

THE UTTARAKHAND STATE COMMISSION FOR OTHER BACKWARD CLASSES ACT, 2003

[UTTARAKHAND ACT NO. 07 OF 2003] (as amended by Amendment Act No. 01 of 2004, 03 of 2005, 02 of 2006, 05 of 2016)

to constitute a commission for Other Backward Classes other than Scheduled Castes and Scheduled Tribes of Uttarakhand and to provide for matters connected there with or incidental thereto:

**AN
ACT**

It is Hereby enacted in the Fifty-fourth year of Republic of India as follows:-

**CHAPTER-1
Preliminary**

Short title, Commencement and Extent	1.	(1) This Act may be called the Uttarakhand State Commission for Other Backward Classes Act, 2003. (2) It shall be deemed to have come into force at once. (3) It extends to the whole of Uttarakhand.
Definition	2.	In this Act – (a) “Other Backward Classes” means such classes of citizens as may be specified by the State Government in the list from time to time; (b) “Commission” means the State commission for Other Backward Classes constituted under section 3; (c) “The Governor” means the Governor of Uttarakhand; (d) “The State Government” means the State Government of Uttarakhand; (e) “Member” means a member of the Commission and includes the Chairman [and Vice-Chairman] ¹ ; (f) “Scheduled” means Scheduled one of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 as amended from time to time.
		CHAPTER-II The State Commission for Other Backward Classes
Constitution of the State Commission for Other Backward Classes	3.	(1) The State Government shall constitute a body to be known as the State Commission for Other Backward Classes to exercise the powers conferred on, and to perform the functions assigned to it under this Act. (2) The Headquarter of the commission shall be at such place as the State Government may by notification, specify. (3) The commission shall consist of [fifteen members] ² other than Chairman, [three Vice-Chairmen] ² who should be belonging to other backward Classes and one member would be a women. Male or female of Other Backward Classes would be eligible for the post of chairman.

1. Ins. by section 2 of Uttaranchal Act No. 01 of 2004.
2. Sub. by section 2 of Uttaranchal Act No. 05 of 2016.

<p>Term of office and conditions of service</p>	<p>4. (1) The Chairman [three Vice-Chairmen]¹ and every other member shall hold office for a term of three years from the date, he assumes office.</p> <p>(2) A member may, by writing under his hand addressed to the Governor, resign from the office of Chairman [three Vice-Chairmen]¹ or members, as the case may be, at any time but shall continue to hold office until his resignation is accepted.</p> <p>(3) The State Government shall remove a person from the office of member if that person---</p> <p>(a) becomes an un-discharged insolvent;</p> <p>(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;</p> <p>(c) becomes of unsound mind and stands so declared by a competent court;</p> <p>(d) refuses to act or becomes incapable of acting;</p> <p>(e) is, without obtaining leave of absence from the commission, absent from three consecutive meetings of the commission; or</p> <p>(f) has, in the opinion of the State Government, so abused the position of chairman or members as to render that person's continuance in office detrimental to the interests of Other Backward Classes or the public interest :</p> <p style="text-align: center;">Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.</p> <p>(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.</p> <p>(5) The salaries and allowances payable to, and other terms and conditions of services of the Chairman and members shall be such as may be prescribed.</p>
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1. Sub. by section 3 of Uttarkhand Act No. 05 of 2016.

Office and other employees of the Commission	5.	<p>(1) The State Government shall provide the commission with a secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the commission.</p> <p>(2) The salaries and allowances payable to, and other terms and conditions of services of, the Secretary and other officers and employees appointed for the purpose of the commission shall be such as may be prescribed by the State Government.</p>
Salaries and allowances to be paid out of grant	6.	<p>The salaries and allowances payable to the Chairman, [three Vice-Chairman]¹ and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5 shall be paid out of the grants referred to in sub-section (1) of section 12.</p>
Vacancies etc. not to invalidate proceedings of the Commission	7.	<p>No act or proceeding of the commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.</p>
Procedure to be regulated by the Commission	8.	<p>(2) The Commission shall meet as and when necessary at such times and place as the chairman may think fit.</p> <p>(3) The Commission shall regulate its own procedure.</p>

		<p>(3) All orders and decisions of the commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Secretary in this behalf.</p> <p>¹[(4) If the office of the Chairman falls vacant or if the Chairman is, for any reason, absent or unable to discharge the duties of his office, these duties shall, until the new Chairman assumes office or the existing Chairman resumes his office, as the case may be, be discharged by the senior Vice-Chairman. If senior Vice-Chairman is also absent along with Chairman due to above reasons, in such circumstances junior Vice-Chairman shall discharge the duties of the Chairman.]</p> <p>[(5) If the offices of the Chairman and the all three Vice-Chairman fall vacant, the duties of the office of the Chairman shall be discharged by such member, as the State Government may, by order direct.]²</p>
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1. Sub. by section 4 of Uttaranchal Act No. 02 of 2006.

2. Sub. by section 4 of Uttarakhand Act No. 05 of 2016.

CHAPTER-III Functions and Powers of The Commission		
Functions of the Commission	9.	<p>(1) The commission shall perform all or any of the following functions, namely---</p> <ul style="list-style-type: none"> (b) the commission shall examine requests for inclusion of any class of citizens as an other backward class on the Schedule and hear complaints of wrong inclusion or non-inclusion of any other backward class in the Schedule and tender such advice to the state Government as it deems appropriate; (c) to investigate and monitor all matters relating to the safeguards provided for the Other Backward Classes under any law for the time being in force or under any order of the State Government and to evaluate the working of such safeguards; (d) to enquire into specific complaints with respect to the deprivation of rights and safeguards of the Other Backward Classes. (e) to participate and advice on the planning process of socio-economic development of the Other Backward Classes and to evaluate the progress of their development. (f) to present to the State Government annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards. (g) to make in such reports recommendation as to the measures that should be taken by the State Government for the effective implementation of those safeguards and other measures for the protection, welfare, and socio-economic development of the Other Backward Classes; and (h) to discharge such other functions in relation to the protection welfare, development and advancement of the Other Backward Classes as may be referred to it by the State Government. <p>(2) The State Government shall cause the reports of the Commission to be laid before the State Legislature along with a memorandum explaining the action taken or proposed to be taken on the recommendations and the reasons for the non acceptance, if any, of the such recommendations.</p>

Powers of the Commission	10.	<p>The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a Civil court trying a suit and in particular in respect of the following matters, namely:-</p> <ul style="list-style-type: none"> (a) summoning and enforcing attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) receiving evidence on affidavits; (d) requisitioning any public record or copy thereof from any office; (e) issuing commissions for the examination of witnesses and documents; and (f) any other matter which may be may be prescribed.
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<p>Periodic revision of the Schedule by the State Government</p>	<p>11.</p>	<p>(1) the State Government may at any time, and shall on the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revisions of the schedule with a view to excluding from it to schedule those classes who have ceased to be other backward classes or for including in the schedule new other backward classes.</p> <p>(2) The State Government shall, while undertaking any revision referred to in sub-section (1) consult the commission.</p>
		<p>CHAPTER-IV Finance Accounts and Audit</p>
<p>Grants by the State Government</p>	<p>12.</p>	<p>(1) The State Government shall after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by the way of grants such sums of money as the State Government may think fit for being utilized for the purposed of this Act.</p> <p>(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).</p>
<p>Accounts and Audit</p>	<p>13.</p>	<p>(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed.</p> <p>(2) The Accounts of the commission shall be audited by such auditor and at such intervals as may be prescribed.</p> <p>(3) The auditor shall have such powers of requiring the productions of books, accounts, connected vouchers and other documents and papers and for inspection any of the offices of the commission as may be prescribed.</p>
<p>Annual Report</p>	<p>14.</p>	<p>The Commission shall prepare annual report for each financial year, in such form and at such time, as may be prescribed, giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.</p>
<p>Annual Report and Audit Report to be laid before the State Legislature</p>	<p>15.</p>	<p>The State Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reason for the non-acceptance, if any, of any such advice, and the audit report to be laid, as soon as may be, after they are received, before the State Legislature.</p>

CHAPTER-V Miscellaneous		
Chairman, [two Vice-Chairman]¹ Members and Employees of Commission to be public servant	16.	The Chairman, [three Vice-Chairmen] ¹ Members and Employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.
Power to make Rules	17.	(1) The State Government may, by notification, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters namely: (a) salaries and allowances payable to, and the other terms and conditions of services of the Chairman, [three Vice-Chairmen] ¹ and Members under sub-section (8) of section 4 and the officers and other employees under sub-section (2) of section 5; (b) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 13; (c) the form in, and the time at, which the annual report shall be prepared under section 14; (d) any other matter which is required to be, or may be prescribed.
Penalty.	18.	Whoever being legally bound to obey any order or direction of the Commission under section 10, disobeys such order or direction shall be punishable under sections 174, 175, 176, 178, 179 or 180 of the Indian Penal Code, 1860, as the case may be.
Cognizance of offences	19.	No court shall take cognizance of any of the offences specified in section 18 except on a complaints in writing of the Chairman, [three Vice-Chairmen] ¹ or a Member or of an officer of the commission authorized in this behalf by the Commission.
Protection of action taken in good faith	20.	No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done, in pursuance of the provisions of this Act or the rules made there under.
Power to remove difficulties	21.	(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by a notified order, make provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty. (2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act. (3) The provisions of sub-section (1) of section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply to the order made under sub-section (1) as they apply in respect of rules made by the State Government under any Uttarakhand Act.

1. Sub. by section 3 of Uttarakhand Act No. 05 of 2016.

Exceptions	22.	Notwithstanding anything in this Act, the commission constituted by the Uttarakhand Government shall be deemed to have been duly constituted under the provision of this act and the term of three years of the Chairman, [Vice-Chairman] ¹ and other members of the said commission shall be computed from the date on which they has assumed charge of their respective offices.
Repeal and saving	23.	(1) The Uttarakhand Scheduled Castes, Scheduled Tribes and Other Backward Classes Act, 2001 is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the act referred to in sub-section (1) shall be deemed to have or taken under this Act.

1. Sub. by section 4 of Uttaranchal Act No. 01 of 2004.