

**THE UTTAR PRADESH HIGHER EDUCATION SERVICES
COMMISSION ACT 1980¹
[U. P. ACT NO. XVI OF 1980]**

As amended by U. P. Act No.9 of 1982

[Passed in Hindi by the Uttar Pradesh Legislative Assembly on September 26, 1980 and by the Uttar Pradesh Legislative Council on September 8, 1980.]

Received the assent of the Governor on October 1, 1980 under Article 200 of 'the Constitution of India' and was published in the Uttar Pradesh Gazette Extraordinary, dated October 3, 1980.]

AN

ACT

to establish a service commission for the selection of teachers for appointment to the colleges affiliated to or recognized by a University, and for matters connected therewith or incidental thereto.

IT IS HEREBY enacted in the Thirty-first Year of the Republic of India, as follow:-

**CHAPTER I
Preliminary**

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| Short title and commencement | 1. (1) This Act may be called the Uttar Pradesh Higher Education Services Commission Act, 1980.

(2) It shall come into force on such date as the State Government may, by notification ² appoint in this behalf. |
| Definition | 2. In this Act-

(a) "appointment" in relation to a teacher does not include an appointment under sub-section (3) of section 31 of the Uttar Pradesh State Universities Act, 1973;

(b) "Chairman" means the Chairman of the Commission and includes any other person performing, in the absence of the Chairman for the time being the functions of the Chairman;

(c) "college" means an affiliated or associated college to which the privileges of affiliation or recognition, as such has been granted by a University, and includes a college maintained by a local authority but does not include a college maintained by the State Government [or a College imparting medical education;] ³

(d) "Commission" means the Higher Services Commission established under section 3;

(e) "Director" means the Director of Education (Higher Education) and includes Joint Director of Education or Deputy Director of Education authorized by him in this behalf : |

1. For statement of objects and Reasons, see Uttar Pradesh Gazette, Extraordinary, dated September 6, 1980.
2. The Act was enforced w.e.f. August 21, 1981 vice notification no. 4280/XV-10-81-15(95)-81, dated August 20, 1981.
3. Chapter-III insertion by section 5 of U.P. Act No. 26 of 1989.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 3-4]

(f) "Member" means a member of the Commission and includes its Chairman;

(g) other words used and not defined in this Act but defined in the Uttar Pradesh State Universities Act, 1973 shall have the meanings respectively assigned to them in that Act.

Chapter II

Establishment of the Commission

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| Establishment of the Committee | 3. | <p>(1) With effect from such date as the State Government may by notification¹ appoint in this behalf there shall be established a Commission to be called the "Uttar Pradesh Higher Education Services Commission."</p> <p>(2) The Commission shall be a body corporate.</p> |
| Composition of the Commission | 4. | <p>(1) The Commission shall consist of a Chairman and not less than two and not more than four other members to be appointed by the State Government.</p> <p>[(2) No person shall be qualified for appointment as Chairman or member unless he is or has been-</p> <ul style="list-style-type: none"> (a) a member of the Uttar Pradesh Higher Judicial Service who has held the post of District Judge or any other post equivalent thereto; or (b) a member of the Indian Administrative Service who has held the post of a Secretary to the State Government or any other post under the State Government equivalent thereto; or (c) a Vice-Chancellor of any University; or (d) a Professor in any University. <p>(2-A) No person shall be qualified for appointment as Member unless he is or has been –</p> <ul style="list-style-type: none"> (a) a member of the Uttar Pradesh Higher Judicial Service, who has held the post of District Judge or any other post equivalent thereto; or (b) a member of the Indian Administrative Service who has held the post of a Secretary to the State Government or any other post under the State Government equivalent thereto; or (c) a Vice-Chancellor of any University; or (d) a Professor in any University; (e) a Principal of a Post Graduate College for a period of not less than ten years ; or (f) a Principal of a Degree College for a period of not less than fifteen years.]² |

1. A commission was established w.e.f. November 1, 1982 vide notification no. 5004/XV-10-82-15(95)-81, date October 23, 1982.

2. Substituted by section 2 of U.P. Act No. 10 of 1997

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 5-7]

- (3) Every appointment under this section shall take effect from the date on which it is notified by the State Government.

Term of office
and conditions
of service of
members

5. (1) Every member shall, unless he becomes disqualified for continuing as such under the rules that may be made under this Act hold office for a term of three years.
- (2) No person shall be a member of the Commission for more than two consecutive terms.
- (3) A member of the Commission may resign his office by writing under his hand addressed to the State Government, but he shall continue in office until his resignation is accepted by the State Government.
- (4) The office of the members shall be whole-time and the terms and conditions of their service shall be such as the State Government may by order direct.
- (5) Notwithstanding anything contained in this section, no person shall be appointed or continue as a member of the Commission, if he has attained the age of sixty-two years.

Powers of the
State
Government to
remove the
members

6. (1) The State Government may, by order, remove from office any member, if he-
- (a) is adjudged an insolvent; or
- (b) engages, during his term of office, in any paid employment outside the duties of his office; or
- (c) is in the opinion of the State Government unfit to continue in office by reason of infirmity of mind or body or of proved misconduct.

Explanation- [***]¹

- (2) The procedure for the investigation and proof of misconduct under this section shall be such as may be prescribed.
- (3) The State Government may suspend from office any member in respect of whom any action is contemplated under this section.

Power to
associate

7. The Commission may associate with itself, in such manner and for such purposes as may be determined by regulations made under section 31, any person whose assistance or advice it may desire to have in carrying out any of the provisions of this Act.

1. Omitted by section 3 of U. P. Act No. 10 of 1997.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 8-11]

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| Proceedings of the Commission not to be invalidated | 8. | <p>No act or proceeding of the Commission shall be deemed to be invalid merely on the ground of-</p> <p style="padding-left: 40px;">(a) any vacancy or defect in the constitution of the Commission; or</p> <p style="padding-left: 40px;">(b) any defect or irregularity in the appointment of a person acting as a member thereof; or</p> <p style="padding-left: 40px;">(c) any defect or irregularity in such act or proceeding not affecting the substance.</p> |
| Staff of the commission | 9. | <p>(1) The Secretary of the Commission shall be appointed by the State Government on deputation for a term not exceeding five years, and other conditions of his service shall be such as the State Government may, from time to time, determine.</p> <p>(2) Subject to such directions as may be issued by the State Government in this behalf, the Commission may appoint such other employees as it may think necessary for the efficient performance of its functions under this Act, and on such terms and conditions of service as the Commission think fit.</p> |
| Authentication of the orders of the Commission | 10. | <p>All orders and decisions of the Commission shall be authenticated by the signature of the Secretary, or any other officer authorised by, the Commission in this behalf.</p> |

CHAPTER III

Functions of the Commission

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| Powers and duties | 11. | <p>The Commission shall have the following powers and duties, namely-</p> <p style="padding-left: 40px;">(a) to prepare guidelines on matters relating to the method of recruitment of teachers in Colleges ;</p> <p style="padding-left: 40px;">(b) to conduct examinations where considered necessary, hold interviews and make selection of candidates for being appointed, as such teachers ;</p> <p style="padding-left: 40px;">(c) to select and invite experts and to appoint examiners for the purposes specified in clause (b) ;</p> <p style="padding-left: 40px;">(d) to make recommendation to the management regarding the appointment of selected candidates;</p> <p style="padding-left: 40px;">(e) to obtain periodical returns or other information from colleges regarding strength of the teaching staff and the appointment, dismissal, removal, termination or reduction in rank of teachers therein;</p> <p style="padding-left: 40px;">(f) to fix the emoluments and travelling and other allowance of the experts and examiners;</p> <p style="padding-left: 40px;">(g) to administer the funds placed at the disposal of the Commission;</p> <p style="padding-left: 40px;">(h) to perform such other duties and exercise such other powers as may be prescribed or as may be incidental or conducive to the discharge of the above functions.</p> |
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[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 12-13]

¹[Procedure
for appoint-
ment of
teachers

12. (1) Every appointment as a teacher of any college shall be made by the management in accordance with the provisions of this Act and every appointment made in contravention thereof shall be void.
- (2) The management shall intimate the existing vacancies and the vacancies likely to be caused during the course of the ensuing academic year, to the Director at such time and in such manner, as may be prescribed.
- Explanation— The expression “academic year” means the period of 12 months commencing on July 1.
- (3) The Director shall notify to the Commission at such time and in such manner as may be prescribed a subject wise consolidated list of vacancies intimated to him from all colleges.
- (4) The manner of selection of persons for appointment to the posts of teachers of a college shall be such, as may be determined by regulations :

Provided that the Commission shall with a view to inviting talented persons give wide publicity in the State to the vacancies notified to it under sub-section (3) :

Provided further that the candidates shall be required to indicate their order of preference for the various colleges, vacancies wherein have been advertised.

Recommen-
dation of
Commission

13. (1) The Commission shall, as soon as possible, after the notification of vacancies to it under sub-section (3) of section 12, hold interview (with or without written examination) of the candidates and send to the Director a list recommending such number of names of candidates found most suitable in each subject as may be, so far as practicable, twenty-five per cent more than the number of vacancies in that subject such names shall be arranged in order of merit shown in the interview, or in the examination and interview if an examination is held.
- (2) The list sent by the Commission shall be valid till the receipt of a new list from the Commission.
- (3) The Director shall having due regard in the prescribed manner, to the order of preference if any indicated by the candidates under the second proviso to sub-section (4) of section 12, intimate to the management the name of a candidate from the list referred to in sub-section (1), for being appointed in the vacancy intimated under sub-section (2) of section 12.
- (4) Where a vacancy occurs due to death, resignation or otherwise during the period of validity of the list referred to in sub-section (2), and such vacancy has not been notified to the Commission under sub-section (3) of section 12, the Director may intimate to the management the name of a candidate from such list for appointment in such vacancy.
- (5) Notwithstanding anything in the preceding provisions, where to abolition of any post of teacher in any college, services of the person substantively appointed to such post is terminated, the State Government may make suitable order for his appointment in suitable vacancy, whether notified under sub-section (3) of section 12 or not, in any other college, and thereupon the Director shall intimate to the management accordingly.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 14-18]

- (6) The Director shall send a copy of the intimation made under sub-section (3) or sub-section (4) or sub-section (5) to the candidate concerned.

Duty of
Management

14. (1) The management shall, within a period of one month from the date of receipt of intimation under sub-section (3) or sub-section (4) or sub-section (5) of section 13, issue appointment letter to the person whose name has been intimated.
- (2) Where the person referred to in sub-section (1) fails to join the post within the time allowed in the appointment letter or within such extended time as the management may allow in this behalf, or where such person is otherwise not available for appointment, the Director, shall on the request of the management intimate fresh name from the list sent by the Commission under sub-section (1) of section 13 in the manner prescribed.]¹

Inquiry by
Director

15. (1) Where any person is entitled to be appointed as a teacher in any college in accordance with sections 12 to 14, but he is not so appointed by the management within the time provided therefor, he may apply to the Director for a direction under sub-section (2).
- (2) On receipt of an application under sub-section (1), the Director may hold an inquiry, and if he is satisfied that the management has failed to appoint the applicant as a teacher in contravention of the provisions of this Act, he may by order, require-
- (a) the management to appoint the applicant as a teacher forthwith, and to pay him salary from the date specified in the order; and
- (b) the principal of the College concerned to take work from him as a teacher.
- (3) The amount of salary, if any due to such teacher shall, on a certificate issued by the Director, be recoverable by the Collector as arrears of land revenue.

16. [* * *]²

Power to call
for information

17. The Commission may require the management of any college to submit such information or return regarding the matters referred to in section 11 as it thinks fit, and the management shall be bound to comply with the same.

Power to
inspect records,
register etc.

18. The Secretary or any other officer authorized by the Commission shall have access to every record, register or document in possession of the management and he may enter at any reasonable time, any premises where he believes such record, register or document to be, and may inspect and take copies of relevant records or documents.

1. Substituted by section 2 of U. P. Act No. 2 of 1992.

2. Omitted by section 3 *ibid*.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 19-23]

CHAPTER IV**Annual Reports and Accounts**

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| Payment to the Commission | 19. | The State Government may, after due appropriation made by law in this behalf, pay to the Commission in each financial year such sum as may be considered necessary for the performance of the functions of the Commission under this Act. |
| Fund of the Commission | 20. | <p>(1) The Commission shall have its own Fund, and all sums paid to it by the State Government and all receipts of the Commission shall be carried to the Fund and all payments by the Commission shall be made therefrom.</p> <p>(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the State Government, be decided by the Commission.</p> <p>(3) The Commission may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Commission.</p> |
| Annual Reports | 21. | The Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the State Government, and the State Government shall cause the same to be laid before both the Houses of the State Legislature. |
| Accounts and Audit | 22. | <p>(1) The Commission shall cause to be maintained such books of accounts and other books in relation to its account, in such form and in such manner as the State Government may, by general or special order direct.</p> <p>(2) The Commission shall as soon as may be after closing its annual accounts, prepare statement of accounts in such form and forward the same to the Accountant General, by such date as the State Government may, in consultation with the Accountant General determine, for audit under section 14 of the Comptroller and Auditor Generals (Duties, Powers and Conditions of Service) Act, 1971.</p> <p>(3) The annual accounts of the Commission together with the audit report thereon shall be forwarded to the State Government and the Government shall cause the same to be laid before both Houses of the State Legislature.</p> |

CHAPTER V**Miscellaneous**

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| Delegation | 23. | The Commission may, by regulations made under section 31, delegate to its Chairman or any of its members or officers, its power of general superintendence and direction over the business transacted by, or in, the Commission including the powers with regard to the expenditure incurred in connection with the maintenance of the office and internal administration of the Commission. |
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[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 24-29]

Exemptions to minority Institution	24.	Notwithstanding anything contained in this Act, the management of any college established by a minority based on religion or language which the minority has the right to administer, shall be entitled to appoint, dismiss, remove, terminate the services of or reduce in rank a teacher or take other disciplinary measures subject only to the approval of the Commission and of the University concerned.
Punishment for contravention of the provisions of the Act	25.	Any person who fails to comply with the recommendations of the Commission or with the orders of the Director made in accordance with the provisions of this Act, or appoints a teacher in contravention of the provisions of this Act, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.
Punishment for failure to furnish information or wilful obstruction	26.	<p>If any person-</p> <p>(a) wilfully withholds or fails to furnish any return or information lawfully required by the Commission within the time allowed therefor :</p> <p>(b) wilfully obstructs any person from duly carrying out all or any of the provisions of this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.</p>
Offences by societies	27.	<p>(1) If the person committing the offence under section 25 or section 26 is a society registered under the Societies Registration Act, 1860, the society as well as every person incharge of and responsible to the society for the conduct of its business at the time of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a registered society and it is proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any neglect on the part of any member of the society, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p>
Bar against prosecution	28.	No prosecution for the offence under this Act shall be instituted except with the previous sanction of the Director or such officer or authority as the State Government may, by general or special orders, specify in this behalf.
Protection of action taken in good faith	29.	No suit, prosecution or other proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 30-31B]

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| Act to have overriding effect | 30. | The provisions of this Act shall have effect notwithstanding anything to the contrary contained in the Uttar Pradesh State Universities Act, 1973 or the Statutes or Ordinances made thereunder. |
| Power to make regulations | 31. | <p>(1) The Commission may, with the previous approval of the State Government, make regulations prescribing fees for holding selections, conducting examinations where necessary holding interviews and laying down the procedure to be followed by the Commission for discharging its duties and performing its functions under this Act.</p> <p>(2) The regulations made under sub-section (1) shall not be inconsistent with the provisions of this Act or the rules made under section 32.</p> |
| [Power to remove difficulties] | 31-A | <p>(1) The State Government may, for the purposes of removing any difficulty, by a notified order direct that the provisions of this Act shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as it may deem to be necessary, or expedient :</p> <p style="padding-left: 40px;">Provided that no such order shall be made after the expiry of two years from the date of commencement [of the Uttar Pradesh Higher Education Service Commission (Amendment) Act, 1992.]²</p> <p>(2) Every order made under sub-section (1) shall be laid before both Houses of the State Legislature.</p> <p>(3) No order under sub-section (1) shall be called in question in any court on the ground that no difficulty, as is referred to in sub-section (1), existed or required to be removed.]¹</p> |
| [Regularization of certain <i>ad hoc</i> appointments] | 31-B | <p>(1) Every teacher, other than a Principal, directly appointed on or before January 3, 1984, on <i>ad hoc</i> basis, against a substantive vacancy in accordance with the provisions of the Uttar Pradesh Higher Education Services Commission (Removal of Difficulties) Order, 1982 of the Uttar Pradesh Higher Education Services Commission (Removal of Difficulties) Order, 1983, who possesses the qualifications prescribed under, or is exempted from such qualifications in accordance with, the provisions of the concerned Statutes, shall with effect from the date of commencement of the Uttar Pradesh Higher Education Services Commission (Amendment) Act, 1985, be deemed to have been appointed in a substantive capacity provided that such teacher has been continuously serving the College from the date of such <i>ad hoc</i> appointment up to the date of such commencement.</p> <p>(2) Every teacher deemed to have been appointed in substantive capacity under sub-section (1), shall be deemed to be on probation from the date of such commencement.</p> |

1. Added by section 3 of U. P. Act No. 9 of 1982.

2. Substituted by section 4 of U.P. Act No. 2 of 1992.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 31C]

[(2-A) A teacher other than a Principal directly appointed on or before January 3, 1984 on *ad hoc* basis in a vacancy referred to in clause (iv) or clause (v) of sub-para (1) of paragraph 2 of the Uttar Pradesh Higher Education Services Commission (Removal of Difficulties) Order, 1982 or in clause (iv) or clause (v) of sub-para (1) of paragraph 2 of the Uttar Pradesh Higher Education Services Commission (Removal of Difficulties) Order, 1983, in accordance with the provisions of such Orders and continuously serving the college from the date of such *ad hoc* appointment till September 2, 1989, who possesses the qualifications prescribed under, or is exempted from such qualifications prescribed under, or is exempted from such qualifications in accordance with, the provisions of the concerned Statutes, may be given substantive appointment by the Management of the College, if :--

(a) any substantive vacancy of the same cadre and grade in the same department is available on September 2, 1989; and

(b) the work and conduct of the teacher is found satisfactory.]²

(3) Nothing in this section shall be construed to entitle any teacher to substantive appointment if—

(a) on the date of such commencement, such post had already been filled, or selection for such post had already been made, in accordance with the provisions of this Act, or

(b) such teacher was related to any member of the Management, or the Principal, of the College concerned.

Explanation – For the purpose of this sub-section a person shall be deemed to be related to another if they are related in the manner mentioned in the Explanation to section 20 of the Uttar Pradesh State Universities Act, 1973.]¹

[Regularization of other *ad-hoc* appointments 31-C (1) Any teacher, other than a principal who—

(a) was appointed on *ad-hoc* basis after [November 22, 1991]² but not later than June 30, 1991 on a post –

(i) which after its due creation was never filled earlier; or

(ii) which after its due creation was filled earlier and after its falling vacant, permission to fill it was obtained from the Director;

(iii) which came into being in pursuance of the terms of new affiliation or recognition granted to the College and has been continuously serving the college from the date of such *ad-hoc* appointment up to the date of commencement of the Uttar Pradesh Higher Education Services Commission (Amendment) Act, 1992;

[(b) was appointed on *ad hoc* basis under sub-section (1) of section 16 as it stood before its omission by the Act referred to in clause (a), whether or not the vacancy was notified to the Commission.]³

1. Added by section 3 of U. P. Act No. 22 of 1985.
 2. Chapter-III added by section 5 of U.P. Act No. 26 of 1989.
 3. Substituted by section 4(a)(i) of U.P. Act No. 10 of 1997.
 4. Substituted by section 4(a)(ii) *ibid*.

[The Uttar Pradesh Higher Education Services Commission Act, 1980]

[Section 32]

(c) possessed on the date of such commencement, the qualifications required for regular appointment to the post [or was given relaxation from such qualifications]¹ under the provisions of the relevant statute in force on the date of such *ad-hoc* appointment;

(d) [***]²

(e) has been found suitable for regular appointment by a Selection Committee constituted under sub-section (2);

may be given substantive appointment by the management of the college, if any substantive vacancy of the same cadre and grade in the same department is available on the date of commencement of the Act referred to in clause (a).

(2) The Selection Committee consisting, the following members namely--

(i) a member of the Commission nominated by the Government who shall be the Chairman;

(ii) an officer not below the rank of Special Secretary, to be nominated by the Secretary to the Government of Uttar Pradesh in the Higher Education Department;

(iii) the Director;

shall consider the cases of every such *ad-hoc* teacher and on being satisfied about his eligibility in view of the provisions of sub-section (1), and his work and conduct on the basis of his record, recommend his name to the management of the college for appointment under sub-section (1).

(3) Where a person recommended by the Commission under section 13 before the commencement of the Act referred to in sub-section (1) does not get an appointment because of the appointment of another person under sub-section (1) in the vacancy for which he was so recommended, the State Government shall make suitable order for his appointment in a suitable vacancy in any college and the provisions of sub-sections (5) and (6) of section 13 and of section 14 shall *mutatis mutandis* apply.

(4) A teacher appointed on *ad-hoc* basis referred to in sub-section (1), who does not get a substantive appointment under that sub-section and a teacher appointed on *ad hoc* basis who is not eligible to get a substantive appointment under sub-section (1), shall cease to hold the *ad-hoc* appointment after March 31, 1992.]³

[(5) Notwithstanding anything to the contrary in sub-section (4), the selection committee constituted under sub-section (2), shall be view of the amendments made in clauses (b) to (d) of sub-section (1), by the Uttar Pradesh Higher Education Services Commission (Amendment) Act, 1997 reconsider the case of every teacher who ceased to hold appointment under sub-section (4) and is as a result of reconsideration any such teacher is found suitable for substantive appointment, as may be given substantive appointment as provided in sub-section (1), and shall be deemed never to have ceased to hold appointment.]⁴

Power to make rules 32.

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

1. Substituted by section 4(a)(iii) of U. P. Act No. 2 of 1992.
 2. Omitted by section 4(a)(iv) *ibid*.
 3. Section 31-C added by section 5 *ibid*.
 4. Added by section 4(b) of U.P. Act No. 10 of 1997.