

THE UTTAR PRADESH COURSE BOOKS ACT, 1978¹

[U. P. Act No.7 of 1979]

[Passed in Hindi by the Uttar Pradesh Legislative Assembly on August 24, 1978 and by the Uttar Pradesh Legislative Council on November 6, 1978.

Received the assent of the President on February 15, 1979 under article 201 of 'the Constitution of India', and was published in the Uttar Pradesh Gazette Extraordinary dated February 20, 1979;]

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ACT

to provide, in the interests of the general public, for the control of production, supply and distribution of, and trade and commerce, in, course books and for matters connected therewith or incidental thereto.

It is hereby enacted in the Twenty-ninth Year of Republic of India as follows :-

Short title and
extents

1. (1) This Act may be called the Uttar Pradesh Course Books Act, 1978.
- (2) It shall extend to the whole of Uttar Pradesh.

Definitions

2. In this Act-
 - (a) "Board" means the Board of High School and Intermediate Education, Uttar Pradesh;
 - (b) "course book" means any book prescribed or recommended by or written according to the syllabi of the Department of Education, Uttar Pradesh, or the Board or any University as defined in clause (20) of section 2 of the Uttar Pradesh State Universities Act, 1973 and specified or referred to in the notification under section 7 ;
 - (c) "concessional rate paper" means the paper made available by the Central Government at concessional rate, and allotted to publishers through the State Government;
 - (d) "dealer" means a person engaged in the business of purchase, sale or storage for sale, of any course books, whether by wholesale (whether as printer, publisher or distributor) or by retail, and includes his representative or agent ;
 - (e) "director" means the Director of Education, Uttar Pradesh;
 - (f) "notified price" in relation to a course book means the price indicated against it in a notification issued under section 7 and until such notification is issued, the price indicated in the Uttar Pradesh Course Books Order, 1975 ;

1- For statement of Objects and Reasons see U. P. Gazette Extraordinary dated May 10, 1978.

- (g) "Prescribed Authority" means the District Magistrate and includes any officer authorized by him in writing to perform any of his functions under this Act ;
- (h) "prospectus" means the "Vivran Patrika" issued from time to time for the High School and Intermediate Examinations by the Board ;
- (i) "publisher" means a person who publishes any book prepared according to the syllabus prescribed by the Board for use In the High School and Intermediate classes or according to syllabus prescribed by .the Department of Education for classes I to VIII and includes a person who publishes a course book.

Dealer not to withhold from sale or charge excess price

- 3. (1) No dealer shall-
 - (a) withhold from sale any course book held in stock by him, or
 - (b) charge for any course book a price which exceeds its notified price.
- (2) No publisher shall, subsequent to the commencement of this Act, use any paper other than concessional rate paper for the printing or publishing of a text book :-
 - (a) prescribed or recommended for use in any class by the Board or by the Department of Education, as the case may be ;
 - (b) written according to the syllabus in respect of this subject for which the Board has not recommended or approved any book :

Provided that nothing contained in this sub-section shall be deemed to require a publisher to use concessional rate paper for the printing or publishing of any book referred to above if concessional rate paper cannot, be made available to him for any reason.

Requisition of stock of course books

- 4. (1) Where the Prescribed Authority has reason to believe that any dealer has stored or continued to store or acquired for storage; whether on his own account or an account of or in partnership with any other person, any course books, the Prescribed Authority may, by order require him to sell at the notified price the whole or a specified part of such stock to the State Government or to such person or class of persons and in such manner and within such time as it may specify in this behalf.
- (2) Where any person against whom an order is passed under sub-section (1), fails to comply with it, the Prescribed Authority may take, or cause to be taken such stock of course books or part thereof as the case may be, in its custody, and may deliver Or cause to be delivered such stock or part thereof to the State Government or such person or class of persons as may have been specified in the order, and may cause to be paid to the dealer the notified price thereof.

Restriction on prescribing of text books by recognised institutions	5.	No educational institution recognized by the Board or maintained or recognized by the Board of Basic Education, Uttar Pradesh, where students of class I to VIII or any of them are taught shall, save with approval of the Director, prescribe any textbook for such classes other than those mentioned in the notification issued under section 7.
Power of collecting information or statistics, entry, search and seizure	6.	<p>The prescribed Authority may, with a view to securing compliance with this Act or to satisfying itself that this Act has been complied with---</p> <p>(a) require any person to make any statement or to furnish any information or statistics;</p> <p>(b) require any person believed to be a dealer to maintain and produce for inspection such books, accounts and records relating to his business or to the stock of course books under his custody or control as may be specified;</p> <p>(c) require any dealer or any person employed by a dealer to produce such books, accounts and other documents. relating to the stock of course books under his custody or control as may be specified;</p> <p>(d) examine and seize any books, accounts or other documents which in the opinion of such officer would be useful for, or relevant to any proceedings in respect of any contravention of the Act and return such books, accounts and other documents to the person from whom they were seized after copies thereof or extracts there from certified under his hand, have been taken ; or</p> <p>(e) search any premises, vehicle or vessel and prepare an inventory of any course books found therein, or seize any course books in respect of which he has reason to believe that a contravention of this Act. has been, is being or is about to be, committed, and thereafter take or authorize the taking of all measures necessary for securing the production of stock so seized in court and for its safe custody pending such production.</p>
Power of state Government to notify prices of course books	7.	The State Government may by notified orders fix fair prices of course books specified or referred to therein .
Penalties	8.	<p>If any person contravenes the provisions of section 3, he shall be punishable-</p> <p>(i) in the case of contravention of sub-section (1) of that section with imprisonment for a term which may extend to one year and shall also be liable to fine, and</p> <p>(ii) in the case of any other contravention, with imprisonment for a term which may, extend to three years and shall also be liable to fine.</p>
Attempts and abetment	9.	Any person who attempts to contravene, or abets a contravention of, any provision of this Act shall be deemed to have contravened the Act.

- False statement 10. If any person-
- (i) when required by any order made under section 6 to make any statement or furnish any information or statistics which is false in any material particular and which he, knows or has reasonable cause to believe, to be false, or which he does not believe to be true, or
 - (ii) makes any such statement as aforesaid in any books, accounts, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

- Offences by companies 11. (1) If the person committing an offence under this Act is a company, every person who at the time of the commission of the offence was incharge of, and was responsible to, the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in, this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation-- For the purposes of this section- --

- (a) "Company" means any body corporate and includes a firm or other association of individuals ; and
- (b) "Director" in relation to a firm means a partner in the firm.

- Offences to be cognizable and bailable Act 2 of 1974 12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable and bailable.

- Power of Court to publish name. place of business etc. of companies convicted under the Act 13. (1) Where any company is convicted under this Act it shall be Competent for the Court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars, as the Court may consider to be appropriate in the circumstance of the case, to be published at the expense of the company in such newspapers or in such other manner as the Court may direct.

- (2) No publication under sub-section (1) shall be made until, the period for preferring an appeal, against the order of the Court has expired without any appeal having been preferred or the appeal, if preferred, has been disposed of.
- (3) The expenses of any publication under sub-section, (1) shall be recoverable from the company as if it were a fine imposed by the Court.

Explanation- For the purposes of this section, Company has the meaning assigned to it in clause (a) of the Explanation to section 11.

Cognizance of offence	14.	No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by order of, or under authority from the District Magistrate or such other officer as may be empowered by the State Government by general or special order in this behalf.
Special provision regarding fine Act 2 of 1974	15.	Notwithstanding anything contained in section 29 of the code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate, or Judicial Magistrate of the first class, specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of contravening section 3.
Protection of action taken under the Act	16.	<ul style="list-style-type: none">(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of section 3.(2) No suit or other regal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith, done or intended to be done in pursuance of any order issued under this Act.
