

The U.P. Public Services (Reservation For Scheduled Castes, Scheduled Tribes And Other Backward Classes) Act, 1994

UTTAR PRADESH

India

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Act 4 of 1994

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The U.P. Public Services (Reservation For Scheduled Castes, Scheduled Tribes And Other Backward Classes) Act, 1994(U.P. Act No. 4 Of 1994)Statement Of Objects And Reasons - The reservations in the public services in connection with the affairs of the State in favour of physically handicapped, dependents of freedom fighters and ex-servicemen were 2 per cent, 5 per cent and 8 per cent respectively and were so far regulated by the Government Orders issued from time to time. In view of the Supreme Court judgment dated November 16, 1992 in Indra Sawhney v. Union of India, 1992 Supp. (3) SCC 217, increase in reservation in favour of backward classes of citizens up to 27 per cent, and consequent reduction of reservation in favour of the said categories of persons was considered necessary. It was decided that five per cent vacancies should be reserved in favour of the said categories of persons and the respective quota of the said categories should be such as may be decided by orders of the State Government issued from time to time. It was also considered necessary to regulate the said reservations by an enactment like that of the enactment for the reservation in favour of backward classes of citizens.Since the State legislature was not in session and immediate legislative action in the matter was necessary the Uttar Pradesh Public Services (Reservation for Physically Handicapped etc.) Ordinance, 1993 (U.P Ordinance No. 4 of 1993) was promulgated by the Governor on December 11,1993.This Bill is introduced to replace the aforesaid Ordinance.(As passed by the U.P. Legislature)[March 22, 1994]Received the assent of the Governor on 22.03.1994 and published in the U.P. Gazette, Extraordinary, Part I, Section (Ka) dated 23.03.1994.An Act to provide for the reservation in public services and posts in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens and for matters connected therewith or incidental thereto.It is hereby enacted in the Forty-fifth year of the Republic of India as follows:

1. Short title and commencement. -

(1) This Act may be called the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994. (2) It shall be deemed to have come into force on December 11, 1993.

2. Definitions. -

In this Act, -(a) "appointing authority" in relation to public services and posts means the authority empowered to make appointment to such services or posts : (b) ["Other Backward Classes of citizens" means the backward classes of citizens specified in Schedule I;] [Substituted by U.P. Act No. 1 of 2002 (w.e.f. 15.09.2001).] [x x x] [Clauses (b-1), (b-2) and (b-3) omitted by U.P. Act No. 1 of 2002.] (c) "public services and posts" means the services and posts in connection with the affairs of the State and includes services and posts in -(i) a local authority; (ii) a co-operative society as defined in clause (f) of Section 2 of the Uttar Pradesh Co-operative Societies Act, 1965 in which not less than fifty-one per cent of the share capital of the society is held by the State Government; (iii) a Board or a Corporation or a statutory body established by or under a Central or a Uttar Pradesh Act which is owned and controlled by the State Government, or a Government company as defined in Section 617 of the Companies Act, 1956 in which not less than fifty-one per cent of the paid-up share capital is held by the State Government; (iv) an educational institution owned and controlled by the State Government or which receives grants-in-aid from the State Government, including a university established by or under a Uttar Pradesh Act, except an institution established and administered by minorities referred to in clause (1) of Article 30 of the Constitution; (v) respect of which reservation was applicable by Government Orders on the date of the commencement of this Act and which are not covered under sub-clauses (i) to (iv); (d) "year of recruitment" in relation to a vacancy means a period of twelve months commencing on the first of July of a year within which the process of direct recruitment against such vacancy is initiated.

3. Reservation in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes. -

[(1) In public services and posts, there shall be reserved at the stage of direct recruitment, the following percentage of vacancies to which recruitment's are to be made in accordance with the roster referred to in sub-section (5) in favour of the persons belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens, -

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| (a) in the case of Scheduled Castes | Twenty-one per cent; |
| (b) in the case of Scheduled Tribes | Two per cent; |
| (c) in case of Other Backward Classes of citizens | Twenty-seven per cent: |

Provided that the reservation under clause (c) shall not apply to the category of Other Backward Classes of citizens specified in Schedule II: Provided further that reservation of vacancies for all categories of persons shall not exceed in any year of recruitment fifty per cent of the total vacancies of that year as also fifty per cent of the cadre strength of the service to which the recruitment is to be

made;(2)If, in respect of any year of recruitment any vacancy reserved for any category of persons under sub-section (1) remains unfilled, such vacancy shall be carried forward and be filled through special recruitment in that very year or in succeeding year or years of recruitment as a separate class of vacancy and such class of vacancy shall not be considered together with the vacancies of the year of recruitment in which it is filled and also for the purpose of determining the ceiling of fifty per cent reservation of the total vacancies of that year notwithstanding anything to the contrary contained in sub-section (1);] [Substituted by U.P. Act No. 1 of 2002.](3)[Where a suitable candidate belonging to the Scheduled Tribes or Scheduled Castes, as the case may be, is not available in a recruitment either under sub-section (1) or sub-section (2) the vacancy reserved for him may be filled in such recruitment, from amongst the suitable candidates belonging to the Scheduled Castes or Scheduled Tribes, as the case may be, and as soon as a vacancy earmarked in the losses referred to in sub-section (5) for the Scheduled Castes or Scheduled Tribes, as the case may be, arises such person belonging to Scheduled Castes or Scheduled Tribes, as the case may be, shall be adjusted against such vacancy of his own category.] [Substituted by U.P. Act No. 45 of 2007 (w.e.f. 25.08.2007).][x x x] [Sub-section (3-A) and (3-B) omitted by U.P. Act No. 1 of 2002.](4)[x x x] [Sub-section (4) omitted by U.P. Act No. 1 of 2002.](5)[The State Government shall for applying the reservation under subsection (1), by a notified order, issue a roster comprising the total cadre strength of the public service or post indicating therein the reserve points and the roster so issued shall be implemented in the form of a running account from year to year until the reservation for various categories of persons mentioned in sub-section (1) is achieved and the operation of the roster and the running account shall, thereafter, come to an end, and when a vacancy arises thereafter in public service or post the same shall be filled from amongst the persons belonging to the category to which the post belongs in the roster.] [Substituted by U.P. Act No. 1 of 2002.](6)If a person belonging to any of the categories mentioned in subsection (1) gets selected on the basis of merit in an open competition with general candidates, he shall not be adjusted against the vacancies reserved for such category under sub-section (1).(7)If, on the date of commencement of this Act, reservation was in force under Government Orders for appointment to posts to be filled by promotion, such Government Orders shall continue to be applicable till they are modified or revoked.

4. Responsibility and powers for compliance of the Act. -

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

5. Penalty. -

(1)Any appointing authority, or officer or employee entrusted with the responsibility under sub-section (1) of Section 4 who wilfully acts in a manner intended to contravene or defeat the purposes of this Act shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.(2)No Court shall take cognizance of an offence under this section except with the previous sanction of the State

Government or an officer authorised in this behalf by the State Government by an order.(3)An offence punishable under sub-section (1) shall be tried summarily by a Metropolitan Magistrate or a Judicial Magistrate of the first class and the provisions 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.

6. Power to call for record. -

If it comes to the notice of the State Government, that any person belonging to any of the categories mentioned in sub-section (1) of Section 3 has been adversely affected on account of non-compliance of the provisions of this Act or the rules made thereunder or the Government Orders in this behalf by the appointing authority, it may call for such records and take such action as it may consider necessary.

7. Representation in Selection Committee. -

The State Government may, by order, provide for nomination of officers for giving representation to the Scheduled Castes, Scheduled Tribes, and Other Backward Classes of citizens in the Selection Committee to such extent and in such manner as it may consider necessary where such Committee is constituted either under the service rules or otherwise.

8. Concession and relaxation. -

(1)The State Government may, in favour of the categories of persons mentioned in sub-section (1) of Section 3, by order, grant such concessions in respect of fees for any competitive examination or interview, and relaxation in upper age limit, as it may consider necessary.(2)The Government Orders in force on the date of the commencement of this Act, in respect of concessions and relaxations, including concession in fees for any competitive examination or interview and relaxation in upper age limit and those relating-to reservation in direct recruitment and promotion, in favour of categories of persons referred to in sub-section (1), which are not inconsistent with the provisions of this Act, shall continue to be applicable till they are modified or revoked, as the case may be.

9. Caste certificate. -

For the purposes of reservation provided under this Act, caste certificate shall be issued by such authority or officer in such manner and form as the State Government may, by order, provide.

10. Removal of difficulties. -

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by a notified order, make such provisions not inconsistent with the provisions of this Act as appears to it, to be necessary or expedient for removing the difficulty.

11. Protection of action taken in good faith. -

No suit, prosecution or other legal proceedings shall lie against the State Government or any person for anything which is in good faith done or intended to be done, in pursuance of this Act or the rules made thereunder.

12. Power to make rules. -

The State Government may, by notification, make rules for carrying out the purposes of this Act.

13. Power to amend the Schedules. -

The State Government may, by notification, amend the Schedules and upon the publication of such notification in the Gazette, the Schedules shall be deemed to be amended accordingly.

14. Laying of Orders etc. -

Every order made under sub-section (5) of Section 3, sub-section (1) and (2) of Section 4 and Section 10 and every notification issued under Section 13 shall be laid, as soon as may be, before both the Houses of State Legislature and the provisions of sub-section (1) of Section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

15. Savings. -

(1)The provisions of this Act shall not apply to cases in which selection process has been initiated before the commencement of this Act and such cases shall be dealt with in accordance with the provisions of law and Government Orders as they stood before such commencement.Explanation. - For the purposes of this sub-section the selection process shall be deemed to have been initiated where, under the relevant service rules, recruitment is to be made on the basis of -(i)written test or interview only, the written test or the interview, as the case may be, has started, or(ii)both written test and interview, the written test has started.(2)The provisions of this Act shall not apply to the appointment, to be made under the Uttar Pradesh Recruitment of Dependent of Government servant Dying-in-Harness Rules, 1974.

16. Repeal and savings. -

(1)The Uttar Pradesh Public Services (Reservation for Backward Classes) Act, 1989 (U.P. Act No. 21 of 1989), the Uttar Pradesh Public Services (Reservation for Scheduled Castes and Scheduled Tribes) Act, 1993 (U.P. Act No. of 1993) and the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Ordinance, 1994 (U.P. Ordinance No. 5 of 1994) are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the provisions of the Acts and the Ordinance referred to in sub-section (1), shall be

deemed to have been done or taken under the corresponding provisions of this Act as if the provisions of this Act were in force at all material times.[SCHEDULE - I] [Substituted by U.P. Act No. 1 of 2002.][See Section 2(b)]

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| 1. Ahir, Yadav, Gwala, Yaduvanshiya | 17. Kasgar |
| 2. Sonar, Sunar, Swamkar | 18. Kunjra or Raeen |
| 3. Jat | 19. Gareria, Pal, Vaghel |
| 4. Kurmi, Chanau, Patel, Patanwar, Kurmi-Mall, Kurmi-Seinthwar | 20. Gaddi, Ghoshi |
| 5. Girl | 21. Chikwa, Qassab Qureshi, Chak |
| 6. Gujar | 22. Chhippi, Chipa |
| 7. Gosain | 23. Jogi |
| 8. Lodh, Lodha, Lodhi, Lot, Lodhi-Rajput | 24. Jhoja |
| 9. Kamboj | 25. Dhafali |
| 10. Arakh, Arakvanshiya | 26. Taraoli, Barai, Chaurasia |
| 11. Kachchi, Kachchi-Kushwaha, Shakya | 27. Teli, Samani, Rogangar, Sahu, Rauniar, Guanahi, Arrak |
| [x x x] [Omitted by Notification No. 4.1.2002-Ka-2/2005, dated 10.10.2005 published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha) dated 10.10.2005.] | 28. Darji, Idrisi, Kakutstha |
| [x x x] [Omitted by Notification No. 4.1.2002-Ka-2/2005, dated 10.10.2005 published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha) dated 10.10.2005.] | [x x x] [Omitted by Notification No. 4.1.2002-Ka-2/2005, dated 10.10.2005 published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha) dated 10.10.2005.] |
| 12. Kisan | 29. Naqqal |
| 13. Koeri | 30. Nat (Those not included in Scheduled Castes category) |
| [x x x] [Omitted by Notification No. 4.1.2002-Ka-2/2005, dated 10.10.2005 published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha) dated 10.10.2005.] | 31. Naik |
| 14. Faqir | 32. Kasera, Thathera, Tamrakar |
| 15. Banjara, Ranki, Mukeri, Mukerani | 54. Nanbai |
| 16. Mirshikar | |
| 17. Barhai, Saifi, Vishwakarma, Panchal, Ramgadhiya, Jangir, Dhiman | 55. Shekh Sarwari (Pirai), Peerahi |
| 18. Mev, Mewati | |
| 19. Bari | 59. Koshta/Koshti |
| 20. Beragi | 60. Ror |

[x x x] [Omitted by Notification No.

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| 38. | 4.1.2002-Ka-2/2005, dated 10.10.2005
published in the U.P. Gazette, Extraordinary,
Part 4, Section (Kha) dated 10.10.2005.] | 61. Khumra, Sangatarash, Han-siri |
| 39. Biyar | | 62. Mochi |
| | [x x x] [Omitted by Notification No. | |
| 40. | 4.1.2002-Ka-2/2005, dated 10.10.2005
published in the U.P. Gazette, Extraordinary,
Part 4, Section (Kha) dated 10.10.2005.] | 63. Khagi |
| 41. Bhurji, Bharbhunja, Bhooj, Kandu,
Kashaudhan | | 64. Tan war Singharia |
| 42. Bhathiara | | 65. Katuwa |
| 43. Mali, Saini | | 66. Maheegeer |
| 44. Sweeper (Those not included in Scheduled
Caste Category), Halalkhor | | 67. Dangi |
| 68. Dhakar | | |
| 45. Lohar, Lohar-Saifi | | 69. Gada |
| 46. Lonia, Nonia, Gole-Thakur, Lonia-Chauhan | | 70. Tantawa |
| 47. Rangrez, Rangwa | | 71. Joria |
| 48. Marchcha | | 72. Patwa, Patahara, Patehara, Deovanshi |
| 49. Halwai, Modanwal | | 73. Kalal, Kalwar, Kalar |
| 50. Hajjam, nai, Salmani, Savita, Sriwas | | 74. Manihar, Kacher Lakhara |
| 51. Rai Sikh | | 75. Murao, Murai, Maurya |
| 52. Sakka-Bhisti, Bhisti-Abbasi | | 76. Momin (Ansar) |
| 77. Muslim Kayastha | | |
| 53. Dhobi (Those not included in the Scheduled
Castes or Scheduled Tribes category) | | 78. Mirasi |
| 79. Naddaf (Dhuniya), Man-soori, Kandere,
Kadera, Karan (Kam). | | |

[PART-II [Inserted by Notification No. 4.1.2002-Ka-2/2005 dated 10.10.2005, published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha), dated 10.10.2005.] Backward classes of citizen who shall be deemed to be, and entitled to get benefit of, scheduled castes instead of Backward Class under the Act.

1. Kahar, Kashyap

2. Kewat, Mallah, Nishad

3. Kumhar, Prajapati

4. Dhiver

5. Bind

6. Bhar, Rajbhar

PART-III Following classes of citizens shall be deemed to be and entitled to get benefit of Scheduled Castes under the Act:

1. Dheemar

2. Batham

3. Turha

4. Gaud

5. Manjhi

6. Machhua.]

[SCHEDULE - II] [Substituted by U.P. Act No. 2 of 2001 (w.e.f. 15.09.2001).][See Section 3(1)]I. Constitutional Posts :-Son or daughter of a person who is [x x x] [The words 'or has been' omitted by U.P. Act No. 1 of 2002.](a)the President of India;(b)the Vice-President of India;(c)the Judges of the Supreme Court or High Courts;(d)the Chairman or Member of the Union Public Service Commission or the State Public Service Commission, the Chief Election Commissioner or the Comptroller and Auditor-General of India;(e)On any other constitutional post of like nature.II. Service Category :-(A)Group A or Class I officers of the All India, Central and State Services (Direct Recruits).Son or daughter of :-(a)parents, both of whom are Group A or Class I officers;(b)parents, either of whom is a Group A or Class I officer;(c)parents, both of whom are Group A or Class I officers, but one of them dies or suffers permanent incapacitation;(d)parents, either of whom is a Group A or Class I officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation, such as, the United Nations, the International Monetary Fund, World Bank, etc. for a period of not less than five years; and(e)parents, both of whom are Group A or Class I officers and such parents die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organization such as the United Nations, the International Monetary Fund, the World Bank etc. for a period of not less than five years.(B)Group B or Class II officers of the Central and State Services (Direct Recruits)Son or daughter or :-(a)parents, both of whom are Group B or Class II officers;(b)parents of whom only the

father is a Group B or Class II officer and he gets into Group A or Class I at the age of forty years or earlier;(c)parents, both of whom are Group B or Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation, such as, the United Nations, the International Monetary Fund, the World Bank etc. for a period of not less than five years before such death or permanent incapacitation;(d)parents of whom the father is a Group A or Class I officer (direct recruit or pre-forty promoted) and the mother is a Group B or Class II officer and the mother dies or suffers permanent incapacitation; and(e)parents of whom the mother is a Group A or Class I officer (direct recruit or pre-forty promoted) and the father is Group B or Class II officer and the father dies or suffers permanent incapacitation.Explanation. - For the purposes of this category it is clarified that the expression, "permanent incapacitation" means incapacitation which results in putting an officer out of service.(C)Employees in Public Sector Undertakings :-The criteria specified in sub-category (A) and (B) above shall apply mutatis mutandis to officers holding equivalent or comparable posts in Public Sector Undertakings, Banks, Insurance Organisation, Universities etc. and also to equivalent or comparable posts and positions under private employment pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category IV below shall apply to the officers in these institutions.III. Armed Force including Para Military Forces (Persons holding civil posts are not included).Son or daughter of parents, either or both of whom are in the rank of Colonel and above in the Army or to equivalent posts in the Navy, the Air Force and Para Military Forces.Explanation. - For the purposes of this category the service ranks below Colonel of father and mother shall not be clubbed together.IV. Professional class and those engaged in Trade and IndustryThe criteria specified in Category VI below shall apply to :-(A)The persons engaged in profession as a doctor, lawyer, chartered accountant, Income tax consultant, dental surgeon, engineer, architect, film artist and other film professional, author, playwright, sports persons, sport professional, media professional or any other vocations of like status; and(B)the persons engaged in trade, business and industry,Explanation. - (i) Where the father is in any profession and the mother is in a Group B or Class II or lower grade employment, the criteria specified in Category VI below shall apply only on the basis of the father's income and the mother's income shall not be clubbed with it.(ii)Where the mother is in any profession and the father is in a Group B or Class II or lower grade employment, the criteria specified in Category VI below shall apply only on the basis of the mother's income and the father's income shall not be clubbed with it.V. Property owners(A)Agricultural holdings. - -Son or daughter of parents, either of whom together with his family, which includes self, his spouse and minor children, holds -(a)only irrigated land which is equal to or more than eighty-five per cent of the statutory ceiling limit, or(b)both irrigated and unirrigated land, where the irrigated land (having been brought to a single type under a common denominator) is not less than forty per cent of the statutory ceiling limit for the irrigated land, the unirrigated land shall be converted into the irrigated land on the basis of the existing conversion formula and the irrigated area so computed shall be added to the actual area of the irrigated land and the total area so arrived at in terms of irrigated land is equal to or more than eighty per cent of the statutory ceiling limit for irrigated landExplanation. - The terms "statutory ceiling limit" and "conversion formula" shall be construed in accordance with the law relating to ceiling on the land holdings of that area in which the land in question is situated.(B)Plantations :-(1)Coffee, tea, rubber etc.The criteria specified in the Category VI below shall apply.(2)Mango, citrus, apple etc.The land of such plantations shall be deemed to be agricultural holding and the criteria specified under

sub-category (A) above shall apply. (C) Vacant land or buildings in urban area or urban agglomerations. - The criteria specified in Category VI below shall apply. Explanation. - For the purposes of this sub-category it is clarified that building may be used for residential, commercial or industrial purpose and the like two or more such purposes. VI. Income or Wealth Criteria Son or daughter of - (a) [the persons having gross annual income of Rupees Five Lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act, 1957 for a period of three consecutive years.] [Substituted by Notification No. 22/XVI/92-T.C. III dated 20.10.2008, published in the U.P. Gazette, Extraordinary, Part 4, section (Kha) dated 20.10.2008.] (b) the persons specified in Categories I, II, III or V(A) who are not disentitled to the benefit of reservation but have income from other sources which will bring them within the criteria specified in sub-category (a) above. Explanation. - For the purposes of this category it is clarified that - (i) Income from salaries or agricultural land shall not be clubbed; (ii) The income criteria in terms of rupee shall be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.

III

[x x x] [Omitted by U.P. Act No. 1 of 2002.]