

# **The U.P. Board of Madarsa Education Act, 2004**

UTTAR PRADESH

India

# **The U.P. Board of Madarsa Education Act, 2004**

## **Act 29 of 2004**

- Published on 3 December 2004
- Commenced on 3 December 2004
- [This is the version of this document from 3 December 2004.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Board of Madarsa Education Act, 2004(U.P. Act, No. 29 of 2004)Published in U.P. Gazette dated 3 December, 2004 Part I Section (Ka) dated 6, December, 2004.(Promulgated by the Governor in the Fifty-Fifth Year of the Republic of India)In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Madarsa Shiksha Parishad Adhyadesh, 2004 (Uttar Pradesh Adhyadesh Sankhya 12 of2004) promulgated by the Governor:An Act to provide for the establishment of a Board of Madarsa Education in the State and for the matters connected therewith or incidental thereto.Whereas, the State Legislature is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action:Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor is pleased to promulgate the following Act-

### **1. Short title and commencement.**

(1)This Act may be called The Uttar Pradesh Board of Madarsa Education Act, 2004.(2)It shall be deemed to have come in to force on September 3, 2004.

### **2. Definition.**

- In this Act unless the context otherwise requires-(a)"Board" means the Uttar Pradesh Board of Madarsa Education established under Section 3;(b)"Centre" means an institution or a place fixed by the Board for the purpose of holding its examinations and includes the entire premises attached thereto;(c)"Director" means the Director, Minority Welfare, Uttar Pradesh;(d)"Head of institution," in relation to an institution, means the Principal or the Head Master, as the case may be, of that institution;(e)"Inspector" means the inspector, Arabic Madarsas, Uttar Pradesh and includes an officer authorised by the State Government to perform all or any of the functions of the inspector under this Act;(f)"Institution" means the Government Oriental College, Rampur and includes a Madarsa or an Oriental College established and administered by Muslim-Minorities and recognised

by the Board for imparting Madarsa Education;(g)"Legislator" means a member of either house of the State Legislature;(h)"Madarsa-Education" means education in Arabic, Urdu, Persian, Islamic-studies, Tibb Logic, Philosophy and includes such other branches of learning as may be specified by the Board from time to time;(i)"Invigilator" means a person who assists the Superintendent of a centre in conducting and supervising the examinations at a Centre;(j)"Recognition" means recognition for the purpose of preparing candidates for admission to the Board's Examination;(k)"Deputy Director" means the Deputy Director, Minority Welfare, Uttar Pradesh charged with the work of Madarsa-education;(l)"Regulations" means regulations made under this Act;(m)"Registrar" means the Registrar of the Board;(n)"Superintendent of a Centre" means a person appointed by the Board to conduct and supervise an examination of the Board and includes an Additional Superintendent;(o)"Unfair-means" in relation to an examinee while answering questions in an examination, means the unauthorised help from any person directly or indirectly or from any material written, recorded, copied or printed in any form whatsoever, or the use of any unauthorised telephonic, wireless or electronic or other instrument or gadget.

### **3. Constitution of the Board.**

(1)With effect from such date as the State Government may, by notification, appoint, there shall be established at Lucknow a Board to be known as the Uttar Pradesh Board of Madarsa-Education.(2)The Board shall be a body corporate.(3)The Board shall consist of the following members, namely:(a)a renowned Muslim educationist in the field of traditional Madarsa-Education, nominated by the State Government who shall be the Chairperson of the Board;(b)the Director, who shall be the Vice-Chairperson of the Board;(c)the Principal, Government Oriental College, Rampur;(d)one Sunni-Muslim Legislator to be elected by both houses of the State Legislature;(e)one Shia-Muslim Legislator to be elected by both houses of the State Legislature;(f)one representative of National Council for Educational Research and Training;(g)two head of institution established and administered by Sunni-Muslim nominated by the State Government;(h)one head of institution established and administered by Shia-Muslim nominated by the State Government;(i)two teachers of institutions established and administered by Sunni-Muslim nominated by the State Government;(j)one teacher of an institution established and administered by Shia-Muslim nominated by the State Government;(k)one Science or Tibb teacher of an institution nominated by the State Government;(l)the Account and Finance Officer in the Directorate of minority Welfare, Uttar Pradesh;(m)the Inspector;(n)an officer not below the rank of Deputy Director nominated by the State Government, who shall be the member Registrar;(4)As soon as may be after the election and nomination of the members of the Board are completed, the State Government shall notify that, the Board has been duly constituted:Provided that a notification under this sub-section may be issued even before the election of the member specified in clause (d) or clause (e) of sub-section (3) has been completed.(5)(a)Where there is only one Shia member or only one Sunni member in the State Legislators then each will be nominated by the State Government.(b)If no Shia member in the State Legislature is available then two Sunni-Muslim Legislators shall be elected as member of the Board and in the nomination paper of one of such Legislator it shall be mentioned before election that he shall cease to hold the office of the member of the Board on the date a Shia-Muslim Legislators takes oath as the member of the Board. Similarly in the case of non availability of Sunni-Muslim Legislator two Shia-Muslim Legislators shall be

elected as the member of the Board and in the nomination paper of one of such Shia Legislators it shall be mentioned before election that he shall cease to hold office of the member of the Board on the date of taking oath of the office of the member of the Board by a Sunni-Muslim Legislator.(6)On and from the date of the establishment of the Board under sub-section (1), the Arbi and Farsi Education Board functioning immediately before such establishment, hereinafter referred to as the earstwhile Board, shall stand dissolved and upon such dissolution,(a)all the properties and assets of the earstwhile Board shall stand transferred to, and vest in the Board;(b)ail debts, liabilities and obligations of the existing Board, whether contractual or otherwise, shall stand transferred to the Board;(c)all the officer and employees of the earstwhile Board shall become the officers and employees of the Board on the same terms and conditions and with the same rights and privileges as to retirement benefits and other matters as would have been applicable to them immediately before such dissolution till their employment under the Board is duly terminated or until their remuneration and other conditions of service are duly altered not to their disadvantage:Provided that an officer or employee of the earstwhile Board may by notice addressed to the Board served within a period of thirty days from such dissolution, intimate his option not. to become an officer or employee of the Board and upon receipt of such notice, the post held until then by him shall stand abolished and his services shall stand terminated and he shall be paid an amount equivalent to his three months salary as compensation.

#### **4. Removal of members.**

- The State Government may remove from the Board a member other than an ex-officio member, who in its opinion, has so flagrantly abused his position as such member as to render his continuance on the Board detrimental to the public interest:Provided that the State Government shall, before removing a member as aforesaid, give him an opportunity of fifteen days for submitting explanation and shall place on record reasons for his removal.

#### **5. Term of Office of members.**

(1)A member, other than ex-officio member, shall hold office for a term of three years from the date of the notification under sub-section (4) of section (3):Provided that in the case of clause (b) of sub-section (5) of section 3 this sub-section shall not apply and the term shall be determined in accordance with the provisions of the said clause:Provided further that the State Government may, by notification, extend the term of any such member for a period not exceeding six months at a time in the manner that the total extended period should not exceed one year.(2)A member of the Board shall cease to be such member upon his ceasing to have the capacity in which he was elected or nominated, and his seat shall thereupon become vacant.

#### **6. Filling of vacancies on expiry of term of office.**

- The State Government shall take steps for the reconstitution of the Board before the expiry of the term of office of members under section 5.

## **7. Meeting of the Board.**

(1)The Board shall meet at such time and place and shall subject to the provisions of sub-sections (2) and (3) observe such procedure in transacting the business at its meeting, including the quorum thereat, as may be provided by bye-laws made in this behalf.(2)The Chairperson shall preside at the meeting of the Board. In his absence, the Vice-Chairperson of the Board shall preside at the meeting. When Chairperson/Vice Chairperson both were absent then the Chairperson shall be a senior member elected under clause (d) or clause (e) shall provide at the meeting.(3)All questions arising in a meeting of the Board shall be decided by majority of votes of the members present and voting and in case of equality' of votes, the person presiding at such meeting shall have a second or casting vote.

## **8. Vacancies etc. not to invalidate acts and proceedings.**

- No act or proceeding of the Board or of a committee appointed by it, shall be invalid on the ground merely on the existence of any vacancy or defect in the constitution of the Board or the Committee.

## **9. Functions of the Board.**

- Subject to the other provisions of this Act the Board shall have the following functions, namely-(a)to prescribe course of instructions text-books, other books and instructional material, if any, for Tahtania, Fauquania, munshi, Maulavi, Alim, Kamil, Fazil and other courses;(b)prescribe the course books, other books and instruction material of courses of Arbi, Urdu and Pharsi for classes upto High School and Intermediate standard in accordance with the course determined there for by' the Board of High School and Intermediate Education;(c)to prepare manuscript of the course books other books and instruction material referred to in clause (b) by excluding the matters therein wholly or partiality or otherwise and to publish them;(d)prescribe standard for the appointment of Urdu translators in the various offices of the State and ensure through the appointing authority necessary action with respect to filling up of the vacant posts;(e)to grant Degrees, Diplomas, Certificates or other academic distinctions to persons, who-(i)have pursued a course of study in an institution admitted to the privileges or recognition by the Board;(ii)have studied privately under conditions laid down in the regulations and have passed an examination of the Board under like conditions;(f)to conduct examinations of the Munshi, Maulavi, Alim and of Kamil and Fazil courses;(g)to recognise institutions for the purposes of its examination;(h)to admit candidates to its examination;(i)to demand and receive such fee as may be prescribed in the regulations;(j)to publish or withhold publication of the result of its examinations wholly or in part;(k)to co-operate with other authorities in such manner and for such purposes as the Board may determine;(l)to call for reports from the Director on the condition of recognised institutions or of institutions applying for recognition;(m)to submit to the State Government its views on any matter with which it is concerned;(n)to see the schedules of new demands proposed to be included in the budget relating to institutions recognised by it and to submit if it thinks fit, its views thereon for the consideration of the State Government;(o)to do all such other acts and things as may be requisite in order to further the objects of the Board as a body constituted for regulating and supervising Madarsa-Education upto Fazil;(p)to provide for research or training in any branch of Madarsa Education viz, Darul

Uloom Nav Uloom, Lucknow, Madarsa Babul Ilm, Mubarakpur, Azamgarh, Darul Uloom Devband, Saharanpur, Oriental College Rampur and any other institution which the State Government may notify time to time.(q)to constitute a committee at district level consisting of not less than three members for education upto Tahtania or Faukania standard, to delegate such committee the power of giving recognition to the educational institutions under its control it.(r)to take all such steps as may be necessary or convenient for or as may be incidental to the exercise of any power, or the performance or discharge of any function or duty, conferred or imposed on it by this Act.

## **10. Powers of the Board.**

(1)The Board shall subject to the provisions of this Act and the rules made thereunder, shall have all such powers as may be necessary' for the performance of its functions and the discharge of its duties under this Act, or the rules or regulations made thereunder.(2)In particular and without prejudice to the generality of the foregoing powers, the Board shall have the powers,-(i)to cancel an examination or withhold the result of an examination of a candidate, or to disallow him from appearing at any future examination who is found by it to be guilty of,-(a)using unfair means in the examination; or(b)making any incorrect statement or suppressing material information or fact in the application form for admission to the examination, or(c)fraud or impersonation at the examination: or(d)securing admission to the examination in contravention of the rules governing admission to such examination; or(e)any act of gross indiscipline in the course of the examination;(ii)to cancel the result of an examination of any candidate for all or any of the acts mentioned in sub-clauses (a) to (d) of clause(i)or for any bona fide error of the Board in the declaration of the result;(iii)to prescribe fees for the examinations conducted by it and provide for the mode of its realisation;(iv)to refuse recognition of an institution,-(a)which does not fulfil, or is not in a position to fulfil, or does not come upto, the standards for staff, instructions, equipment or buildings laid down by the Board in this behalf; or(b)which does not, or is not, willing to abide by the conditions of recognition laid down by the Board in this behalf:(v)to withdraw recognition of an institution not able to adhere to, or make provisions for, standards of staff, instructions, equipment or buildings laid down by the Board or on its failure to observe the conditions of recognition to the satisfaction of the Board;(vi)to call for reports from the head of institution in respect of any act of contravention of the rules or regulations of decisions, instructions or directions of the Board and take suitable actions for the enforcement of the rules or regulations decisions, instructions or directions of the Board, in such manner as may be prescribed by regulations;(vii)to inspect an institution for the purpose of ensuring due observance of the prescribed courses of study and that the facilities for instructions are duly provided and availed of; and(viii)to fix the maximum number of students that may be admitted to a course of study in an institution.(3)The decision of the Board in all matters mentioned in subsections (1) and (2) shall be final.

## **11. Recognition of an institution in any new subject or for a higher class.**

- Notwithstanding anything contained in sub-clause (a) clause (iv) of sub section (2) of Section 10, the Board may, with the prior approval of the State Government, recognise an institution in any new subject or group of subjects for a higher class.

## **12. Proper utilization of donation.**

- Where a contribution or donation, either in cash or in kind, is taken or received by an institution, the contribution or donation so received shall be utilized only for the purpose for which it was given to it and in the case of an institution maintained exclusively by the State Government, the cash contribution or donation shall be credited to personal ledger account of such institution which shall be operated in accordance with general or special orders of the State "Government.

## **13. Power of the State Government.**

(1)The State Government shall have the right to address the Board with reference to any work conducted or done by the Board and to communicate to the Board its views on any matter with which the Board is concerned.(2)The Board shall report to the State Government such action, if any, as it is proposed to be or has been taken upon its communication.(3)If the Board does not, within a reasonable time take action to the satisfaction of the State Government, the State Government may after considering any explanation furnished or representation made by the Board, issue such directions consistent with this Act, as it may think fit, and the Board shall comply with such direction.(4)Whenever, in the opinion of the State Government, it is necessary or expedient to take immediate action, it may without making any reference to the Board under the foregoing provisions, pass such order or take such other action consistent with this Act as it deems necessary and in particular, may by such order, modify or rescind or make any regulation in respect of any matter and shall forthwith inform the Board accordingly.(5)Any action taken by the State Government under subsection (4) shall not be called in question in any court.

## **14. Officer and other employees of the Board.**

- For the purpose of enabling it efficiently to discharge it's functions under this Act, the Board may appoint such number of officers and other employees, with the previous approval of the State Government as it may think fit.

## **15. Powers and duties of the Chairperson of the Board.**

(1)It shall be the duty of the Chairperson of the Board to ensure the observance of this Act and the regulations, faithfully and he shall have all the powers necessary for this purpose.(2)The Chairperson of the Board shall exercise such other powers as may be prescribed by the regulations.

## **16. Powers and duties of the Registrar.**

(1)The Registrar of the Board shall be the Chief Executive Officer of the Board and shall, subject to the superintendence, control and directions of the Board, be responsible for the execution of its decisions. He shall exercise such other powers and perform such other duties as may be prescribed by regulations, and in particulars-(a)be responsible to prepare and present the annual estimates and statement of accounts;(b)be responsible to ensure that all moneys are spent for the purpose for

which they are granted or allotted;(c)be responsible for keeping the minutes of the meeting of the Board;(d)shall exercise such powers as are necessary for the conduct of the examinations; and(e)shall exercise such other powers as may be prescribed by the regulations.

## **17. Appointment and constitution of Committee and sub-committees.**

- The Board shall appoint the following committees namely;(a)Curriculum Committee;(b)Examination Committee;(c)Result Committees;(d)Recognition Committee; and(e)Finance Committee;(2)Such a committee shall consist of the members of the Board only and shall be constituted in such a way that as far as possible at least one member from each of the following classes are represented in each of the committees:(a)head of institutions;(b)teachers of institutions;(c)Academicians;Provided that no member of the Board shall serve on more than one of such committees, and the term of members of the committee shall cease with the cessation of the membership of the Board.(3)In addition to the committees mentioned in sub-section (1) the Board may appoint such other committees or sub-committees as may be prescribed by regulations.(4)The committees and sub-committees appointed under sub-section (3) shall be constituted in such manner and on such terms and conditions as may be prescribed by regulations;

## **18. Power to delegate.**

- The Board may, by general or special order, direct that any power exercisable by it under this Act except the Power to make regulations may also be exercised by its Chairperson or Vice-Chairpersons or by such Committee or officer in such cases and subject to conditions, as may be specified therein.

## **19. Superintendent of Centre and invigilator to be public servant.**

- The Superintendent of a Centre and an invigilator shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

## **20. Power of the Board to make regulations.**

(1)The Board may make regulations for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, the Board may make regulations providing for all or any of the following matters, namely:(a)constitution, power and duties of committees and subcommittees;(b)the conferment of Degrees, Diplomas and Certificates;(c)the conditions of recognition of institutions;(d)the courses of study to be laid down for all Degrees, Diplomas and Certificates;(e)the conditions under which candidates shall be admitted to the examinations and research programme of the Board and shall be eligible for Degrees, Diplomas and Certificates;(f)the fees for admission to the examination of the Board;(g)the conduct of examination;(h)the appointment of examiners, moderators, collators, scrutinisers, tabulators, Centre inspectors, Superintendents of Centres and invigilators and their duties and powers in relation to the Board's examinations and the rates of their remuneration;(i)the admission of institutions to the privilege of recognition and the withdrawal of recognition;(j)all matters which are

to be, or may, provided for by regulations.

## **21. Publication and previous approval of regulations made by the Board.**

(1)All regulations under section 21 shall be made only with the previous approval of the State Government and shall be published in the Gazette.(2)The State Government may approve any such regulations proposed by the Board with or without modification.

## **22. Scheme of Administration.**

(1)Notwithstanding anything contained in any law, document or decree or order of a court other instrument, there shall be a Scheme of Administration for every institution, whether recognised before or after the commencement of this Act. The Scheme of Administration shall amongst other matters provide for the constitution of a Committee of Management vested with authority to manage and conduct the affairs of the institution. The Head of the institution and two teachers thereof, belonging to Muslim-Minority, who shall be selected by rotation according to seniority in the manner prescribed by regulations, shall be ex-officio members of the Committee of Management with a right to vote.(2)No member of the Committee of the Management shall either attend the meeting of the Committee or exercise his right to vote whenever a charge concerning his personal conduct is under discussion.(3)The Scheme of Administration shall also describe subject to any regulation, the respective powers, duties and functions of the Head of the institution and Committee of Management in relation to the institution.(4)Where more than one recognised institutions are maintained by a body or authority, there shall be a separate Committee of Management for each institution unless otherwise provided in the regulations for any class of institutions.(5)The Scheme of Administration of every institution shall be subject to the approval of the Board and no amendment to, or change in, the Scheme of Administration shall be made at any time without the prior approval of the Board:Provided that where the Management of an institution is aggrieved by an order of the Board refusing to approve an amendment or change in the Scheme of Administration, the State Government, on the representation of the Management, may, if it is satisfied that the proposed amendment or change in the Scheme of Administration is in the interest of the institution, order the Board to approve the same and thereupon the Board shall act accordingly.(6)Every institution shall be administered or managed in accordance with the Scheme of Administration framed under and in accordance with sub-section (1) to subsection (5).(7)In the case of an institution recognised before the commencement of this Act a draft of the Scheme of Administration shall be prepared and submitted to the Board for its approval within six months from such commencement alongwith the application for recognition.(8)If an institution fails to comply with the provision of sub-section (7) within the period provided therefor, the Board shall, by notice in writing require such institution to submit the Scheme of Administration within a further period of three months:Provided that on a representation by the institution prior to the expiry of the extended period, the Board may in its discretion allow a further extension for a period of three months but not beyond that and the Committee of Management of the institution shall comply with the provision of this section in such further extended period.



### **23. Procedure for appointment of head of institutions teachers and other employees.**

- Subject to the other provisions of this Act, the head of institution, teachers and other employees of an institution shall be appointed in accordance with the regulations.

### **24. Conditions of service of head of institution, teachers and other employees.**

(1)The head of institution, teachers and other employees of an institution shall be governed by such conditions of service as, may be prescribed by regulations and any agreement between the Committed of Management and such head of institution, teachers or employees, as the case may be, in so far as it is inconsistent, with the provisions of this Act or the regulations, shall be void.(2)Without prejudice to the generality of the powers conferred by sub-section (1) the regulations may provide for,-(a)the code of conduct, the period of probation, the conditions of confirmation and the procedure and conditions for promotion and punishment including suspension pending or in contemplation of inquiry or during the pendency of investigation, inquiry or trial in any criminal case for an offence involving moral turpitude and the allowances for the period of suspension and termination of service with notice;(b)the scales of pay and payment of salaries;(c)grant of leave and provident fund and other benefits, and(d)maintenance of record of work and service.

### **25. Casual Vacancies.**

- All casual vacancies among the Members other than ex-officio members of the Board or of a Committee appointed by the Board, shall be filled, as soon as may be, by the person or body who elected, or nominated, the member whose place has become vacant and the person elected or nominated to a casual vacancy shall be a member of the Board or Committee for the remaining term for which the person whose place he fills would have been a Member.

### **26. Power of the Board and Committees to make bye-laws.**

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

## **27. Protection for acts done in good faith.**

- No suit, prosecution or other legal proceedings shall lie against the State Government, the Board or any its Committees and sub-Committee or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation, bye-law, order or direction made thereunder.

## **28. Bar of Jurisdiction of Courts.**

- No order or decision made by the Board or any of its committees or sub-committees in exercise of the powers conferred by or under this Act shall be called in question in any court.

## **29. Fund of the Board.**

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

## **30. Account and audit.**

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

## **31. Power to remove difficulties.**

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by a notified order, make such provisions, not inconsistent with provisions of this Act, as appears to it to be necessary or expedient, for removing the difficulty.(2)No order under sub-section (1) shall be made after the expiry of the period of two years from the date of the Commencement of this Act.(3)The provisions of sub-section (1) of section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply to the order made under sub-section (1) as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

## **32. Power to make rules.**

- The State Government may, by notification, make rules for carrying out the purpose of this Act.

### **33. Repeal and Saving.**

(1)The Uttar Pradesh Madarsa Education Ordinance 2004 (U.P. Ordinance No. 12 of 2004) is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the ordinance referred to in sub-section (1) shall be deemed to have been done are taken under this Act as if this Act were in force at all material times.