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***United Provinces Prisoners Release on Probation Act, 1938***

***U.P. Act No. 8 of 1938***

**UP770**

[Dated 14th September, 1938]

Received the assent of the Governor on 14th September, 1938 and was published under Section 75 of the Government of India Act, 1935, on 24th September, 1938.

**An Act to provide for the release of certain prisoners on conditions imposed by the State Government**

Whereas it is expedient to provide for the conditional release from prison of prisoners in certain cases before the completion of the term of imprisonment to which they have been sentenced;

it is hereby enacted as follows:

**1. Short title, extent and commencement.**- (1) This Act may be called the United Provinces Prisoners Release on Probation Act, 1938.

(2) It extends to the whole of the Uttar Pradesh.

(3) It shall come into force on such [date] as the State Government may by notification appoint in this behalf.

**2. Power of Government to release by licence on conditions imposed by them.**- Notwithstanding anything contained in [Section 401] of the Code of Criminal Procedure, 1898 (Act V of 1898), where a person is confined in prison under a sentence of imprisonment and it appears to the State Government from his antecedents and his conduct in the prison that he is likely to abstain from crime and lead a peaceable life, if he is released from prison, the State Government may by licence permit him to be

## Related judgement

released on condition that he be placed under the supervision or authority of a Government Officer or of a person professing the same religion as the prisoner, or such secular institution or such society belonging to the same religion as the prisoner as may be recognized by the State Government for this purpose, provided such other person, institution or society is willing to take charge of him.

**Explanations.**-The expression "sentence of imprisonment" in this Section shall include imprisonment in default of payment of fine and imprisonment for failure to furnish security under Chapter VIII of the [Code of Criminal Procedure, 1898 (Act V of 1898)].

3. **Period for which licence is to be in force.**- A licence granted under the provisions of Section 2 shall be in force until the date on which the person released would in the execution of the order of warrant authorizing his imprisonment have been discharged from prison had he not been released on licence, or until the licence is revoked, whichever is earlier.
4. **Period of release to be reckoned as imprisonment for computing period of sentence served.**- The period during which a person is absent from prison under the provisions of this Act on a licence which is in force shall be reckoned as part of the period of imprisonment to which he was sentenced, for the purpose of computing the period of his sentence and for the purpose of computing the amount of remission of sentence which might be awarded to him under any rules in force relating to such remissions.
5. **Form of licence.**- A licence granted under the provisions of Section 2 shall be in such form and shall contain such conditions as the State Government may by general or special order or by rules made in this behalf, direct.
6. **Power to revoke licence.**- (1) The State Government may at any time for reasons to be recorded in writing revoke a licence granted under the provisions of Section 2:

Provided that no licence shall be revoked on the ground of the breach of a condition of the licence without giving an opportunity to the person concerned to represent his case before the District Magistrate of the district in which he is residing at the time.

(2) An order of revocation passed under the provisions of sub-section (1) shall specify the date with effect from which the licence shall cease to be in force, and shall be served, in such manner as the State Government may by rule prescribe, upon the person whose licence has been revoked.

**7. Released absconders who escape from supervision to be punishable.**- (1) If any person escapes from the supervision or authority of a Government officer or secular institution or a society or person in whose charge he has been placed under the provisions of Section 2, or if any person whose licence has been revoked under the provisions of Section 6, fails, without lawful excuse, the burden of proving which shall be upon him, to return to the prison from which he was released, on or before the date specified in the order of revocation such person shall on conviction by a Magistrate be liable to serve the unexpired portion of his original sentence and shall also be punishable with imprisonment for a further term which may extend to two years or with fine not exceeding rupees two hundred, or with both.

(2) An offence punishable under sub-section (1) shall be, deemed to be a cognizable offence within the meaning of clause (f) of sub-section (1) of [Section 4] of the Code of Criminal Procedure, 1898 (Act V of 1898).

**8. Power of Government to remit sentence.**- (1) The State Government may remit the whole or a part of the sentence of a person sentenced to imprisonment for an offence under any Act, on such person entering into a bond, with one or more sureties, in such amount and for such period as the State Government may, direct, to be of good behaviour and to observe such conditions as to residence or otherwise as the State Government may impose.

(2) The provisions of Sections 126, 126-A, 514, 514-A, 514-B and 515 of the Code of Criminal Procedure, 1898 ([Act V of 1898]), shall, so far as they may be, apply in the case of sureties offered and bonds given under this Section as if they had been offered and given under Chapter VIII of the said Code :

Provided that if any person, required under Section 126-A or 514-A of the said [Code] to furnish fresh security, fails to furnish the same, the State Government may cancel the order passed under sub-section (1) and order that such person shall serve the whole or so much of his unexpired sentence as the State Government may direct.

(3) If any person released under sub-section (1) fails to observe the conditions of his bond, the State Government may direct that he be re-arrested and sent to prison to serve the whole or such part of his unexpired sentence as it may direct, in addition to any proceeding that may be taken against him or his surety or sureties in respect of such bond under the said Code.

**9. Power to make rules.**- The State Government may make [rules]consistent with this Act-

- (1) for the form and conditions of licences on which prisoners may be released;
- (2) for the appointment of Government officers, the recognition of institutions and societies referred to in Section 2;
- (3) for defining the powers and duties of Government officers, institutions of persons, under whose authority or supervision conditionally released prisoners may be kept;
- (4) for defining the classes of offenders who may be conditionally released, and the periods of imprisonment after which they may be so released;
- (5) for prescribing the manner in which an order of revocation of a licence shall be served on the person whose licence is revoked;
- (6) generally for carrying into effect all the purposes of this Act.

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