

Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006

UTTARAKHAND

India

Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006

Act 14 of 2006

- Published on 1 January 2006
- Commenced on 1 January 2006
- [This is the version of this document from 1 January 2018.]
- [Note: The original publication document is not available and this content could not be verified.]

1. [Amended by The Uttarakhand Unaided Private Professional Education Institution (Regulation of Admission and Fixation of Fee) (Amendment) Act, 2018 (Act 26 of 2018) on 1 January 2018]

Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006(Uttarakhand Act No. 14 of 2006)Last Updated 9th March, 2020An Act to provide for regulation of admission and determination of fee in professional educational institutions in the State of Uttarakhand and to provide for reservation of seats to persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes in the seats in professional educational institutions.Be it enacted in the Fifty Seven year of the Republic of India by the Uttarakhand Legislative Assembly as follows:-Chapter - I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006.(2)It extends to the whole of Uttarakhand.(3)It shall come into force at once.

2. Applicability.

- This Act applies to Unaided private professional educational institutions affiliated to State Funded Universities, Councils, Boards or other bodies established under Law, excluding minority

institutions.

3. Definitions.

- In this Act, unless the context otherwise requires--(a) ["Admission and Fee Regulatory Committee" means the committee constituted by the State Government under section 4 for regulating the admissions, and determination and regulation of fee of private institutions excluding minority institutions;] [Substituted/repeal by section 3(i) of UK Act no 26 of 2018.](b) "Permanent residents of Uttarakhand" means permanent residents as defined by the Government of Uttarakhand from time to time;(c) "Common Counseling" means the allotment of seats through a single window procedure to the candidates based on merit obtained in the Common Entrance Test and options given by the candidates;(d) "Common Entrance Test" means the written test, conducted for determination of merit of the candidates for a particular professional course or combined test for more than one professional course;(e) [***] [Substituted/repeal by section 3(i) of UK Act no 26 of 2018.](f) "Fee" means all fees including tuition fee and development charges;(g) "General Category Seats" means the seats other than the reserved seats;(h) "Government" means the Government of Uttarakhand;(i) "Government/Government Aided Professional Institution" means a professional institution established/ maintained or substantially owned by the State Government;(j) "Governor" means Governor of the State of Uttarakhand;(k) ["Government seats" means such seats of private institutions as notified by the State Government;] [Substituted by section 3(i) of UK Act no 26 of 2018.] Provided that such seats shall not exceed 50% of total seats in the course;(l) ["Management" means any person or body by whatever name called, managing or controlling the private institutions;] [Substituted by section 3(i) of UK Act no 26 of 2018.](m) 1("Minority" means community notified under clause (f) of section 2 of National Commission for Minority Educational Institutions Act 2004 (Act No 2 year 2005);(mm) ["Minority Institution" means any institution established and managed by any minority person after obtaining no objection under subsection 4 of section 10 of the National Commission for Minority Educational Institutions Act 2004 (Act No 2 year 2005) or any institution declared by authority established by State Government or National Commission for Minority Education Institution for this purpose;] [Inserted by section 3(ii) of UK Act no 26 of 2018.](n) "Non-resident Indian" means a candidate born to a parent of Indian origin and residing outside the country and who has passed the qualifying equivalent examination outside India;(o) "Other Backward Classes" means the backward classes of citizens specified in Schedule 1 of Uttarakhand the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 (Adaptation and Modification) Order, 2001;(p) ["Private Institutions" means Unaided private professional higher educational institutions on which this Act applies;] [Substituted/repeal by section 3(iii) of UK Act no 26 of 2018.](q) "Professional Educational Courses" means course(s) of study notified as "professional course (s)" for the purpose of this act by the State Government leading to the award of a Degree, Diploma or Certificate by whatever name called;(r) [***] [Substituted/repeal by section 3(iii) of UK Act no 26 of 2018.](s) "Qualifying examination" means an examination as may be prescribed;(t) ["Reserved Seats" means the seats notified by the State Government as reserved in private institutions for Scheduled Castes, Scheduled Tribes and Other Backward Classes;] [Substituted/repeal by section 3(iii) of UK Act no 26 of 2018.](u) "Sanctioned intake" means and implies the total number of seats sanctioned by the competent authority for admitting students in each course of study in a professional educational

institution;(v)"State Funded University" means a university established or incorporated by an Act of the State Legislature and funded by the State Government;(w)"State Legislature" means Vidhan Sabha of Uttarakhand;(x)"Unaided Institution" means a private professional educational institution, not being an aided institution or minority institution;(y)"University" means a University so declared under Law;(z) ["Authority" means The Appellate Authority constituted by the State Government under section 12 of the Act; [Inserted by section 3(iv) of Uttarakhand Act no 26 of 2018.](za)"Scheduled Caste" means any caste specified as Scheduled Caste with respect to the State of Uttarakhand under Article 341 of the Constitution;(zb)"Scheduled Tribe" means any tribe specified as scheduled tribe with respect to the State of Uttarakhand under Article 342 of the Constitution.]Chapter - II Admission And Fee Regulatory Committee

4. Composition, Disqualifica-tion and functions.

- [(1) The State Government shall constitute an Admission and Fee Regulatory Committee comprising:-

- | | |
|--|----------------------|
| (a) Retired Judge of High Court of nominated by the State Government | - Chairman |
| (b) Principal Secretary/Secretary, Medical Education(Ex-Officio) | - Member |
| (c) Principal Secretary/Secretary, Technical Education (Ex-Officio) | - Member |
| (d) Principal Secretary/Secretary, Law (Ex-Officio) | - Member |
| (e) A Retired Government Officer retired from a post not below the rank of Secretary to the State Government nominated by the State Government | - Member |
| (f) One Ex-Vice- Chancellor of the State University nominated by the Governor | - Member |
| (g) Two Eminent Educationist nominated by the State Government | - Member |
| (h) A renowned Chartered Accountant as defined in the rules nominated by the State Government | - Member |
| (i) Principal Secretary/Secretary, Higher Education(Ex-Officio) | - Member Secretary.] |

(2)[The committee shall come into force from the date of its notification and the term of office of the nominated members shall be 03 years from the date of nomination or until they attain 65 years of age, whichever is earlier;] [Substituted by section 3 of Uttarakhand Act No. 20 of 2010.] Provided that the term of office of the Chairman of the The Admission and Fee Regulatory Committee shall be for a period of three years or until the attainment of age of 68 years whichever is earlier and in case of any vacancy arising earlier in the Committee, for any reasons, the State Government shall fill such vacancy, not later three months from the date of occurrence vacancy, for the remainder of the term.(3)No act or proceeding of the Committee shall be deemed to be invalid by the reason merely of any vacancy in, or any defect in the constitution of the committee.(4)[No person, who is associated with any private institution in any manner, shall be eligible for being as Chairman or a member of the Admission and Fee Regulatory Committee.] [Substituted by section 4 of UK Act no 26 of 2018.](5)[(i) The Chairman or a Member may, by writing under his hand addressed to the State Government, resign from the office of the Chairman or a Member, as the case may be, at any time.(ii)The State Government shall remove a person from the office of the Chairman or a Member

referred to in sub-section(i) if the person :-(a)becomes an undischarged insolvent;(b)is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;(c)refuses to act or becomes incapable of acting;(d)has, in the opinion of the State Government, so abused the position of the Chairman or any Member as to render that person's Continuance in office detrimental to the public interest or the Chairman or any Member of the Committee shall be removed, if he performs any act, which in the opinion of State Government is unbecoming of Chairman or member of the Committee;]Provided that, no such Chairman or any member shall be removed by the State Government without giving him an opportunity of being heard.(6)The Chairman shall preside over the meeting of the committee and in absence of Chairman the committee shall choose one of its members for chairing that particular meeting and the Committee may adopt its own procedure as it deems fit.(7)[***] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](8)[The Committee shall also hear complaints with regard to admission in contravention of the procedure laid down by the Committee. The Committee, after obtaining the evidence and explanation from the management concerned may take decision that the private institution has violated the procedure prescribed for admission or not. The committee may impose penalties.] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](9)The Committee shall have the power to regulate its own procedure not in consistent with the provisions of this Act in all matters arising out of the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all the powers of a civil Court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-(a)Summoning and enforcing the attendance of any witness and examining him on oath.(b)The discovery and production of any document.(c)The reception of evidence on affidavits.(d)The issuing of any commission for the examination of witness.(10)[The committee or any officer authorized by it shall have power to inspect at any stage of the process of admission. If the committee arrives at the opinion that the admission process conducted by the private institution contravenes the specified procedure, the committee, after giving an opportunity of being heard may, penalize the institution.] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](11)[***] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](12)[The Committee shall determine the fees for admission to professional courses of private institutions.] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](13)[Before the commencement of the academic year, it shall be compulsory for every private institution to place before the committee the proposed fee structure of professional courses with all relevant documents and books of accounts for determination of fees.] [Substituted/repeal by section 4 of UK Act no 26 of 2018.]The committee after considering all the documents placed before it, shall determine the fee within one month maximum.In case the proposal for fixation of fee for professional courses is not placed before the committee, the private institution shall not run the course. Therefore the private institution shall not give admission in such course.(14)[The fee determined by the committee shall be applicable on the private institution for a period of three years. After the expiry of the period of three years, the institution would be at liberty to apply for revision. The fee so determined shall be applicable to a candidate who is admitted to an institution in that academic year and that fees shall not be revised till the completion of his/her course in the said private institution.] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](15)[The committee may enquire the following matters with regard to private institutions :-(a)Complaints with regard to collection of capitation fee.(b)Fee charged in excess of the fee determined.(c)Profiteering.(d)Violation of any of the provisions of this Act.In all such cases, the

committee, after obtaining evidence and the explanations from the management concerned may issue directions or forward appropriate recommendations including withdrawal of affiliation to concerned university or imposition of penalty by the State Government after necessary action.] [Substituted/repeal by section 4 of UK Act no 26 of 2018.](16)The State Government shall notify the remuneration and terms and conditions of service of the members of the committee.Chapter - III
Fixation Of Fee

5. Factors for Determination of Fee.

- [(1) Having regard to -(a)The location of the private institute;(b)The nature and requirements of the professional courses;(c)The cost of land and building,(d)The available infrastructure,(e)The expenditure on administration and maintenance;(f)A reasonable surplus required for growth and development of the professional institution,(g)Any other relevant factor;The Admission and Fee Regulatory Committee shall determine, in the manner prescribed the fee or fees to be charged by the private institutions.] [Substituted by section 5 of UK Act no 26 of 2018.](2)No professional educational institution shall collect any fee by whatever name or form called from the candidate for admission to professional educational courses over and above the fee determined by the Committee.(3)[The Committee may determine different fees in respect of different courses of professional education being offered at different institutions depending upon the factors as mentioned above and it may place similarity placed institutions in broad groups;] [Substituted by section 5 of UK Act no 26 of 2018.]Provided that the committee may fix higher fee to be collected by the private institutions from the non-resident Indian students for admission.(4)The Admission and Fee Regulatory Committee shall give the institution an opportunity of being heard before fixing any fee or fees.Chapter - IV Admissions

6. Eligibility.

- [No candidate shall be admitted to a private institution unless the candidate possesses such educational or equivalent qualification as may be prescribed;Provided that the candidates who are not permanent residents of the State of Uttarakhand shall be eligible for admission only to fifty percent seats out of the total sanctioned intake in Private Institution.] [Substituted by section 6 of UK Act no 26 of 2018.]

7. Allocation of Government seats.

- [All Government seats shall be filled through a common entrance test and common counseling.] [Substituted by section 7 of UK Act no 26 of 2018.]

8. Allocation of Other seats.

- [(1) In an private institution, all seats other than the Government seats shall be filled through a Common Entrance Test and other common counseling.] [Substituted/repeal by section 8 of UK Act no 26 of 2018.](2)Seats upto ten percent may be filled from amongst the non-resident Indian

candidates.(3)(***).

9. Reservation of seats.

- [Private institution shall reserve seats for candidates belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes from out of the total sanctioned intake seats in such a manner as notified by the State Government; Provided that where the seats reserved for the Scheduled Castes, Scheduled Tribes and Other Backward Classes in private institution are left unfilled due to non-availability of the candidates, the same shall be filled from the candidates belonging to the same category appeared in common entrance test in order of merit based on waiting list; Provided further that if seats remain unfilled even thereafter, the same shall be filled by inviting applications again from the candidates of same category based on merit of Qualifying Examination; Provided also that if seats of a private institution remain unfilled even thereafter due to non availability of candidates, such seats shall be filled from the students belonging to non-reserved categories in the order of merit based on waiting list, described in section 8 of this Act.] [Substituted by section 9 of UK Act no 26 of 2018.]

10. Allocation of unfilled seats.

- [In case seats other than reserved seats, whether government and General seats or otherwise, remain unfilled due to non-availability of candidates through common entrance test and common counseling, such unfilled seats shall be filled from the candidates appeared in common entrance test in the order of merit based on waiting list; Provided that if the seat or seats of a private institution remain unfilled even thereafter due to non-availability of candidates, the same shall be filled from the candidates of same category based on merit of Qualifying Examination by inviting applications again.] [Substituted by section 10 of UK Act no 26 of 2018.]

11. invalidation of admissions made in violation of the Act.

- Any admission made in violation of the provisions of this Act or the rules made thereunder shall be invalid. Chapter - V Miscellaneous

12. Appeals.

- [(1) The State Government shall appoint an Appellate Authority which shall consist of the following :- (a) A retired judge of High Court nominated by the State Government. (b) One Retired Government officer retired from a post not below the rank of Chief Secretary or equivalent nominated by the State Government; (c) One Eminent Educationist to be nominated by the Governor. A person or private institution aggrieved by the order of Admission and Fee Regulatory Committee may file an appeal within a period of one month of receiving such order. (2) The Authority shall come into existence from the date of its notification and the office of the nominated members shall be for a period of three years or until they attain the age of sixty-five years whichever is earlier; Provided that the office of the Chairman of the Authority shall be for a period of three years or until the attainment

of age of 68 years whichever is earlier and in case of any vacancy arising earlier in the Authority, for any reasons, the State Government shall fill such vacancy, not later three month from the date of vacancy, for the remainder of the term.] [Substituted by section 11(i) of UK Act no 26 of 2018.](3)[No act or proceeding of the Appellate Authority shall be deemed to be invalid by the reason merely of any vacancy in or any defect in the constitution of the Authority.(4)No person who is associated with any private institution in any manner shall be eligible for being as Chairman or a Member of the Authority.(5)(1) The Chairman or a Member may, by writing under his hand addressed to the State Government, resign from the office of the Chairman or, as the case may be, of the Member at any time.(2)The State Government shall remove a person from the office of the Chairman or a Member referred to in sub-section(1) if the person :-(a)becomes an undischarged insolvent;(b)is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;(c)refuses to act or becomes incapable of acting;(d)has, in the opinion of the State Government, so abused the position of the Chairman or any Member as to render that person's Continuance in office detrimental to the public interest or the Chairman or any Member of the Authority shall be removed, if he performs any act, which in the opinion of State Government is unbecoming of Chairman or Member of the Authority;Provided that, no such Chairman or any Member shall be removed by the State Government without giving him an opportunity of being heard.(6)The Chairman shall preside over the meeting of the Authority and in absence of Chairman, the Authority shall choose one of its members for chairing that particular meeting and the Authority may adopt its own procedure as it deems fit.] [Inserted by section 11(ii) of UK Act no 26 of 2018.]

13. Penalty.

- [If any person or private institution violates the provisions of this Act, the Admission and Fee Regulatory Committee or Appellate Authority may take one or more of the following action against such institution/person --(a)Direct the withdrawal of affiliation of such institution from the statutory body with which such institution is affiliated or recognized or direct the appropriate authority to withdraw the recognition of such institution;(b)Direct the statutory body, university or board which grants degrees, diplomas or certificates to such institution to cancel the admission and registration of such students admitted in violation of this Act;(c)Direct the institution to admit any students to whom admission has wrongly been denied due to non-compliance of the provisions of this Act;(d)Impose financial penalties for each violation of the Act which shall not be less than Rupees ten lakh per violation and which shall be recovered by the State Government as arrears of land revenue;(e)Impose penalty in case of charging fee in excess of prescribed fee by the concerned private institution which can be upto five to ten times of excess fee charged per person/student. The minimum amount of penalty shall be 10 lakh;(f)Order the institution to refund to a student within such time as specified in the order, any amount received by it in excess of the fees fixed by the Committee or any amount received by way of capitation fee or any amount received for profiteering;(g)Order the institution to stop admission or reduce the sanctioned intake in any professional course for such period as it may deem fit;(h)All such directions or orders shall be binding on private institutions:Provided that, before any action is taken as mentioned above, a reasonable opportunity of hearing shall be provided to such person or institution by the admission and fee regulatory committee and or appellate authority.] [Substituted by section 12 of UK Act no 26

14. Act to have overriding effect.

- [The provisions of this Act shall have overriding effect notwithstanding anything inconsistent contained in any other Act.] [Substituted by section 13 of UK Act no. 26 of 2018.]

15. Power to make Rules.

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

16. Rules to be laid before Legislature.

- Every rule made under this Act shall be laid, as soon as may be after it is made, before State Legislature, while it is in session for a total period of thirty 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 of the successive sessions aforesaid, if House agrees in making any modification in the rule or agree that the rule 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; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. Power to remove difficulties.

- [(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification or order, make such provisions which are not inconsistent with the provisions of this Act, as appears to be necessary or expedient, for removing the difficulties.(2)Every Order made under this section shall, as soon as may be after it is made, be laid before State Legislative Assembly.] [Substituted by section 14 of UK Act no. 26 of 2018.]

18. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or the members of the admission and fee regulatory committee and the appellate authority, for anything, which is in good faith done or intended to be done under this Act.

19. Transitory provisions.

- Till the admission and fee regulatory committee under section 4 of this Act is constituted and established the committees constituted by the State Government under Hon'ble Supreme Court Judgment in Islamic Academy of Education and others Vs State of Karnataka shall continue to be in existence and shall remain functional. These committees may exercise all or any of the powers and

Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006
responsibilities conferred under this Act.

20. Repeal and Saving.

(1)The Uttarakhand Non-Minority Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Ordinance, 2006, is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.[Substituted by section 4 of UK Act no 26 of 2018.]