

The Gujarat Secondary and Higher Secondary Education Act, 1972

GUJARAT

India

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Act 18 of 1973

- Published on 28 September 1973
- Commenced on 28 September 1973
- [This is the version of this document from 8 November 1973.]
- [Note: The original publication document is not available and this content could not be verified.]

1. [Amended by Gujarat Secondary Education (Amendment) Act, 1973 (Act 25 of 1973) on 8 November 1973]

The Gujarat Secondary and Higher Secondary Education Act, 1972 Gujarat Act No. 18 of 1973 (First published, after having received the assent of the President in the Gujarat Government Gazette on the 28th September, 1973). These words inserted by Gujarat 14 of 2002, dated 6th April, 2002. An Act to provide for the regulation of secondary education in the State of Gujarat and to establish a Board for that purpose. It is hereby enacted in the Twenty-third Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Secondary [and Higher Secondary] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] Education Act, 1972. (2) It extends to the whole of the State of Gujarat. (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires:-(a)"appointed day" means the date on which the remaining provisions of this Act come into force under sub-section (3) of Section 1;(b)"Board" mean's the Gujarat Secondary [and Higher Secondary] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] Education Board established under Section 3;(c)"by-laws" means by-laws made by the Board under Section 55;(d)"Chairman" means the Chairman of the Board;(e)"Committee" means a Committee appointed under Section 18;(f)"Deputy Chairman" means the Deputy Chairman of the Board;(g)"Guaranteed staff" means the staff comprising teachers and members of the non-teaching staff, the terms and conditions of whose service in a Government secondary school [or a Government higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] are, on their transfer to a private secondary school [or private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.], guaranteed by the State Government;(h)"headmaster" means the head of the teaching and non-teaching staff of a secondary school [or of a higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] by whatever style designated;(hh)["higher secondary education" means education including post basic education from eleventh standard to twelfth standard; [Clauses (hh), (hhh) and (hhhh) inserted by Gujarat 14 of 2002, dated 6th April, 2002.](hhh)"higher secondary school" means a school imparting higher secondary education;(hhhh)"Higher Secondary School Certificate Examination" means an examination of the students in the twelfth standard;](i)"hostel" means a unit of residence of students maintained by a registered school;(j)"manager" in relation to any school means a person or a body of persons in charge of the control or management of the school;(k)"non-teaching staff" means such staff of a registered school, as is appointed to perform any duty or function other than that of teaching;(l)"post basic education" means secondary education [or higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] imparted through a productive craft;(m)"post basic school" means a school imparting post basic education;(n)"prescribed" means prescribed by regulations;(nn)["private higher secondary school" means higher secondary school which is not owned, managed or sponsored by the Central or State Government;] [Clause (nn) inserted by Gujarat 14 of 2002, dated 6th April, 2002.](o)"private secondary school" means a secondary school which is not owned, managed or sponsored by the Central or State Government;(p)"protected teacher" means a person who before 29th March, 1965 taught in any school any subject in any of the standards fifth to seventh which before the said date formed part of secondary education, and who continues to teach in a school any subject in any of such standards which after the said date form part of primary education and whose rights in relation to pay and pay-scales are protected under an order of the State Government;(q)"recognised school" means a secondary school or a post basic school recognised by the Director of Education, Gujarat State, or an officer authorised by him in this behalf or, a high school registered by any University;(r)"register" means the Register of Secondary Schools [or the Register of Higher Secondary Schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] for the State of Gujarat prepared and maintained under this Act;(s)"registered school" means a secondary school [or a higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] or a post basic school registered by the Board under Section 31;(t)"regulations" means regulations made under Sections 53 or 54;(u)["secondary education" means education, including post basic education, from eighth standard to tenth Standard;] [Clause

(u) substituted by Gujarat 14 of 2002, dated 6th April, 2002.](v)"secondary school" means a school imparting secondary education;(w)["Secondary School Certificate Examination" means an examination of the students in the tenth standard;] [Clause (w) substituted by Gujarat 14 of 2002, dated 6th April, 2002.](x)"teacher" means a teacher of a registered school but does not include a headmaster;(y)"Tribunal" means a Tribunal constituted under Section 39;(z)"University" means a University established by any law in the State of Gujarat;(aa)the expression "primary education" shall have the meaning assigned to it in the Gujarat Compulsory Primary Education Act, 1961 (Gujarat XLI of 1961) and the Bombay Primary Education Act, 1947 (Bombay LXI of 1947).

Chapter II

Constitution, Incorporation and Powers of Board

3. Constitution and incorporation of Board.

(1)With effect on and from such date as the State Government may, by notification in the Official Gazette notify in this behalf, there shall be established for the purposes of this Act a Board to be called the Gujarat Secondary [and Higher Secondary] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] Education Board. The Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and to do all things necessary for the purposes of this Act.(2)The Board shall consist of a Chairman and a Deputy Chairman, both of whom shall be appointed by the State Government and of the following members that is to say-Class A-Ex-Officio Members(i)[The Commissioner of Higher Education. [Substituted for clauses (i) to (x) by Gujarat 14 of 2002, dated 6th April, 2002.](ii)The Commissioner of Schools and Mid-day meal.(iii)The Director of Technical Education.(iv)The Joint Director (10 + 2).(v)The Director of Primary Education.(vi)The Director, Gujarat State Board of School Text Books.(vii)The Director, Gujarat State Council of Educational Research and Training.(viii)The Director of Employment and Training.(ix)Two officers of Education Department not below the rank of Deputy Secretary as designated by the State Government.(x)The Chairman, State Board of Examination.(xi)The Chairman, Technical Education Board.(xii)The Secretary, Post Basic Education Board.(xiii)The Director of Examination, Gujarat Secondary and Higher Secondary Education Board.(xiv)The Director, Gujarat State Institute of Educational Technology.(xv)The Officer on Special Duty, Gujarat Secondary and Higher Secondary Education Board.]Provided that if there is no post having any of the designations mentioned above, the State Government may designate any officer holding a corresponding post, who. deals, with the matters that would be normally connected with such post.Class B-Elected Members(i)One member elected from amongst themselves by the members of the Academic Council of each University and of the institutions recognised by the University Grants Commission or declared by the Central Government as Universities in accordance with the provisions of clause (f) of Section 2 or of Section 3, as the case may be, of the University Grants Commission Act, 1956 (III of 1956):Provided that where there is no Academic Council in any University or such institution recognised or declared as University, such authority of the University, or, as the case may be, such institution as may be approved by the State Government in this behalf shall be deemed to be the Academic Council of such University, or as the

case may be, institution, for the purpose of this clause.(ii)Five members elected by the headmasters of registered schools other than post basic schools from amongst themselves.(iii)One member elected by the head-masters of the post basic schools registered under this Act from amongst themselves.(iv)Five members elected by the teachers of registered schools other than post basic schools from amongst themselves.(v)One member elected by the teachers of Post Basic Schools registered under this Act, from amongst themselves.(vi)One member elected by the Principals of the Secondary Teachers Training Colleges and Graduate Basic Training Colleges from amongst themselves in such manner as may be prescribed.[(vi-a) One member elected by the non-teaching staff of registered private secondary schools from amongst themselves.] [Clause (vi-a) inserted by Gujarat 8 of 1983, dated 31st March, 1983 (w.r.e.f. 25-11-1983).][(vi-ab)One member elected by non-teaching staff of registered secondary and higher secondary schools from amongst themselves. [Clause (vi-ab) and Explanation inserted by Gujarat 14 of 2002, dated 6th April, 2002.]Explanation. - The member elected under clauses (vi-a) and (vi-ab) shall not be eligible to be nominated as the member of the school staff selection committee for teachers and principals.][(vi-aa) three members elected by the teaching staff of registered higher secondary schools from amongst themselves.] [Clause (vi-aa) inserted by Gujarat 3 of 1997, dated 27th February, 1997 (w.r.e.f. 09-08-1996).][(vi-aaa) One member elected from amongst teachers of Government secondary and higher secondary schools.] [Clause (vi-aaa) inserted by Gujarat 14 of 2002, dated 6th April, 2002.](vii)[four members elected by the representatives of the management of registered Secondary and Higher Secondary Schools registered under the Societies Registration Act, 1860 (Act XXI of 1860) and the Bombay Public Trusts Act, 1950 (Bombay XXIX of 1950) from amongst themselves in such manner as may be prescribed.] [Clause (vii) substituted by Gujarat 14 of 2002, dated 6th April, 2002.][***] [Clause (viii) deleted by Gujarat 14 of 2002, dated 6th April, 2002.](ix)three members elected by the presidents of the Parents' Associations of registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] from amongst themselves.Explanation. - In this clause,-(1)"Parents' Association" in relation to any registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] shall mean an association of parents and guardians of students of that school, formed and recognised by the headmaster of that school, whether before or after the appointed day,(2)(a)in relation to a Parents' Association whose President is a headmaster, a teacher, a manager or a member of a governing body or other body in charge of the management of the school, "President" shall mean such member of that Association other than such headmaster, teacher, manager or, as the case may be, member, as may be authorised in writing by the Association; and(b)in a case where the President of a Parents' Association is himself absent or incapable of acting, the President shall, for the purpose of electing a member under this clause, mean such other member of that Association as may be authorised in writing by the Association for that purpose.(c)[A member of the Parent's Association shall cease to be such member on completion of his child's Secondary or, as the case may be, higher secondary education.] [Sub-para (c) inserted by Gujarat 14 of 2002, dated 6th April, 2002.](x)Five members elected by the Gujarat Legislative Assembly from amongst its members in accordance with the system of proportional representation by means of the single transferable vote:Provided that for the purposes of clauses (ii) and (iv) of this Class the registered schools other than post-basic schools in the State shall from time to time be so arranged by the State Government in five groups that the number of such schools in any one group shall be as near as possible to

twenty per cent of the total number of such schools in the State, and the head-masters or, as the case may be the teachers of such schools in each such group shall elect one member:[Provided further that for the purposes of clause (vi-aa), the State Government shall, by an order published in the Official Gazette, divide the State into three regions each having, as far as possible, an equal number of registered higher secondary schools within the areas comprised therein and the teaching staff of registered higher secondary schools in each such region shall elect one member.] [Proviso inserted by Gujarat 3 of 1997, dated 27th February, 1997 (w.r.e.f. 09-08-1996).] Provided further that for the purpose of clause (ix) the State Government shall, by an order published in the Official Gazette, divide the State into three regions each having as far as possible an equal number of registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] within the areas comprised therein and the Presidents of Parents' Associations in each such region shall elect one member: Provided further that a person shall cease to hold office as a member of the Board if he ceases to be a member of the Academic Council or of the institution which elected him, or ceases to be a head-master or teacher of a registered school or the Principal of a Secondary Teachers Training college or a [Graduate Basic Training College] [Substituted for 'Graduate Basic Training College' by Gujarat 3 of 1997, dated 27th February, 1997 (w.r.e.f. 09-08-1996).] or a member of non-teaching staff of registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] or of teaching staff of registered higher secondary schools] or a representative of the management of the [registered schools] [Substituted for 'registered secondary schools' by Gujarat 14 of 2002, dated 6th April, 2002.] or a president of a Parents' Association or as the case may be, a member of the Gujarat Legislative Assembly: Provided also that where the Board is constituted for the first time the members of this class shall be nominated by the State Government from amongst persons qualified to be elected as members of this Class. Class C-Nominated Members Three members nominated by the State Government from amongst persons who have special knowledge or practical experience in the field of Science, Industry or Commerce. (3) The names of persons (not being ex-officio members) who have been elected or nominated from time to time, as members of the Board shall be published by the Board in the Official Gazette.

4. Headquarters of the Board.

- The headquarters of the Board shall be at such place as may be determined by the State Government.

5. [Term of office and conditions of service of Chairman and Deputy Chairman and nominated members. [Section 5 substituted by Gujarat 1 of 1999, dated 9th March, 1999.]

(1) The Chairman, Deputy Chairman and nominated members shall hold office during the pleasure of the State Government. (2) The salaries or, as the case may be, honorarium, allowances and other conditions of service of the Chairman and the Deputy Chairman shall be such as may be determined by the State Government.]

6. Term of office of members of the Board.

(1)The members of the Board other than [ex-officio members and nominated members] [Substituted for 'ex-officio members' by Gujarat 1 of 1999, dated 9th March, 1999.] shall hold office for a term of three years from the date on which their names are published in the Official Gazette :Provided that the State Government may, from time to time, by notification in the Official Gazette having regard to special circumstances to be specified therein, extend such term for such period as may be specified therein, so however, that the period of extension shall not exceed one year in the aggregate.(2)Notwithstanding anything contained in sub-section (1) the members nominated by the State Government on the Board constituted for the first time after the appointed day, shall hold office for such term not exceeding two years from the date on which the names of the members of the Board so constituted are published in the Official Gazette as may be determined by the State Government:Provided that the State Government may from time to time extend the period so determined so however that the period for which such members may hold office shall not exceed two years in the aggregate:Provided further that the term of outgoing members referred to in sub-sections (1) and (2) shall extend to, and expire with the day immediately preceding the date on which the names of their successors are published in the Official Gazette.

7. Temporary vacancy of Chairman and Deputy Chairman.

- Where a temporary vacancy in the office of Chairman or Deputy Chairman occurs, by reason of leave or illness of the incumbent of that office or due to any other cause, the State Government may appoint another person to be the Chairman or as the case may be, the Deputy Chairman during the period of such vacancy on such salary, or as the case may be honorarium, allowances and other conditions of service as may be determined by the State Government.

8. Disqualifications of Chairman, Deputy Chairman and members of the Board.

- A person shall be disqualified for being appointed or for continuing, as Chairman or Deputy Chairman, or for being elected or nominated, or for continuing as a member of the Board or for being appointed as, or for being or continuing, as a member of any committee appointed under this Act-(a)if he directly or indirectly by himself or his partner,(i)has or had any share or interest in any guide book published in connection with any text book prescribed for the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] or any other examination as may be decided upon by the Board or entrusted to the Board by the State Government; or(ii)has any share or interest in any work done by order of or in any contract entered into by or on behalf of the Board:Provided that a person who had any share or interest in any guide book referred to in sub-clause (i) shall not be deemed to have incurred the disqualification under that sub-clause, if five years have elapsed from the date of publication of such guide book;(b)if he is a person against whom an order of removal from office has been made under sub-section (1) of Section 14 and five years have not elapsed from the date of his removal from office;(c)If he-(i)has

been adjudged by a Court of law to be of unsound mind;(ii)is an undischarged insolvent;(iii)has been convicted by a Court of law for an offence involving moral turpitude.

9. Vacancy of member owing to disqualification.

- If a member of the Board or any Committee becomes subject to any of the disqualifications mentioned in Section 8, his office shall thereupon become vacant.

10. Vacancy of member owing to absence without permission.

- If a member elected or nominated on the Board remains absent without the permission of the Chairman from any three consecutive meetings thereof, his office shall thereupon become vacant.

11. Decision on Vacancy.

- If any question arises as to whether the office of any member has become vacant under Sections 9 or 10, the question shall be referred for the decision of the State Government. The State Government shall, after giving reasonable opportunity to be heard to the member, decide the question and its decision shall be final.

12. Vacancy to be notified.

- Any vacancy under Sections 9 or 10 shall be notified by the Board in the Official Gazette.

13. Resignation of a member.

(1)A member of the Board not being an ex-officio member may resign his office at any time by tendering his resignation in writing to the Chairman of the Board.(2)If the Chairman accepts the resignation, such acceptances shall be communicated to the Board, and the office of the member shall become vacant from the date of acceptance of the resignation.

14. Removal of a member.

(1)The State Government may, on the recommendation of the Board and after making such inquiry, if any, as it may think fit to make, remove any elected or nominated member of the Board from office, if such member has been guilty of any such misconduct as in the opinion of the State Government, renders him unfit to be continued as a member:Provided that, no such recommendation shall be made by the Board and no removal of the member shall be made by the State Government unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made, or as the case may be, why he should not be removed.(2)The name of any member who has been removed from office under sub-section (1) shall be published by the Board in the Official Gazette.

15. Meetings of the Board.

(1)The Board shall meet not less than three times in every year and ordinarily four months shall not intervene between any two successive meetings.(2)The Chairman may, at any time, and shall, upon the written request of not less than one third of the total number of members of the Board, call a special meeting of the Board, on a date not later than twenty one days after the receipt of such request by the Chairman.

16. Power to invite experts and officers at meetings.

- The Board may invite any person who in its opinion is an expert in any field of education or any Government Officer to attend its meeting or a meeting of any of its Committees, if the subject with which the expert or officer is concerned, is likely to come up or comes up for discussion or consideration at such meeting.

17. Powers and duties of the Board.

- Subject to the provisions of this Act, the powers and duties of the Board shall be as follows, namely:-(1)to advise the State Government on reference made to it or on its own motion on matters of policy relating to secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] in general, and on the following matters in particular, namely:-(a)evaluation of suitable patterns of secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.];(b)prescription and maintenance of educational standards for such patterns of secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.];(c)integration of national and State policy in respect of secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.];(d)matters pertaining to educational planning, programme and organisation;(2)to recommend to the State Government the curricula and detailed syllabi relating to secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] and to approve and to recommend to the State Government the text books prepared by the Gujarat State Board of School Text Books for the use in the registered schools;(3)to organise programmes to re-train teachers already in service;(4)to prescribe measures for promotion of physical, moral and social welfare of, and for inculcation of spirit of discipline among students in registered schools and to prescribe standards of conditions of residence to be provided in hostels;(5)to guide and help registered schools in their search for talent and their endeavour to lead them to peaks of excellence;(6)to permit and encourage a registered school to carry out useful educational experiments and research in secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] and to prescribe the conditions subject to which such experiments and research shall be carried out.(7)to prescribe conditions to be fulfilled by the manager of a secondary school [or higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] for getting the school registered;(8)to recommend to the State Government a cut in maintenance grant if after giving a reasonable opportunity of being heard to the management of the school, the Board is of the opinion that a registered school, has failed to

observe any of the conditions of registration or that a registered school is conducted in a manner which is prejudicial to the interests of education or has failed to carry out any instructions issued by the board to ensure maintenance of academic standards in secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.];(9)to conduct statistical and other research for the purpose of evaluation and reform of the curricula, instruction and examination and to guide registered schools in conducting such research;(10)to lay down standards for testing students, for conducting examinations and for promotion of students from one standard to the next higher standard of a registered school;(11)to prescribe the standards, including qualifications, for appointment of the staff of a registered school and the standard requirements in respect of building, laboratory library, furniture, equipment, stationery and other articles for conducting registered schools;(12)to recommend to the registered schools supplementary reading books and library books;[***] [Clauses (13), (14) and (15) deleted by Gujarat 32 of 1978, dated 29th September, 1978.](16)to exercise proper and effective control on the academic performance and conduct of head-masters and teachers of registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] and to issue instructions in that behalf to the managements of such schools;(16A)[to direct the school managements and the staff of the registered schools to perform the duties related to examination conducted by the Board.] [Clause (16A) inserted by Gujarat 14 of 2002, dated 6th April, 2002.](17)to register, in accordance with the prescribed procedure, secondary school for teaching such subjects in standards eighth and onwards leading to the Secondary School Certificate Examination as it deems fit and to grant permission for opening higher standards or additional divisions of existing standards in such schools;(17A)[to register, in accordance with the prescribed procedure, higher secondary school for teaching such subjects in standards eleventh and twelfth leading to the Higher Secondary School Certificate Examination as it deems fit and to grant permission for opening additional divisions of existing standards in such schools;] [Clause (17A) inserted by Gujarat 14 of 2002, dated 6th April, 2002.](18)to withdraw registration of secondary schools [or higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] either in whole or in part after following the prescribed procedure;(19)to lay down conditions for admission of students in registered schools;(20)to prescribe the number of students to be admitted in a division of any standard in a registered school;(21)to lay down conditions for migration of students from one registered school to another;(22)to regulate the arrangements of school terms, holidays and vacations of registered schools;(23)to regulate the method of preparing and keeping registers and other records in respect of academic matters, by registered schools;(24)to cause academic inspection of registered schools by a person authorised by it and to take measures to ensure that proper standards of education are maintained therein and that adequate library and laboratory provisions are made therein;(25)to call for any reports and information from any registered school;(26)to lay down qualifications, methods of selection and conditions of appointment, promotion and termination of employment and rules for conduct and discipline of the headmaster and the teaching and nonteaching staff of registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.];(27)to lay down conditions for admission of regular and private candidates to the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and such other examinations as may be decided upon by

the Board or entrusted to it by the State Government (hereinafter referred to as "other examinations");(28)to conduct the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examination and award certificates to candidates passing the examinations;(29)to require the registered schools to extend co-operation in the conduct of the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.];(30)to appoint paper setters, examiners, moderators, supervisors and other necessary personnel for conducting the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examinations, for the evaluation of the performance of the candidates and for compilation and declaration of results;(31)to open centres for the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examinations conducted by it;(32)to declare the results of the candidates appearing at the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examinations conducted by it;(33)to deal with according to the prescribed procedure, cases of use of unfair means in relation to the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examinations or administrations of a registered school;(34)to generally evaluate the performance of students at all examinations in registered schools, including the Secondary School Certificate Examination [and the Higher Secondary School Certificate Examination] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.];(35)to institute and award scholarships, stipends, medals, prizes and other rewards and to prescribe conditions thereof;(36)to organise the setting of question papers for the [Secondary School Certificate Examination, the Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examinations;(37)to administer its fund;(38)to receive grants, bequests, donations, endowments, trusts and other transfers of any property or interest therein or right thereto;(39)to hold any property, interest or right referred to in clause (38) and to manage and deal with the same;(40)to demand and receive such fees, royalties and charges including penalties as may be prescribed;(41)to consider and approve the annual reports, annual accounts and to prepare financial estimates and to forward the same to the State Government for its sanction;(42)on receipt of a notice under Section 44 in regard to any registered private secondary school [and registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] to encourage the management of any existing registered school to take such action as may be considered necessary for keeping the school proposed to be closed down in a state of continuous functioning or to encourage the formation of a new management for a like purpose;(43)to make regulations for the purposes of carrying into effect the provisions of this Act;(44)to make by-laws relating to matters such as procedure to be followed by the Board and Committees, travelling allowances to be drawn by members of the Board and Committees and any other matters solely concerning the Board and its Committees that are not provided for by this Act and the regulations

made thereunder;(45)to exercise such other powers and to perform such other duties as may be conferred or imposed upon it by or under this Act;(46)to do all other such acts and things as may be necessary to carry out the purposes of this Act.

18. Committees.

(1)For the performance of its functions the Board shall appoint from amongst its members an [Executive Committee, Education Committee] [Substituted for 'Executive Committee' by Gujarat 14 of 2002, dated 6th April, 2002.] and an Examination Committee and may appoint such other Committees as it thinks necessary and it shall be lawful for the Board to appoint a person who is not a member of the Board as a member of any such Committee:Provided that nothing in this sub-section shall be deemed to preclude the Chairman or the Deputy Chairman from being named by the Board as a member of any such Committee:Provided further that where the Chairman or the Deputy Chairman is named as a member of any Committee, the Chairman or, as the case may be, the Deputy Chairman shall be the Chairman of such Committee.(2)Subject to the provision contained in sub-section (1), the constitution of every Committee appointed by the Board under sub-section (1), the term of office of its members and the functions of the Board to be performed by it shall be such as may be prescribed.Explanation. - For the purpose of this section the Chairman and the Deputy Chairman of the Board shall be deemed to be its members.

19. Powers of Chairman and Deputy Chairman.

(1)The Chairman shall, when present, preside at the meetings of the Board and in his absence the Deputy Chairman shall preside at such meetings:Provided that if at any meeting of the Board the Chairman and the Deputy Chairman are both absent, the members present shall elect a member from amongst themselves to preside at that meeting.(2)It shall be the duty of the Chairman to ensure that the provisions of this Act and the regulations and by laws made thereunder are faithfully observed and he shall have all powers necessary for this purpose.(3)In an emergency which, in the opinion of the Chairman requires that immediate action should be taken, the Chairman shall take such action as he deems necessary and shall, thereafter, report his action to the Board at its next meeting.(4)The Chairman shall have power to convene meetings of the Board as provided for in Section 15 and stating the business to be brought before the meeting.(5)The Chairman shall exercise such other powers and perform such other duties as may be prescribed.(6)The Deputy Chairman shall perform such duties and functions as may be prescribed or as may be assigned to him by the Chairman from time to time.(7)Subject to the provisions of Section 7, the Deputy Chairman shall in the absence of the Chairman act as Chairman and shall, while so acting exercise all powers and perform all duties and functions of the Chairman.(8)The Chairman and the Deputy Chairman shall be entitled to take part in all proceedings of the Board and of any committee thereof of which they may be named as members, including the exercise of right to vote, but, save as otherwise provided, they shall not be deemed to be the members of the Board.

20. Appointment, powers and duties of Secretary, Joint and Assistant Secretaries of the Board.

(1)The Board shall have a Secretary who shall be appointed by the State Government.(2)The Secretary shall, subject to the control of the Chairman, be the Executive officer of the Board, and all other officers and servants for the time being serving under the Board shall be subordinate to him.(3)He shall exercise such powers as may be prescribed.(4)He shall be entitled to be present at the meetings of the Board and its Committees but shall not be entitled to vote.(5)The State Government may appoint one or more Joint Secretaries or Assistant Secretaries for the Board, as the State Government may, having regard to the requirements of the Board, think fit to appoint.(6)A Joint Secretary or an Assistant Secretary shall exercise such powers and perform such duties of the Secretary as are respectively assigned to him by the Secretary under the general or special orders of the Chairman.

21. Other officers and servants of the Board.

- The State Government may appoint such other officers and servants as may be required to enable the Board to discharge its functions under this Act:Provided that the State Government may by order delegate to the Chairman or to the Secretary, the powers of appointing such classes of servants as may be specified in the order.

22. Salaries and allowances and other conditions of service to secretary, joint/assistant secretaries and of officers and servants of the Board.

- The Chairman, Deputy Chairman, Secretary, Joint and Assistant Secretaries and other officers and servants appointed under this Act shall be the servants of the State Government, and they shall draw their salaries or as the case may be honoraria and allowances from the Consolidated Fund of the State. The salaries and allowances and other conditions of service of these officers other than the Chairman and Deputy Chairman shall be such as may be determined by the State Government.

Chapter III

Finance, Accounts and Audit

23. Board's Fund, its custody and investment.

(1)The Board shall have its own Fund and the following moneys shall be credited thereto:-(a)fees, royalties and charges (including prescribed penalties) levied by it;(b)grants, assignments, contributions and loans if any, given to it by the State Government;(c)bequests, donations and endowments or other contributions, if any, given to it;(d)interest on, and sale proceeds of securities vested in it;(e)all rents and profits from the property vested in it;(f)other moneys received by it or on behalf of it.(2)The Fund shall be kept in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (II of 1934), in the Postal Savings Bank or in a Co-operative bank approved by the State

Government under Section 35 of the Bombay Public Trusts Act, 1950 (XXIX of 1950) or at the discretion of the Board be invested in public securities authorised by the Indian Trusts Act, 1882 (II of 1882).

24. Board to pay costs from the Fund on account of salary, pension, etc.

- The Board shall pay every year out of its own Fund to the State Government such amount as the State Government may determine on account of the salary or honorarium, pension, leave and other allowances of the Chairman, Deputy Chairman, Secretary, Joint Secretaries and Assistant Secretaries and other officers and the staff of the Board.

25. Grants to Board.

- The State Government may, after due appropriation made by the State Legislature by law in this behalf make such grants to the Board as the State Government may deem necessary for enabling the Board to discharge its functions under this Act.

26. Power of Board to borrow.

(1)The Board may, subject to such conditions as may be prescribed in this behalf, borrow money in the open market or otherwise with a view to providing itself with adequate resources.(2)All moneys borrowed under sub-section (1) may be guaranteed by the State Government as to the repayment of principal and the payment of interest at such rates and on such conditions as the State Government may determine at the time the moneys are borrowed.(3)The Board may also accept deposits from institutions or general public for the purpose of providing itself with adequate resources.

27. Application of Fund.

- Subject to the provisions of this Act, the Fund of the Board shall be applied only to-wards the payment of charges and expenses incidental to the matters specified in this Act and for any other purpose for which by or under this Act, powers are conferred or duties are imposed, upon the Board.

28. No money to be withdrawn without authorisation.

- No moneys shall be withdrawn by the Board from a Bank except upon a cheque or letter of credit signed by two officers of the Board duly authorised by it in this behalf.

29. Preparation of annual budget estimates.

- The Board shall frame before such date and in such manner as may be prescribed, the budget estimates of the income and expenditure of the Board for the next financial year and submit them to the State Government three months before the commencement of the financial year. The State Government may pass such orders with reference to the budget estimates of the Board as it thinks

fit, and communicate the same to the Board, within a period of three months from the date they are submitted to it and the Board shall give effect to such orders.

30. Annual accounts and audit.

- The Board shall forward the annual accounts of receipts and expenditure to the State Government for audit. The State Government shall cause the accounts to be audited and the Board shall pay such charges for the audit as the State Government may determine.

Chapter IV Registration

31. Prohibition against imparting of secondary education [and higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] without registration.

(1) No person shall impart secondary education [or higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] through a school unless such school is registered under the provisions of this Act; (2) As soon as may be after the appointed day, the Board shall prepare and maintain thereafter, a register of Secondary Schools in accordance with the provisions of this Act. (2A) [As soon as may be after the commencement of the Gujarat Secondary Education (Amendment) Act, 2002, the Board shall prepare and maintain thereafter, a register of Higher Secondary Schools in accordance with the provisions of this Act.] [Sub-section (2A) inserted by Gujarat 14 of 2002, dated 6th April, 2002.] (3) The register shall include such particulars as may be prescribed. (4) Every person who desires to impart secondary education [or higher secondary education] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] by establishing a school, shall, on an application in such form and on payment of such fee as may be prescribed, be entitled to have the name of the school entered in the register, subject to the fulfillment of the conditions prescribed by the Board for registration of secondary schools [or, as the case may be, higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] (5) Notwithstanding anything contained in sub-section (4) the name of every secondary school which immediately before the appointed day is a recognised school shall be entered in the register and shall be deemed to have been entered in the register from the appointed day and shall continue thereon until removed under the provisions of this Act. (5A) [Notwithstanding anything contained in sub-section (4), the name of every higher secondary school which immediately before the commencement of the Gujarat Secondary Education (Amendment) Act, 2002. is a recognised school shall be entered in the register and shall be deemed to have been entered in the register from the date of such commencement and shall continue thereon until removed under the provisions of this Act.] [Sub-section (5A) inserted by Gujarat 14 of 2002, dated 6th April, 2002.] (6) The Board shall consider and make an inquiry in respect of every such application for registration in such manner as may be prescribed and then decide it within a period of three months from the date of receipt of the application by the Board. (7) When the register is prepared in accordance with the

foregoing provisions, the Board shall publish in the Official Gazette and in such newspapers as the Board may select, a notice stating that the register containing the names of secondary schools [and higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] entered thereunder upto the date specified in the notice has been prepared.(8)Every registered school shall be given a certificate of registration in the prescribed form.(9)Where any person in charge of the management of a registered school has been, after due enquiry by the Board in the prescribed manner, found to have committed default in carrying out any of the obligations imposed on such person under this Act or the regulations, or any instructions issued to him by the Board, the Board shall after giving to such person an opportunity of being heard, direct the name of the school to be removed from the register for such period as may be specified in the direction or to be removed from the register permanently.(10)Any person aggrieved by the decision of the Board under sub-section (6) or subsection (9) may, within a period of one month from the date on which such decision is communicated to him, appeal, to the State Government, and 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.(11)The Board may, on sufficient cause being shown, direct at any time that the name of the school so removed shall be re-entered in the register on such condition and on payment of such fee as may be prescribed and on such further conditions as the Board may deem fit to impose.(12)Where the name of any registered school is removed from the register under subsection (9) the certificate of registration 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 to the Board or to an officer authorised by the Board in this behalf. The cancellation of certificate of registration shall be notified by the Board in the Official Gazette and in such newspapers as the Board may select.(13)The register shall be open to inspection by any person at all reasonable hours in the office of the Board.

32. Maintenance of register upto date.

- It shall be the duty of an officer authorised by the Board in this behalf to make additional entries in the register after the date referred to in sub-section (7) of Section 31 and from time to time to revise all entries and to issue or cancel the certificate of registration in the respect of schools in accordance with the provisions of this Act, the regulations and the directions of the Board.

Chapter V

Taking Over Management

33. Taking over management of registered schools.

(1)Notwithstanding anything contained in anything contained in any law for the time being in force, whenever it appears to the State Government that the manager of any registered private secondary school [or registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] has neglected to perform any of the duties imposed on him by or under this Act or the regulations, and that it is necessary in the public interest to take over the management of the school, it may, after giving to the manager of such school a reasonable opportunity of showing

cause against the proposed action and after considering the cause, if any, shown by him, take over the management of the school for such period as the State Government may, from time to time fix, so however, that such period shall not exceed five years in the aggregate.(2)Where the management of any school is taken over under sub-section (1) the State Government shall manage the school in such manner as not to curtail any educational facilities which the school afforded immediately before such taking over.(3)Where before the expiry of the period fixed under sub-section (1), the State Government is of the opinion that it is not necessary to continue the management of the school by the State Government, the management of the school shall be restored to the manager of the school, and in any case on the expiry of the period so fixed or at the end of the period of five years referred to in sub-section (1) such management shall stand restored to the manager of the school.(4)Where under sub-section (3) the management of a school is to be restored or stands restored to the manager of the school, the State Government may after making such inquiry, if any, as it deems fit, by order in writing, specify the person (hereinafter in this section referred to as "the specified person") to whom the management and possession of the school shall be handed over, and shall hand over the management and possession of the school to such specified person. Such handing over shall be a full discharge of all liability of the State Government in respect of such handing over but shall not prejudice any right in respect of the school which any other person may be entitled by due process of law to enforce against the person to whom the management and possession of the school is so handed over.(5)Where the specified person cannot be found or has no legal agent or other person empowered to accept the management and possession of the school on his behalf, or the specified person or his legal agent does not accept such management or possession, the State Government shall cause to be published in the Official Gazette a notice declaring that the management and the possession of such school shall be deemed to have been handed over to the specified person and shall also cause such notice to be affixed on some conspicuous part of the building of the school.(6)When the notice referred to in sub-section (5) is published in the Official Gazette,-(a)the property specified in such notice shall, on and from the date of such publication, cease to be subject to the control and management of the State Government,(b)possession of such school and its properties shall be deemed to have been delivered on such date to the person entitled to the possession thereof, and(c)the State Government shall not be liable for any rent, compensation or any other claim in respect of such school and its properties for any period after the said date.(7)Nothing contained in this section shall apply to any educational institution established and administered by a minority, whether based on religion or language.

Chapter VI

Provisions Relating to Services in Registered Private Secondary Schools

34. Recruitment and conditions of service of persons appointed in registered private secondary schools [or registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002].

(1)Fifteen per cent of vacancies of the teaching staff of a registered private secondary school [and

registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] shall be filled up by persons belonging to the Scheduled Castes and the Scheduled Tribes: Provided that, where a person belonging to a Scheduled Caste or Scheduled Tribe is not available for filling any such vacancy, the vacancy shall be filled up as otherwise provided in this Act. Explanation. - In this sub-section, - (a) "Scheduled Castes" means such castes, races or tribes, or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Gujarat under Article 341 of the Constitution of India. (b) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under Article 342 of the Constitution of India. (2) Subject to sub-section (1), the Board shall by regulations regulate the recruitment and conditions of service including conduct and discipline of persons appointed as headmaster, teachers and members of non-teaching staff of registered private secondary schools [or registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] in the State: Provided that, the conditions of service applicable immediately before the appointed day to the guaranteed staff shall not be varied to their disadvantage except with the previous approval of the State Government: Provided further that, it shall be lawful for any registered private secondary school [or registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] imparting post basic education to make, with the previous approval of the Board, additional regulations, consistent with the basic nature and concept of post basic education and not inconsistent with the regulations made by the Board for regulating the conditions of service of persons appointed as headmaster, teachers and members of non-teaching staff of that school.

35. Registered private secondary schools [and registered private higher secondary schools] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] to have Selection Committees.

(1) For every registered private secondary school [and every registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] there shall be following two committees, namely: (a) a school staff selection committee for the purpose of recruiting the teaching staff of the school other than the head-master, (b) a special school committee for the purpose of recruiting the headmaster and for the purpose of the initial recruitment of the headmaster and the teaching staff of a school started after the appointed day. (2) The school staff selection committee shall consist of the following members, namely: (i) Two representatives of the management of the school to be nominated by the management. (ii) The headmaster of the school. (iii) In the case of a school the total number of teachers in which is more than six, two teachers to be elected by the teachers of the school from amongst themselves, and in the case of a school the total number of teachers in which is or is less than six, one teacher to be elected by the teachers of the school from amongst themselves; and (iv) One representative of the Board to be nominated by the Board. (3) The special school committee shall consist of the following members, namely: (i) Two representatives of the management of the school to be nominated by the management. (ii) Two representatives of the Board to be nominated by the Board. (4) Subject to the provisions of sub-section (1) of Section 34, the school staff selection committee or, as the case may be, the special school committee shall select persons for appointment as teachers of the school from

amongst the persons [who are qualified to be appointed as such in accordance with the regulations made in this behalf] [Substituted for 'whose names appear in any of the registers prepared and maintained by the Board under Clause (13) and (14) of Section 17' by Gujarat 32 of 1978, dated 29th September, 1978.]:Provided that, for the purpose of such selection preference shall be given to a protected teacher, if he is otherwise eligible.(5)The special school committee shall select persons for appointment to the post of headmaster of the school from amongst persons referred to in sub-section (4) or from amongst the teachers in the school:Provided that, for the purpose of such selection, preference shall be given to a senior teacher [serving in the school or schools under the same management] [Substituted for 'serving in the school' by Gujarat 32 of 1978, dated 29th September, 1978.], if he is otherwise eligible and suitable.(6)Whenever the persons from amongst whom a teacher or a headmaster is to be selected includes a person who is related to any member of the governing body or other body in charge of the management of the school or to any member of the school-staff selection committee or, as the case may be, the special school committee, the member concerned of such committee, shall disclose the fact of such relationship to the members of the Committee and if any such person is selected by the Committee, his selection shall be subject to approval by an officer of the Board authorised in that behalf. Such approval shall be sought by the Committee within a week from the date of selection of the persons concerned and the authorised officer of the Board shall communicate his decision within fifteen days from the date of receipt of the reference by him.(7)Any appointment of a head-master or a teacher made in contravention of the provisions of this section shall be ineffective.Explanation. - For the purpose of sub-section (6), a person shall be said to be related to a member if he is related to him in any of the following capacities, namely:Son, grandson, son-in-law, brother daughter, grand-daughter, wife, nephew, first cousin (paternal or maternal), wife's brother, sister's husband, husband, husband's brother, husband's sister, wife's sister, daughter-in-law, and sister-in-law.

36. Dismissal, removal and reduction in rank of certain persons.

(1)No person who is appointed as a head-master, a teacher or a member of non-teaching-staff of a registered private secondary school shall be dismissed or removed or reduced in rank nor shall his service be otherwise terminated by the manager until-(a)he has been given by the manager a reasonable opportunity of showing cause against the action proposed to be taken in regard to him, and(b)the action proposed to be taken in regard to him has been approved in writing by an officer authorised in this behalf by the Board:Provided that, nothing in this sub-section shall apply to any person who is appointed for a temporary period only.(2)The officer referred to in Clause (b) of sub-section (1) shall communicate his decision within a period of forty-five days from the date of receipt by him of the proposal under the said Clause (b) and if such decision is not communicated to the manager by the said officer within such period the action proposed to be taken under the said Clause (b) shall be deemed to have been approved by the said officer.(3)Where a head-master, a teacher or a member of non-teaching staff of a registered private secondary school is suspended by the manager of the school pending any inquiry proposed to be held against him, the fact of such suspension, together with the grounds therefor, shall be immediately communicated by the manager to an officer authorised in this behalf by the Board, and such suspension shall be subject to ratification by the said officer within a period of forty-five days from the date of the receipt of the communication in this behalf by such officer and if such ratification is not communicated to the

manager by the said officer within such period, the suspension under reference shall cease to have effect on the expiry of such period.(4)Where a head-master, a teacher or a member of the non-teaching staff of a registered private secondary school desires to submit his resignation, the resignation shall be tendered by him in person to the District Education Officer concerned and shall not be accepted by the manager unless it is so tendered and forwarded to him by such officer duly endorsed. The acceptance of any such resignation tendered in contravention of this sub-section shall be ineffective.(5)Any person aggrieved by an order of the authorised officer under Clause (b) of sub-section (1) may make an appeal to the Tribunal within a period of thirty days from the date of the decision of the authorised officer.

37. Certain contracts null and void.

- Every contract between a registered private secondary⁷ school and a person in service of such school as a head-master, a teacher or a member of non-teaching staff, whether made before or after the appointed day shall, to the extent that it takes away any right conferred on such person by or under this Act, be null and void.

38. Dispute to be decided by Tribunal.

(1)Where there is any dispute or difference between the manager of a registered private secondary school and any person in service of such school as head-master, a teacher or a member of non-teaching staff, which is connected with the conditions of service of such person, the manager or, as the case may be, the person may make an application to the Tribunal for the decision of the dispute.(2)As from the appointed day the State Government or any officer of the State Government shall have no jurisdiction to decide any dispute of the nature referred to in sub-section (1) and any such dispute pending before the State Government or any officer of the State Government immediately before the appointed day shall, as soon as may be, after the appointed day, be transferred to the Tribunal for its decision.

39. Tribunal.

(1)There shall be constituted by the State Government by an order published in the Official Gazette one or more Tribunals for the purposes of this Act.(2)A Tribunal shall have jurisdiction in the whole of the State or in respect of a city having a population exceeding two lakhs as ascertained at the last preceding census of which the relevant figures have been published or in respect of a district or group of districts as may be specified in the order.(3)The State Government shall appoint a District Judge or a person who has been or is qualified to be a Judge of a High Court or 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 sub-section (1) of section 38 and to deal with and decide all applications and proceedings made or transferred to it under the said section 38 or under sub-section (2) of Section 40 and also to entertain and decide appeals made under sub-section (5) of Section 36.(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 a suit, in respect of the following matters, namely:(a)enforcing the

attendance of any person and examining 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 proceeding within the meaning of a Sections 193 and 228 of the Indian Penal Code (XLV of 1860).(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 head-master, a teacher or a member of the non-teaching staff of a registered private secondary school is decided by the Tribunal to be wrong, unlawful or otherwise unjustified, the Tribunal may pass an order directing that the head-master, the teacher or, as the case may be, the member of the non-teaching staff 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.

40. 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 Act required to be settled, decided or dealt with by the Tribunal.(2)All suits and proceedings between the manager of a registered private secondary school and any person in service of such school as a head-master, a teacher or a member of non-teaching staff relating to disputes connected with the conditions of service of such person, which are pending in any Civil Court on the appointed day shall be transferred to and continued before the Tribunal:Provided that, nothing in this sub-section shall apply to execution proceedings and appeals arising out of decrees or orders passed by any such Court before the appointed day and such execution proceedings and appeals shall be decided and disposed off as if this Act had not been passed.

40A. [Savings. [Section 40A inserted by Gujarat 25 of 1973, dated 8th November, 1973.]

- Nothing contained in clause (26) of section 17, sections 34 and 25, and clause (b) of sub-section (1) and sub-sections (2), (3), (4) and (5) of section 36 shall apply to any educational institution established and administered by a minority, whether based on religion or language.]

Chapter VII

Offences and Penalties

41. Prohibition against appointment.

(1)No manager of a registered private secondary school [or registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] shall appoint a headmaster and no manager or head-master of such school shall appoint a teacher of the school except in the manner provided in Section 35.(2)Any person who contravenes the provisions of

sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees.

42. Penalty for contravention of certain provisions.

- Any person who contravenes the provisions of sub-section (1) of Section 31 [***] [Delete 'or fails to comply with any direction issued by the Tribunal under sub-section (9) of Section 39,' by Gujarat Act No. 15 of 2018, dated 5.10.2018.] shall, on conviction, be punished with fine which shall not be less than rupees one hundred and which may extend to rupees one thousand.

43. Penalty for closure of particulars of certain documents.

(1) All particulars contained in a question paper, answer-book, mark-sheet or any other prescribed document relating to the examinations conducted by the Board shall be treated as confidential for such period as may be prescribed in relation to any particulars contained in any such document. (2) If during the period prescribed in relation to any particulars under sub-section (1), any person having in his possession any document containing such particulars or information about any such particulars-(a) wilfully communicates any such particulars to any person other than a person to whom he is authorised to communicate; or (b) uses such particulars in a manner prejudicial to the secrecy thereof, or (c) retains such document in his possession or control when he has no right to retain it or where it is contrary to his duty to retain it or wilfully fails to comply with any direction issued by a lawful authority with regard to the return or disposal of such document; or (d) fails or neglects to take reasonable care of, or so conducts himself as to endanger the secrecy of such document, shall be guilty of an offence under this section. (3) If during the period prescribed in relation to any particulars under sub-section (1) any person voluntarily receives any information about any such particulars, knowing or having reasonable ground to believe, at the time when he receives it that such information is communicated in contravention of this Act, he shall be guilty of an offence under this section. (4) A person guilty of an offence under this section shall, on conviction be punishable with imprisonment for a term [which shall not be less than three years but which may extend to five years or with fine which may extend to rupees two lakhs] [Substituted 'which may extend to two years or with fine which may extend to two hundred rupees' by Gujarat Act No. 15 of 2018, dated 5.10.2018.] or with both.

44. Prohibition against discontinuance of the School.

(1) No manager of a registered private secondary school [or registered private higher secondary school] [These words inserted by Gujarat 14 of 2002, dated 6th April, 2002.] shall close down the school at any time during an academic year and without giving notice in writing of his intention so to do the Board at least six months before the date with effect from which the school is proposed to be closed down. (2) Any person who contravenes the provisions of sub-section (1), shall, on conviction be punished with fine which may extend to one thousand rupees.

Chapter VIII

Miscellaneous

45. Casual vacancies.

- All casual vacancies among the members of the Board, or of any Committee shall be filled, as soon as may be, by election or nomination, or appointment or designation, as the case may be, and the person elected, nominated or appointed or designated, in a casual vacancy shall hold office so long only as the member in whose place he is elected, nominated, appointed or designated would have held it, if the vacancy had not occurred.

46. Acts and proceedings not to be invalid by reasons of vacancies or defects in constitution.

- Subject to the provisions contained in this Act no act or proceeding of the Board or of any Committee shall be invalid merely by reason of any vacancy in or any defect in the constitution of, the Board or, as the case may be, the Committee.

47. Information returns, etc. to be furnished by the Board.

- The Board shall furnish to the State Government such reports, returns and statements as may be required by the State Government and such further information relating to any matter connected with its work as the State Government may call for.

48. Powers of State Government to issue directions.

(1)The State Government shall have the power, after considering the advice if any, tendered by the Board to issue to the Board such directions as it may consider necessary in regard to all or any of the matters specified in Section 17. The Board shall comply with such directions.(2)The State Government shall also have the right to address the Board with reference to anything it has conducted or done, or is conducting or doing, or intends to conduct or do, and to communicate to the Board its views in the matter.(3)The Board shall report to the State Government such action, if any, as it proposes to take or has taken upon the communication, and shall furnish an explanation if it fails to take action.(4)If the Board does not within a reasonable time take action to the satisfaction of the State Government, the State Government may, after considering any explanation furnished or representation made by the Board, issue such directions consistent with this Act, as it may think fit, and the Board shall comply with such directions.(5)In any emergency which, in the opinion of the State Government, requires that immediate action be taken, the State Government may take such action consistent with this Act as it deems necessary, without previous consultation with the Board and shall forthwith inform it of the action taken.(6)The State Government may by order in writing specifying the reasons thereof, suspend the execution of any resolution or order of the Board and prohibit the doing of the action ordered to be or purporting to be ordered to be done by the Board, if

it is of the opinion that such resolution, order or act is in excess of the powers conferred upon the Board by or under this Act.

49. Chairman, Deputy Chairman, etc. to be public servants.

- The Chairman, Deputy Chairman, members of the Board and all officers and servants referred to in Sections 20 and 21 shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

50. Indemnity acts done in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Chairman, Deputy Chairman or a member of the Board or against any officer or servant referred to in Section 20 or 21 or against any other person in respect of anything in good faith done or intended to be done by him in the exercise of his powers or the discharge of his duties under this Act.

51. Dissolution or suppression of the Board from certain circumstances.

(1) If in the opinion of the State Government, the Board is not competent to perform or is not properly performing, or deliberately makes default in performing, the duties imposed on it by or under this Act or the regulations made thereunder or otherwise by law or exceeds or abuses its powers or is acting or has acted contrary to the provisions of this Act or the regulations made thereunder, or fails to obey any direction issued to it under Section 48, the State Government may after giving the Board an opportunity to render an explanation, by an order published, with the reasons therefor, in the Official Gazette, dissolve the Board or supersede it for such period not exceeding three years as may be specified in the order; and such period may extend beyond the term for which the members of the Board would have held office under Section 6, if the Board had not been superseded under this section. (2) When the 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, vacate their offices as such members; (b) all powers, duties and functions of the Board of its Committees shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the State Government may, from time to time, appoint in that behalf; (c) all property vested in the Board shall during the period of dissolution or supersession vest in the State Government. (3) After the dissolution of the Board, the Board shall be re-established and reconstituted in the manner provided in this Act on or before such date as may be specified by the State Government in the order of dissolution under sub-section (1). (4) Where the Board is superseded, it shall be re-established and reconstituted in the manner provided in this Act on the expiration of the period of supersession.

52. Exemption.

- The State Government may, by notification in the Official Gazette, exempt from all or any of the

provisions of this Act any secondary school which is affiliated to the Central Board of Secondary Education, New Delhi or to the Indian Public School Conference, New Delhi or is maintained by any University or by institution recognised by the University Grants Commission or declared by the Central Government as Universities in accordance with the provisions of Clause (f) of Section 2 or of Section 3, as the case may be, of the University Grants Commission Act, 1956 (III of 1956).

53. Power of Board to make regulations.

(1)The Board may make regulations for the purpose of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:(a)the constitution, powers and functions of committees appointed under Section 18 and the term of office of members thereof;(b)the subjects for the annual examinations of all standards in registered schools;(c)the admission of candidates to the annual examinations and conditions governing such admissions;(d)the marks required for passing in any subject and at the annual examination as a whole, and for exemption, credit and distinction in any subject;(e)the fees for admission to the examinations conducted by the Board and other fees and charges payable in respect of other matters connected with these examinations;(f)the arrangements for the conduct of [Secondary School Certificate Examination, Higher Secondary School Certificate Examination] [Substituted for 'Secondary School Certificate Examination' by Gujarat 14 of 2002, dated 6th April, 2002.] and other examinations and publication of results;(g)the appointment of examiners, their powers and duties in relation to the examinations and their remuneration;(h)the qualifications and disqualifications of examiners;(i)the award of certificates;(j)the control, administration, safe custody and management in all respects of the finances of the Board;(k)the date before which and the manner in which the Board shall prepare its budget estimates;(l)any other matter which is to be or may be prescribed under this Act.(3)No regulation or alteration or revocation of a regulation made under this section shall have effect until the same has been sanctioned by the State Government.

54. First regulation.

- Notwithstanding anything contained in Section 53 the first regulations shall be made by the State Government and they shall continue to be in force until new regulations are duly made and sanctioned under that section.

55. Power of the Board to make by-laws.

- The Board may make by-laws consistent with this Act and the regulations made thereunder to provide for all or any of the following matters:(a)the procedure to be followed at the meetings of the Board and the Committees appointed by it and the number of members required to form a quorum at such meetings;(b)the travelling and daily allowances which may be drawn by members of the Board or any committee;(c)any other matter solely concerning the Board and its Committees not provided for by this Act or the regulations made thereunder.

56. Interpretation in case of doubts.

- If any question arises regarding the interpretation of any provision of this Act or any regulation or by-law made thereunder, the matter shall be referred for decision to the State government and shall be so referred to the State Government, if not less than one-third members of the Board so require. The decision of the State Government shall be final.

57. Repeals and Savings.

(1) With effect on and from the date on which the Board is constituted under Section 3 for the first time (hereinafter referred to as "the said date") the Bombay Secondary School Certificate Examination Act, 1948 shall stand repealed and the Gujarat Secondary School Certificate Examination Board constituted thereunder, (hereinafter in this section referred to as "the dissolved Board") shall stand dissolved and all members thereof shall vacate office. (2) Notwithstanding the repeal of the said Act, - (a) all property, movable and immovable, all rights and interests of whatever kind, and all powers and privileges of the dissolved Board shall on the said date stand transferred to the Board and shall without further assurance vest in the Board, and shall thereafter be applied to the objects and purposes for which the Board is constituted; (b) all benefactions accepted or received by the dissolved Board shall be deemed to have been accepted or received by the Board under this Act and all conditions on which such benefactions were accepted or received shall be deemed to be valid under this Act, notwithstanding that such conditions are inconsistent with the provisions of this Act; (c) any will, deed or other document made before the said date which contains and bequest, gift, terms or trust in favour of the dissolved Board shall on and from the said date, be construed as if the Board is named therein instead of the dissolved Board; (d) all institutions recognised and admitted to the privileges of the dissolved Board immediately before the said date shall be deemed to be recognised and admitted to the privileges of the Board established under this Act, save in so far as such recognition or privileges may be withdrawn, restricted or modified by or under the provisions of this Act; (e) all debts, liabilities and obligations incurred before the said date and lawfully subsisting against the dissolved Board shall be discharged and satisfied by the Board; (f) all references in any enactment or other instruments issued under any enactment to the dissolved Board shall be construed as references to the Board; (g) all officers and servants of the State Government serving under the dissolved Board immediately before the said date may from the said date be taken over and employed by the Board for the purposes of this Act and they shall subject to such general or special orders as may be made by the State Government regarding their absorption and seniority continue to hold office on the same conditions of service as the changed circumstances may permit until such conditions are duly altered under this Act: Provided that, the conditions of service applicable immediately before the said date to any such officer or servant shall not be varied to his advantage except with the previous approval of the State Government.

58. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Official Gazette make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the purpose of

removing the difficulty.

59. Amendment of certain provisions of Acts relating to certain Universities in the State.

- Each of the Acts specified in the second column of the Schedule shall be amended in the manner, and to the extent, specified against it in the third column thereof.

Schedule

(See Section 59)

Serial Number	Short title	Extent of Amendment
1.	The Maharaja Sayajirao University of Baroda Act, 1949 (Baroda Act 177 of 1949).	In Section 44 in Clause (i), for the words "conducted by the Secondary School Certificate Examination Board," the words "conducted by the Gujarat Secondary Education Board" shall be substituted.
2.	The Gujarat University Act, 1949 (Bombay 50 of 1949)	In Section 42 in Clause (i) for the words "conducted by the Secondary School Certificate Examination Board" the words "conducted by the Gujarat Secondary Education Board" shall be substituted.
3.	The Sardar Patel University Act, 1955 (Bombay 40 of 1955)	(1) In Section 15, in paragraph (B), for Clause (xiii) the following clause shall be substituted, namely : "(xiii) The Chairman of the Gujarat Secondary Education Board." (2) In Section 33 in Clause (i) for the words "conducted by the Secondary School Certificate Examination Board" the words "conducted by the Gujarat Secondary Education Board" shall be substituted.
4.	The South Gujarat University Act, 1965 (Gujarat 38 of 1965)	(1) In Section 16 in paragraph (B) for Clause (vi) the following clause shall be substituted, namely : "(vi) The Chairman of the Gujarat Secondary Education Board." (2) In Section 43 for the words "conducted by the Secondary School Certificate Examination Board" the words "conducted by the Gujarat Secondary Education Board" shall be substituted.

5. The Saurashtra University Act, 1965 (Gujarat 39 of 1965)
- (1) In Section 16 in paragraph (B) for Clause(vi) the following clause shall be substituted namely :
- "(vi) The Chairman of the Gujarat Secondary Education Board."
- (2) In Section 43 for the words "conducted by the Secondary School Certificate Examination Board" the words "conducted by the Gujarat Secondary Education Board" shall be substituted.