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Dehradun, Dated September 20, 2024

# NOTIFICATION

## Miscellaneous

In pursuance of the provision of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of 'The Uttarakhand Recovery of Damages to Public and Private Property Act, 2024' (Uttarakhand Act No. 14 of 2024).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 17<sup>th</sup> September, 2024.

## The Uttarakhand Recovery of Damages to Public and Private Property Act, 2024

(Uttarakhand Act No. 14 of 2024)

### An

### Act

to deal with all such acts of violence at public places and to control its persistence and escalation and to provide for recovery of damages to public or private property during hartal, bandh, riots, public commotion, protests or thereof, in respect of property and constitution of claims tribunals to investigate the damages caused and to award compensation related thereto,

Be it enacted by the Uttarakhand Legislature in the Seventy fifth year of the Republic of India as follows:-

### CHAPTER-I

### PRELIMINARY

Short title, extent and commencement	1. (1) This Act may be called the Uttarakhand Recovery of Damages to Public and Private Property Act, 2024. (2) It extends to the whole of Uttarakhand. (3) It shall come into force at once.
Definitions	2- In this Act, unless the context otherwise requires:- (a) "Claims Commissioner" means an officer not below the rank of Additional District Magistrate designated by the State Government; (b) "Claims Tribunal" means a claims Tribunal constituted under this Act; (c) "damages" means loss, injury, or deterioration, caused by any act or omission by any person to another person or private or public property thereof; (d) "mischief" shall have the same meaning as in section 324(1) of the Bharatiya Nyaya Sanhita, 2023 (Act No. 45 year 2023). (e) "person" shall have the same meaning as in section 2 (26) of the Bharatiya Nyaya Sanhita, 2023



	<p>(f) "private property" means a movable or an immovable property owned and controlled by any person or any religious body, society or trust or waqf, which is not public property under clause (g) of section 2 of this Act, or firms over which their owners have exclusive and absolute legal right;</p> <p>(g) "public property" means any property, whether movable or immovable and includes any machinery which is owned by, or in the possession of, or under the control of-</p> <p>(I) Central Government; or</p> <p>(II) the State Government; or</p> <p>(III) any local authority; or</p> <p>(IV) any corporation or a company as defined in Companies Act, 2013, established by, or under, a State Act; or</p> <p>(V) any institution, concern or undertaking which the State Government may, by notification in the <i>Gazette</i>, specify in this behalf.</p> <p>Provided that the State Government, shall not specify any other institution, concern or undertaking under this sub-clause unless such institution, concern or undertaking is financed wholly or substantially by funds provided directly or indirectly by the State Government or any other State Government or partially by the State Government and partially by the Central/State Government or any other State Government.</p>
<b>CHAPTER-II</b> <b>CLAIM PETITION, REVIEW OF CASES AND INVESTIGATION</b>	
Claim petition for public or private property	3. On receipt of the report of concerned circle officer of police which is based on First Information Report of the incident and other information gathered in the meanwhile, the District Magistrate or the Head of office shall take immediate steps to file claim petition before the Claims Tribunal for compensation, preferably within three months of the date of causing of the damage to the public property.
Review of Cases	4. The District Collector or the Commissioner as the case may be, shall review the conduct of claim cases filed for compensation on a quarterly basis and send its report to the Government.
Monitoring of Cases	5. The Head of the Department shall monitor the conduct and disposal of claims filed for compensation and give necessary directions to the Head of office periodically.
Claim petition for private property	6. Private property owners, whose property had also been damaged in such incident, after getting a copy of such report from the SHO/SO concerned in such manner as per rules to file their Claim petitions for compensation.
<b>CHAPTER-III</b> <b>CLAIMS TRIBUNAL, FUNCTION AND POWERS</b>	
Constitution of Claims Tribunal	<p>7. (1) The State Government, by notification in the <i>Gazette</i>, constitute one or more damage to property Claims Tribunal hereinafter referred to as Claims Tribunal for such area as may be specified in the notification for the purpose of adjudicating upon claim for compensation in respect of damages to any public property or private property or both and to perform the functions assigned to it under this Act.</p> <p>(2) Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.</p> <p>(3) A person shall not be qualified for appointment to Claims Tribunal unless he has been:-</p>



	<p>(i) a Retd. District Judge (as Chairperson), or</p> <p>(ii) an officer of Additional Commissioner Rank.(as Member)</p> <p>(4) Where two or more Claims Tribunals are constituted for any area, the State Government, may by general or special order, regulate the distribution of business among them.</p>
<b>Functions and powers of the Claims Tribunal</b>	<p>8. (1) It shall be the duty of the Claims Tribunal to determine the damages caused to a public or a private property in the incidents occurred under section 3 and to award suitable compensation related thereto.</p> <p>(2) The Claims Tribunal may, if it thinks fit, appoint a Claims Commissioner to estimate the damages and investigate liability to assist it in holding the inquiry.</p> <p>(3) The Claims Tribunal may, also appoint one Assessor in every district as the case may be to assist the Claims Commissioner who is technically qualified to asses such damage from the panel appointed by the State Government.</p> <p>(4) The remuneration, to be paid to the person or persons under sub section (2) and sub section (3) shall in every case be determined by the State Government.</p> <p>(5) The Claims Commissioner and the Assessor may seek instructions from the Claims Tribunal to summon the existing video or other recordings from private and public sources to pinpoint the damage and establish nexus with the perpetrators of the damage.</p> <p>(6) The Claims Commissioner shall make a report to the Claims Tribunal within a period of three months or within the extended time, if any, granted by the Claims Tribunal. The Claims Tribunal shall determine the liability after hearing the parties.</p> <p>(7) The Claims Tribunals may, subject to any rules that may be made in this behalf, follow such summary procedure as it thinks fit.</p> <p>The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of Section 215 and Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 Year 2023).</p>
	<p><b>PROCEDURE OF CLAIMS TRIBUNAL</b></p>
<b>Application/Claim petition for compensation</b>	<p>9. (1) Every application/Claim Petition for compensation shall be filed within three years, accompanied by such court fee as may be prescribed by the State Government from time to time.</p> <p>(2) All applications, before the Claims Tribunal, other than application mentioned in sub-section (1) shall be stamped with a court -fee stamp prescribed by the State Government from time to time. Process fee in the form of court-fee stamp shall, as may be decided by the State Government from time to time, be paid for each witness or party summoned.</p> <p>(3) An application under this section shall be presented before the Claims Tribunal by the petitioner unless he is prevented by sufficient cause from appearing personally, in such case the application may be presented by his agent authorized in writing in this behalf.</p>
<b>Cause of action to Claim damage to property</b>	<p>10. The cause of action for initiating steps would be acts causing damage to public and private property.</p>



<p><b>Who may initiate the action for claiming compensation for public and private property and its time limit</b></p>	<p>11. (1) Wherever a destruction, or loss or damage to public and private property takes place due to hartal, bandh, riots, public commotion or protests, the primary responsibility for initiating the action for claiming compensation before the Claims Tribunal of competent jurisdiction, constituted under this Act, preferably within three years of occurrence of the incident shall be as follows:-</p> <p>(a) for public property, the responsibility would vest with the head of the Office exercising control over the property damaged during and as a result of the bandhs, strikes, riots, public commotion and protests etc. In the case of public sector undertakings, the head of the Office or the Chief Executive or any person authorized by the Head of Office or Chief Executive shall take necessary steps to file Claim Petition for compensation;</p> <p>(b) for private property, the responsibility would vest with the owner of the private property, his authorized representative or trustee having exclusive and absolute legal rights and who is not a trespasser of the property damaged;</p> <p>(c) for personal injury, the responsibility would vest with the,-</p> <p>(i) person who has sustained the injury; or where death has occurred, by all or any of the legal representatives of the deceased; or</p> <p>(ii) agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be.</p> <p>(2) The Claims Tribunal may, upon information received from any person or upon its own knowledge, take <i>suo-moto</i> cognizance that damage, within the meaning of this Act, has occurred.</p> <p>(3) The Claims Tribunal may condone delay in filing the Claim Petition if the applicant shows reasonable cause for the same.</p>
<p><b>Who may be joined as respondents</b></p>	<p>12. In a Claim Petition for damages to property, the Head of office or owner of the private property as the case may be and in a Claim Petition for damages for the injury, the claimant shall include as respondents, the persons who within his knowledge had exhorted, instigated or committed such acts, the persons who are so named in the report of the police, the names and designation of the person who exhorted or perpetrated the acts leading in the destruction or damages, who sponsored, called for or exhorted the agitation.</p>
<p><b>Notice to parties</b></p>	<p>13. The Claims Tribunal shall send to the respondents a copy of application together with a notice of the day on which it shall hear the application.</p> <p>The tribunal shall proceed <i>ex - parte</i> against the respondent who failed to appear before the tribunal despite timely serving of the notice and the tribunal shall attach the property and direct the authorities to publish the name, address along with the photograph of the property with a warning for public at large, not to purchase the property of the respondent.</p>
<p><b>Appearance of parties and filing of written statement</b></p>	<p>14. The respondents, at or before the first hearing or within such further time as the Claims Tribunal may allow, which shall not be later than thirty days from the date of service of notices, file a written statement dealing with the damages claimed in the claim petition and any such written statement shall form part of the record.</p>
<p><b>Method of recording evidence</b></p>	<p>15. The Claims Tribunal shall decide the matter with due observance of natural justice and may also take evidence on oath and summon the document as required.</p>



	<p>manner as the Claims Tribunal may direct.</p> <p>(6) A Claim for compensation under sub-section (1) shall not be defeated by reason of any neglect or default of the person in respect of whose death or permanent disablement the claim has been made and the quantum of compensation recoverable in respect of such death or permanent disablement shall not be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.</p>
<b>Award of interest where any claim is allowed</b>	<p>20. Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.</p>
<b>Principles relating to assessing the amount of damage to property and its liability</b>	<p>21. (1) The Principles of absolute liability shall apply once the nexus with the event that precipitated the damage is established.</p> <p>(2) The liability will be borne by the actual perpetrators of the crime or instigate damage to or incites giving rise to the liability to be shared, as finally determined by the Claims Tribunal..</p> <p>(3) Damages shall be assessed for,-</p> <p>(i) Damages to public property;</p> <p>(ii) Damages to private property;</p> <p>(iii) personal injury;</p> <p>(iv) cost of the actions by the authorities and police to take preventive and other actions."</p> <p>(4) For the purposes of this Act, if any person has suffered by reason of any incident, any injury or injuries involving.-</p> <p>(a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or</p> <p>(b) destruction or permanent impairing of the powers of any member or joint; or</p> <p>(c) permanent disfigurement of the head or face;</p> <p>then such disablement shall be deemed to be permanent disablement</p>
<b>Finality of award</b>	<p>22. Every Order or award passed by Claims Tribunal shall be final and no appeal is maintainable against such order before any court.</p>
<b>Recovery of money as arrear of land revenue</b>	<p>23. Where any amount is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.</p>
<b>Bar on jurisdiction of Civil Courts</b>	<p>24. Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court.</p>
<b>No Bar by criminal proceedings</b>	<p>25. Proceedings of claim petition shall not be barred by the criminal proceeding, if any originated by the concerned incident.</p>



<p style="text-align: center;"><b>CHAPTER-IV</b> <b>MISCELLANEOUS</b></p>	
<b>Power to make rules</b>	26. The State Government may, by notification, make rules for carrying out the purposes of this Act.
<b>Power to remove difficulty</b>	<p>27. (1) If any difficulty arises in giving effect to the provision of this Act, the State Government may by a notified order, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.</p> <p>(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.</p> <p>(3) Every order made under sub-section (1) shall be laid, as soon as may be, before the State Legislative Assembly and the provisions of sub-section (1) of section 23 A of the Uttar Pradesh General Clauses Act, 1904 (as applicable in the State of Uttarakhand).</p> <p>(4) Where this Act is silent on any subject of proceeding before tribunal, the provisions of Civil Procedure Code shall apply on the same.</p>
<b>Repeal and Savings</b>	<p>28. (1) With the commencement of this Act any other existing law or Government orders corresponding to this Act are hereby cancelled and declared ineffective:</p> <p>Provided that subject to the provisions of this Act the repeal shall not effect:</p> <p>(a) the previous operation of any such Government Orders or law or anything duly done or suffered thereunder;</p> <p>(b) any right, privilege, obligation or liability acquired, accrued or incurred under such Government Order or law;</p> <p>(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against such Government Order or law;</p> <p>(d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forfeiture, or punishment may be imposed as if such Government Order or law had not been repealed.</p> <p>(2) Notwithstanding anything contained in the provisoto sub-section (1) anything done or any action taken under any Government Order or law repealed by sub- section (1) shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.</p>
<b>Repeal and Saving of the Uttarakhand Ordinance No. 01 of 2024</b>	<p>29. (1) The Uttarakhand Recovery of Damages to Public and Private Property Ordinance, 2024 is hereby repealed</p> <p>(2) Nothwithstanding such repeal, anything done by or any action taken under the said Ordinance shall be deemed to have been done under the corresponding provisions of this Act.</p>

By Order,

**DHANANJAY CHATURVEDI,**

Principal Secretary.