

Compendium of Frequently Asked Questions on

Recruitment Rules

DISCLAIMER

This compilation of Frequently Asked Questions (FAQs) has been published for general guidance, information, and assistance of users. The information contained herein is general in nature and is by no means exhaustive, and is not in the nature of legal or statutory opinion, advice, interpretation or authority on the issues involved. The Rules, Procedures, and Guidelines cited may be changed or modified over time, and for any clarification, the respective Rules made by the Competent Authority or orders of the Department of Personnel and Training, Government of India may be referred to. Under no circumstances shall the Union Public Service Commission be liable for any liability, loss, damage, or expense incurred or suffered that is claimed to have resulted from the use of material contained in this compilation, including, without limitation, any error or omission with respect thereto.

1. What are the Constitutional provisions regarding Consultation by Ministries /Departments with UPSC?

Article 320 of the Constitution inter alia provides that the Commission shall be consulted in framing and amendment of Recruitment Rules for various services and posts under the Government of India and Union Territories. Accordingly, Ministries/Departments are required to consult Commission for framing/amendment of RRs for Group 'A' and 'B' posts except those which are exempt from consultation with UPSC under UPSC (Exemption from Consultation) Regulations, 1958, as amended from time to time.

2. Whether RRs notified without consultation of UPSC are valid?

As per constitutional provisions, Ministries/Departments are required to consult Commission for framing/amendment of RRs for all Group 'A' and 'B' posts except those which are exempted from consultation with UPSC under UPSC (Exemption from Consultation) Regulations, 1958, as amended from time to time. In case RRs of any post for which consultation with UPSC is required, are notified without its consultation, they are treated as **Non-est**.

3. What is Recruitment and what are Recruitment Rules?

Recruitment is a process of selection of candidates to a designated post and Recruitment Rules are the provisions prescribed under the Statute, for executing the same. The UPSC is required to advise upon the Recruitment Rules for various Civil Posts which are mandated to it, under the Constitution of India or a specific Act governing a

statutory organization.

4. What is the difference between Recruitment Rules & Service Rules?

Service Rules are framed for defined Organized Service(s) to the Union of India and are comprehensive statutory documents, which include among others the specifications with regard to,

- a. Title and definitions
- b. Authorized strength & grade(s)
- c. Initial constitution and future maintenance
- d. Seniority, qualifying service for promotion, probation & method of recruitment
- e. Liabilities and disqualification
- f. Relaxation provisions
- g. Savings clause

Recruitment Rules are framed for Civil Posts which are not covered by Organized Services. The Recruitment Rules do not contain many Clause(s) of Service Rules of Organized Service(s) and contain a Notification along with a prescribed 13 Columns Schedule. The Schedule contains details of various provisions such as number of posts, Classification, Pay Level, Method of Recruitment, Educational Qualifications for direct recruits etc.

5. What kind of posts are exempt from the purview of mandatory consultation with the UPSC?

Clause 3 of Article 320 of the Constitution of India inter alia stipulates the matters on which UPSC is required to be consulted. Proviso to said

clause provides for making regulations to specify the matters in which either generally, or in any particular class or case or in any particular circumstances, it shall not be necessary to consult Public Service Commission. Accordingly, Government has notified UPSC (Exemption from Consultation) Regulations, 1958, amended from time to time, specifying the services and posts which are exempted from consultation with UPSC in regard to matters specified in Article 320.

6. Whether Statutory Organizations are required to consult UPSC for framing/amendment of Recruitment Rules to posts under their jurisdiction?

In accordance with the mandate assigned under Article 321 of the Constitution, the Organizations, established under an Act of the Parliament, where the requirement of mandatory consultation with the UPSC is specified under a designated Section of that Act, are required to seek the Advice of the UPSC for purpose of framing or amendment of Recruitment Rules to Group A & Group B Civil Posts under their organization(s). Examples of such organizations are :- the New Delhi Municipal Council, Municipal Corporation of Delhi, Employees State Insurance Corporation, Employees Provident Fund Organization, Delhi Jal Board, etc.

7. Whether Recruitment Rules are required to be reviewed periodically?

Recruitment Rules prescribe various specifications relating to classification of post, pay structure, method of recruitment, composition of Departmental Promotion/ Confirmation Committee(s),

essential qualifications & consultation process with the UPSC etc. These are based on extant Guidelines of the DoP&T, which are revised/ updated from time to time. The change(s) in the cadre structure and essential qualifications to a given post etc., also require due amendments in the specific column(s) of the Recruitment Rules. DoP&T guidelines accordingly provide that the Recruitment Rules may be reviewed once in every five years, to make necessary amendments as per changed position.

8. Who are the stakeholders and what is the process involved in framing / amendment of RRs?

- a. The proposal for framing or amendment of Recruitment Rules is initiated by the concerned Administrative Ministry with the approval of the Competent Authority. The Competent Authority can delegate the specified power(s).
- b. Consequent upon the said approval, the proposal is required to be submitted to the DoP&T for concurrence.
- c. After the concurrence of the DOP&T to the proposal for framing/amendment of recruitment rules, the proposal is submitted to UPSC for posts/services which come within its purview. Advice of the UPSC is conveyed to the Ministry / Organization concerned.
- d. The Recruitment Rules are then sent by the concerned Ministry to the Ministry of Law & Justice for vetting.

- e. Subsequently, the Recruitment Rules are required to be notified in the Official Gazette of the Government of India.

9. Whether there is any requirement to seek comments of stakeholders before referring the proposal for framing/amendment of Recruitment Rules to DOPT/UPSC.

Before referring any proposal for framing/amendment of Recruitment Rules of a post to DOPT, Ministries/Departments are required to put up proposed Recruitment Rules on their website for 30 days for inviting comments from the stakeholders. Thereafter, taking into account the comments so received, the proposal is to be sent.

10. What is the Single Window System (SWS) for receipt of proposals in the UPSC?

UPSC has introduced a Single Window System (SWS) for discussing and accepting the proposals for framing/ amendment of Recruitment Rules (RRs) brought by concerned Ministry/Department. The Administrative Ministry is required to designate an Officer not below the rank of Under Secretary to bring the proposal under SWS. The Under Secretaries in RR Branch in the Commission are authorized to accept the proposals from Ministries/Departments assigned to them. The proposal is evaluated through a preliminary scrutiny, based upon a pre-defined Check-list, which specifies the documents and information required to be provided along with a proposal. In case the proposal is found to be incomplete, the reasons thereof are recorded on-the-spot and intimated to the Official from the Ministry / Department

concerned for necessary compliance. Proposals complete in all respects are accepted and processed by the Commission.

UPSC has also developed e-appointment system under SWS to schedule the appointment under SWS for bringing the proposal w.e.f 19.02.2018. The web links for this facility are available at <https://upsconline/miscellaneous/eappointment/src/> or <http://www.upsc.gov.in/single-window-system/recruitment-rules-branch>

Further, Ministries/Departments can submit their proposals for framing/amendment of RRs to DoP&T through Recruitment Rules Formulation, Amendment and Monitoring System (RRFAMS) portal. With the development of UPSC module of RRFAMS portal with effect from 03.12.2018, proposals approved by DoP&T on RRFAMS portal move online to the Commission on the portal. The proposals pertaining to Service Rules or concerning UTs and statutory organizations etc., continue to be received under SWS.

11. Whether there is any enabling provision to interact with Ministry/Department in UPSC portal in case any clarification is required on the proposal received online on the portal?

RRFAMS portal includes enabling provision to seek clarification from Department online, if required. Ministry/Department can also upload documents in support of their responses. Further, there is mechanism to call Ministry/Department online for meeting at various levels in UPSC to discuss the proposal. Meeting is scheduled online and minutes of discussion held in the meeting are also conveyed

through portal.

12. What is the Check-list for submitting framing/ amendment proposals to the Commission under SWS or on RRFAMS?

UPSC has devised a Check-list of the points on which necessary information/documents are required to be provided while referring proposals to UPSC. The Check-list is available on the website of UPSC. It is being used for receipt of proposals with effect from 01.05.2015. It contains points relating to methods of recruitment, submission of annexures prescribed under DOPT guidelines, covering notification, educational qualifications, documents relating to creation, merger, re-designation of posts etc. Check list facilitates the Department to furnish complete proposal. The points contained in check-list have been incorporated in RRFAMS portal. Accordingly, while submitting proposals online on RRFAMS portal, Department is required to furnish the relevant information/upload necessary documents on the portal.

13. What are the common deficiencies observed in the proposals?

The proposals, which are brought for consideration in the SWS or submitted online on RRFAMS Portal, are generally found to have the following deficiencies:-

- a. Approval of the Competent Authority, authorized to approve the draft proposal, is not enclosed
- b. Relevant document(s) required under the Check-list of the SWS are not enclosed
- c. Certificate of Court Case(s) (i.e., the proposal being not subjudice/under consideration of any Court), is not

enclosed

- d. Necessary orders relating to creation/abolition/merger of posts are not enclosed in support of change in no. of posts
- e. Educational qualifications are not commensurate with duties and responsibilities of post.
- f. Ambiguous domain experience in experience clause, which could result in difficulty of interpretation at the time of recruitment.

14. What is the purpose of prescribing 'Qualifying Service' for promotion to the next higher Grade?

Qualifying Service is the minimum residency period prescribed in the Service Rules / Recruitment Rules that an incumbent has to serve in a Grade on a regular basis before being eligible to be promoted to the next higher grade.

15. Whether "equivalence" can be used to prescribe Educational Qualification?

DOP&T guidelines dated 31.12.2010 on framing/amendment/relaxation of Recruitment Rules provide that the Ministries/Departments should clearly specify the educational qualifications and avoid usage of the term 'or equivalent'. Ministries/Departments are required to clearly prescribe an exhaustive list of educational qualifications to match the duties and responsibilities of the post.

16. When is the UPSC associated with the Departmental Promotion

Committee (DPC) for considering promotion to a given post?

UPSC is associated with the DPC in all cases of promotion to Group 'A' posts except where promotion is from Level-10 to Level-11.

17. Is the UPSC required to be associated in the Departmental Confirmation Committee constituted for considering confirmation of officers?

UPSC is not required to be associated with Departmental Confirmation Committee for considering confirmation.

18. What is one time mode of recruitment and under what circumstances it can be considered?

In case of newly created posts, for which Recruitment Rules are not yet framed, and posts for which RR are repealed, and these posts are required to be filled on urgent basis, concerned Ministry/Department can make a reference to UPSC for determination of one-time method of recruitment for filling up the post in the absence of Recruitment Rules. This method of recruitment is available once only and cannot be used again. Department is required to frame Recruitment Rules in the meantime for further filling up of posts. This mode cannot be invoked in cases where Recruitment Rules exist but have become inoperable for any reasons.

19. What is the difference between relaxation in Recruitment Rules and one time mode of recruitment?

Recruitment Rules contain a 'Power to relax' clause as per which relaxation of certain provisions in Recruitment Rules can be resorted to in respect of a class or category of persons. On the other hand, one time mode of recruitment is sought by Ministries/Departments in cases where Recruitment Rules for a post do not exist and there are overriding compulsions for filling up the post in the absence of Recruitment Rules.

20. Whether Ministry/Department can seek review of advice of UPSC, given on framing/amendment of Recruitment Rules?

Ministry/Department can seek review of advice of UPSC before notification, giving detailed justification for the same. In case justification is considered appropriate by the Commission, revised advice is conveyed to the Ministry/Department. However, in case reasons for review are not considered justified by the Commission, Ministry/Department is informed accordingly with the request to notify the Recruitment Rules already advised. Review mechanism is also available on RRFAMS portal in case of online proposals.

21. What happens when a Ministry/Department disagrees with advice of UPSC on framing/amendment of Recruitment Rules?

As stated above, Ministry/Department can seek review of advice of UPSC, if required. However, in case Ministry/Department notifies any recruitment rules at variance with the advice of UPSC,

such cases are treated as non-acceptance of advice of the Commission. Details of such cases of disagreement are mentioned in Annual Report of UPSC.

22. What is the prescribed time-frame within which the Recruitment Rules advised upon by the UPSC, should be Notified by the Ministry/ Department concerned?

The Recruitment Rules should be notified by the Ministry/ Department concerned within ten weeks of the receipt of the Advice of UPSC. Ministries/Departments are also required to furnish a copy of the notified Rules to UPSC for record. In so far as proposals processed online on RRFAMS portal, Ministries are required to upload a copy of notification on RRFAMS portal. Cases, where notified Rules are not received/uploaded, are mentioned in the Annual Report of the UPSC, which is placed before the Parliament.

Note: For detailed guidelines on preparation of proposals for framing/amendment of Recruitment Rules, please see the following documents available on DOPT website:

1. DOPT guidelines on framing/amendment/relaxation of Recruitment Rules issued vide Office Memorandum No. AB.14017/48/2010-Estt.(RR) dated 31.12.2010, available at the link - http://documents.doptcirculars.nic.in/D2/D02est/AB.14017_48_2010-Estt.-RR.pdf

Recruitment Rules Branch

2. DOPT step guide for processing of the proposal for framing/amendment of Recruitment Rules issued vide Office Memorandum No. AB.14017/13/2013-Estt.(RR) dated 31.03.2015, available at the link - http://documents.doptcirculares.nic.in/D2/D02est/AB-14017_13_2013-Estt.RR-31032015.pdf

Joint Secretary (RR)

7th August, 2019