

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of '**The Uttarakhand Right To Service Act, 2011**' (Adhinyam Sankhya 20 of 2011) :--

As Passed by the Uttarakhand Legislative Assembly and assented to by the Governor on October 04, 2011.

No. 307/XXXVI(3)/2011/55(1)/2011

Dated Dehradun, October 04, 2011

NOTIFICATION

Miscellaneous

THE UTTARAKHAND RIGHT TO SERVICE ACT, 2011

(UTTARAKHAND ACT No. 20 OF 2011)

AN

ACT

to provide for the delivery of services to the people of the State of Uttarakhand within the given time limits and for matters connected therewith and incidental thereto.

Be it enacted in the Sixty-second Year of the Republic of India by the Uttarakhand State Legislative Assembly as follows :-

- | | |
|---------------------|--|
| Short title, | 1. (1) This Act may be called the Uttarakhand Right to Service Act, |
| Extent and | 2011. |
| Commencement | (2) It shall come into force at on and with effect from the date of its publication in the Official Gazette. |
| Definitions | 2. In these Act, unless there is anything repugnant in the subject or context- <ul style="list-style-type: none"> (a) 'Commission' means a Commission constituted under section 12; (b) 'Designated Officer' means an officer as notified under section 3; (c) 'eligible person' means a person who is eligible for obtaining services notified under section 3; (d) 'First Appellate Authority' means an officer, who is notified as such under section 3; (e) 'given time limit' means maximum time to provide the service by the Designated officer as notified under section 3; (f) 'prescribed' means prescribed by rules made under this Act; (g) 'right to service' means a right to obtain the service within the given time limit; (h) 'service' means any service notified under section 3; |

- (i) 'Second Appellate Authority' means an officer who is notified as such under section 3;
- (j) 'section' means a section of this Act; and
- (k) 'State Government' means the Government of the State of Uttarakhand.

Notification of service, Designated Officers, First Appellate Authority, Second Appellate Authority and the given time limit

3. (1) The State Government may by notification from time to time, notify the services, to which this Act shall apply.

(2) The State Government may by notification specify the Designated Officer, First Appellate Authority, Second Appellate Authority and the given time limit for the purposes of this Act.

Providing of service

4. The Designated Officer shall provide the service to the eligible person within the given from time limit.

Procedure for obtaining service

5. (1) An eligible person shall make an application to the Designated Officer for obtaining any service under the provisions of this Act.

(2) The Designated Officer shall, on receipt of an application under sub-section (1), provide service or reject the application within the given time limit and in case of rejection of application, shall record the reasons in writing and intimate the same to the applicant.

(3) Every Designated Officer shall maintain detailed records of services applied for in a format as may be prescribed.

First Appeal

6. (1) Any eligible person, whose application for obtaining service is rejected under sub-section (2) of section 5 or who is not provided the service within the given time limit may file and appeal to the First Appellate Authority within thirty days from the date of rejection or the expiry of the given time limit, as the case may be.

(2) On receipt of an appeal under sub-section (1), the First Appellate Authority shall consider the matter and if in its opinion the grievance of the eligible person appears to be genuine, it may direct the Designated Officer to provide the service within such period, as may be specified by it and in case of default to appear before it in person and explain reasons thereof.

- (3) After affording an opportunity of hearing to the Designated Officer and the eligible person, the First Appellate Authority may pass an order either accepting the appeal or rejecting the same by an order made in writing and in the case of rejection, the reasons for rejection shall be specified by it in such order and shall communicate the same to the eligible person.
- (4) An appeal made under sub-section (1) shall be finally disposed of by the First Appellate Authority, as far as possible, within a period of thirty days of its receipt.

Second appeal

7. (1) Any eligible person, whose appeal for obtaining service is rejected or who is not provided the service within the time specified by the First Appellate Authority under section 6, may file an appeal to the Second Appellate Authority within thirty days from the date of such rejection or the expiry of the time specified by the First Appellate Authority.

(2) On receipt of an appeal under sub-section (1), the Second Appellate Authority may pass an order either accepting the appeal and directing the Designated Officer to provide service to the eligible person within such period as may be specified or reject the same in writing detailing the reasons for such rejection :

Provided that before rejecting the appeal, as opportunity of hearing to the eligible person shall be granted by the Second Appellate Authority:

Provided further that an order made by the Second Appellate Authority under this section shall be communicated to the eligible person :

Provided further that the appeal made under sub-section (1) shall be decided by the Second Appellate Authority, as far as possible, within a period of sixty days from the date of receipt of appeal.

Power to summon and inspection

8. The First Appellate Authority and the Second Appellate Authority shall, while deciding an appeal under the provisions of this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters; namely :-

- (a) requiring the production and inspection of documents;
- (b) issuing summons for hearing to the Designated Officer and the appellant; and
- (c) any other matter which may be prescribed.

Penalty

9. (1) (a) Where the Second Appellate Authority is of the opinion that the Designated Officer and/or any other official involved in the process of providing such service has/have failed to provide service without sufficient and reasonable cause, it may impose a lump sum penalty on the Designated Officer and/or any other official involved in the process of providing such service which shall not be less than rupees five hundred and not more than rupees five thousand;

(b) Where the Second Appellate Authority is of the opinion that the Designated Officer and/or any other official involved in the process of providing such service has/have caused undue delay in providing the service, it may impose a penalty at the rate of rupees two hundred and fifty per day for such delay on the Designated Officer and/or any official involved in the process of providing such service, which shall not be more than rupees five thousand :

Provided that the Designated Officer and/or any other official involved in the process of providing such service shall be given a reasonable opportunity of being heard before any penalty is imposed on him/them under sub-section (a) and (b).

(2) The Second Appellate Authority may, by an order give such amount as compensation to the appellant out of the amount of the penalty imposed under sub-section (1), as may be specified by it, which shall not exceed that total amount of the penalty so imposed.

(3) The Second Appellate Authority may, if it is satisfied that the Designated Officer and/or any other official involved in the process of providing such service has/have failed to discharge the duties assigned under this Act without sufficient and reasonable cause, recommend disciplinary action against the defaulters under the service rules applicable to them in addition to the penalty imposed under sub-section (1).

Revision 10. Any person may, who is aggrieved by any order of the Second Appellate Authority make an application for revision of the said order to the Commission or an officer nominated in this respect under the proviso to sub-section (1) of section 12 within a period of sixty days from the date of such order, which shall be disposed of in the manner as may be prescribed:

Provided that the Commission or the officer nominated, as the case may be may entertain the application after the expiry of the said period of sixty days, if it or he is satisfied that the application could not be submitted in time for a reasonable cause.

Display of services and given time limit 11. The services and the given time limit shall be displayed locally and on website by the Secretary of the Concerning Department for information of the public.

Constitution of the Commission 12. (1) If in the opinion of the State Government, it is necessary or expedient so to do, it may, by notification, constitute for the purposes of this Act, a Commission to be called the Uttarakhand Right to Service Commission :

Provided that till such time the Commission is not constituted by the State Government, it may, by notification, nominate an officer of the State Government, not below the rank of a Principal Secretary to perform the functions and exercise the powers of the Commission under this Act.

(2) The Commission shall be a body corporate, known by the aforesaid name having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable and to contract and shall, by the said name, sue or be sued.

(3) The Head office of the Commission will be at Dehradun or at such place, as the State Government may notify from time to time.

Composition of the Commission 13. (1) The Commission shall consist of a Chief Commissioner and two Commissioners and their appointment shall be made by the State Government in consultation with the Leader of Opposition in the Uttarakhand Vidhan Sabha.

(2) The Chief Commissioner shall be a retired officer in the rank and status of the Chief Secretary of the State of Uttarakhand or Secretary to the Government of India.

(3) The Commissioners shall be serving or retired officers of the Government of Uttarakhand in the rank and status of a Secretary or its equivalent rank and status in any of the services of the State, including officers of All India Services from the Uttarakhand Cadre and/or expert in the field of Public Administration having a Doctorate in Philosophy in Public Administration who have an experience of teaching in a University for a period of at least twenty years or from amongst other eminent public persons.

Powers of the Chief Commissioner 14. (1) The Chief Commissioner shall have powers of general superintendence and direction in the conduct of the affairs of the Commission. The Chief Commissioner shall preside over the meetings of the Commission as well as exercise and discharge the powers and functions of the Commission vested in him in accordance with the regulations framed under sub-section (4) of section 17.

(2) In case of absence of the Chief Commissioner or a vacancy in the office of the Chief Commissioner, the State Government may nominate one of the Commissioners to perform the functions and exercise the powers vested in the Chief Commissioner as long as the vacancy or absence continues.

(3) A Commissioner nominated to discharge the functions and powers of the Chief Commissioner under sub-section (2) shall not be entitled to any compensation, allowance or facility in addition to what he would be entitled to as a Commissioner.

Term of office and conditions of service of Chief Commissioner and Commissioners 15. (1) The Chief Commissioner and the Commissioners shall hold office for a term of five years from the date on which they enter upon the respective offices, or until they attain the age of sixty five years, whichever is earlier and they will not be entitled for re-appointment.

(2) If a person already holding an office is appointed as the Chief Commissioner or Commissioner, he shall have to resign or seek retirement from that office before joining the Commission.

- (3) The Chief Commissioner or a Commissioner shall, before he enters upon his office, make and subscribe before the Governor or some other person appointed by him in that behalf, an oath affirmation.
- (4) The Chief Commissioner or a Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office. He would also be liable for removal from the office in the manner provided under section 16.
- (5) The salaries and allowances payable to and other terms and conditions of service of the Chief Commissioner and the Commissioners shall be the same as those of the State Chief Information Commissioner and the State Information Commissioners respectively as laid down in sub-section (5) of section 16 of the Right to information Act, 2005. All provision of the aforesaid sub-section shall apply *mutatis mutandis* to the Chief Commissioner and the Commissioners appointed under the Act.
- (6) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the Commission under this Act. The salaries, allowances and conditions of service of the officers and other employees so appointed shall be such as may be prescribed.

**Removal and
Suspension of
the Chief Com-
missioner or a
Commissioner
from office in
certain
circumstances.**

16. (1) The State Government may remove the Chief Commissioner or any Commissioner from office after complying with the provisions of Sub-section (2), if he has—
- (i) been adjudged insolvent; or
 - (ii) been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
 - (iii) become physically or mentally incapable; or
 - (iv) acquired such financial or other interest as is likely to affect prejudicially his functions in any of the said capacities; or
 - (v) so abused his position as to render his continuance in office prejudicial to public interest.
- (2) Notwithstanding anything contained in sub-section(1), the Chief Commissioner or any Commissioner, shall not be removed from his office, unless,—

- (i) A reference is made by the State Government to the Chief Justice of the High Court of Uttarakhand State seeking an enquiry and recommendation on the proposed removal of the Chief Commissioner or the Commissioner along with the grounds for the removal and material supporting such proposal;
 - (ii) the reference if duly enquired into by an inquiry committee headed by a sitting or retired High Court Judge or any other person appointed by the Chief Justice of the High Court of Uttarakhand ; and
 - (iii) the inquiry committee makes recommendation that the Chief Commissioner or the Commissioner ought to be removed on such ground or grounds.
- (3) The State Government may suspend the Chief Commissioner or the Commissioner in respect of whom a reference has been made to the Chief Justice under sub-section (2).

Powers and functions of the Uttarakhand Right to Service Commission

17. (1) It shall be the duty of the Commission to ensure proper implementation of this Act and to make suggestions to the state Government for ensuring better delivery of services. For this purpose, the Commission may,--
- (a) entertain and dispose of revisions under section 10;
 - (b) take *suo moto* notice of failure to deliver service in accordance with this Act and refer such cases for disposal as may be appropriate;
 - (c) carry out inspections of offices entrusted with the delivery of services and the offices of the First Appellate Authority and the second Appellate Authority;
 - (d) recommend Departmental action against any officer or employee of the State Government who has failed in due discharge of functions cast on him under this Act;
 - (e) recommend changes in procedures for delivery of services which will make the delivery more transparent and easier :

Provided that before making such a recommendation,

- the Commission shall consult the Administrative Secretary in-charge of the Department which is to deliver the service;
- (f) recommend additional notifications to be notified under section 3 and may also suggest modifications in the notifications already issued for better implementation of this Act.
- (2) Where the Commission is satisfied that there are reasonable grounds to inquire into a matter arising out of the provisions of this Act, it may, *suo moto*, initiate and inquiry in respect thereof.
- (3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters; namely :-
- (a) summoning and enforcing the attendance of persons, compelling them to give oral or written evidence on oath and producing documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.
- (4) The Commission may frame its regulations for the conduct of its business and any such matter, as the Commission may deem fit.
- Action by the Government on recommendations of the Commission** 18. (1) The State Government shall consider the recommendations made by the Commission under clause (d), (e) and (f) of sub-section (1) of section 17 and send information to the Commission of action taken within thirty days or such longer time as may be decided in consultation with the Commission. In case the Government decided not to implement any of the recommendations of the

Commission, it will communicate the reasons for not acting on the recommendations to the Commission.

- (2) The Commission shall prepare an annual report of the recommendations made by it under section 17 along with the action taken and reasons for not taking action, if any. The State Government shall cause a copy of this report to be laid on the table of the Uttarakhand Legislative Assembly.

Protection of 19. No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rule made thereunder.

Powers of make 20. (1) The State Government may by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters; namely :-

- (a) the format to maintain the recodes of services under sub-section (3) of section 5;
- (b) the procedure for disposing of an application made under section 10;
- (c) salaries, allowances and conditions of service of the officers and other employees of the Commission under sub-section (6) of section 15; and
- (d) any other matter which is required to be or may be prescribed.

- (3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions

aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties 21.

If any difficulty arises in giving effect to the provision of this Act, the State Government may by order not inconsistent with the provisions of this Act, remove the same :

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

By Order,

D.P. GAIROLA,
Principal Secretary.