

# Uttarakhand Audit Act, 2012

UTTARAKHAND

India

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### Act 02 of 2012

- Published on 1 January 2012
- Commenced on 1 January 2012
- [This is the version of this document from 1 January 2012.]
- [Note: The original publication document is not available and this content could not be verified.]

Uttarakhand Audit Act, 2012(Uttarakhand Act No. 02 of 2012)Last Updated 7th March, 2020An Act to make provision for, and to regulate audit of all Government machineries, Public Corporation, Governmental Companies, Institutions, Statutory Authorities, Panchayati Raj Institutions, Municipalities, Urban Local Bodies, Governmental Committees in the State of Uttarakhand.Be it enacted by the Legislature of State of Uttarakhand in the Sixty-Third Year of the Republic of India as follows: -

### 1. Short title, extent and commencement.

(1)This Act may be called the Uttarakhand Audit Act, 2012.(2)It extends to the whole of Uttarakhand.(3)It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

### 2. Definitions.

- In this Act :-(a)'Audit' includes test audit, concurrent audit cent-per-cent audit and special audit and also inspection of accounts by the officers appointed under section 3;(b)'Director' means the Director, Audit (with Local Funds Audit and Co-operative,Panchayat Audit) Department, Uttarakhand appointed under section 3 and inter-alia includes such officer on whom powers of the Director are conferred upon under sub-section (4) of said section;(c)'Auditor' also includes Director and all other Officers appointed under section 3 for their assistance;(d)'Local authority' means Municipal Board or Municipal Corporation, Notified Area Committee, Town Area Committee, Zila Parishad, Kshettra Samiti, Village Sabha or any other authority constituted for the purpose of local self-Government or village administration or legally entitled to or entrusted by the State Government with the control or management of municipal or local fund and includes any Society, Body or Institution, whether incorporated or not notified by the State Government by general or special order to be a local authority for the purposes of this Act;(e)'special audit' in relation to a local authority means an audit of account for a specified period or pertaining to a specified item or series

of items, of account requiring exhaustive checking conducted under the orders of the State Government or on the request of the Head of the Department, Head of the Office, Drawing and Disbursing Officer (with Local bodies, Co-operative, Panchayat Audit);(f)'test audit' means an annual audit of accounts of one or more months in a year selected at random by the auditor with a general review of the accounts of the year;(g)'concurrent audit' means a post audit of day-today accounts with a general review of the accounts from time to time;(h)'cent per cent audit' means a post audit of all the transactions of a particular account of a specified period;(i)'Prescribed Authority' in relation to a local authority means an officer or a body corporate appointed by the State Government, by notification in this behalf;(j)'Local Fund' means local fund as defined in Financial Hand Book, Volume -II, Part-1 to 4 and Volume-V, Part -1.(k)'Requisition' means clarification, intimation letter issued on demand by mentioned, authorized officers in section 3 of this Act in relation of audit of local authority and or his inspection;(l)'Section' means specified in any section of this Act;(m)'State Government' means Government of Uttarakhand ;(n)'Chief Secretary' means Chief Secretary to the Government of Uttarakhand;(o)'Administrative Department' means concerned Administrative Department of Government of Uttarakhand;(p)'Finance Department' means Finance Department of Government of Uttarakhand.(q)'Year' means a financial year;(r)The word 'Book Transfer' applies to such forms of financial transactions that do not include issuing of receipt of cash or non-receipt accounts. Such transactions normally represent the liabilities and assets of the Government, which are presented to the accounts for settlement or for any other reasons but they also represent corrections and amendments, which have already been taken into account and are related to transactions concerning cash, staff or transfer of books;(s)'Government Servant' means a person who is employed in a Government service and includes persons serving under State Government whose service conditions are prescribed by the Governor under Article 309 of 'the Constitution of India';(t)'Head of the Office' means the senior most gazetted officer of the office;(u)'Head of the Department' means an authority declared so by the State Government;(v)'Auditee' means the department/office whose audit is being conducted, such as Head of the Department, Head of the Office, Drawing and Disbursement officer (including local body, co-operative, Panchayat audit);

### **3. Appointment of Director and other Audit Officers.**

(1)An organizational structure shall be constituted for performing the Audit Work.(2)The State Government may, on such terms and conditions as may be determined by it, appoint the Director, and every such officer, and may make provisions with regard to the appointment and conditions of service of their staff.(3)The persons appointed in such area, as the appointing authority may specify, exercise such powers and perform such duties as may be conferred or imposed on them by or under this Act.(4)The State Government may, by notification, confer upon the powers of the Director to any officer not below the rank of a Class I officer.(5)The Internal Audit in various Departments shall be centralized within the Finance Department and shall be outside the purview of individual departments.(6)The State Government may permit to conduct audit through out-sourcing from any eligible Firm, Company or Institution, Society.

#### **4. Accounts subject to audit and payment of audit fees.**

(1)The State Government may, from time to time, by notification, specify the auditee, accounts of which are to be audited.(2)On the issue of notifications under sub-section (1), the accounts of auditee, shall, notwithstanding anything contained in any enactment by or under which such auditee is constituted or any rules made there under, be subject to audit in manner provided by or under this Act.(3)The auditee, whose accounts are to be audited, shall be liable to pay audit fees at the rates fixed by the State Government from time to time.(4)The State Government, from time to time, may determine or re-determine the fees for man-days as per requirements. The calculation of fees for conducted audit shall be made on the basis of man-days prescribed for the audit.

#### **5. Production of Records for Audit.**

- The auditee, whose accounts are subject to audit, shall produce or cause to be produced all accounts, returns, registers, files and correspondence or any other documents as may be demanded by the auditors, for audit.

#### **6. Power of Auditor to require production of records and attendance of persons.**

(1)For the purpose of any audit under this Act, the auditors may -(a)require the auditee, in writing, to produce or cause to be produced such vouchers, returns, accounts, registers, files and correspondence or any other voucher documents in relation to accounts, as the auditors may think fit, at such place as the attendance of persons auditors may direct at and within a given reasonable time.(b)Require in writing -(i)any salaried servant of the auditee, accountable for, or having the custody of or control of, such vouchers, returns, accounts, files and correspondence or other documents to appear in person; or(ii)may direct any person having directly or indirectly any share or interest in any work under the auditee or any person whose presence is deemed necessary for explaining any difficulty or circumstances to appear in person or by an authorised agent before him, at the place directed in the order and answer any question;(c)require the officer under auditee, to meet them at a place, where the audit of the account is being conducted or such other place, as the auditor may direct, and specify in writing the point on which the explanation is required.(2)The auditor may, in any requisition or intimation sent under sub-section (1) fix a reasonable period not being less than three days within which the said requisition or intimation shall be complied with.(3)The auditor shall give auditee whose accounts are to be audited not less than two weeks notice in writing of the date on which he proposes to commence the audit :Provided that the auditor may, on direction by the State Government or the Director, start the audit by giving a shorter notice or without giving any notice recording the reasons thereof in writing.(4)The Auditor shall, in connection with the performance of their duties under this Act, have authority: -(a)to inspect the accounts of auditee including physical verification of assets, such as cash, valuables and stores;(b)to require that any registers, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the transactions to which their duties in respect of audit extend, shall be sent to such place and on such dates as they may appoint for their inspection;(c)to put such queries

or make such observations as they may consider necessary, to the person in-charge of the office and to call for such information as they may require for the purpose of the audit or the preparation of any account or report which is their duty to prepare.

## **7. Penalty for disobeying under section 6.**

- Act of willful negligence or refusal to comply with any requisition of records lawfully made under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (a) or clause (b) or clause (c) of sub-section (4) of section 6 shall be a case of doubtful integrity and the person who so willfully neglects or refuse to comply with requisition of records lawfully made shall be liable to disciplinary actions under the service rules applicable.

## **8. Audit report to be sent to the Head of the Department, Head of the Office, Drawing and Disbursing officer (with Local bodies, Co-operative, Panchayat Audit) and certain other officers and bodies.**

(1)As soon as practicable after completion of the audit, the result of audit shall be communicated to the Auditee in such form and containing such particulars as may be prescribed, in two parts, namely - (a) the Audit and Inspection Note dealing with the general and important matters which require particular attention, and (b) the objection statement containing outstanding objections dealing with minor and technical irregularities. (2) Copies of Audit and Inspection Note shall be sent to such officers and authorities as may be deemed considered necessary by the Director. (3) The Director shall prepare or cause to be prepared a consolidated report of accounts and shall forward the same to the State Government every year, for being laid before the State Legislative Assembly.

## **9. Procedure to be followed after report of the Director under section 8.**

(1) On receipt of the report under section 8, the auditee shall take immediate action and record replies within one month against each point raised therein, showing the action taken or proposed to be taken thereon. Thereafter, the audit report along with the comments of the auditee shall be considered and decision taken in a special meeting of the auditee concerned to be held within three months from the date of receipt of the audit report. (2) It shall be the responsibility of the auditee to see that the errors and irregularities pointed out in audit notes and objection statement are removed or settled promptly and with due respect. (3) An annotated copy of the audit report along with the comments of the auditee and the decision of the auditee on each point shall be sent to the Director or the officer appointed by him within one month of the holding of the meeting referred to in sub-section (1). The annotated copy will show against each para the name or names of officials responsible for irregularities and the action taken or proposed to be taken against them. Further correspondence regarding the disposal of audit objection shall be conducted directly between the auditee and the Director or the officer authorised by him. (4) On receipt of the annotated copy of the audit note along with the comments of the auditee and the decision of the auditee, the Director or the officer authorised by him in this behalf may, in respect of all or any of the matters dealt with in the report - (a) accept the action taken by the auditee and settle the objection; or (b) direct that the

matter be further investigated at the next audit or at any earlier date; or(c)hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.(5)(a)If it is held that any defect or irregularity in the accounts of the auditee, pointed out in the report, has not been removed or remedied within a reasonable time, the Director may specially bring the matter to the notice of the Prescribed Authority and the State Government may, subject to any law for the time being in force, direct any such action as may be considered necessary;(b)For the purpose of establishing co-ordination in audit work, audit committees shall be constituted at the Chief Secretary, Administrative Department and Head of the Department level. The meeting of these committees shall be held regularly and audit reports received shall be reviewed. Special attention shall be given to the important matters like misappropriation of Government money, defalcation and fraud so that the guilty are timely punished;(c)If the committee notices case of misappropriation of Government money in audit report, the matter shall be probed and the responsibility of the Government servant responsible shall be fixed. Efforts shall be made to recover the Government money immediately and Finance Department shall be informed of the action taken;(d)The auditee shall keep a close watch on objections raised in audit and on the progress made in settlement of inspection reports. The auditee shall submit the required information in this regard immediately to the Administrative Department;(e)Periodic meetings of departmental officers shall be called upon to dispose off the objections and the inspection reports of all audits under consideration and appraise the Administrative Department with the results.

## **10. Director to surcharge illegal payment or loss caused by gross negligence or misconduct.**

(1)If, after giving the person concerned a reasonable opportunity for showing cause, the Director is satisfied that the loss, waste or misappropriation of any money or property of the auditee, is a direct consequence of misconduct on the part of delinquent person, or gross neglect on his part, or that the said person being a party to making or authorising the making of the illegal payment, the Director, notwithstanding anything contained in law for the time being in force, may, by order in writing, direct such person to pay to the auditee before a specified date the amount together with interest thereon, as may be found just and equitable to reimburse the auditee for such loss, waste or misapplication of its money or property:Provided that no order of surcharge shall be made under this Act against any auditee, member or servant of any auditee after the expiry of ten years from the concurrence of such loss, waste or misapplication of money or property or after expiry of six years from the date of his ceasing to be a auditee, member or servant of the auditee, whichever is later :Provided further that in the case of loss, waste or misapplication of money or property occurring as a result of a resolution of an Auditee or, of any of its committees or sub-committees, the amount of the loss to be recovered shall be divided equally among all members including office bearers who are reported in minutes of the Auditee or of its committees or sub-committees as having voted for or who remained neutral in respect of such resolution :Provided also that in case of superseded local bodies, Cooperative, Panchayat audit, if loss of waste or misapplication of money or property is due to any action of the Administrator or officer in charge who is a Government servant, the matter shall be reported by the Director to the State Government for necessary action :Provided also further that the liability of a legal representative of a deceased delinquent person shall be to the extent of the property of the deceased, which has come to the hands of such legal representative.(2)If the person

to whom a copy of the decision is furnished under sub-section (1) refuses to receive it he shall be deemed to have duly received it on the day on which the copy was refused by him.(3)If he is not available at the time of final order its gist along with the operative portion shall be sent to him at his last known address by registered post or shall be affixed at his last known residence and shall be proclaimed by beat of drum in the locality and this will give rise to a presumption of due service.

## **11. Appeal against order of surcharge.**

(1)Any person aggrieved by an order made under sub-section (1) of section 10 may within thirty days from the date of receipt of the order by him, prefer an appeal in the prescribed manner to the State Government.(2)The State Government, while hearing an appeal preferred under sub-section (1), follow such procedure as may be prescribed.(3)The order passed by the State Government, in the appeal shall be final.

## **12. Recovery of charges as arrears of land revenue.**

- The sum stated in the order of surcharge under Section 10 or Section 11, as the case may be shall be paid by the person surcharged, within sixty days of the date of the order, and if not so paid, may, on the application of the director be recovered by the collector as arrears of land revenue and deposited in the fund of the audittee in the manner prescribed.

## **13. Payment of charges etc.**

- All expenses incurred by the Audittee Department in compliance with any requisition made by the auditor under sub-section (1) of section 6 or by the Auditor under sub-section (4) of section 6 shall be payable out of the funds of that audittee.

## **14. Director, Auditor etc. to be public servant.**

- The Director and the officers and Auditors working under the Director and exercising or authorized to exercise powers under this Act or the Rules made thereunder shall be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

## **15. Bar of suits.**

- Save as, provided in this Act, no suit or other proceedings shall be brought in any civil court to call in question any order lawfully made by any authority under this Act.

## **16. Protection for acts done in good faith.**

- No suit, prosecution or other proceedings shall lie against the State Government, Director or any other officer, auditor or subordinate to good faith the Director for anything done or purporting to have been done, in good faith, under this Act.

## **17. Inspections of records by the Auditor.**

(1)The State Government may, by notification, appoint such persons as it thinks fit to be audit officer, audit-in-charge, from amongst the officers appointed under section 3 for the purposes of this Act, and define the local limits of their jurisdiction.(2)Subject to any rules made in this behalf, any officer may, within the local limits of his jurisdiction-(a)enter at all reasonable hours, with such assistance, if any, or persons in the service of the Government or any local or other public authority as he thinks fit and as approved by the Director or the person authorized by him, any premises or place for the purpose of examining any register or record or papers in connection with the audit proceedings under the orders of the Director or the Auditor, or any other person in charge of the audit proceedings, and require the production thereof for inspection;(b)interrogate any person on the spot to elicit information;(c)seize or take copies or sign such record or papers as may be necessary to carry out the directions of his superior officers;(d)exercise such other powers as may be prescribed.

## **18. Miscellaneous.**

- For the purpose of any examination or audit under this Act, the Director or the Auditor and for purpose of appeal, the appellate authority shall have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 (Act No. V of 1908), when trying a suit in respect of the following matters, namely- ,(a)summoning and enforcing the attendance of any person and examining him on oath;(b)issuing commissions :(c)receiving evidence on affidavits;(d)require the documents to be revealed and submitted;(e)any other matter which may be prescribed.

## **19. Savings.**

(1)Any proceeding relating to surcharge, pending under any law for the time being in force immediately before the commencement of this Act, shall be disposed of, and any order passed in any such proceeding shall be enforced, in accordance with such law as if the provisions of this Act were not in force.(2)Save as provided in sub-section (1), all proceedings relating to surcharge in respect of any local authority to which this Act applies, shall after the commencement of this Act, be taken and disposed of under this Act, notwithstanding anything to the contrary contained in any law for the time being in force.

## **20. Power to make rule.**

(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 power such rules may provide for all or on any of the following matters, namely-(a)to regulate notification of the Audittee Department whose accounts to be audited by the Director;(b)the rate of audit fee to be paid by the Audittee Department for audit of accounts under sub-section (3) of section 4 of the Act, and the mode of its payment and realization;(c)the form and manner in which accounts shall be submitted for audit;(d)the powers and duties of auditor and the procedure to be followed for conducting audit

and the time and places at which such audit may be conducted;(e)the powers and duties of the Director;(f)enquiry, appeal and recovery in respect or surcharge;(g)inspection of records by the auditors.

## **21. Repeal and saving.**

(1)The Uttar Pradesh Local Fund Audit Act, 1984 (Uttar Pradesh Act No. 12 of 1984) (to the context of State of Uttarakhand) is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.