

The Uttarakhand Public Services (Reservation for Economically Weaker Sections) Act, 2019

[Uttarakhand Act No: 07 Year 2019]

An Act

to determine the procedure for Uttarakhand Public Services (Reservation for Economically Weaker Sections) under the Article 15(6) and Article 16(6) of the Constitution of India;

Be it enacted by the Uttarakhand Legislative Assembly in the Seventieth year of the Republic of India as follows:-

Short title and commencement

1. (1) This Act may be called ‘The Uttarakhand Public Services (Reservation for Economically Weaker Sections) Act, 2019.
- (2) It shall come into force at once.

Definitions

2. In this Act,:-
 - (a) **“Appointing Authority”** in relation to public services and posts means the Authority empowered to make appointment to such services and posts;
 - (b) **“Economically weaker Sections”** means economically weaker sections specified in Article 15(6) and Article 16(6) of the Constitution;
 - (c) **“Family”** means person demanding reservation, their husband/wife and children of less than 18 years of age along with his parents, his siblings less than of 18 years of age, as well as it includes his husband/ wife and children of less than 18 years of age;
 - (d) **“Public Services and Posts”** means the services and posts in connection with the affairs of the state and includes following posts and services:-

- (i) Local Authority;
- (ii) Clause (a) of Section 2 of the Uttarakhand Co-operative Committee Act, 2003 in which not less than 51 percent of share capital of Holding Share Committee by the State Government;
- (iii) Any board or any corporation or any legal body established by the any central or Uttarakhand State Act which is under the owner ship or control of the State Government or Government company defined in the Company Act, 2013,in which not less than 51 percent paid up share capital by the state;
- (iv) any educational institute under ownership and control of the State Government or which receives grants in aid from the State Government including a university established by or under Act of Uttarakhand State, except any institute established and administered by minority section specified in clause (1) of article 13 of the Constitution of India ;
- (e) “**Year of recruitment**” in relation to a vacancy means a period of 12 months commencing on first of July of a year, within which the process of direct recruitment against such vacancy is initiated;

**Reservation in
favour of
economically
weaker sections**

3. (1) In public services and posts, on the order of direct recruitment vacancies to be recruited in accordance with the roster specified in sub-section (4), 10 percent shall be reserved in the favour of concerned persons of the economically weaker sections.
- (2) (a) In public services and posts, the reservation in favour of economically weaker sections shall be given to such permanent residents of the State of Uttarakhand, which are not included in the existing reservations schemes for Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes.

- (b) The persons of such economically weaker sections are identified for the reservation as economically weaker section, whose gross annual income of family, from all sources is less than 8.00 lakh (eight lakh). Family income includes income received from all sources namely-salary, agriculture, profession, business etc. The said income shall be income of the previous financial year, from the year of application, by the beneficiary ;

Provided that the person or their family possess any property, from the following properties, shall not be eligible for the reservation as economically weaker sections:-

- (i) 5 acre of agricultural land or above; or
- (ii) residential building of 1000 sq. feet or above; or
- (iii) residential plot of 100 sq. yards or above in notified municipalities; or
- (iv) residential plot of 200 sq. yards or above in areas other than the notified municipalities.

¹[(3) If, in any recruitment year any vacancy reserved for Economically Weaker Sections cannot be filled up due to non availability of a suitable candidate, then such vacancies for that particular recruitment year shall not be carried forward to the next recruitment year as backlog and such vacancy shall be filled up from a suitable candidate belonging to General category.

If , any person belonging to Economically Weaker Sections selected against the quota reserved for persons with benchmark disabilities/ ex-servicemen then such person shall be placed against the roster points earmarked for Economically Weaker Sections.]

- (4) The State Government shall, for applying the reservation under sub-section (1), by notified order issue a roster which shall continuously apply, till it is exhausted.
- (5) If a person belonging to economically weaker sections as mentioned in sub-section (1), get selected on the basis on merit in an open completion with general candidates, he/she shall not be adjusted against the vacancies, reserved for such category, under sub-section (1).

**Responsibility
and power for
compliance of
Act**

- 4. (1) The State Government may by notified order entrust the appointing authority or any officer or employee with responsibility of ensuring the compliance of the provisions of this Act.
- (2) The State Government may in the like manner vest the appointing authority or officer referred in sub section (1) with such power or authority as may be necessary for effective discharging the responsibility entrusted to him under sub section (1).

Penalty

- 5. (1) Any appointing authority or officer or employee entrusted with the responsibility under sub-section (1) of Section 4, willfully acts in manner to contravene or defeat the purposes of this Act shall, on conviction, be punishable with imprisonment which may extend to 3 months or with fine which may extend to 20000 or both;
- (2) No court shall take the cognizance of any offence under this section except with the previous sanction of the State Government or an officer authorized in this behalf by the State Government by order ;
- (3) An offence punishable under sub section (1) shall be tried summarily by a Metropolitan Magistrate or Judicial Magistrate of First class and provision of sub section (1) of Section 262, Section 263, Section 264 and Section 265 of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply.

Power to call records	6. If it come to the notice of the State Government that any person of category mentioned in sub section (1) of Section 3 is adversely effected due to compliance with order of Government for its purposes or provision of this Act or rules made under it than it can demand such records and shall take action which it deems necessary.
Certificate	7. For the purposes of reservation provided under this Act, certificate of economically weaker section shall be issued by such officer or authority and in such manner and form as the State Government shall, by order, provide ; Provided that certificate regarding income and property shall be issued by officer not below the rank of Tahsildar, following the proper procedure after carefully verifying the all relevant rules,.
Power to remove difficulties	8. (1) If any difficulties arises in giving effect to the provision of this Act, State Government may by notified order shall make such provisions not inconsistent with the provision of this Act as appears to it to be necessary or expedient for removing the difficulties; Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
Protection of action taken in good faith	9. No suit, prosecution or other legal proceeding shall lie against State Government or any person, for anything which is in good faith done or intended to be done, in pursuance of this Act or rules made thereunder.
Laying of orders etc.	10. Every order made under sub-section (3) of Section 3, Section 4 and Section 8 shall be laid, as soon as may be, before State Legislative Assembly and the provisions of sub section (1) of Section 23(a) of Uttar Pradesh General Clauses Act, 1904 (as applicable in Uttarakhand) shall apply as they apply in respect of the rules made by the State Government under any Uttarakhand Act.

Savings

- 11.** (1) The provisions of this Act shall not be apply to cases in which selection process has been initiated before the commencement of this Act and such cases shall be dealt in accordance with the provisions of law and Government orders as they stood before such commencement;

Explanation- For the purpose of this sub section selection process shall be deemed to be initiated where, under relevant service rules, recruitment is to be made on the basis of :-

- (i) written exam or interview only, the written test or interview, as the case may be, has started, or
- (ii) both written exam and interview, the written test has started.

- (2) The provisions of this Act shall not be apply to the appointment, to be made under Uttar Pradesh Recruitment of Dependant of Government Servants Dying in Harness Rules, 1974 and The Dependant of martyr soldiers of Indian Army/ Paramilitary Forces (Permanent Resident of Uttarakhand) on compassionate basis in State Services Employment Rules, 2018.

Power to make rules

- 12.** The State Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Repeal Savings

and

- 13.** (1) The Uttarakhand Public Services (Reservation for Economically Weaker Sections) Ordinance, 2019 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the provisions of the Ordinance specified in sub section (1) shall be deemed to have been done under the corresponding provisions of this Act.

