

The Uttarakhand Former Chief Minister facility (Residential and Other Facilities) Act, 2019

UTTARAKHAND

India

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Act 5 of 2020

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ANACTWREREAS, keeping in view the facilities provided to former constitutional functiondes. after formation of the State in the year 2000, former Chief-Ministers were provided residential accommodation for life time in accoi.drnce with certain rules/Govt.

Orders/OfficeMemorandum/Notification.NOW, THEREFORE, to validate the residential accomrnodation and other facilities already provided to fomer Chief Ministers for a fixed period, as one timemeasure and provide residential and other facilities.Be it enacted by the Uttarakhand State legislative Assembly in the Seventieth year of the Republic of India as follows:

1. Short Title and Commencement

(1)This Act may be called the Uttarakhand Former Chief Minister Facility atesidendal aiid Other Facilities) Act, 2019.(2)It shall be deemed to have come into force from 9th November 2000.

2. Definitions

In this Act, unless lhe context otherwise requires -(a)"State Government" means the Uttarakhand Government;(b)"Former Chief Minister" means the Chief Minister who has worked in the Council of Ministers in the Uttarkhand Government;(c)"Fees" and "Standard rent" means the fees and standard rent determined by the Uttarakhand Government for residence, electricity, water and other facilities;(d)"Government Residence" means the Government residence available within the municipal corporation and Cantonment area limits of Dehradun

3. Application

This Act shall apply to tliose former chief Ministers who have been allocated government residences by the State Government. The allotment of residential accommodation made under rules/Govt, order/office memorandum/notification shall be deemed to have been made under this Act till

31.03.2019. Provided that with effect from 31.03.2019 those former Chief Ministers who have been allotted government residences shall not be entitled to the facilities and benefits provided under Section 4 and Section 5 of this Act; Provided further that with effect from 31.03.2019 no former Chief Minister shall be entitled to allotment of government residence and the facilities and benefits provided under Section 4 and Section 5 of this Act only on this basis of his status being a former Chief Minister.

4. Facilities

(a) The appropriate rent of government residence allotted to the former Chief Minister of Uttarakhand State shall be recovered from the allottee from the date of allotment. EXPLANATION- Appropriate rent for the purposes of this sub section shall be 25 % increases of the standard rent, in addition to standard rent as determined by the Government from time to time. (b) The payment of electricity, water and sewerage fee etc. of the government residence allotted to the former Chief Ministers shall be paid to the concerned department from the date of allotment, by the allottee himself. (c) The facilities provided to the former Chief Ministers by the State Government (vehicle along with driver, P.O.L for the vehicles, maintenance of vehicles, Personal Assistant/Officer on Special Duty/ Public Relation Officer, Fourth class employee, watchman, gardener, telephone attendant, security guard etc.) as determined by the Government, shall be free of cost. (d) All the facilities provided to the former Chief Ministers shall be permissible (except Security Guard) till his occupancy in the government residence. (e) The former chief minister shall be entitled the security and protocol Services as State Government may, determine from time to time.

5. Maintenance of Government residence

The cost incurred from time to time on repair/maintenance related works in the government residence allotted to former Chief Ministers shall be borne by the State Government.

6. Validation of order

The Rules/Government Order/Office Memorandum Notification and all other orders issued by the State Government for allotment of government residence and other facilities provided to former Chief Ministers shall be deemed to have been issued under this Act.

7. Overriding effect

Notwithstanding anything contrary contained in any other Act or judgment/ decree/ order or directions of any court the provision of this Act shall be valid and effective.

8. Facilities provided by other Acts

Notwithstanding anything contained in this Act, the former Chief Ministers shall also be entitled to avail facilities of any pension/allowance/facilities permissible under any other Act or any order.

9. Power to make Rules

The State Government may, by notification, in official Gazette, make Rules for carrying out the purposes of this Act.

10. Repeal and Savings

(1)The Uttarakhand Former Chief Minister Facility (Residential and Other Facilities) Ordinance, 2019 is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the Ordinance shall be deemed to have been done or taken under the corresponding provisions of this act.[In the case of Rural Litigation and Entitlement Kendra v. State of Uttarakhand (2020), Division Bench of Ramesh Ranganathan, CJ and Ramesh Chandra Khulbe, J. declared the Uttarakhand Former Chief Ministers Facility (Residential and other Facilities) Act, 2019 as void as it extended various facilities to former Chief Ministers free of cost and hence suffers from manifest arbitrariness and is ultra vires Article 14 and 21 of the Constitution. The court decided that a Chief Minister after the completion of his/ her term will be a common person and no extra special treatment will be given to them, other than security and other protocols. The Court held that “Conferment of the benefits, of concessional accommodation, and various other facilities being provided free of cost, on the former Chief Ministers is without any adequate determining principles, excessive and grossly disproportionate and must therefore be held to suffer from manifest arbitrariness and to fall foul of Article 14 of the Constitution” The Court rejected the justification given by the Government that the former Chief Ministers had rendered invaluable service as Chief Ministers and, taking into account their contribution and as a reward for the services rendered by them, had extended those benefits after they had resigned office.

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