

# Gujarat Primary Education Act, 1947

GUJARAT

India

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### Act 61 of 1947

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Bombay Primary Education Act, 1947 Bombay Act No. 61 of 1947 [Dated 29th January, 1948] For Statement of Objects and Reasons, see Bombay Government Gazette, 1947, Part. V, page 328; for Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1947, Vol. XI and for Proceedings in Council, see Bombay Legislative Council Debates, 1947, Vol. XIII. An Act to provide for compulsory primary education and to make better provision for the management and control of primary education in the [State] [This word was substituted for the word 'Province' by the Adaptation of Laws Order, 1960.] of Bombay. WHEREAS it is the duty of Government to secure the development and expansion of primary education; and whereas it is declared the policy of Government that universal, free and compulsory primary education should be reached by a definite programme of progressive expansion; and whereas it is expedient to make better provision for the development, expansion, management and control of primary education in the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1960.] of Bombay; It is hereby enacted as follows: -

## Chapter I Preliminary

### 1. Short title and extent.

(1) This Act may be called the Bombay Primary Education Act, 1947. (2) [It extends to the whole of the State of Gujarat.] [This sub-section was substituted by Gujarat 13 of 1963, section 2(i).] (3) It shall come into force on such date as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by notification in the Official Gazette, appoint: [Provided that in the areas to which this Act is extended by the Bombay Primary Education (Gujarat Extension and Amendment) Act, 1963 (Gujarat XIII of 1963), this Act and the rules made thereunder shall come into force on the date on which the Bombay Primary Education (Gujarat Extension and Amendment) Act, 1963 (Gujarat XIII of 1963), comes into force.] [This proviso was

added by Gujarat 13 of 1963, section 2(ii).]

## 2. Definitions.

- In this Act unless there is anything repugnant in the subject or context-(1)"Administrative Officer" means an officer appointed under Section 21 or 22.(2)"Approved School" means a primary school maintained by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or by a school board or by an authorised municipality[and includes a private primary school recognized under section 40A;] [ This words, figures and letter were substituted for the portion beginning with the words 'or which is' and ending with the words 'in this behalf' by Gujarat 24 of 1986, section 2(1) (w.r.e.f. 22-05-1986).](3)"Area of compulsion" means the area in which primary education upto any standard is compulsory;(4)"Area of an authorised municipality" means the area comprised within the limits of such municipality and shall include the area of a non-authorised municipality approved school in which vest in or are controlled by the authorised municipality;(5)"To attend an approved school" means to be present for instruction at such school on such day and at such time and for such period on each day as may be required under the regulations framed by the school board;(5A)[ "Authorised Officer" means such officer as the State Government may, by order appoint.] [Clause (5A) inserted by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)](6)"Authorised Municipality" means a municipality which is authorised by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under sub-section (1) of Section 16 to control all approved schools within its area;(7)"Child" means a girl or boy whose age is not less than six and not more than fourteen years at the beginning of the school year.Explanation. - For the purposes of this definition, "school year" shall mean the year beginning with such date as the school Board, may, with the sanction of the Director, fix;(8)"Director" means [The Director of Education;] [These words were substituted for the words 'the Director of Public Instructions' by Bombay 39 of 1951, section 3, Second Schedule.] [\*\*\*] [The words 'for the State of Bombay' were omitted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.](9)"District" in Clause (h) of section 5, in sections 6 sub-section (3) of section 10, [section 19 and section 68] [These words and figure were substituted for the words and figures 'and section 19' by Gujarat 13 of 1963, section 3(ii).] means the district as formed under the Bombay Land Revenue Code, 1879 (Bombay V of 1879), [or, as the case may be, that Code as extended to the Kutch area of the State of Gujarat] [These words were inserted by Gujarat 13 of 1963, section 3 (i).] and elsewhere the area comprised in a district so formed excluding the areas of authorised municipalities and cantonments;(10)"District School Board" means a school board constituted for a district under section 3;(10A)[ "Educational Inspector of the district" means the Educational Inspector appointed for a district or group of districts;] [This clause was inserted by Bombay 2 of 1955, section 3, Second Schedule.](11)"Municipal" School Board means a school board constituted for the area of an authorised municipality under Section 3;(12)"Non-authorised Municipality" means a municipality other than an authorised municipality;(13)"Parent" includes a guardian or any person who has the custody of a child;(14)"Prescribed" means prescribed by the rules made under this Act;(15)"Primary Education" means education in such subjects and upto such standards, as may be determined by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government from time to time;(16)"Primary Education Fund" means the Fund maintained under

Section 44;(17)"Primary School" means a school or a part of a school in which primary education up to any standard is imparted;(18)"[Board] [This word was substituted for the words 'State Board' by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.] of Primary Education" means the Board constituted under Section 58;(18A)[ "Private primary school" means a private primary school which is not maintained b the State Government or by a School Board or by an authorized municipality;] [This clause was inserted by Gujarat 24 of 1986, section 2(2) (w.r.e.f. 22-05-1986).](19)"School Board" means a district school board or a municipal school board, as the case may be;(20)[ "Teacher" means primary school teacher; [Clauses (20) and (21) added by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)](21)"Vidyasahayak" means a person appointed on contract to assist a teacher and pupils (students) in a primary school under the supervision and control of the head-teacher.]

## **Chapter II**

### **Constitution of District and Municipal School Boards.**

#### **3. School Boards.**

(1)For each district there shall be a district school board.(2)For each area of an authorised municipality there shall be a municipal school board.

#### **4. Constitution of school boards.**

(1)Each school board shall consist of members not less than twelve and not more than sixteen in number.(2)Of these members not less than two and not more than three in number shall be appointed by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(3)The number of members under sub-sections (1) and (2) shall be determined by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government from time to time.(4)Of the members appointed by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under sub-section (2) one shall be an officer of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government; and the remaining shall be persons (i) who shall have passed the matriculation examination or shall possess any other equivalent or higher educational qualification which the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may specify in this behalf or (ii) who have had experience of the system or institutions of primary education.(5)(a)The members other than those appointed by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall be elected by the district local board or the authorized municipality as the case may be:Provided that where approved schools within the area of any non-authorised municipalities are controlled by the district school board or the authorised municipality, not more than two of such members as may be determined by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government from time to time shall be elected in the manner prescribed by the said non-authorised municipalities, or the district school board or municipal school board, as the case may be.(b)Members elected under

this sub-section shall not necessarily be members of the electing local authority.(c)[  
 Notwithstanding anything contained in this sub-section, in the case of a district local board or authorised municipality the term of office of the member or councillors of which expires on or before the 31<sup>st</sup> day of July 1949, the election of the members of the school board shall not be held by such district local board or authorised municipality, as the case may be, until, after the new district local board or the authorised municipality, has been constituted.] [This clause was inserted by Bombay 8 of 1949, Section 2 (1).](6)[ Of the members elected by the district local board or by the authorised municipality such member not exceeding two as may be prescribed shall be from amongst the Scheduled Castes and the Scheduled Tribes.] [This sub-section was substituted for the original by Bombay 25 of 1952, section 2 (1). The amendments made by Section 2 of Bombay 25 of 1952, shall apply to any new school board existing on the date of commencement of the said Act but shall apply to any new school board constituted thereafter (vide Section 10 of Bombay 25 of 1952).](7)Members elected under sub-section (5) shall have passed the primary school certificate examination or shall possess such other equivalent or higher educational qualification as may be prescribed:Provided that persons from amongst [the Scheduled Castes and the Scheduled Tribes] [These words were substituted for the words 'the backward communities' by Bombay 25 of 1952, section 2(2). See also para, 2 of foot note 3.] shall be eligible for being elected as members, if they shall have passed at least the primary fourth standard examination:Provided further that out of the seats of the members to be elected by the district local board or the authorized municipality not less than three shall be reserved in the prescribed manner for persons [who have passed the matriculation or the second year training certificate examination or who possess any other equivalent or higher educational qualification which the [State] [These words were substituted for the words 'who have passed the matriculation or second year training certificate examination' by Bombay 46 of 1949, Section 2(1).] Government may specify in this behalf][Explanation : - For the purposes of sub-sections (6) and (7), "Scheduled Castes" and "Scheduled Tribes" means those Scheduled Castes and Scheduled Tribes which are deemed to be Scheduled Castes and Scheduled Tribes in relation to the [State of Gujarat] [This Explanation was substituted for the original by Bombay 25 of 1952 Section 2 (3). See also para No 2 of footnote 3.] under Article 341 or Article 342, as the case may be, of the Constitution.](8)If the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government is satisfied that any election (including a bye-election) cannot for any reason be held at all or cannot be completed within such period as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government considers reasonable or has not resulted in the return of the required number of qualified persons willing to take office, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall nominate from amongst persons who would have been qualified to be elected the required number of persons as members of the school board and the persons so nominated shall be deemed to have been duly elected under sub-section (5):[Provided that if at any time after the nomination of such persons as members of the school board, the State Government is satisfied that a fresh election (including a bye-election) can be duly held, the State Government may, by notification published in the Official Gazette, direct that the members so nominated shall cease to hold office with effect from such date as may be specified in such notification, notwithstanding the fact that the term of office of such members for which they had been nominated has not expired.] [This proviso was substituted by Bombay 26 of 1954, Section 2 (1).](9)Except as otherwise provided in this Act, the term of office of

the members of a school board shall cease on the expiry of the term of the electing district local board or authorised municipality: Provided that the term of office of such members of the school board shall not be deemed to expire by reason only of the fact that the district local board or authorised municipality, as the case may be, is dissolved or superseded. (10)(a) If the term of office of the members of the school board expires during the supersession of the electing district local board or authorised municipality a new school board shall be constituted as provided in sub-sections (1) to (7) until the district local board or authorised municipality as the case may be, is re-established, provided that the members of such school board shall be nominated by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government. (b) The term of office of the members of the school board so nominated shall be for such period not exceeding three years as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may determine: Provided that if during such period the district local board or authorised municipality, as the case may be, is re-established, the term of office of the members of the school board shall expire on the date on which a new school board is constituted. (11) Notwithstanding [the cessation or expiry of the term of office of the members of any school board under sub-sections [(8), (9)] [These words were substituted for the original, by Bombay 26 of 1954, section 2 (2) (i).] or (10) they shall continue in office until the members of a new school board are elected, appointed or nominated, as the case may be. (12)(a) Any member of a school board other than the chairman or vice-chairman may resign his office by giving a notice in writing to that effect to the chairman and such, resignation shall take effect from the date of its receipt by the chairman. (b) The vice-chairman may resign his office as vice-chairman or member by giving notice in writing to that effect to the chairman. The chairman may resign his office as chairman or member by giving notice in writing to that effect to the president of the district local board or the authorised municipality, as the case may be, Such resignation shall take effect from the date of their acceptance by the chairman or the president. (13) Casual vacancies including that of a chairman or vice-chairman during the term of a school board shall be filled for the remaining period by election, appointment or nomination, as the case may be: [Provided that no election shall be held to fill up a vacancy of a members occurring within four months of the date on which the term of office of the members of the school board expires.] [This proviso was added by Bombay 8 of 1949, Section 2 (2).] (14) [ During any vacancy the continuing members may act as if no vacancy occurred.] [This sub-section was added by Bombay 8 of 1949, section 2(3).] [15] When any area is added to the limits of a district during the term of office of the electing district local board of the district, the [State] Government, may, notwithstanding anything contained in the preceding sub-sections, direct that the school board constituted for the district may consist of such number of members exceeding sixteen, and may appoint such persons to be the additional members of the school board to represent the area added to the limits of the district, as it thinks fit.] [Sub-section (15) was inserted by Bombay 46 of 1949, section 2 (2).]

## 5. Disqualification of members.

- No person shall be elected, appointed or nominated a member of a school board who-(a)[ is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State, or] [This clause was inserted by Gujarat 13 of 1963, section 4.](aa)[ is less than 25 years of age, or] [Original clause (a) was

renumbered as clause (aa) of that section by Gujarat 13 of 1963, section 4.] (b) is a judge of a Civil Court or [a salaried magistrate] [These words were substituted for the words 'a magistrate' by Bombay 46 of 1949, section 3.], or (c) (i) has been sentenced by a Criminal Court to fine, imprisonment or whipping for an offence involving moral turpitude and punishable with imprisonment for a term exceeding six months or to transportation, such sentence not having been subsequently reversed or quashed, or (ii) is a person against whom an order has been passed under Section 118 of the Code of Criminal Procedure, 1898 (V of 1898), in proceedings instituted under Section 110 of the said Code, such order not having subsequently been reversed or quashed, or (iii) has been removed from the office under this Act and five years have not elapsed from the date of such removal, unless he has, by an order of the [State] [This word was substituted for the word for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government notified in the Official Gazette, been relieved from the disqualification arising on account of such sentence, order or removal from office, or (d) is a stipendiary officer or an employee of any school board, or district local board or municipality, or (e) who has been adjudged an insolvent and has not obtained his discharge, or (f) has, directly or indirectly, by himself or his partner, any share or interest in any work done by order of, or in any contract entered into on behalf of the school board or the electing local authority, or (g) is an employee or a teacher in any approved school, or (h) has resided within the district for a period of less than six months preceding the date fixed for recording of votes for elections to the school board, or (i) has been adjudged by a competent Court to be of unsound mind. Explanation: - A person shall not be deemed to have incurred disqualification under Clause (f) by reason of his- (a) having any share or interest in any lease, sale or purchase of any immovable property or in an agreement for the same if before taking his seat as a member of the school board, he has obtained the sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to have such share or interest, or (b) having a share or interest in any joint stock company or in any society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925 (Bombay VII of 1925), which may contract with or be employed by or on behalf of the school board or the electing local authority, or (c) having a share or interest in any newspaper in which any advertisement relating to the affairs of the school board or the electing local authority may be inserted, or (d) holding a debenture or being otherwise interested in any loan raised by or on behalf of the school board or the electing local authority, or (e) having a share or interest in the occasional sale to the school board or electing local authority of any article in which he regularly trades, or in the purchase from the school board or the electing local authority of any article, to a value in either case not exceeding in any official year five hundred rupees, or such higher amount not exceeding two thousand rupees as the school board or electing local authority with the sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may fix in this behalf, or (f) having a share or interest in the occasional letting out on hire to the school board or the electing local authority or in the hiring from the school board or the electing local authority of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the school board or the electing local authority with the sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may fix in this behalf, or (g) being a police patel who is an ex-officio keeper of village cattle pounds under the control of the electing local authority.

## 6. Determination of validity of elections; inquiry by Judge; procedure.

(1) If the validity of the election of a member of a school board is brought in question by an unsuccessful candidate or by any person qualified to vote at the election, such person may, at any time within fifteen days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held for the determination of such question. (2) An inquiry shall thereupon be held by a Judge not below the grade of an Assistant Judge and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or setting the election aside. For the purposes of the said enquiry, the said Judge may exercise any of the powers of a Civil Court, and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed, and the necessary steps taken for holding a fresh election. (3) All applications received under sub-section (1)-(a) in which the validity of the election of members is in question shall as far as possible, be heard by the same Judge, and (b) in which the validity of the election of the same member is in question shall be heard together. (4) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), the Judge shall not allow (a) any application to be compromised or withdrawn or (b) any pleadings in the proceedings to be altered or amended, unless he is satisfied that such application, alteration or amendment is bona-fide and not conclusive. (5) (a) If on holding such inquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (6), he shall declare the candidate disqualified both for the purposes of that election and of such fresh election as may be held under sub-section (2), and shall set aside the election of such candidate if he has been elected. (b) If, in any case to which Clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected: Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it. (6) A person shall be deemed to have committed a corrupt practice-(a) who, with a view to inducing any voter to give or refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury to any person, or (b) who gives, procures or abets the giving of a vote in the name of a vote who is not the person giving such vote; and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election. Explanation. - The expression "a promise of individual profit" (i) does not include a promise to vote for or against any particular measure which may come before a school board for consideration, but (ii) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested. (7) If the validity of the election is brought in question only on the ground of an irregularity or informality which has not materially affected the result of the election or which has not been corruptly caused, the Judge shall not set aside the election. (8) If the Judge sets aside an election under Clause (a) of sub-section (5) he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of sub-section (6) to be disqualified from being a member of any school board for a term of years not exceeding five and the decision of the Judge shall be conclusive: Provided that no such declaration shall be made in respect

of any person without such person being given an opportunity to show cause why such declaration should not be made: Provided further that such person may by an order of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in that behalf be at any time relieved from such disqualification.

## **6A. [ Disqualification at the time of election, etc., discovered subsequently. [Section 6A was inserted by Bombay 12 of 1956, section 2.]**

(1) If it appears to the State Government on representation being made to it that a member of the school board was disqualified for being such member under the provisions of Section 5 or Section 9-A at the time when such member was elected, appointed or nominated and the member does not admit that he was so disqualified, the question shall be decided by the State Government, and its decision shall be final. (2) No such representation shall be entertained, - (i) if it is made by a person who is or was entitled to file an application to the District Judge under section 6 to question the validity of the election of the member; (ii) if it is made before the expiration of the period prescribed for such application under the said section, or (iii) if an application to the District Judge under Section 6 is pending or has been tried, unless the State Government is satisfied that the question of the member's disqualification by reason of these circumstances was not or could not have been raised in such proceedings. (3) When in relation to proceedings under sub-section (1) the member admits that he was disqualified under the provisions of Section 5 or Section 9-A or where under the aforesaid sub-section the State Government decides that the member was disqualified, his seat shall thereupon become vacant; but no person who does not admit that he was disqualified, shall be held to be disqualified unless such decision has been arrived at after giving such person reasonable opportunity to show cause.]

## **7. Disqualification after becoming a member.**

(1) If any member of the school board, during the term for which he has been elected, appointed or nominated. (a) [ absents himself from the meetings during three successive months or from three consecutive meetings of the school board whichever period is longer without the [\*] [This clause was substituted for the original by Bombay 46 of 1949, Section 4.] permission of the Board or] (b) becomes subject to any of the disqualifications mentioned in [Section 5] [This word and figure were substituted for the word and figure 'Section 6' by Bom 9 of 1951 Section 3, Second Schedule.] he shall be disabled from continuing to be a member of such board and his seat shall be deemed to be vacant: Provided that he shall not be deemed to have incurred any disqualification under clause (f) of section 5 by reason of his having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, if he has obtained the previous sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to have such share or interest. (2) If any question, dispute or doubt arises whether a vacancy has occurred under this Section, the orders of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall be final for the purposes of deciding such question, dispute or doubt.



**7A. [ Penalty for sitting or voting when disqualified. - (1) If any person sits or votes as a member of the school board when he knows that he is not qualified or that he is disqualified for membership thereof, he shall upon it being so found by the Collector be liable in respect of each day on which he so sits or votes to a penalty of 50 rupees to be recovered as an arrear of land, revenue.**

(2)The Collector shall give such person a reasonable opportunity of being heard and shall record his decision, and the reasons therefor, in writing.(3)Any person found liable to pay a penalty under this Section, may within fifteen days of such decision appeal to the State Government, and the decision of the State Government shall be final.] [Section 7A was inserted by Bombay 12 of 1956, section 3.]

## **8. Disabilities on account of interest in subject-matter.**

- A member shall not vote or take part in a discussion on any matter before a meeting of the school board in which he has directly or Indirectly, by himself or his partner, any share or interest such as is described in Clause (f) of Section 5 or in which he is professionally interested on behalf of a client, principal or other person. The vote so given shall not be counted.

## **9. Removal of members of the school board for misconduct.**

- [State] [The This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may on its own motion or on recommendation supported by a resolution passed by at least two-thirds of the whole number of members of-(i)the school board, or(ii)the district local board or the authorised municipality which elected the members, remove any member elected, appointed or nominated on the school board, if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity:Provided that no person shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made.

## **9A. [ Disqualification of person for misconduct after he has resigned as member. [Section 9A was inserted by Bombay 25 of 1952, Section 4.]**

- If any person, who was a member of the school board and who had resigned his office as such member, has been, after due inquiry, found guilty of misconduct in the discharge of his duties, or of any disgraceful conduct as a member, the State Government may by an order notified in the Official Gazette declare him notwithstanding the fact that he had resigned his office as such member, to be disqualified for being elected, appointed or nominated a member of any school board from such date and for such period not exceeding five years as may be specified in the order. The State Government may at any time by like order remove the disqualification so incurred by any person.

The decision of the State Government under this Section shall be final.]

## **10. Election of Chairman and Vice-Chairman.**

(1) Every school board shall elect a Chairman and Vice-Chairman from amongst the members of the board. (2) A chairman and a vice-chairman shall be removable from office by a resolution passed to that effect, provided that at least two-thirds of the total number of members of the school board vote in favour of such resolution or where the number of such members voting in favour of such resolution is less than two-thirds but more than one-half of the total number of members of the school board, sanction is accorded by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government for such removal and provided further that before such resolution is passed, the chairman or vice-chairman is given at least two weeks' notice of such resolution and a reasonable opportunity of showing cause why such resolution should not be passed. (3) Every chairman or vice-chairman who, for a continuous period exceeding three months, absents himself from the district without leave of the school board shall cease to be chairman or vice-chairman. (4) No leave shall be granted by the school board under sub-section (3) for a total period exceeding six months during the term of the school board. (5) Whenever leave is granted to a vice-chairman under sub-section (3) a member shall be elected to be the vice-chairman during the period of such leave.

**10A. [ Authority in place of district school board where there is no district local board. - (1) Notwithstanding anything contained in this Act and save as otherwise provided in section 12A, in any district for which a district local board has not been established, the power and duties of the district school board under this Act shall be exercised and performed by such authority as the [State] [This section was inserted by Bombay 46 of 1949, section 5.] Government may appoint. The exercise of such powers and the performance of such duties shall be in accordance with such directions as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may from time to time give.**

(2) The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall maintain such number of primary schools in such district as it may from time to time determine. (3) When a district local board is established for such district, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may by order direct that with effect from such date as may be specified in the order, hereinafter in this section referred to as the said date, - (a) such primary schools with their lands, buildings, records and equipment as may be specified in the order shall vest in the district school board constituted for the district, (b) such primary school teachers and other persons as may be specified in the order, who were employed for the purpose of the primary schools maintained by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government immediately before the said date, shall be taken over and employed by the said district

school board, on the same terms and conditions on which they were employed immediately before the said date or on such other terms and conditions, as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may direct.]

## **Chapter III**

### **Powers, Duties and Functions of District School Board, Authorised Municipalities and Municipal School Boards.**

#### **A. District School Boards.**

#### **11. Incorporation of district school boards.**

- Every district school board shall be a body corporate by the "The District School Board of.....", and shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and shall be competent to acquire and hold property both moveable and immovable, whether within or without the limits of its area, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it, and to contract and do all things necessary for the purpose of this Act.

#### **12. Vesting of property in and absorption of staff by district school board.**

(1) Notwithstanding anything contained in any law, [on the date of the coming into force of this Act (hereinafter in this section referred to as "the said date")] [This portion was substituted for the words 'on the constitution of a district school board under section 4' by Bombay 8 of 1949, section 3.] all primary schools with their lands, buildings, records and equipment and all other properties, moveable or immovable, which were vested in, held by or were under the control of [a district local board] [These words were substituted for the words 'the district local board', by Bombay 8 of 1949, section 3.] for the purposes of primary education, immediately before [the said date] [These words were substituted for the words 'the date on which the school board was constituted', by Bombay 8 of 1949, section 3.] shall, on [the said date] [These words were substituted for the words 'such date', by Bombay 8 of 1949, section 3.] be vested in, held by or be under the control of the district school board for the said purposes: Provided that in the event of any question, dispute or doubt arising as to whether any particular property shall so vest in or be held by or under the control of the district school board, the matter shall be referred to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government whose decision thereon shall be final. (2) [See section 70 (2).] [on the said date] [These words were substituted for the words 'on a date notified by the Provincial Government in this behalf' by Bombay 8 of 1949, section 3.] every district local board shall transfer and every district school board shall take over and employ such primary school teachers and other persons as were employed by or under the district local board on [the said date] [These words were substituted for the words 'on a date notified by the provincial Government in this behalf' by Bombay 8 of 1949, section 3.] for the purposes of primary education, on the same terms and conditions on which such teachers or persons were employed by or under the

said district local board.(3)The existing and future rights, liabilities, duties, and powers of the district local board in respect of such teachers or other persons so far as they are not inconsistent with the provisions of this Act or the rules or regulations made thereunder shall vest in and be performed or exercised by the said district school board on and as from [the said date] [These words were substituted for the words 'date notified under sub-section (2)', by Bombay 8 of 1949, section 3.](4)[ In the Kutch area of the State, the foregoing provisions of this section shall have effect subject to the following modifications, namely:-(i)in sub-section (1), for the words "on the date of the coming into force of this Act" the words "on such date as the State Government may, by notification, in the Official Gazette, specify" shall be substituted;(ii)after the words "district local board" wherever they occur, the words "or, as the case may be, the State Government" shall be inserted.](5)[ (a) If on the date specified under sub-section (1), a district school board has not been constituted in the district of Kutch but taluka panchayats and a district panchayats have been constituted in that district under the Gujarat Panchayats Act, 1961, (Gujarat VI of 1962), the all primary schools with their lands, buildings, records and equipment and all other properties movable or immovable which in the said district were vested in, held by or were under the control of the State Government for the purposes of primary education immediately before the said date shall on the said date be vested in, held by or be under the control of the said taluka panchayats or the district panchayats, as the case may be, in accordance with the distribution made in that behalf by the State Government by an order under clause (b).(b)For the purposes of clause (a) the State Government, having regard to the functions ad duties of a taluka panchayat and a district panchayat in the sphere of primary education under Schedule II and Schedule III to the Gujarat Panchayats Act, 1961, (Gujarat VI of 1962), may by an order in writing direct-(i)that the primary schools with their lands, buildings, records and equipment and all other properties moveable or immoveable vesting in it or held by it or under its control shall vest in, be held by or be under the control of a taluka panchayat or district panchayat or district panchayat as may be specified in the order; and(ii)that such of the powers, functions, and duties of a district school board under this Act shall be exercised and performed by a taluka panchayat or district panchayat as may be specified in the order.]

### **13. Powers, duties and functions of the district school boards.**

(1)Subject to the provisions of this Act and the rules made thereunder, the district school boards shall have control over all approved schools within the district and may grant aid to any approved school other than a primary school maintained by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or by a school board or by an authorised municipality.(2)Subject to the provisions of this Act and the rules made thereunder, and so far as its primary education fund will allow, the district school board shall perform the following duties and functions:-(a)to provide for the welfare of the children attending primary schools;(b)to maintain an adequate number of primary schools;(c)to provide adequate accommodation and equipment for primary schools;(d)to maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers, inferior servants and other staff as may in the opinion of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government be necessary;(dd)[ to maintain such number of Vidyasahayaks as may, in the opinion of the State Government or an authorised officer, or as the case may be, be necessary.] [Clause (dd) inserted by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f

11-06-1998)](e)to maintain an adequate number of engineering staff required for the construction and maintenance of schools and other buildings;(f)to determine, on the recommendation of the Administrative Officer, the distance measured according to the nearest road between an approved school and the residence of a child for purposes of clause (c) of Section 33;(g)to determine with the approval of the Educational Inspector the hours of instruction and the number and duration of vacations;(h)to determine the exact location of the primary school;(i)to grant on the recommendation of the Administrative Officer exemption from attending an approved school to a child who is receiving instruction otherwise than in an approved school;(j)to sanction all tenders for the supply of forms, stationery, furniture or equipment;(k)to suggest the opening of additional schools for the sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government;(l)to recommend to the Director such modifications in the curriculum as may seem necessary to suit local requirements;(m)to advise the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government generally in respect of primary education within the district;(n)to carry on propaganda for the expansion of primary education;(o)to perform such other duties and functions as may be prescribed;(3)The district school board shall from time to time with the sanction of the Director make regulations not inconsistent with the provisions of this Act and the rules made thereunder for-(i)laying down the days, the time and the periods on each day during which a child shall be present for instruction at an approved school;(ii)determining the constitution, powers and duties of the taluka advisory committees;(iii)the supply of books, slates, educational requisites, milk, meals or clothes to children of any age receiving primary education, if provision for such supply is made.

#### **14. [Relinquishment of powers and duties.**

(1)The district school board may, by resolution passed by at least two-thirds of the whole number of members of the board, and with the consent of the District Local Board, intimate to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government that it desires to relinquish its powers and duties excepting the duties of advising and of carrying on propaganda for the expansion of primary education.(2)If, on receipt of such intimation, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government so direct, all powers and duties of the district school board, other than those so excepted, shall from such date and for such period as may be notified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in this behalf, be exercised and perform on behalf of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in the prescribed manner.(3)All primary schools with their lands, buildings, records and equipment and all other properties, movable or immovable, which were vesting in, held by or were under the control of the district school board immediately before the date notified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under sub-section (2) shall vest in, be held by or be under the control of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government during the period notified under the said sub-section.

## **15. Constitution of taluka advisory committee.**

- The district school board may by a resolution recommend to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government the establishment of taluka advisory committees for all or any of the talukas in the district to advise it in respect of primary education. On such recommendation being accepted by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government such committees shall be constituted from a date to be notified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in the Official Gazette. The constitution, power and duties of committees shall be as laid down in the regulations made by the district school board: Provided that the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may on its own motion or on the recommendation of the district school board supported by at least two-thirds of the whole number of members of the board by an order dissolve a taluka advisory committee from a date to be notified in the Official Gazette. B. Authorised Municipalities.

## **16. Authorised municipalities to exercise powers, etc. and hold properties of local authority-municipalities.**

(1) The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may authorise any municipality constituted under the Bombay District Municipal Act, 1901 (Bombay III of 1901), or under the Bombay Municipal Boroughs Act, 1925 (Bombay XVIII of 1925), [or under any other corresponding law] [These words were inserted by Gujarat 13 of 1963, section 6.] to control all approved schools within its area. (2) Subject to the provisions of this Act and of the rules and regulations made thereunder, all existing and future rights, liabilities, powers and duties of any municipality, which was a local authority under the Bombay Primary Education Act, 1923 (Bombay IV of 1923), immediately before the date of the coming into force of this Act, in respect of primary school teachers and other persons employed by it for the purposes of primary education shall on such date vest in and be performed or exercised by the said municipality as an authorised municipality under this Act; and all properties, movable or immovable, vesting in or held by or be under the control of such municipality for the purposes of primary education, shall from such date continue to vest in, be held by or be under the control of such municipality as such authorised municipality.

## **17. Duties and functions of authorised municipalities.**

(1) Subject to the provisions of this Act and the rules made thereunder, an authorised municipality shall perform the following duties and functions, namely:-(a) to make adequate provision for maintaining the existing primary schools and opening new schools where ever necessary and for granting aid to approved schools other than primary schools maintained by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or by a school board or by an authorised municipality; (b) to provide adequate accommodation and equipment for primary schools; (c) to maintain an adequate staff of Assistant Administrative Officers,

Supervisors, Attendance Officers, clerks, teachers, inferior servants and other staff as may in the opinion of the [State] [This word was substituted for the word Provincial' by the Adaptation of Laws Order, 1950.] Government be necessary;(cc)[ to maintain such number of Vidyasahayaks as may, in the opinion of the State Government, be necessary.] [Clause (cc) inserted by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)](d)to make adequate provision for facilities for the free primary education of all children to whom a scheme of compulsion applies;(e)to sanction with or without variation the budget of the municipal school board;(f)to perform such other duties and functions as may be prescribed.(2)The authorised municipality may, subject to the provisions of this Act and the rules made thereunder, also make provision for the welfare of the children attending primary schools within its area.(3)The authorised municipality shall, subject to the sanction of the [State] Government, make regulations-(i)determining the qualifications, pay and terms of employment of the Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, inferior servants and other staff;(ii)regulating the administration, management and control of primary schools;(iii)determining the qualifications, pay and terms of employment of the Administrative Officer appointed by it under Section 22;(iv)for the supply of books, slates, educational requisites, milk, meals or clothes to children receiving primary education, if provision for such supply is made.C. Municipal School Boards.

## **18. Powers, duties and functions of Municipal School Boards.**

(1)Subject to the provisions of this Act and the rules made thereunder, the municipal school board shall be responsible for the management and control of all primary schools which vest in the authorised municipality and for the control of all other approved schools within the area of the authorised municipality excepting such as are maintained by the [State] [This word was substituted for the word Provincial' by the Adaptation of Laws Order, 1950.] Government; and the board shall exercise such powers and perform such duties and functions of the authorised municipality in respect of primary education as may be prescribed.(2)Subject to the provisions of this Act and the rules made thereunder, a municipal school board shall perform the following duties and functions, namely:-(a)to prepare schemes to be submitted by the authorised municipality to the [State] [This word was substituted for the word Provincial' by the Adaptation of Laws Order, 1950.] Government for expansion of primary education and to carry out the provisions of such scheme;(b)to disburse monies from the primary education fund in accordance with the budget sanctioned by the authorised municipality;(c)to perform the duties and functions specified in Clauses (f) to and (1) and (n) of sub-section (2) of section 13;(d)to perform such other duties and functions as may be prescribed;(3)The municipal school board shall, with the sanction of the Director, make regulations laying down the days, the time and the periods on each day during which a child shall be present for instruction at an approved school.[D. Merged Areas.] [This heading and Section 18A were inserted by Bombay 46 of 1949, section 6.]

## **18A. Vesting of property and absorption of staff in merged areas.**

- (1) In any area administered by virtue of an order made by the Governor General under Section 290A of the Government of India Act, 1935, all primary schools with their lands, buildings, records and equipment and all other properties movable or immovable, which were vested in, held by or

under the control of Government or a local authority in such area, for the purposes of primary education, immediately before the date on which such order was made, hereinafter in this Section referred to as the said date, shall with effect from the said date, if such area has formed part of a district for which a district school board has been constituted, vest in, be held by or under the control of the district school board, and in other cases, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(2)During the period the properties so vested in or are held by or are under the control of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in any area under sub-section (1), it shall be lawful for the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or such authority as it may appoint in this behalf to exercise in such area all the powers and perform all the duties of a district school board under this Act.(3)All properties vesting in, held by or under the control of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under this Section shall, on such date as may be notified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in the Official Gazette, vest in, be held by or be under the control of, the district school board, constituted for the district in which such area is situated or such authorised municipality as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may specify in the notification.(4)The district school board or the authorised municipality or the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, as the case may be, shall take over and employ such primary school teachers and other persons as were employed by or under the Government or a local authority immediately before the date notified under sub-section (3) or the said date as the case may be for the purposes of primary education on the same terms and conditions on which such teachers and persons were employed immediately before the relevant date or on such terms and conditions as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may direct.(5)In the event of any question, dispute or doubt arising as to whether any particular property shall so vest in or be held by or be under the control of the district school board, the authorised municipality or the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or any particular staff shall be so taken over and employed by any of them or any terms and conditions on which such staff shall be taken over and employed, the matter shall be referred to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government whose decision thereon shall be final.

## Chapter IV

### Non-Authorised Municipalities

#### 19. Exercise of powers, etc. and holding of property in respect of non authorised municipalities.

(1)Subject to the provisions of this Act and of the rules made thereunder, all properties movable and immovable vesting in, held by or under the control of any non-authorised municipality for the purpose of primary education shall vest in, be held by or be under the control of the district school



board of the district in which it is situated or such authorised municipality as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may specify with the consent of authorised municipality; and all existing and future rights, liabilities, powers and duties of any such non-authorised municipality in respect of primary school teachers and other persons employed by it for such purposes shall vest in and be performed or exercised under this Act and all approved schools within the area of such non-authorised municipality shall be controlled by the said district school board or the authorised municipality, as the case may be.(2)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, at any time by an order published in the Official Gazette together with reasons therefor, direct that any authorised municipality shall, with effect from a date specified in this behalf, cease to be an authorised municipality; and with effect from such date the said municipality shall be a non-authorised municipality. The provisions of sub-section (1) shall thereupon apply in the case of such municipality.(3)If any non-authorised municipality is at any time authorised by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to control all approved schools within its area, the said municipality shall thereafter be an authorised municipality. Thereupon all properties movable and immovable vesting in, held by or under the control of a district school board or an authorised municipality for the purposes of primary education in such area shall vest in, be held by or be under the control of such first mentioned municipality; and all existing and future rights, liabilities, powers and duties in respect of primary school teachers and other persons employed by the district school board or authorised municipality for the purposes of primary education in such area shall also vest in and be performed or exercised by the said first mentioned municipality.

## Chapter V

### Administrative Machinery

#### **20. District school board, authorised municipality to maintain adequate staff, pay, etc.**

(1)Every district school board with the approval of the [State] [This word was substituted for the word-'Provincial' by the Adaptation of Laws Order, 1950.] Government and every authorised municipality shall maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, primary school teachers and inferior servants and other staff (including engineering staff), as may in the opinion of the [State] [This word was substituted for the word-'Provincial' by the Adaptation of Laws Order, 1950.] Government be necessary for the administration, management and control of approved schools within its area [or for enabling a Primary School Panchayat constituted under Section 36B to discharge its functions under this Act.] [These words, figures and letter were added by Bombay 67 of 1954, section 2.](1A)[ Every district school board, and every authorised municipality and recognised private primary school shall, with the approval of the State Government or of an authorised officer, maintain such number of Vidyasahayaks as may, in the opinion of the State Government or an authorised officer, as the case may be, be necessary.] [Sub-section (1A) inserted by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)](2)The staff maintained under sub-section (1) shall be servants of the district

school board or of the authorised municipality, as the case may be, and shall receive their pay, allowances, [\*\*\*] [The words 'provident fund' were deleted by Bombay 46 of 1951, Section 2 (1).] gratuities and pensions from its primary education fund. [Such staff maintained by a district school board shall receive their provident fund from the provident fund from fund established under section 46A and the primary school teachers maintained by an authorized municipality shall receive their provident fund from the primary education fund.] [This portion was added by Bombay 33 of 1953, section 2(i).](2A)[ The rates of subscriptions and contributions and other conditions of the provident fund established by the [State] [This sub-section was inserted by Bombay 46 of 1951, section 2(2).] Government under section 46A of the members of the staff maintained by the district school board [\*\*\*] [The words 'and for the primary school teachers maintained by authorized municipalities' were deleted by Bombay 33 of 1953, section (ii).] shall be such as may be prescribed.] [This sub-section was inserted by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act), Order 1963, section 2 (1).](3)The rates of the pay and allowances and terms of employment in respect of [all the members of the staff maintained by a district school board and of the primary school teachers maintained by an authorised municipality] [These words were substituted for the words, brackets figures and letter 'the staff and teachers referred to in sub-section (2A)' by Bombay 33 of 1953, section 2(iii).] shall be as fixed from time to time by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(4)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may from time to time prescribe the duties to be performed by the staff maintained under sub-section (1).(5)[ The State Government may constitute State Level Committee, namely, Vidyasahayak Committee to exercise such powers and perform such functions as may be prescribed.(6)The State Government may constitute Village Education Committee and Village School Construction Committee to exercise such powers and perform such functions as may be prescribed.] [Sub-sections (5) and (6) added by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)]

## **21. Administrative Officer.**

(1)For every school board there shall be an Administrative Officer. He shall be the chief executive officer of the board; his powers and duties shall be as prescribed.(2)The Administrative Officer shall be appointed by and shall be servant of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government. He shall draw his pay and allowances from the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] revenues.

## **22. Delegation of power to appoint Administrative Officer to certain authorized municipalities.**

(1)Notwithstanding the provisions of Section 21, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may by notification in Official Gazette delegate the power to appoint an Administrative Officer to an authorised municipality which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925 (Bombay XVIII of 1925), [or that Act as adapted and applied to the Saurashtra areas of the State] [These words were

inserted by Gujarat 13 of 1963, section 7.] and the annual expenditure of which on primary education is not less than Rs. 1,00,000 for three financial years immediately preceding the date of the notification. The Administrative Officer so appointed shall be the servant of the authorised municipality and shall draw his pay, allowances, provident fund, gratuity and pension from its primary education fund.(2)The appointment of such Administrative Officer shall be made after inviting and considering the suggestions, if any, of the municipal school board and with the approval of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government. No such officer shall, save with the previous sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, be removed from his office, reduced or suspended except by a resolution passed by at least, two-thirds of the whole number of Councillors of the authorised municipality.(3)The qualifications, pay, allowances and the terms of employment of such Administrative Officer shall be in accordance with the regulations framed by the authorised municipality with the sanction of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.

### **23. Staff selection committee and appointment of teachers.**

(1)There shall be a staff selection committee for every [authorised municipality ad for every district within the jurisdiction of a district panchayat] [These words were substituted for the words 'District school board or authorized municipality' by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act) Order, 1963.](2)The staff selection committee shall consist of the [Educational Inspector of the district] [These words were substituted for the words 'Educational Inspector of the division' by Bombay 2 of 1955, section 3, Second Schedule.] or an other officer designated by the Director, [the Chairman of the municipal school board in the case of an authoursied municipality and the Chairman of the Education Committee of a district panchayat in the case of a district within the jurisdiction of such panchayat] [These words were substituted for the words 'The Chairman of the school board' by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act) Order, 1963.] and the Administrative Officer:[Provided that where in the case of any such district, a District Primary Education Staff Selection Committee has been appointed under sub-section (3) of section 211 of the Gujarat Panchayat Act, 1961, (Gujarat VI of 1962), the Committee so appointed shall be deemed to be the Staff Selection Committee for such district in so far as the recruitment of primary teachers and such other staff in connection with primary education may be prescribed under the said sub-section (3) of section 211 is concerned.] [This proviso was added by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act) Order, 1963.](3)The Administrative Officer shall act as secretary to the staff selection committee.(4)The committee shall select candidates for appointments as Assistant Administrative Officers, Supervisors, Attendance Officers and teachers; and in the case of district school boards, also members of the other staff excluding inferior servants. The committee shall also select teachers to be deputed for training. The selection of candidates and teachers shall be made in accordance with the instructions issued, by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(5)The school board or the authorised municipality or the Administrative Officer as the case may be, shall make appointments of the candidates, so selected in accordance with the directions given by the staff selection committee.

**23A. [ Vidyasahayaks. [Section (23A) inserted by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)]**

(1)For selection of Vidyasahayaks there shall be a Selection Committee -(a)for every district, consisting of such persons as may be prescribed;(b)for the area of every authorised municipality, consisting of such persons as may be prescribed;(c)for recognised private primary schools consisting of such persons as may be prescribed;(2)The qualifications for appointment of Vidyasahayaks shall be such as may be prescribed.(3)The Selection Committee shall select candidates for appointment as Vidyasahayak on such criteria and in such manner, as may be prescribed.(4)A District Primary Education Officer or an Administrative Officer of the Municipal School Board or the managing trustee in private primary grant-in-aid school with the approval of the District Primary Education Officer, as the case may be, may make appointments of the candidates in accordance with the directions given by the Selection Committee and subject to such terms and conditions as laid down in Vidyasahayak Scheme as may be prescribed.(5)No person shall be appointed as Vidyasahayak unless he has entered into a contract with the District Primary Education Officer or the Administrative Officer of the Municipal School Board or the management in case of recognised grant-in-aid private primary school with the approval of the District Primary Education Officer/ District Education Officer, as the case may be, in such form and subject to such terms and conditions, as may be prescribed.(6)The duties of Vidyasahayak shall be such as may be prescribed.(7)The provisions of this section shall have effect, notwithstanding anything to the contrary contained in sections 20 and 23 of this Act and in any provision of the Gujarat Panchayats Act, 1993 (Gujarat 18 of 1993).] [This sub-section was inserted by Gujarat 13 of 1963, section 5.]

**24. Powers of Administrative Officers over school board staff.**

(1)The Administrative Officer shall have power, subject to such general instructions, as may be issued from time to time by the Director, to promote, transfer and take all disciplinary action (including removal or dismissal) against the staff maintained under Section 20.(2)Any person aggrieved by an order of dismissal, removal, reduction or any other order involving disciplinary action made under sub-section (1), may submit an appeal to a tribunal consisting of the chairman of the school board and the [Educational Inspector of the district] [These words were substituted for the words 'Educational Inspector of the division' by Bombay 5 of 1962, section 3, Second Sch.]. The tribunal shall follow the prescribed procedure for the disposal of its business. In the event of a difference of opinion between the members of the tribunal the appeal shall be referred to the Director whose decision [subject to the provisions of this Section] [These words were inserted by Bombay 50 of 1958, section 2(a).] [shall be final:Provided that in the case of a district within the jurisdiction of a district panchayat, the tribunal shall consist of the Chairman of the Education Committee of district panchayat and the Educational Inspector of the district:] [These words and proviso were substituted for the words 'shall be final' by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act) Order, 1963.][Provided further that] [These word was substituted for the word 'Provided that', by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act) Order, 1963.,] a primary school teacher who is a guaranteed teacher on the date of the coming into force of this Act, may make a further appeal to the [State] [This word was substituted for the word Provincial' by the Adaptation of Laws Order, 1950.] Government against an

order of removal or dismissal. Explanation: - A guaranteed teacher means a primary school teacher who was holding a permanent, appointment as such teacher on 30th June 1923. (3) An appeal under sub-section (2) shall be made within 30 days [from the date on which the order appealed against was communicated to the aggrieved person.] [These words were substituted for the words 'from the date of the order appealed against' by Bombay 26 of 1954, section 3.] (4) [Notwithstanding anything contained in this Section, the State Government may call for and examine the record of any order made by the Administrative Officer under sub-section (1) [or of any order made in appeal by the tribunal or Director under subsection (2)] [Sub-section (4) was added by Bombay 25 of 1952, Section 5.] involving disciplinary action against the staff maintained under Section 20, for the purpose of satisfying itself as to the correctness or propriety of the punishment awarded under the said order and if after causing such inquiry to be made as it deems fit the State Government is of opinion that the said order should be modified, annulled or reversed, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may pass such order thereon as it deems fit: Provided that no such order shall be made by the State Government in revision to the prejudice of any person unless such person has had an opportunity of being heard in his defence.]

## **Chapter VI**

### **Preparation and Enforcement of Schemes of Compulsion**

#### **25. Preparation of scheme.**

- Deleted by Gujarat 41 of 1961

#### **26. Preparation of scheme by authorised municipality.**

- Deleted by Gujarat 41 of 1961

#### **27. Particulars to be contained in the scheme.**

- Deleted by Gujarat 41 of 1961

#### **28. Sanction of State Government to scheme.**

- Deleted by Gujarat 41 of 1961

#### **29. Modification, etc., of sanctioned schemes.**

- Deleted by Gujarat 41 of 1961

**30. Power to exempt children of particular classes.**

- Deleted by Gujarat 41 of 1961

**31. No fees to be charged in the area of compulsion.**

- Deleted by Gujarat 41 of 1961

**32. Duty of parent to cause children to attend school.**

- Deleted by Gujarat 41 of 1961

**33. Meaning of reasonable excuse.**

- Deleted by Gujarat 41 of 1961

**34. Issue of attendance order.**

- Deleted by Gujarat 41 of 1961

**35. Penalty for failure to cause child to attend an approved school.**

- Deleted by Gujarat 41 of 1961

**36. Penalty for employing a child to whom scheme applies.**

- Deleted by Gujarat 41 of 1961

**36A. Courts competent to try offences under Sections 35 and 36.**

- Deleted by Gujarat 41 of 1961

**36B. Constitution of Primary Schools Panchayat; its powers and procedure.**

- Deleted by Gujarat 41 of 1961

**36C. Certificate of Head Master of approved school to be conclusive evidence of parents' failure to comply with Section 32.**

- Deleted by Gujarat 41 of 1961

### **36D. Saving of pending proceedings.**

- Deleted by Gujarat 41 of 1961

### **37. [ Administrative Officer to be public servant. [This Section was substituted for the original by Bombay 46 of 1949, section 8.]**

- Every Administrative Officer shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (XLV of 1860)]

## **Chapter VII**

### **Approved Schools**

### **38. Subjects, curricula, etc., of approved schools.**

- The subjects, curricula, books and standards of teaching of approved schools shall be such as may from time to time be specified by the [State] [This Section was substituted for the original by Bombay 36 of 1949, Section 8.] Government.

### **39. Recognition of grants to approved schools under private management.**

- Deleted by Gujarat 24, of 1986, section 3.

### **40. Inspection of approved schools; returns.**

(1) Every approved school shall be open during the school hours to inspection by the inspecting officers of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government for the purpose, in particular of ascertaining-(a) whether instruction is given in accordance with the provisions of Section 38; (b) whether the provisions of this Act for the compulsory attendance of children are being carried out; (c) whether the health of the school children is satisfactory; (d) whether the instruction given is not of pernicious nature; (e) whether the registers and records are being maintained as required by the Director. (2) The Administrative Officer and the manager of an approved school shall furnish such returns and supply such information as the Director may from time to time, require, and shall give reasonable facilities to the officers appointed under sub-section (1) of Section 48 and to any officer specially deputed under this sub-section by the Director in the discharge of their duties. [Chapter VII-A] [These Chapters were inserted by Gujarat 24 of 1986, section 4 (w.r.e.f. 22-05-1986).] Recognition of Private Primary School

### **40A. Prohibition against imparting primary education by private primary schools without recognition.**

- On and after the commencement of the Bombay Primary Education (Gujarat Amendment) Act, 1986 (Gujarat 24 of 1986), no person other than the State Government, a School Board or an authorised municipality shall impart primary education through a school unless such school is recognized under this section.(2)Every person to whom sub-section (1) applies and who desires to impart primary education by establishing a primary school shall, on an application made to the Director of Primary and Adult Education, Gujarat State (hereinafter referred to as "the Director") or any other officer authorized by the State Government in this behalf (hereinafter referred to as "the authorized officer") in such form and on payment of such fees as may be prescribed and, subject to the provisions of sub-section (4), be entitled to have the school recognized on the fulfillment of such conditions as may be prescribed for such recognition.(3)Notwithstanding anything contained in sub-section (2) every private primary school which on the commencement of the Bombay Primary Education (Gujarat Amendment) Act, 1986 (Gujarat 24 of 1986), stands recognized as an approved school by a school board or by the State Government or by an officer authorized by it in this behalf shall be deemed to have been recognized under this section from the date of such commencement shall continue to be so recognized until such recognition is withdrawn under sub-section (7).(4)On receipt of the application made under sub-section (2), the Director or, as the case may be, the authorized officer shall consider and make an inquiry in respect of such application in such manner as may be prescribed and then decide within a period of three months from the date of receipt of the application as to whether the school may be recognized or the application for recognition be rejected.(5)The Director or the authorized officer may while recognizing a school, impose such of the prescribed conditions on the management of the school as he thinks fit.(6)Every recognized school shall be given a certificate of recognition in the prescribed form.(7)Where any person in charge of the management of a recognized school has been after the due inquiry in the prescribed manner by the Director or the authorized officer, found to have committed default in carrying out any of the obligations imposed on such person under this Act or the rules made under this Act or any instructions issued to him by the State Government, the Director or, as the case may be, the authorized officer shall after giving such person an opportunity of being heard, direct that the recognition of the school be withdrawn for such period as may be specified in the direction or be withdrawn permanently.(8)Any person aggrieved by the decision of the Director or the authorized officer under sub-section (4) or sub-section (7) may within a period of one month from the date on which the decision is communicated to him, appeal to the State Government, shall decide the appeal within two months from the date of the presentation of the petition of appeal and the decision in such appeal shall be final.(9)The State Government may, on sufficient cause being shown, direct at any time that the recognition of the school which has been withdrawn, may be restored on such conditions and on payment of such fees as may be prescribed and on such further conditions, as the State Government may deem fit to impose.(10)Where the recognition of a school is withdrawn under sub-section (7) the certificate of recognition issued to the person in charge of the management thereof shall be deemed to have been cancelled and such person shall forthwith surrender the certificate of recognition to the Director or the authorized officer. The cancellation of certificate of recognition shall be published by the Director or, as the case may be, the authorized officer in the Official Gazette and in such news papers as the Director or the authorized officer may select.



## Chapter VII

### B. Procedure for Imposition of Penalty on Teachers of Recognized Private Primary Schools

#### 40B. Dismissal, removal or reduction in rank of teachers.

(1)(a) No teacher of a recognize private primary school shall be dismissed or removed or reduced in rank nor shall his service be otherwise terminated until-(i) he has been given by the manager an opportunity of showing cause against the action proposed to be taken in regard to him; and (ii) the action proposed to be taken in regard to him has been approved in writing by the administrative officer of the school board in the jurisdiction of which the private primary school is situate; Provided that nothing in this clause shall apply to a teacher who is appointed temporarily for a period less than a year or a teacher appointed temporarily on a leave vacancy for a period less than a year. Explanation. - A teacher who is appointed temporarily for a period for less than a year or a teacher who is appointed temporarily o a leave vacancy for a period of such vacancy shall not be deemed to be a teacher appointed temporarily for such period, if he has at any time prior to such appointment served as a teacher either in the same private primary school or in another private primary school under the same management and the aggregate of the period of such past service and the period of service for which he is appointed exceeds one year. (b) The administrative officer shall communicate to the manager of the school in writing his approval or disapproval of the action proposed, within a period of forty five days from the date of the receipt by the administrative officer of such proposal. (2) where the administrative officer fails to communicate either approval or disapproval within a period of forty five days specified in clause (b) of sub-section (1), the proposed action shall be deemed to have been approved by the administrative officer on the date of the expiry of the said period. (3) No penalty (being the penalty other than that referred to in sub-section (1)) shall be imposed on a teacher of the private primary school unless such teacher has been given reasonable opportunity of being heard. (4) Where a teacher of a private primary school is suspended by the manager of the school pending any inquiry proposed to be held against him, the fact of his suspension together with the grounds therefore shall be communicated within a period of seven days, after such suspension by the manager to the administrative officer of the school board in the jurisdiction of which the school is situate, and such suspension shall be subject to ratification by the administrative officer within a period of forty five days from the date of receipt of communication in this behalf by the administrative officer and if such ratification is not communicated to the manager by the administrative officer within such period, the suspension of such teacher shall cease to have effect on the expiry of the said period: Provided that la teacher shall, during the period of suspension, be entitled to such subsistence allowance, and on such terms and conditions as may be prescribed. (5) Any teacher aggrieved by the order of the administrative officer under sub-clause (ii) of clause (a) of sub-section (1), may make an appeal to the Tribunal within a period of thirty days from the date on which the administrative officer has approved or deemed to have approved the action. Explanation. - For the purposes of this section, and section 40C.-(a) "manager" in relation to a private primary school means a person or body of persons in charge of the control or of management of the school; (b) "teacher" means a teacher of a recognized private primary school; (c) "Tribunal" means a Tribunal constituted under section 40F.

#### **40C. Registration of a teacher.**

- If a teacher desires to tender his resignation he shall tender the same in person to the administrative officer of the school board in jurisdiction of which the school is situate and the resignation of a teacher shall not be accepted by the manager unless it is so tendered and forwarded to the manager by the administrative officer duly endorsed. The acceptance of any resignation tendered in contravention of this section shall be ineffective

#### **40D. Certain contracts etc. to be null and void.**

(a)Every contract between a recognized private primary school and a teacher in service of such school whether made before or after the commencement of the Bombay Primary Education (Gujarat Amendment) Act, 1986, and (b)any term or condition of service of such teacher whether employed before or after such commencement, shall, to the extent to which it takes away any right conferred on such teacher by or under this Act be null and void.

#### **40E. Dispute to be decided by Tribunal.**

- Where there is any dispute between the manager of a recognized private primary school and teacher in service of such school which is connected with the conditions of service of such teacher, the manager or, as the case may be, the teacher may make an application to the Tribunal constituted under section 40F for the decision of the dispute.

#### **40F. Tribunal.**

(1)There shall be constituted by the State Government by an order published in the Official Gazette one or more Tribunals for the purpose of this Chapter.(2)A Tribunal shall have jurisdiction for such area as may be specified by the State Government in the order referred to in sub-section (1).(3)The State Government shall appoint a District Judge or a person who has been or is qualified to be Judge of a High Court or to be a District Judge to be the Tribunal.(4)It shall be the duty of the Tribunal to entertain and decide disputes of the nature referred to in section 40E and deal with and decide all applications and proceedings made or transferred to it under sub-section (2) of section 40G and also to entertain and decide appeal made under sub-section (5) of section 40B.(5)The Tribunal shall follow such procedure as the State Government may by general order direct.(6)The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908) when trying suit, in respect of the following matters, namely:-(a)enforcing the attendance of any person and examination him on oath;(b)compelling the production of documents and material objects;(c)issuing commissions for the examination of witnesses;(d)such other matters as may be prescribed;and every inquiry or investigation by the Tribunal shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.(7)The Tribunal shall be deemed to be a court for the purpose of section 5 of the Limitation Act, 1963 (36 of 1963).(8)The decision of the Tribunal shall be final and no suit shall lie in any Civil Court in respect of the matters decided by it.(9)Where any order of dismissal, removal or reduction in rank of a

teacher of a recognized private primary school is decided by the Tribunal to be wrong, unlawful or otherwise unjustified, the Tribunal may pass an order directing that the teacher concerned shall be reinstated in service, or, as the case may be, restored to the rank which he held immediately before his reduction in rank, by the manager, and the manager shall forthwith comply with such direction.

#### **40G. Bar of jurisdiction of Courts.**

(1) No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Chapter required to be settled, decided or dealt with by the Tribunal. (2) All suits and proceedings between the manager of a recognized private primary school and a teacher in service, of such school relating to disputes connected with the conditions of service of such teacher, which are pending in any civil court on the date of the commencement of the Bombay Primary Education (Gujarat Amendment) Ordinance, 1986 shall be transferred to and continued before the Tribunal: Provided that nothing in this section shall apply to execution proceedings and appeals arising out of decrees or orders passed by such Court before the commencement of the Bombay Primary Education (Gujarat Amendment) Ordinance, 1986, (Gujarat 24 of 1986), and such execution proceedings and appeals shall be decided and disposal of as if the Bombay Primary Education (Gujarat Amendment) Act, 1986 (Gujarat 24 of 1986), had not been passed.

#### **40H. Savings.**

- Nothing contained in sub-clause (ii) of clause (a) and clause (b) of sub-section (1) and sub-section (2), (4) and (5) of section 40B and section 40C shall apply to any recognized private primary school established and administered by a minority, whether based on religion or language.]

### **Chapter VIII**

#### **Financial Relations Between the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and Local Bodies**

#### **41. Payment to be made by district local board and non-authorised municipality.**

(1) Every district local board shall pay over annually to the district school board for the purposes of primary education such portion of its income from its revenue described in clauses (b) and (c) of section 75 of the Bombay Local Boards Act, 1923, (Bombay VI of 1923), as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may from time to time fix in this behalf. (2) Every non-authorised municipality shall pay over annually to the district local board or the authorised municipality, as the case may be, for the purposes of primary education such proportion of rateable value of properties in the area of the municipality as may from time to time be fixed, in this behalf by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and the income accruing from any

funds (including trust funds) held, and all moneys received by it for the said purposes.

## **42. Contribution by [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.**

- [(1) If a scheme submitted by an authorised municipality is sanctioned under section 28, the State Government shall bear the additional recurring and non-recurring annual cost of the scheme as estimated by the municipality to the following extent, namely -(a)sixty per cent of the cost, if the population of the authorized municipality is less than fifty thousand, and(b)fifty per cent, of the cost, in any other case:Provided that where such scheme is sanctioned after the commencement of the Bombay Primary Education (Gujarat Amendment) Act, 1963, (Gujarat 42 of 1963), the extent of the cost to be borne by the State Government shall, for the first year of the scheme, be eighty per cent, in the case of a municipality to which clause (a) applies and seventy-five per cent, in the case of municipality to which clause (b) applies and for the next three years it shall be gradually reduced to the amount permissible under clause (a) or clause (b), as the case may be, by such percentage as the State Government may by order determine:Provided further that in the case of a municipality which immediately before the 1st April, 1963 was liable under sub-section (2) of section 41 to pay contribution to a district school board or authorized municipality, the cost to be borne by the State Government under the aforesaid proviso shall, having regard to contribution so payable, be reduced by such amount as the State Government may by order determine.] [This sub-section was substituted for the original by Gujarat 42 of 1963, section 2.](2)Nothing in this Section shall affect the claim of any authorised municipality to any annual grant which at the time of this Act comes into force is being paid to it as a local authority under the Bombay Primary Education Act, 1923 (Bombay IV of 1923), by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government for the purposes of primary education:Provided that, if the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government considers that the Primary education fund of an authorised municipality has been or is about to be misused or misapplied, it may call upon such authorised municipality for an explanation of such misuse or misapplication; and if not satisfied with the explanation given may make such reduction in the grants payable to such authorised municipality as it may deem proper.(3)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall pay to a district school board a grant equivalent to the amount by which expenditure in accordance with the budget sanctioned under the next following section exceeds the receipt referred to in clauses (b) to (d) and (g) of subsection (2) of section 44.

## **43. District school board budget.**

- The budget of the district school board shall in the prescribed manner be framed and submitted to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may sanction it with such modifications as it may deem fit to make therein.

#### **44. Primary education fund.**

(1) A fund called the primary education fund shall be maintained by every district school board and by every authorised municipality. (2) The following shall form part of, or be paid into, the primary education fund:—(a) the balance of the primary education fund maintained under Section 8A of the Bombay Primary Education Act, 1923 (Bombay IV of 1923), [or section 37 of the Saurashtra Primary Education Act, 1956, (Sau. Act XXXIII of 1956), as the case may be] [These words and figures were inserted by Gujarat 13 of 1963, section 9.]; (b) the contributions payable by non-authorised municipalities under subsection (2) of Section 41; (c) fees and fines received in respect of primary schools maintained by the school board or the authorised municipality, as the case may be; (d) in the case of a district school board, such portion of the income of the district local board as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may fix under sub-section (1) of section 41; (e) in the case of an authorised municipality, the grant paid or payable by the authorised municipality on account of primary education; (f) the grant paid or payable by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government on account of primary education; (g) such other sums as may from time to time be received on account of primary education. Explanation - For the purposes of Clause (e) the grant payable by an authorised municipality shall be the amount of expenditure on account of primary education in any year less the grant paid by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in that year, and Fees and sums of money from other sources of income belonging to the fund.

#### **45. Application of Primary education fund.**

(1) The primary education fund shall stand in the name of the school board and shall, subject to the provisions of this Act, be applied for the purposes specified therein and for such other purposes as may be prescribed. (2) The fund shall be maintained, administered and used in the manner prescribed.

#### **46. Deposit of primary education fund.**

(1) The primary education fund shall be kept in the Government treasury or in the bank in which the Government treasury business has been made over or in such other bank or co-operative society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925 (Bombay VII of 1925), as may be approved by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government. (2) It shall be lawful for the school board to invest such portion of the primary education fund as is not likely to be immediately required in post office cash certificates or in securities of the Central Government or any [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government. (3) Every investment in Government securities shall be made through the Reserve Bank of India or any other bank approved by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in this behalf.

#### **46A. [ Provident fund. [This Section was inserted by Bombay 46 of 1951, Section 3.]**

(1)The State Government shall establish a provident fund (hereinafter called the said fund) for the staff maintained by district school board [\*\*\*](2)Any Provident Fund established and maintained by a district school board [for such staff] [These words were substituted for the words 'or an authorised municipality for such staff or teachers as the case may be,' by Bombay 33 of 1953.] before the date of coming into force of the Bombay Primary Education and Housing Board (Amendment) Act, 1951 (Bombay XLVI of 1951), shall be merged into and form part of the said fund and the district school board [\*\*\*] [The words 'or the authorised municipalities' were deleted by Bombay 33 of 1953, Section 3.] concerned shall as soon as may be after the said date transfer from its primary education fund to the said fund a sum equal to the total amount standing to the credit of all the subscribers or depositors in the Provident Fund till the date of such transfer:Provided that in the event of any doubt arising as to the amount to be so transferred by any district school board [\*\*\*] [The words 'or the authorised municipalities' were deleted by Bombay 33 of 1953.] from its primary education fund to the said fund, the matter shall be referred to the State Government or any officer authorised by it in this behalf, whose decision shall be final.(3)The district school board [\*\*\*] [The words 'or the authorised municipalities' were deleted by Bombay 33 of 1953, Section 3.] concerned shall, in respect of each of its employees who is a subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may, from time to time, determine.]

#### **47. Payment of travelling allowances to Chairman, Vice-Chariman and Members of the school board.**

- The Chairman, Vice-Chairman and members of the school board may be paid allowances for expenses incurred by them in travelling for the purposes of the business of the school board at such rates and subject to such conditions as may be prescribed.

#### **47A. [ Audit. [This section was inserted by Gujarat 13 of 1963, section 10.]**

(1)The accounts of a school board shall be examined and audited at such intervals, in such manner and by such agency as may be prescribed.(2)Every school board shall published the audit notes with the replies thereto on its administration report.]

### **Chapter IX Control**

#### **48. Inspecting staff.**

(1)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order), 1950.] Government may appoint such officers (including inspecting officers) as it may deem

necessary for the purposes of superintendence and inspection and generally for the purposes of giving effect to the provisions of this Act.(2)The officers appointed under sub-section (1) shall be the servants of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order), 1950.] Government, and their powers and duties shall be such as may be prescribed.

#### **49. Inspecting officers to be present at school board meetings.**

(1)An inspecting officer nominated by the Director in this behalf shall have the right of being present at any meeting of the school board, and with the consent of the Chairman, of taking part in the discussions thereat, but he shall not be entitled to vote upon, or move any resolution, at such meeting.(2)The Director or Educational Inspector [of the district] [These words were inserted by Bombay 2 of 1955, section 3, Second Schedule.] or any officer authorized by a general or special order of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order), 1950.] Government may-(a)(i)enter on and inspect any immovable property occupied for any purpose connected with primary education by the school board or authorised municipality or any educational institution under its control or management; or(ii)cause such property or institution to be entered upon and inspected by any other person authorised by him in this behalf,(b)call for any extract from the proceedings of any authorised municipality or school board, or of any committee appointed by any of them relating to any matter connected with primary education or;(c)call for and inspect any book or document relating to any matter connected with primary education in the possession or under the control of an authorised municipality or school board.

#### **50. Power to call for return or require explanation, etc.**

- The Director may-(a)call for from any authorised municipality or school board or Administrative Officer any return, statement, account or report relating to any matter connected with primary education;(b)call upon an authorised municipality or school board to take into consideration any objection which appears to him to exist to the doing of anything connected with primary education which is about to be done by such municipality or board or any information furnished by him which appears to him to necessitate the doing of a certain thing by such municipality or board and to make a written reply to him within a reasonable time, stating in case of disagreement with the Director its reasons for not desisting from doing or for not doing such a thing.

#### **51. Power of suspending execution of orders, etc. of school board.**

- (1) If in the opinion of the Director the execution of any order or resolution of a school board or the doing of anything which is about to be done or is being done by or on behalf of the board is in excess of the powers conferred by, or contrary to this Act or the rules or regulations made thereunder or is otherwise unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.(2)When the Director makes an order under sub-section (1), he shall forthwith forward to the board affected by it a copy of such order with a statement of the reasons for making it;(3)The Director shall forthwith submit to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government a report of every case

occurring under this Section and the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may annul, confirm, revise or modify any order made therein and make in respect thereof any other order: Provided that no order of the Director passed under this Section shall be confirmed, revised or modified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government without giving the board reasonable opportunity of showing cause against the said order.

## **52. Default by authorised municipality.**

(1) If any authorised municipality when called upon makes default in preparing a scheme or after a scheme has been sanctioned omits to make adequate provision for compulsory primary education in accordance with scheme as sanctioned and to bring into operation or continue to keep in operation such scheme, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may after due inquiry appoint a person to prepare the scheme or bring it into operation or to continue to keep it in operation as the case may be, and the expense thereof shall be paid by the authorised municipality to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government. (2) If the expense is not so paid the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make an order directing any person who has for the time being custody of any moneys on behalf of the authorised municipality either as banker or in any relation to pay such expense from such monies as he may have in his hands or may from time to time receive and such person shall be bound to obey such an order;

## **53. Power of [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to provide for performance of duties on default by the school board.**

(1) When the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government is informed that a school board has made a default in performing any duty imposed on it by or under this Act or by or under any enactment for the time being in force, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may if it is satisfied after such inquiry as it may think fit, that the school board has been guilty of such default, by an order in writing direct the school board to perform the duty within a period fixed for the performance of that duty. Provided that no such order shall be made unless the school board has been given an opportunity to show cause why such order should not be made. (2) If such a duty is not performed within the period so fixed, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may appoint some person to perform it and may direct that the expenses of performing it with a reasonable remuneration to the person appointed to perform shall be paid within such time as it may fix to such person by the school board or as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may direct. (3) If the expenses and remuneration are not paid the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make an order directing the officer-in-charge of the treasury



or the bank or society in which the primary education fund is kept or the whole or portion thereof is deposited or lent at interest, to pay such expense and remuneration from such moneys as may be standing to the credit of the school board in such treasury or bank or society or as may from time to time be received from or on behalf of the school board by way of deposit by such treasury or the bank or society and such officer or the bank or society shall be bound to obey such order. Every payment made in pursuance to such order shall be a sufficient discharge to such officer, bank or society from all liabilities to the school board in respect of any sum or sums so paid by him or out of moneys so received or standing to the credit of the school board in such treasury or the bank or society.

#### **54. Directions by [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.**

- Notwithstanding anything contained in this Act the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall have power to give to a district school board all such directions as it may consider necessary in regard to any matter connected with primary education and the district school board shall comply with such directions.

#### **55. Enquiry into affairs of the school board.**

(1)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950] Government may, from time to time cause enquiry to be made by any of its officers in regard to any authorised municipality or school board on matters connected with primary education concerning them or any matter with respect to which the sanction, approval, consent or order of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government is required by or under this Act.(2)The officer holding such an enquiry shall have the powers of a Court under the Code of Civil Procedure, 1908 (V of 1908), to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the enquiry.(3)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make orders as to the cost of any enquiry made under sub-section (1) and as to the party by whom and the funds out of which they shall be paid and such order may on the application of the [State] Government or of any person named therein be executed as if it were a decree of a Civil Court.

#### **56. Dissolution or supersession of school board in certain circumstances.**

(1)If in the opinion of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government a school board is not competent to perform or is not properly performing the duties imposed on it by or under this Act or the rules or regulations made thereunder or exceeds or abuses its powers, or is acting or has acted contrary to the provisions of this Act, or the rules or regulations made thereunder it may by an order published in the Official Gazette with the reasons for making it either-(a)dissolve the Board or(b)supersede it, for a period to be specified in the order. [Such period may be longer than the term for which the members of the

school board would have held office under section 4 if the school board had not been superseded under this section.] [These words and figures were added by Bombay 24 of 1956, Section 6.](2)When the school board is dissolved or superseded, the following consequences shall ensue-(a)all members of the board shall in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution, be deemed to have vacated their offices as such members;(b)all powers and duties of the board shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may from time to time appoint in this behalf-,(c)the person or persons appointed under clause (b) may delegate their powers and duties to any individual or committee or sub-committee.(3)On the issue of an order of dissolution under sub-section (1) election of members shall be held under the provisions of this Act or of the rules made thereunder on or before the date specified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and the board shall be re-established by the election, appointment or nomination of members under the aforesaid provisions on such date as may be specified by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(4)If, after an enquiry is made, the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government so directs, the period of supersession with all the consequences aforesaid shall, from time to time, be continued by an order published as aforesaid until such date as may be fixed, by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government for the re-establishment of the board.(5)After the board is superseded it shall be re-established by election, appointment or nomination of members under the provisions of this Act or the rules made thereunder applicable thereto-(a)if no direction has been made under sub-section (4) on the expiration of the period specified in the order of supersession under clause (b) of subsection (1), and(b)if the direction has been made under sub-section (4) on such date as is fixed under that sub-section for the re-establishment of the school board.

## **57. Dissolution of the district school board (and its reconstitution on alteration of limits of the district.**

(1)When during the terms of office of the members of a district school board the limits of the district are on account of the formation of a new district under the Bombay Land Revenue Code, 1879, (Bombay V of 1879), or for any other reason altered the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by order published in the Official Gazette, dissolve such board from a date specified in the order and direct a district school board-(i)to be reconstituted for the district of which the district school board has been dissolved, or(ii)to be established for a new district which has been constituted.The members of the district school board which has been dissolved shall vacate their offices from the date specified in any order.(2)The district school board reconstituted or established, under the provision of subsection (1) shall consist of such number of members elected; appointed or nominated in such manner as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may by order in writing direct. The Chairman and Vice-Chairman of the district school board or reconstructed or established shall elected in the manner provided in this At

and the rules made thereunder.(3)The members of a district school board reconstituted or established under the provisions of sub-section (2) shall hold office for such period, not exceeding [three years] [These words were substituted for the words 'one year' by Bombay 25 of 1952, section 1.] as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall by order specify.(4)On the expiry of the period of office of the members of a district school board under the provisions of sub-section (3), the district school board shall be constituted in the manner provided in section 4.

## Chapter X

### **[Board of Primary Education] [The word 'State' was omitted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]**

#### **58. Constitution of [\*\*] [The word 'State' was omitted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.] Board of Primary Education.**

(1)There shall be [Board] [This word was substituted for the words 'State board', by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.] of Primary Education, consisting of [sixteen] [This word was substituted for the word 'twelve' by Gujarat 13 of 1963, section 11 (1) (i).] members, of whom [eight] [This word was substituted for the word 'six' by Gujarat 13 of 1963, section 11 (1) (ii).] shall be elected by the school, boards in the manner prescribed. The remaining [eight] [This word was substituted for the word 'six' by Gujarat 13 of 1963, section 11 (1) (ii).] of whom not more than [four] [This word was substituted for the word 'three' by Gujarat 13 of 1963, section 11 (1) (iii).] shall be Government officers, shall be appointed by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(2)The members of the said board shall hold office for a period of three years:Provided that the term of office of the out-going members shall be deemed to extend to and to expire with the date on which their successors are elected or appointed, as the case may be.(3)Any member of the said board may resign his seat at any time by giving notice thereof in writing to the president; and such member shall be deemed to have vacated his seat as soon as the president has received his resignation.(4)Any member of the said board who absents himself from three consecutive meetings of the board without its [\*\*] [The word 'Previous' was delete by Bombay 46 of 1949, section 9.] permission shall cease to be member of the board.(5)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may on its own motion or on the recommendation supported by a resolution passed by at least two-thirds of the whole number of members of the said board remove any member of the said board if such member has been guilty of misconduct in the discharge of his duties or any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity:Provided that no such member shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be

made.(6)The elected members of the said board shall be persons having any of the following qualifications:-(a)a graduate of seven years' standing of any recognized University(b)a professor who has served as such for a period of five years in a college affiliated to a statutory University in the [State of Gujarat] [These words were substituted for the words 'Bombay area of the State of Gujarat' by Gujarat 13 of 1963, section 11(2).];(c)a headmaster who has served as such for ten years in an approved school or high school recognized by the Department of Education of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(7)The said board shall elect its president from amongst its own members and his term of office shall be co-extensive with that of the board. Of the members appointed by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, one member selected by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and belonging to the Department of Education shall act as Secretary to the board.(8)Casual vacancies during the term of the said board shall be filled for the remaining period by election or appointment, as the case may be.

## **59. Powers and duties of [\*\*\*] [The word 'State' was omitted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1950.] board.**

- The powers and duties of the said board shall be as follows, namely: -(a)to examine and recommend schemes for the organization, co-ordination and expansion of primary education and for the correlation of primary education with the system of education as a whole in the [area to which this Act extends] [These word was substituted for the word 'State' by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1950.];(b)to advise the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government generally on all matters connected with primary education;(c)to exercise such other powers and to perform such other duties as may be prescribed,

## **59A. [ Transitory and special provision on account of re-organization of Bombay State. [Section 59A was inserted by the Gujarat Adaptation of Laws (State and Concurrent subject) (Fourth Amendment) Order, 1960.]**

(1)Notwithstanding anything contained in this Act, with effect from such date as the State Government may, by notification in the Official Gazette appoint, the existing Board of Primary Education shall stand dissolved and the president and members thereof shall be deemed to have vacated their office; and there shall be constituted a Board of Primary Education for the area to which this Act, extends, consisting of a president and such number of other members, including a Secretary, as the State Government may think fit to nominate.(2)The members so nominated shall, as far as may be, include persons who were members of the Board so dissolved and are, on the date on which such nomination is made, ordinarily residing in the area to which this Act extends.(3)The president and other members nominated under sub-section (1) shall hold office upto and inclusive of the [31st day of December 1964], or until a Board is duly constituted under section 58 whichever is earlier.(4)The provisions contained in sub-sections (3), (4), (5) and (8) of section 58 shall mutatis mutandis apply to the members of the Board constituted under this section.(5)The Board so

constituted shall exercise all the powers and perform all the duties of the Board of Primary Education under this Act.](6)[ Notwithstanding anything contained in sub-section (1) on the date of the coming into force of this Act in the Saurashtra area and the Kutch area of the State, the Board constituted under this section and existing on the said date shall be deemed to be constituted for the whole of the State:Provided that, having regard to the extension of the jurisdiction of the Board as aforesaid, the State Government may nominate such number of additional members on the Board as it may think fit.] [Sub-section 6 was inserted by Gujarat 13 of 1963, section 12.]

## **Chapter XI**

### **Miscellaneous**

#### **60. [ Delegation. [Section 60 was substituted for the original by Bombay 25 of 1952, Section 8.]**

(1)Subject to such conditions, if any, as may be specified--(i)the State Government may delegate any of its powers or duties under this Act or the rules made thereunder to any officer or authority subordinate to it; and(ii)the Director may also, with the previous sanction of the State Government, delegate any of its powers or duties under this Act or the rules made thereunder or delegated to him by the State Government under clause (i) to any officer subordinate to him.(2)Nothing in this Section shall derogate from the right of the State Government or the Director to exercise any or all of the powers or duties hereby delegated by it or him, as the case may be, to any subordinate officer or authority.]

#### **61. Delegation by authorised municipalities and school boards of their powers, duties and functions.**

(1)Subject to the provisions of this Act and the rules made thereunder, an authorised municipality may delegate any of its powers, duties and. functions under this Act to the school board.(2)(a)A school board may, from time to time constitute committees and discontinue or alter the constitution of such committees.(b)The school board may delegate any of its powers, duties and functions to any such committee or to any member or Administrative Officer or stipendiary or any officer of the board; and such committee, member or officer shall conform to any instructions that may from time to time be given by the board.(3)The authorised municipality or the school board may at any time withdraw any of the powers, duties or functions so delegated.

#### **62. Limitation of suits.**

- (1) No suit, prosecution or other legal proceedings shall be commenced against any school board or authorised municipality or a servant thereof or any person acting under the orders, of the said board or municipality for anything done, or purporting to have been done in pursuance of this Act, which entitles or requires a school board, authorised municipality, member, officer, servant as such or other person so acting to exercise any powers or perform duties without giving to such school board,

authorised municipality, member, officer, servant or person one month's previous notice in writing of the intended action and to the cause thereof, or after six months from the date of the Act complained of.(2)In the case of any such suit for damages if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount as tendered, and shall pay all costs incurred by the defendant after such tender.

### 63. Power to make rules.

(1)The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing provision of such rules may be made for all or any of the following matters(a)the manner of election of the chairman, vice-chairman and the members of a school board;(b)the duties and functions of the chairman and vice-chairman;(c)procedure for the conduct of the school board's business [and school committees for non-authorised municipalities;] [These words were added by Bombay 25 of 1952, section 9.](d)procedure for sanctioning tenders;(e)the constitution and functions of village school committees;(ee)[ Provident Funds, gratuities and pensions for the primary school teachers maintained by an authorised municipality;] [Clause (ee) was inserted by Bombay 33 of 1953, Section 4(i).](f)[ the rates of subscriptions and contributions and other conditions of the Provident Fund established for the staff maintained by district school board [\*\*\*\*] [These clauses were substituted for the original clause (f) by Bombay 46 of 1951, Section 4.](fa)the conditions of gratuities and pensions for the staff [\*\*\*\*] [The words 'and teachers' were deleted, by Bombay 33 of 1953, section 4 (iii).] referred to I clause (f);(fb)[ the powers and functions to be performed by the State Level Committee namely Vidyasahayak Committee; [Inserted by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)](fc)the powers and functions to be performed by the Village Education Committee and Village School Construction Committee;(fd)the persons of which Selection Committees shall consists of;(fe)the qualifications for appointment as Vidyasahayak;(ff)the manner and criteria for selection of candidates for appointment as Vidyasahayak;(fg)making of Vidyasahayak Scheme from time to time;(fh)the form of contract of appointment to be entered into by a Vidyasahayak and terms and conditions of such appointment to be contained in such contract;(fi)the duties of Vidyasahayak;(g)provision for the welfare of the children attending primary schools including provision for the care of their health and for the physical and moral training;(h)pre-vocational courses as a part of upper primary courses;(i)regulation of the delegation of powers, duties and functions under this Act;(j)matters to be prescribed under this Act.(3)Rules made under sub-sections (1) and (2) shall be made after previous publication.[Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with previous publication of any rules to be made under this section.] [Proviso added by Gujarat 3 of 2003, dated 3rd March 2003 (w.r.e.f 11-06-1998)](4)[ All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following. The modifications so made shall be published in the Official Gazette and shall thereupon take effect.] [Sub-section (4) was added by Gujarat 13 of 1963, section 13.]

#### **64. Repeal and transitory provision relating to the school boards.**

- The Bombay Primary Education Act, 1923 (Bombay IV of 1923), is hereby repealed: Provided that until a new school board is constituted under Section 4, any existing school board under the Bombay Primary Education Act, 1923 (Bombay IV of 1923), shall exercise all the powers and perform all the duties and functions and shall be subject to all the rights and liabilities as if it is constituted under this Act.

#### **65. Act to prevail over provisions of certain other acts.**

- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in the provisions relating to primary education in the Bombay District Municipal Act, 1901 (Bombay III of 1901), the Bombay Local Boards Act, 1923 (Bombay IV of 1923), and the Bombay Municipal Boroughs Act, 1925 (Bombay XVIII of 1925), [or any other corresponding law.] [These words were inserted by Gujarat 13 of 1963, section 13.]

#### **66. [ [Transitory and special provision, in respect of Kolhapur District School Board on account of reorganisation of States]. [Sections 66 and 67 were inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Orders, 1956.]**

- Deleted by, Gujarat 13 of 1963, section 15.

#### **67. Transitory and special provision, in respect of Banaskantha District School Board, on account of re-organisation of States.**

(1) With effect from such date as the State Government may, by notification in the Official Gazette appoint, the District School Board of Banaskantha shall notwithstanding anything contained in this Act, stand reconstituted and shall be deemed to be the District School Board for the District of Banaskantha as formed on the 1st day of November 1956 (XXXVII of 1956) by the States Reorganisation Act, 1956 (XXXVII of 1956), and shall consist of such number of members as may be nominated by the State Government in this behalf. (2) The members to be nominated shall, as far as may be, be persons who were the members of the Banaskantha School Board and who represented the areas included in the said district excluding the Abu-Road taluka, before such reconstitution. (3) The Members of the school board so reconstituted shall hold office for such period, as the State Government may by notification in the Official Gazette specify, but not exceeding one year from the date of such reconstitution. (4) The Chairman and Vice-Chairman of the school board reconstituted as aforesaid shall be elected in the manner provided in this Act. (5) (a) When the period of office of the members of the school board under sub-section (3) is due to expire, the school board of the district shall be constituted in the manner provided in Section 4 and other relevant provisions of this Act. (b) Notwithstanding the expiry of the period of office of members, they shall continue in office until the members of the new school board are elected, appointed or nominated, as the case may be. (6) Upon the reconstitution of the school board under

this Section or as soon as may be thereafter, the State Government after consulting the Government of Rajasthan may, by order provide for all or any of the following matters, namely:-(a)the transfer, in whole or in part, of the assets, rights and liabilities (including any rights and liabilities under contract) of the former school board of Banaskantha to the reconstituted school board of Banaskantha and the terms and conditions (if any) of such transfer;(b)the transfer or re-employment of any of the employees of the former school board to or by the reconstituted school board of Banaskantha;(c)such incidental consequential and supplementary matters as may be necessary to give effect to such apportionment and transfer.(7)Where an order is made under this Section transferring the assets, rights or liabilities of the former school board, then by virtue of that order such assets, rights and liabilities of such board shall vest in and be the assets, rights and liabilities of the reconstituted school board.]

**68. [ Validating provisions in respect of certain district school boards.  
[Section 68 and 69 was inserted by Gujarat 13 of 1963 section 16.]**

(1)If by virtue of the extension of the Bombay Land Revenue Code, 1879, (Bombay V of 1879), to the Saurashtra area of the State by the Bombay Land Revenue Code (Extension to Saurashtra area) Ordinance, 1959 (Bombay Ord. No. II of 1959), and reconstitution of the districts specified in column 2 of the Schedule under Government of Bombay, Revenue Department Resolution No. TLC-3858-C, dated the 19th June 1959 any scheduled district school board has transferred-(a)any primary schools and other properties, movable and immovable, which were vested in or held by it or were under its control before such reconstitution,(b)any primary school teachers and other persons as were employed by or under it before such reconstitution,(c)any of its assets and liabilities held or incurred before such reconstitution, to any other scheduled district school board and the latter has taken over the primary schools, properties, primary teachers, persons, assets and liabilities so transferred, such transfer and taking over shall be valid and shall be deemed always to have been valid and such not be called in question merely on the ground that such transfer and taking over was not authorized under the provisions of this Act, or the Saurashtra Primary Education Act, 1956, (Saurashtra Act XXXIII of 1956), as then in force; and accordingly all jurisdiction and powers exercised, functions performed and duties discharged and any other thing done or action taken before the coming into force of the Bombay Primary Education, (Gujarat Extension and Amendment) Act, 1963 (Gujarat XIII of 1963) by a scheduled district school board in respect of such primary schools, properties, primary, teachers, persons, assets and liabilities shall be valid ad shall not be called in question merely on the ground aforesaid:Provided that in the case of primary teachers and persons so taken over, nothing in this sub-section shall affect the terms and conditions of service as were applicable to them immediately before such taking over.(2)Notwithstanding anything contained in this Act or the Saurashtra Primary Education Act, 1956, (Saurashtra Act XXXIII of 1956), each of the scheduled district school boards shall be deemed to have been validly constituted for the district specified against it in column 2 of the schedule from the date of the reconstitution of the district under the aforesaid notification and the terms of office of the members thereof holding office immediately before the date of the commencement of the Bombay Primary Education, (Gujarat Extension and Amendment) Act, 1963, (Gujarat XIII of 1963), shall continue under this Act until the schedule district school board is constituted under section 4 or the expiry of one year from the said date, or the coming into force of section 155 of the Gujarat Panchayats Act,



1961, (Gujarat VI of 1962), whichever is earlier. Explanation. - For the purpose of this section, a schedule district school board means a district school board specified in column 1 of the Schedule.

## **69. Repeal of Saurashtra Act XXXIII of 1956 and saving.**

- The Saurashtra Primary Education Act, 1956 is hereby repealed. (2) Save as otherwise expressly provided in this Act, anything done or action taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act, and shall continue in force until it is superseded by anything done or action taken under this Act.]

## **70. [ References to District School Board to be construed as references to taluka panchayat and district panchayat. [Section 70 was inserted vide G. O. E. and L. D. No., Int. 3062-A 1, dated 1st April 1963.]**

(1) Subject to the provisions of sub-section (2) in this Act except in sections 2 (10), 3 (1), 4, 5, 6, 6-A, 7, 7-A, 8, 9, 9-A, 10, 10-A, 11, 14, 41(1), 42, 43, 44(2) (d) and 57 all references to a District School Board shall be with effect on and from the 1st April, 1963 shall be construed as references to a taluka panchayat or district panchayat constituted under the Gujarat Panchayats Act, 1961, (Gujarat VI of 1962), according as the powers, functions and duties of a District School Board vest in the taluka panchayat or as the case may be, district panchayat, in accordance with an order made under sub-section (2) of section 155 of the Gujarat Panchayats Act, 1961 (Gujarat VI of 1962), (hereinafter referred to as the "said order"). (2) In section 12, in sub-section (2), for the words "every District school board" substituted the words "such taluka panchayats in a district or as the case may be, such district panchayat as the State Government may determine having regard to the distribution of powers, functions and duties between taluka panchayats and district panchayat under "the said order". (3) Notwithstanding anything contained in section 15 of the Gujarat Panchayats Act, 1961, (Gujarat VI of 1962), the provisions contained in sections 2 (10), 3 (1), 4, 5, 6, 6-A, 7, 7-A, 8, 9, 9-A, 10, 10-A, 11, 14, 41(1), 42, 43, 44(2) (d) and 57 shall not apply to a taluka panchayat or as the case may be, a district panchayat, exercising the powers and performing the functions and duties of a district school board under this Act.]

## **71. [ Construction of references to District School Board so far as Kutch district is concerned. [Section 71 was inserted by the Gujarat Panchayats (Adaptation of the Bombay Primary Education Act), Order 1963, section 2 (2).]**

(1) On and from the date specified under sub-section (1) of section 12, all references to a District School Board in this Act except in sections 2 (10), 3 (1), 4, 5, 6, 6-A, 7, 7-A, 8, 9, 9-A, 10, 10-A, 11, 14, 41(1), 42, 43, 44(2) (d) and 57 shall with effect from the 1st May, 1963 be construed as references to a Taluka Panchayat, District panchayat constituted under the Gujarat Panchayats Act, 1961 (Gujarat VI of 1962), according to the powers, functions and duties of a district panchayat in accordance with an order made by the State Government under sub-section (5) of section 12. (2) Nothing in section 2

(10), 3 (1), 4, 5, 6, 6-A, 7, 7-A, 8, 9, 9-A, 10, 10-A, 11, 14, 41(1), 42, 43, 44(2) (d) and 57 shall apply to a taluka panchayat or district panchayat exercising the powers and performing the functions and duties of a district school board under this Act.][Schedule] [This Schedule was inserted by Gujarat 13 of 1963, section 16.](See Section 68)

Name of the District School Board	Name of the District.
1	2
1	The District School Board of Ahmedabad Ahmedabad
2	The District School Board of Jamnagar Jamnagar
3	The District School Board of Rajkot Rajkot
4	The District School Board of Bhavnagar Bhavnagar
5	The District School Board of Junagadh Junagadh
6	The District School Board of Amreli Amreli
7	The District School Board of Surendranagar Surendranagar]