such pay or allowances or both as may be fixed by the State Government.

(4) The Chairman may resign his office by giving notice in writing to the Primary School Council and when such resignation is accepted by the Primary School Council the Chairman shall be deemed to have vacated his office.

(5) The Vice-Chairman may resign his office by giving notice in writing to the Chairman and when such resignation is accepted by the Chairman the Vice-Chairman shall be deemed to have vacated his office.

45. If at a meeting of the Primary School Council specially convened for the purpose a resolution is passed against the Chairman or the Vice-Chairman by a majority of the then members of the Primary School Council and by a majority of not less than two-thirds of the members of the Primary School Council present and voting such

Removal
of the
Chairman
and the
Vice-
Chairman.

(Par III.—Chapter VI.—The Primary School Councils.—
Sections 46-49.)

resolution shall have the effect of removing the Chairman or the Vice-Chairman, as the case may be, from his office as from the date on which the resolution is so passed.

Discharge
of Chair-
man's
functions
in certain
contin-
gencies.

46. (1) (a) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or removal, or otherwise, or,

(b) when the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman shall exercise the powers, perform the functions and discharge the duties of the Chairman until a new Chairman is elected and assumes office or until the Chairman resumes his duties, as the case may be.

(2) In the event of the occurrence of vacancies in the offices of both the Chairman and the Vice-Chairman the State Government may appoint a member of the Primary School Council to exercise the powers, perform the functions and discharge the duties of the Chairman until a Chairman or a Vice-Chairman is elected and assumes office.

(3) A Chairman elected to fill a casual vacancy shall hold office for the unexpired portion of the term of the Chairman whose place he fills.

Disquali-
fications
for mem-
bership.

47. The provisions of section 12 shall *mutatis mutandis* apply in the case of a member of a Primary School Council.

Resigna-
tion of
members.

48. A member of a Primary School Council may resign his seat by giving notice in writing to the Chairman and when such resignation is accepted by the Chairman such member shall be deemed to have vacated his seat.

Meetings
of the
Primary
School
Council.

49. (1) Every Primary School Council shall meet at least three times a year.

(2) Every meeting of the Primary School Council shall be convened by the Secretary to the Primary School Council under instructions of the Chairman:

Provided that the Chairman shall, when required in writing by one-third of the members of the Primary School Council to convene a meeting, direct the Secretary to do so within seven days from the receipt of the requisition and if no meeting is convened within the said period the members aforesaid may convene a meeting after giving seven clear days' notice to the Chairman and other members of the Primary School Council.

*(Part III.—Chapter VI.—The Primary School Councils.—
Sections 50-53.)*

50. (1) The Chairman or in his absence the Vice-Chairman shall preside at a meeting of the Primary School Council and in the absence of both the Chairman and the Vice-Chairman one of the members of the Primary School Council elected from amongst those present shall preside at the meeting of the Primary School Council, and the Chairman or the Vice-Chairman or such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes.

Conduct of meetings.

(2) Subject to the provisions of sub-section (1), the Primary School Council shall have the power to regulate the procedure for the conduct of its business.

51. (1) No member of a Primary School Council shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any primary school of which he is either a teacher or a member of the managing committee.

Restriction on voting.

(2) The Chairman or the Vice-Chairman or the member presiding at a meeting of a Primary School Council shall decide any question arising under sub-section (1) and his decision thereon shall be final.

52. The State Government may, by notification, remove the Chairman, Vice-Chairman or a member of a Primary School Council, if he—

Removal.

- (a) refuses to act or becomes incapable of acting as Chairman, Vice-Chairman or member of the Primary School Council; or
- (b) acts in a manner prejudicial to the interest of the Primary School Council; or
- (c) without obtaining the consent of the Primary School Council is absent from six consecutive meetings of the Primary School Council:

Provided that before such removal the Chairman, the Vice-Chairman or the member concerned shall be given an opportunity of being heard.

53. (1) The Chairman shall be responsible for carrying out and giving effect to the decisions of the Primary School Council and of any Committee thereof.

Duties of the Chairman.

(2) The Chairman may, in any emergency, discharge any of the duties of the Primary School Council, provided, however, that he shall not act contrary to any decision of the Primary School Council, and

*(Part III.—Chapter VI.—The Primary School Councils.—
Sections 54, 55.)*

shall within one month report to the Primary School Council the action taken by him together with reasons therefor.

(3) The Chairman shall—

- (a) exercise general supervision and control over the Secretary, the Finance Officer and the staff appointed by the Primary School Council and post and transfer the members of the staff;
- (b) sanction all claims of travelling allowances;
- (c) take such other action not inconsistent with any decision of the Primary School Council as he considers necessary for the proper functioning of the Primary School Council under the Act.

Duties of
the Vice-
Chairman.

54. The Vice-Chairman shall discharge such duties of the Chairman as may be delegated to him in writing by the Chairman with the approval of the Primary School Council.

Secretary
and Finance
Officer of
Primary
School
Council.

55. (1) Every Primary School Council shall have a Secretary and a Finance Officer.

(2) The Secretary shall be appointed by the State Government and the terms and conditions of service of the Secretary and his pay and allowances shall be such as the State Government may determine.

(3) Subject to the general control and supervision of the Chairman, the Secretary shall be the principal administrative officer of the Primary School Council.

(4) The State Government shall appoint a person who is in the service of the State Government as the Finance Officer upon such terms and conditions and on such pay and allowances as the State Government may determine.

(5) The Finance Officer shall be in charge of the matters relating to finance and accounts of the Primary School Council and shall perform such functions as may be prescribed.

(6) The pay and allowances of the Secretary and the Finance Officer shall be paid out of the fund of the Primary School Council.

(7) The Secretary and the Finance Officer shall be entitled to attend and speak at any meeting of the Primary School Council but shall not be entitled to vote.

*(Part III.—Chapter VI.—The Primary School Councils.—
Sections 56-59.)*

56. (1) Subject to the prescribed conditions and with prior approval of the State Government, a Primary School Council may appoint such officers and other staff as may be considered necessary for carrying out the duties under the Act.

Other staff
of the
Primary
School
Council.

(2) The scale of pay and allowances in respect of such officers and other staff and other terms and conditions of their appointment shall be such as may be determined by the State Government from time to time.

(3) Subject to the prescribed conditions, a Primary School Council may award any punishment including dismissal or removal on the members of its staff other than the Secretary and the Finance Officer:

Provided that no punishment other than censure of a teacher or a School Mother of Primary School be awarded except on the recommendation of the Discipline Committee.

57. Such members of the Primary School Council or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Primary School Council, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Primary School Council such allowances and at such rates as may be prescribed.

Travelling
allowance.

58. If at any time, it appears to the Board that a Primary School Council has made default in discharging any duty imposed upon it by or under this Act, the Board may after giving the Primary School Council an opportunity of being heard, fix, by an order in writing, a period within which such duty is to be discharged.

Control by
Board.

59. (1) If at any time, on receipt of a report from the Board or otherwise, it appears to the State Government that a Primary School Council is not competent to perform, or persistently makes default in the performance of, the duties imposed upon it by or under this or any other Act, or exceeds or abuses its powers, the State Government may, after giving the Primary School Council an opportunity of being heard, by an order in writing specifying the reasons for so doing, remove all members of such Primary School Council and direct that the vacancies shall thereupon be filled by election, nomination or appointment, as the case may be, in respect of elected, nominated or appointed members:

Super-
session of
Primary
School
Council and
appointment
of an
Adminis-
trator.

Provided that when the State Government proposes to make an order under this sub-section otherwise than on a report from the Board the State Government shall ask the Board to give its opinion in the

*(Part III.—Chapter VI.—The Primary School Councils.—
Section 60.)*

matter within a date to be fixed by the State Government and an order under this sub-section shall be made after considering the opinion of the Board, if any, received within the date so fixed.

(2) From the date of an order under sub-section (1) and until the vacancies are filled—

- (a) all powers and duties of the Primary School Council shall be exercised and performed by, and
- (b) all property vested in the Primary School Council shall vest in,

such person and in such manner, as the State Government may direct.

Duties of
the Primary
School
Council.

60. (1) It shall be the duty of every Primary School Council—
- (a) to prepare and maintain in such manner and containing such particulars as may be prescribed, a register showing all primary schools within its jurisdiction, together with the teachers thereof and the accommodation available therein;
 - (b) to maintain in such manner and containing such particulars as may be prescribed a register of teaching and non-teaching staff of all primary schools under its management;
 - (c) to maintain in such manner and containing such particulars as may be prescribed a service record of teaching and non-teaching staff of all primary schools under its management;
 - (d) to tabulate such further information and to prepare such plans or maps as may be necessary to enable the Primary School Council to frame an estimate of the existing provisions for primary education and of the further provisions necessary to place primary education within the reach of all children;
 - (e) to prepare in the prescribed manner schemes for the extension of primary education and to make adequate provisions for facilities for the free primary education of all children to whom such schemes apply;
 - (f) to arrange, in the prescribed manner and with the prior approval of the Board, for the opening of additional primary schools and expansion of existing primary schools with a view to giving effect as funds permit to such schemes;
 - (g) to provide for the welfare of the children attending primary schools;

*(Part III.—Chapter VI.—The Primary School Councils.—
Section 60.)*

- (h) to maintain an adequate number of primary schools within its jurisdiction;
- (i) to carry on propaganda for expansion of primary education;
- (j) to construct, repair and manage, either directly or through any local authority, all primary schools under public management;
- (k) subject to the prescribed conditions, to appoint teachers and other staff in primary schools, to transfer any such teacher or other staff from one primary school to another primary school within the jurisdiction of the same Primary School Council and to pay to teachers and other staff salaries and allowances, if any, at such rates as may be fixed by the State Government;
- (l) to grant recognition to primary schools with or without conditions or to withdraw recognition and to grant financial aid to any such primary schools or to withdraw such aid, in such manner, as may be prescribed;
- (m) to make grants in the prescribed manner for scholarships and stipends;
- (n) to prepare and transmit to the Director proposals for increasing the supply of trained and certified teachers;
- (o) to comply with such instructions as may be issued by the Board under clause (f) of sub-section (1) of section 19;
- (p) to advise upon and to supply all information with respect to matters relating to primary education referred to the Primary School Council by the Director or the Board;
- (q) subject to the prescribed conditions—
 - (i) to grant pensions and gratuities to,
 - (ii) to form and manage a provident or an annuity fund for,
 - (iii) to compel contributions to such fund from, and
 - (iv) to supplement the contributions to such fund of,the establishment of the Primary School Council and teachers in primary schools;
- (r) to exercise supervision and control over the primary schools and the work of the Welfare Committees; and
- (s) to perform such other duties as may be prescribed.

*(Part III.—Chapter VI.—The Primary School Councils.—
Sections 61-64.)*

(2) The register referred to in clause (a) of sub-section (1) shall be maintained and the information referred to in clause (d) thereof shall be tabulated separately for each prescribed area.

Reports
to be made
by the
Primary
School
Council.

61. (1) Every Primary School Council shall in each financial year—

(a) frame and transmit to the Director, by such date and in such form as he may direct, a statement showing for the area within its jurisdiction—

(i) the names of primary schools for which grants have been sanctioned for that year; and

(ii) the amount of the grant which has been sanctioned for each such school;

(b) furnish a report to the Director, by such date and in such form as he may direct, exhibiting the grants which it has distributed to schools within its jurisdiction.

(2) A copy of such statement and of such report shall be sent to the Board.

Primary
School
Council
to furnish
other
prescribed
reports.

62. Every Primary School Council shall prepare and transmit to the Director and the Board such further reports and statements as the State Government may from time to time determine.

Compulsory
acquisition
of land for
the purposes
of the Act.

63. The State Government may, at the request of the Chairman of a Primary School Council, acquire, under the provisions of any law for acquisition of land for the time being in force, any land required for the purpose of this Act.

Explanation.—"Land" in this section has the same meaning as in clause (b1) of section 2 of the West Bengal Land (Requisition and Acquisition) Act, 1948.

West Ben.
Act II of
1948.

Transfer of
primary
schools
under the
control of
the Corpora-
tion of
Calcutta.

64. With effect from such date as may be fixed by the State Government by notification,—

(a) such primary schools in Calcutta as may be mentioned in the notification in consultation with the Corporation of Calcutta, together with their lands, buildings, and other properties, movable or immovable, vested in or under the control of the Corporation of Calcutta immediately before such date, shall stand transferred to the Calcutta Primary School Council;

*(Part III.—Chapter VI.—The Primary School Councils.—
Section 65.)*

- (b) the primary schools referred to in clause (a) shall be under the control and management of the Calcutta Primary School Council;
- (c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Calcutta Primary School Council and the terms and conditions of their service shall be such as may be determined by the State Government.

65. (1) With effect from such date as may be fixed by the State Government by notification,—

Transfer
of primary
schools
under the
control of
a municip-
ality.

- (a) such primary schools in a specified municipality as may be mentioned in the notification in consultation with the Commissioners of such municipality, together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the Commissioners of such municipality immediately before such date shall stand transferred to the Primary School Council established for such municipality;
- (b) the primary school referred to in clause (a) shall be under the control and management of the Primary School Council established for such municipality;
- (c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Primary School Council established for such municipality and the terms and conditions of their service shall be such as may be determined by the State Government.

(2) With effect from such date as may be fixed by the State Government by notification,—

- (a) such primary schools in a non-specified municipality in a district as may be mentioned in the notification in consultation with the Commissioners of such municipality, together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the Commissioners of such municipality immediately before such date, shall stand transferred to the Primary School Council established for the district;

*(Part III.—Chapter VI.—The Primary School Councils.—Section 66.—
Chapter VII.—Committees of the Primary School Council.—
Section 67.)*

- (b) the primary schools referred to in clause (a) shall be under the control and management of the Primary School Council established for such district;
- (c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Primary School Council established for the district and the terms and conditions of their service shall be such as may be determined by the State Government.

Transfer of
primary
schools
under
scheme
sanctioned
under West
Bengal
Act XXVIII
of 1963.

66. (1) Notwithstanding anything contained in section 65, all primary schools in a municipality under a scheme sanctioned under the West Bengal Urban Primary Education Act, 1963 shall, with effect from such date as may be fixed by the State Government by notification, together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the Commissioners of such municipality immediately before such date, shall stand transferred to, and all teachers and other staff employed in such primary schools and continuing in office immediately before such date shall be deemed to be employed by,—

- (a) the Primary School Council established for a specified municipality, if such schools are within the jurisdiction of such municipality; and
- (b) the Primary School Council established for the district, if such schools are within the jurisdiction of a non-specified municipality within the district.

(2) The terms and conditions of service of such teachers and other staff shall be such as may be determined by the State Government.

CHAPTER VII

Committees of the Primary School Council

Committees.

67. (1) As soon as may be after a Primary School Council is established it shall constitute the following Committees; namely:—

- (a) the Recognition Committee;
- (b) the Staff Selection Committee;
- (c) the Finance Committee;
- (d) the Discipline Committee;
- (e) the Appeal Committee;
- (f) the Development Committee.

(2) The constitution, powers and functions of a Committee shall be such as may be prescribed.

*(Part III.—Chapter VII.—Committees of the Primary School Council.—
Section 68.—Chapter VIII.—Finance and audit.—Sections 69, 70.)*

68. (1) A Primary School Council may, with the approval of the State Government and subject to such directions as the State Government may issue in this behalf, constitute such other Committee or Committees as it may think fit and any such Committee may be composed wholly or in part of members of the Primary School Council.

Power to
constitute
Committees.

(2) A Primary School Council may, with the approval of the State Government, delegate to any such Committee any of its powers and functions and may in like manner withdraw from it any such power or function.

(3) A Primary School Council may, with the approval of the State Government, dissolve any of the Committees referred to in sub-section (1) of section 67 or constituted under sub-section (1) of this section.

CHAPTER VIII

Finance and audit

69. (1) Every Primary School Council shall in each year prepare in the prescribed form a budget estimate of income and expenditure of the Primary School Council for the ensuing financial year, and shall submit the budget estimate to the State Government through the Director on or before the thirtieth day of November.

Budget.

(2) The State Government may either approve of the budget estimate as it stands, or approve of it after making such alterations, if any, as it may think fit or may cause it to be returned to the Primary School Council for such modifications as the State Government may think necessary, and when such modifications have been made, the budget estimate shall be re-submitted for approval to the State Government.

(3) If the State Government does not accord its approval to the budget estimate within three months of the receipt thereof for such approval or within three months of the re-submission thereof with or without modification the said estimate shall be deemed to have been approved by the State Government.

70. (1) Every Primary School Council shall have a fund to be called the Primary School Council Fund to which shall be credited—

Primary
School
Council
Fund.

(a) all sums granted by the State Government or the Board for the payment of grants for primary education;

(Part III.—Chapter VIII.—Finance and audit.—Sections 71, 72.)

- (b) all sums granted by the State Government or the Board for the maintenance of primary schools and for payment to the teachers and other staff in primary schools;
- (c) all sums granted by the State Government or the Board for scholarships for children in primary schools;
- (d) the proceeds of the education cess levied under this Act within its areas;
- (e) all sums representing income from endowments or from property owned or managed by the Primary School Council;
- (f) the amount of all fines and penalties imposed under this Act other than fines and penalties levied by Magistrates;
- (g) all school fees and fines, if any, collected in primary schools maintained by the Primary School Council; and
- (h) all other sums received by the Primary School Council from any other sources whatsoever.

(2) The fund shall vest in the Primary School Council, shall be under its control and shall be held by it in trust for the purposes of this Act.

Application
of the
Primary
School
Council
Fund.

71. No expenditure shall be incurred from the Primary School Council Fund unless such expenditure is provided for in the budget as approved under this Act or by reappropriation sanctioned in the prescribed manner.

Expendi-
ture from
Primary
School
Council
Fund.

72. Except as otherwise provided in this Act, the Primary School Council Fund shall be applied in connection with the following objects and in the following order, namely:—

first, payment of interest upon any loan obtained by the Primary School Council for any of the purposes connected with this Act and for the formation of a sinking fund when required;

secondly, payment of the prescribed percentage of the cost of the establishment maintained by the Collector under section 91 of the Cess Act, 1880;

Ben. Act
IX of 1880.

thirdly, payment of the cost of audit;

(Part III.—Chapter VIII.—Finance and audit.—Sections 73, 74.—
Part IV.—Chapter IX.—Contributions.—Section 75.)

fourthly, payment of the salaries, allowances and all other expenses in connection with the establishment of the Primary School Council and all teachers in primary schools and, subject to the prescribed conditions, of pensions, family pensions, gratuities and grants made for submitting contribution to the provident fund in connection with the establishment of the Primary School Council and of teachers in primary schools;

fifthly, payment of travelling allowance to members of the Primary School Council;

sixthly, payment of expenses incurred by the Primary School Council in connection with the construction and maintenance of houses for primary schools and providing equipments to such schools;

seventhly, carrying out any other purposes under this Act.

73. Every Primary School Council shall keep an account of all its Accounts.
receipts and expenditure in the manner prescribed.

74. (1) The accounts of every Primary School Council shall be Audit.
examined and audited annually in such manner as may be prescribed by an auditor or auditors appointed by the State Government.

(2) The provisions of section 35 and section 36 shall apply *mutatis mutandis* in respect to the audit of the accounts of every Primary School Council.

(3) The State Government may by an order appoint an officer to examine the accounts of a Primary School Council for any period and the Primary School Council and its members and officers and other staff shall afford to the officer every facility for the examination of the accounts as may be required by him in terms of the order of the State Government.

PART IV

CHAPTER IX

Contributions

75. The State Government shall every year provide such sum from the State revenue as it may think fit for expenditure on primary Contribution
from State
revenues.
education.

(Part IV.—Chapter IX.—Contributions.—Section 76.—Chapter X.—
Taxes and cesses.—Section 77.)

Contribu-
tions from
Calcutta
Corpora-
tion and
munici-
palities.

76. Notwithstanding anything contained in any law for the time being in force, the Corporation of Calcutta shall pay to the Primary School Council established for Calcutta and the municipal authority of a municipality shall pay to the Primary School Council established for the area comprising the municipality, in each year in the prescribed manner an amount equal to the amount spent by them on primary education during the year immediately preceding the year in which this Act comes into force in Calcutta or in such municipality, as the case may be.

Explanation.—In this section "municipal authority" means—

- (i) in a municipality to which the Bengal Municipal Act, 1932 applies, the Municipal Commissioners; Ben. Act XV of 1932.
- (ii) in the area to which the Chandernagore Municipal Act, 1955 applies, the Municipal Corporation of Chandernagore; West Ben. Act XVIII of 1955.
- (iii) after the constitution of the Municipal Corporation of Howrah under the Howrah Municipal Act, 1965, in respect of the area included in Howrah as defined in the said Act, the Municipal Corporation of Howrah; and West Ben. Act XVII of 1965.
- (iv) in respect of a notified area under section 93A of the Bengal Municipal Act, 1932, the notified area authority appointed in respect of such area.

CHAPTER X

Taxes and cesses

Tax on
property.

77. (1) For the purpose of providing resources for promoting primary education the State Government may impose a tax on property within Calcutta and the municipalities.

(2) The tax referred to in sub-section (1) shall be imposed—

- (a) In Calcutta, on lands and buildings at a rate not exceeding three *per cent.* of the annual value of the lands and buildings determined under the Calcutta Municipal Act, 1951, for the purpose of assessment of the consolidated rates; and West Ben. Act XXXIII of 1951.
- (b) in a municipality, on the holding at a rate not exceeding three *per cent.* of the annual value of the holdings or lands and buildings determined under the law applicable to the municipality for the purposes of assessment of rates.

*(Part IV.—Chapter X.—Taxes and cesses.—Section 78.—Part V.—
Chapter XI.—Free and Compulsory Primary Education.—
Sections 79, 80.)*

(3) The tax referred to in sub-section (1) shall be levied and collected in such manner as may be prescribed.

Ben. Act IX of 1880. 78. (1) All immovable properties on which road and public works cesses are assessed according to the provisions of the Cess Act, 1880, shall be liable to the payment of education cess. Education cess.

(2) The rate of the education cess shall be determined by the State Government by notification and shall not exceed—

- (a) in respect of lands, *ten paise* on each rupee of the annual value thereof;
- (b) in respect of coal mines, *fifty paise* on each tonne of coal on the annual despatches therefrom;
- (c) in respect of quarries and mines other than coal mines, *twelve paise* on each rupee of the annual net profit thereof.

(3) The proceeds of the education cess in each district shall be paid by the Collector into the Primary School Council Fund established for the district.

(4) The provisions of the Cess Act, 1880 shall apply as far as possible to the assessment, levy and recovery of the education cess.

PART V

CHAPTER XI

Free and Compulsory Primary Education

79. Every Primary School Council shall prepare, in accordance with such directions as may be given by the Director in this behalf, a scheme for the entire area within the jurisdiction of the Primary School Council or any part thereof to provide compulsory primary education for children ordinarily resident within such area and shall submit the scheme to the Board which shall send it with its observations to the Director within such time as may be specified by him. Preparation of scheme.

80. The scheme referred to in section 79 shall be in such form as may be prescribed and shall contain the following particulars, namely:— Particulars of scheme.

- (a) the area in which primary education shall be compulsory with population ascertained at the last preceding census;
- (b) the approximate number of children in such area classified according to age, sex and mother tongue;

*(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 81, 82.)*

- (c) a list showing therein the number of existing primary schools classified according to the language in which instruction is given in such schools, the location of such schools, the number of teachers and students in each such school and the accommodation available for enrolment therein;
- (d) a list showing therein the number of new primary schools proposed to be opened classified according to the language in which instruction is proposed to be given in such schools, the location of the proposed schools, the number of teachers and other staff that would be required and the accommodation that would be available in such schools;
- (e) the recurring and non-recurring expenditure of the scheme;
- (f) a sketch map of the area to be covered by the scheme indicating therein the area of each thana or ward, location of existing primary schools and of the proposed new primary schools;
- (g) such other particulars as may be prescribed.

Sanction
of State
Government
to the
scheme.

81. (1) The State Government may, after such enquiry as it may consider necessary, sanction with or without modification the scheme submitted under section 79 and the scheme so sanctioned shall be published by notification and shall come into force from such date as may be specified by the State Government in the notification.

(2) Every scheme of free and compulsory education sanctioned under the West Bengal Urban Primary Education Act, 1963, and in force in any area immediately before the coming into force of this Act in such area shall, unless otherwise directed by the State Government, be deemed to be a scheme sanctioned under this Act.

West Ben.
Act XXVIII
of 1963.

Modifica-
tion, etc., of
sanctioned
scheme.

82. (1) A scheme sanctioned under section 81 may, from time to time, be modified by the State Government or, with the approval of the State Government, by the Primary School Council having jurisdiction over the area covered by the scheme and when a scheme is so modified, the modified scheme with reasons for making the modification shall be published by notification.

(2) The State Government may by order in writing stating the reasons for so doing temporarily suspend a sanctioned scheme.

*(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 83-85.)*

(3) When a sanctioned scheme is temporarily suspended by an order under sub-section (2), the State Government shall give the Primary School Council concerned an opportunity of stating its views on the order and after considering the views of the Primary School Council the State Government may revoke the order temporarily suspending the scheme, or withdraw the scheme and direct the Primary School Council to prepare a fresh scheme.

83. (1) When a scheme sanctioned by the State Government comes into force in any area no fee shall be charged in respect of any child attending a primary school in such area managed or aided by the Primary School Council. Primary education to be free.

Ben. Act
VII of 1930.

(2) Primary education shall continue to be compulsory and no fee shall be charged by any primary school under public management in the area in which primary education was declared compulsory under the Bengal (Rural) Primary Education Act, 1930.

84. (1) It shall be the duty of a Primary School Council to cause to be prepared, within a period of three months from the date of coming into force of a scheme and in such manner as may be prescribed, a list of children in the area covered by the scheme and the Primary School Council shall cause the list to be revised at such interval as may be prescribed. List of children.

(2) The State Government may, by order, extend the period for the preparation of the list referred to in sub-section (1).

(3) It shall be the duty of the teachers and other staff of all primary schools managed or aided by the Primary School Council to assist in the preparation or revision of the list referred to in sub-section (1) in the manner indicated by the Primary School Council. The Primary School Council may, with the approval of the State Government, also appoint other persons including Inspecting Officers and other employees of the State Government including teachers for the preparation or revision of such list.

85. (1) There shall be a Welfare Committee for each primary school. The Welfare Committee shall be constituted by the Primary School Council and shall consist of the following members, namely:— Welfare Committee.

- (a) the head teacher of the primary school;
- (b) one assistant teacher of the primary school elected by the teachers other than the head teacher thereof from amongst themselves;

*(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Section 85.)*

- (c) four guardians elected in the prescribed manner by guardians of the students reading in the primary school from amongst themselves;
- (d) one person interested in education nominated by the Primary School Council concerned; and
- (e) where the primary school is situated within the jurisdiction of—
 - (i) a *Gram Panchayat*, one person elected in the prescribed manner by the members of such *Gram Panchayat* from amongst themselves,
 - (ii) the Corporation of Calcutta or a municipality, one person elected in the prescribed manner by the Councillors of the Corporation of Calcutta or by the municipal authority of such municipality, as the case may be, from amongst the persons residing within a distance of sixteen hundred metres from the premises of the school.

Explanation.—In this clause the expression "municipal authority" has the same meaning as in section 76.

(2) There shall be a Chairman and a Secretary of the Welfare Committee elected from amongst the members referred to in clauses (c), (d) and (e) of sub-section (1).

(3) The head teacher of the school concerned shall be the Assistant Secretary of the Welfare Committee.

(4) If a Welfare Committee is not formed within six months from the date on which the Act comes into force in any area in which the primary school is situated, the Primary School Council shall appoint an ad hoc Welfare Committee with four nominated guardians and the head teacher as members. Such ad hoc Committee shall function until a Welfare Committee is formed in the manner laid down in sub-section (1).

(5) The Welfare Committee shall hold office for a term of four years.

(6) It shall be the duty of the Welfare Committee to advise on matters relating to the administration, development and improvement of the school, promotion of cordial relationship among guardians, teachers and students, the health of the students, books and the meals, if any, to be supplied in such school.

(7) The Welfare Committee shall perform such other functions and discharge such other duties as are mentioned in this Act or as may be prescribed.

*(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 86-88.)*

(8) The Welfare Committee shall perform its functions and discharge its duties under the supervision and control of the Primary School Council.

(9) The Primary School Council shall have the power to dissolve any Welfare Committee if it so thinks fit and appoint an *ad hoc* Welfare Committee in its place in the same manner as laid down in sub-section (4) which shall function until a new Committee is constituted under sub-section (1).

86. Any person engaged in the preparation or revision of the list referred to in section 84 or any member of the Welfare Committee may put such question to any guardian or require any guardian to furnish such information about his child as such person or such member may consider necessary and such guardian shall be bound to answer such question or to furnish such information, as the case may be, to the best of his knowledge and belief.

Guardians
to furnish
information.

87. (1) In any area where a scheme sanctioned by the State Government comes into force it shall be the duty of the guardian of every child residing within such area to cause the child to attend a primary school, unless, in the opinion of the Welfare Committee, there is a reasonable excuse for non-attendance of the child.

Duty of
guardian
to send
his child to
a primary
school.

(2) Any of the following circumstances shall be deemed to be a reasonable excuse within the meaning of this section, namely:—

- (a) that there is no primary school within a distance of sixteen hundred metres from the residence of the child measured by the shortest route, which the child can attend;
- (b) that the child is prevented from attending the school by reason of sickness or infirmity or mental defect;
- (c) that the child is receiving education in some other manner declared to be satisfactory by the State Government or by an officer authorised by it in this behalf;
- (d) that the child has already completed primary education up to the class or standard available in any primary school situated within a distance of sixteen hundred metres from his residence;
- (e) such other circumstances as may be prescribed.

88. (1) Whenever the Welfare Committee has reason to believe that the guardian of a child has failed to cause the child to attend a primary school without any reasonable excuse within the meaning of sub-section (2) of section 87, it shall, after causing such enquiry as it considers necessary, make an order directing the guardian to cause such child to attend a primary school on and from the date specified in the order.

Attendance
order.

*(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 89, 90.—Part VI.—Chapter XII.—Tribunal.—Section 91.)*

(2) A guardian aggrieved by an order under sub-section (1) may, within thirty days from the date of the order, appeal in the prescribed manner to the District Inspector of Schools who may confirm or rescind the order.

Penalty for failure to obey order for causing attendance of a child in a primary school.

89. Any guardian who fails to comply with an order passed under sub-section (1) of section 88, unless such order is rescinded in an appeal made under sub-section (2) of that section, shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees, and if so ordered also a recurring fine not exceeding one rupees for each day after the first during which he continues so to offend.

Cognisance of offence.

90. No Magistrate shall take cognisance of any offence under this Chapter except on the complaint of an officer of the State Government not below the rank of an Assistant Inspector of Schools authorised by the State Government in this behalf.

PART VI

CHAPTER XII

Tribunal

Tribunal.

91. (1) There shall be a Tribunal which shall consist of a person who is or has been a judicial officer, not below the rank of a Subordinate Judge, appointed by the State Government.

(2) The Tribunal shall decide,—

- (i) every appeal filed by a teacher or a member of the non-teaching staff of a primary school against the decision of the appeal committee constituted under section 67, in cases where the punishment awarded is dismissal, removal or reduction in rank or such other punishment as may be prescribed, and
- (ii) every dispute concerning,—
 - (a) the eligibility of any person for election as a member of the Board or any Primary School Council or any committee of the Board or the Primary School Council under this Act, or
 - (b) the manner in which such election was held, or
 - (c) the qualification of any member of the Board or any Primary School Council or any committee of the Board or the Primary School Council, to continue as such member.

*(Part VI.—Chapter XII.—Tribunal.—Section 92.—Chapter XIII.—
Transitional provisions.—Sections, 93-95.)*

92. (1) The time within which an appeal shall be filed or a dispute shall be referred under section 91 and the procedure to be followed by the Tribunal in deciding such appeal or dispute shall be such as may be prescribed.

Procedure to be followed by a Tribunal.

(2) The decision of the Tribunal under sub-section (2) of section 91 shall be final and no suit or proceeding shall lie in any court in respect of any matter which has been or may be referred to or has been decided by the Tribunal.

CHAPTER XIII

Transitional provisions

93. (1) Upon the repeal of the enactments referred to in sub-section (1) of section 105 and until a Primary School Council is established for any area, the State Government shall, by notification, appoint, for such period not exceeding one year as may be specified in the notification, one of its officers to be called the Administrator who shall exercise, perform and discharge in relation to such area, all the powers, functions and duties of a Primary School Council under this Act:

Administrator to discharge the functions of Primary School Council until it is established.

Provided that the Administrator appointed in relation to any area shall vacate his office on the establishment of the Primary School Council for such area.

(2) All things done and all actions taken by the Administrator under sub-section (1) shall be deemed to have been done or taken by the Primary School Council as if the Primary School Council were established.

94. Every matter or thing required to be provided by regulations under this Act may, until such regulations are made, be provided by orders made by the State Government in this behalf.

Matter to be provided by regulation may be provided by orders of State Government.

95. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing such difficulty.

Provisions for removing difficulty.

(Part VI.—Chapter XIII.—Transitional provisions.—Sections 96-98.—
Chapter XIV.—Miscellaneous.—Section 99.)

Filling of
vacancy
when a
member
ceases to be
a member
of the
category
electing
him.

96. If any member of the Board, any Primary School Council or any Committee constituted under this Act, elected, nominated or appointed thereto from a particular category ceases to be a member of such category, he shall, with effect from the date he ceases to be a member of such category, automatically cease to be a member of the Board, such Primary School Council or such Committee, as the case may be.

Appointment
when
electing
body is
superseded.

97. If any elected body from which a member is to be elected, appointed or nominated to the Board, any Primary School Council or any Committee constituted under this Act, stands superseded and it is not possible to elect, nominate or appoint the member from such elected body, the Administrator or the executive officer of such elected body shall be the *ex-officio* member of the Board, Primary School Council or the Committee, as the case may be. He shall cease to be such member as soon as the elected body is reconstituted and the election is held or the appointment or nomination, as the case may be, is made.

Taking over
of properties
of primary
school.

98. The Board or any Primary School Council shall have the power to take over or to accept by gift or transfer properties of any school under private ownership and management and thereafter to bring such school under the control and management of the Primary School Council having jurisdiction.

CHAPTER XIV

Miscellaneous

Power of
State
Government
to suspend
proceedings.

99. (1) The State Government may, by an order in writing specifying the reasons therefor, temporarily suspend the execution of any resolution or order of the Board or a Primary School Council or of any Committee of the Board or the Primary School Council or temporarily prohibit the doing of any act by it which is purported or intended to be done under this Act, if the State Government is of opinion that such resolution, order or act is in excess of the powers conferred by or under this Act upon the Board, the Primary School Council or the Committee, as the case may be.

(2) When any order is made under sub-section (1), the State Government shall give the Board, the Primary School Council or the Committee of the Board or the Primary School Council an opportunity to express its views on such order and after considering the views of the Board, the Primary School Council or the Committee, as the case may be, revoke or confirm such order.

(Part VI.—Chapter XIV.—Miscellaneous.—Sections 100-104.)

100. (1) The State Government may, from time to time, cause enquiry to be made by any person in regard to the Board or a Primary School Council on matters connected with primary education or any matter with respect to which the sanction, approval, consent or order of the State Government is required by or under this Act.

Enquiry into the affairs of the Board and the Primary School Council.

5 of 1908.

(2) The person holding such enquiry shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purpose of enquiry.

(3) The State Government may make orders as to the cost of enquiry made under sub-section (1) and as to the party by whom and the funds out of which such costs shall be paid and such orders may on the application of the State Government or the person named therein be executed as if it were a decree of a Civil Court.

101. The members of the Board, the Primary School Councils, or the Committees of the Board or the Primary School Councils, persons in the service of the Board, the Primary School Councils or such Committees and any person appointed under this Act to audit the accounts of the Board or of a Primary School Council or to perform any other duties under this Act or the rules and regulations made thereunder shall be deemed, when acting or purporting to act in the discharge of their duties or the exercise of their powers under this Act or under the rules and regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

Certain persons to be deemed to be public servants.

45 of 1860.

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

Indemnity.

103. No act or proceeding taken under this Act by the Board or a Primary School Council or a Committee of the Board or the Primary School Council shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Savings.

104. (1) The State Government may by notification delegate, subject to such conditions as it may specify, all or any of its powers under this Act to any officer or authority subordinate to it.

Delegation.

(2) Nothing in sub-section (1) shall derogate from the right of the State Government to exercise any of the powers delegated by it under that sub-section.

(Part VI.—Chapter XIV.—Miscellaneous.—Section 105.)

Repeal
and
continuance.

105. (1) The Bengal (Rural) Primary Education Act, 1930, the West Bengal Urban Primary Education Act, 1963, and the West Bengal (Rural) Primary Education (Temporary Provisions) Act, 1969, are hereby repealed.

Ben. Act VII
of 1930.
West Ben.
Act XXVIII
of 1963.
West Ben.
Act XII of
1969.

(2) Upon such repeal,—

- (a) all properties and assets vested in the District School Board established for a district shall vest in, and all rights, liabilities and obligations acquired or incurred by such District School Board before such repeal shall stand transferred to, the Primary School Council established for the district:

Provided that until such Primary School Council is established such properties and assets shall be deemed to be vested in, and such rights, liabilities and obligations shall be deemed to be transferred to, the Administrator appointed under section 93 in relation to the district,

- (b) all legal proceedings instituted or remedies enforceable by or against the District School Board established for a district before such repeal may be continued or enforced, as the case may be, by or against the Primary School Council established for the district and until such Primary School Council is established, by or against the Administrator appointed under section 93 in relation to the district,
- (c) all officers and other persons employed by the District School Board established for a district and continuing in office immediately before such repeal shall be deemed to be employed by the Primary School Council established for the district on such terms and conditions as may be determined by the State Government:

Provided that until such Primary School Council is established such officers and other persons shall be deemed to be employed by the Administrator appointed under section 93 in relation to the district.

(3) All primary schools recognised under the Bengal (Rural) Primary Education Act, 1930, or the West Bengal Urban Primary Education Act, 1963, shall be deemed to have been recognised under this Act until the expiration of the period of recognition subject, however, to the power of the Primary School Council having jurisdiction to withdraw recognition in accordance with the provisions of this Act.

(Part VI.—Chapter XIV.—Miscellaneous.—Section 106.)

Ben. Act
VII of 1930.

(4) Notwithstanding the repeal of the Bengal (Rural) Primary Education Act, 1930, all rules, orders and notifications made or issued from time to time under the said Act, applicable to a District School Board and continuing in force immediately before such repeal shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

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

Power of
State
Government
to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of election of the members of the Board referred to in clauses (b), (c), (d), (e), (f) and (g) of section 4;
- (b) the manner of election of the President and the Vice-President under sub-section (2) of section 9;
- (c) the functions and duties of the Finance Officer referred to in sub-section (7), and the conditions referred to in sub-section (8), of section 17;
- (d) the nature and rates of allowances referred to in section 18;
- (e) other functions and duties of the Board referred to in clause (r) of sub-section (1) of section 19;
- (f) the manner of election of the members of the Committees of the Board referred to in clauses (d), (e), (f) and (h) of sub-section (1) of section 23, clauses (d), (e), (g), (h) and (j) of sub-section (1) of section 24, clauses (e), (g), (h) and (i) of sub-section (1) of section 25, and clause (d) of sub-section (1) of section 26;
- (g) the form of the budget estimate of the Board referred to in sub-section (1) of section 30;
- (h) the manner of keeping accounts of the Board and the manner of examination and audit of such accounts referred to in section 34 and section 35;
- (i) the manner of election of the members of the District Primary School Council referred to in clauses (d), (e), (f), (g) and (h) of sub-section (2) section 37, clauses (c), (d), (e) and (f) of sub-section (2) of section 38 and clauses (e) and (f) of sub-section (2) of section 39;

(Part VI.—Chapter XIV.—Miscellaneous.—Section 106.)

- (j) the manner of election of the Chairman and the Vice-Chairman of a Primary School Council referred to in sub-section (2) of section 44;
 - (k) the functions of the Finance Officer of the Primary School Council referred to in sub-section (5) of section 55;
 - (l) other duties of the Primary School Council referred to in clause (s) of sub-section (1) of section 60;
 - (m) the constitution, powers and functions of a Committee of the Primary School Council referred to in sub-section (2) of section 67;
 - (n) the form of the budget estimate of the Primary School Council referred to in sub-section (1) of section 69;
 - (o) the manner of reappropriation to be sanctioned in section 71, manner of keeping accounts of a Primary School Council and the manner of examination and audit of such accounts referred to in sections 73 and 74;
 - (p) the manner of making payment to the Primary School Council under section 76;
 - (q) the manner in which tax referred to in section 77 shall be levied and collected;
 - (r) the form and the particulars of the scheme referred to in section 80;
 - (s) other functions and duties of the Welfare Committee referred to in sub-section (7) of section 85;
 - (t) the time within which an appeal shall be filed or a dispute shall be referred, and the procedure to be followed by a Tribunal, referred to in section 92;
 - (u) inspection of schools and supervision of teaching by the inspecting staff in the Education Department of the Government of West Bengal;
 - (v) any other matter which may or is required to be prescribed.
- (3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the *Official Gazette*, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.