

# The U.P. First Offenders' Probation Rules, 1939

UTTAR PRADESH

India

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### Rule THE-U-P-FIRST-OFFENDERS-PROBATION-RULES-1939 of 1939

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#### 1. Title and commencement.

(1) These rules may be called the Uttar Pradesh First Offenders' Probation Rules, 1939. (2) These rules shall come into force on 15th April, 1939.

#### 2. Definitions.

- In these rules, unless there is anything repugnant in the subject or context, - (a) "Act" means the Uttar Pradesh First Offenders' Probation Act, 1938. (b) "Committee" means the district committee established by the Uttar Pradesh Discharged Prisoners' Aid Society in the district in which the probationer has a fixed place of abode or regular occupation or in which the probationer is likely to live during the period named for the observance of the conditions. (c) "Probationer" means an offender who is under 25 years of age and in respect of whom the court has made a supervision order under sub-section (2) of Section 4 of the Act. (d) "Society" means a society recognised by the State Government under sub-rule (1) or (2) of Rule 3.

#### 3. Conditions of recognition of societies.

(1) The State Government may recognise any society under Section 3 (1) (b) of the Act to provide persons to act as probation officer, if it is satisfied that the Society shall - (a) provide such persons after they are approved by the Government; (b) observe the Act and these rules and see that the same are observed by the persons provided by it to act as probation officers, so far as the Act and the rules apply to the Society or the probation officer, as the case may be; and (c) possess financial means to carry out its obligations. (2) The Uttar Pradesh Discharged Prisoner's Aid Society is hereby

recognised by the State Government as a society within the meaning of Section 9 (1) (b) of the Act to provide persons to act as probation officers.(3)The State Government may at any time withdraw the recognition in respect of any society.

#### **4. Application by a society for recognition.**

(1)Any society desiring recognition under Section 9 (1) (b) of the Act may apply to the Judicial Secretary to the Government for such recognition and shall forward with the application,-(a)a copy of its rules and bye-laws;(b)a list of its office-bearers;(c)a list of its members; and(d)a statement of its financial position.(2)The Government may, after making further enquiries if necessary pass such orders on the application as it may deem fit.

#### **5. Approval of persons for probation officership.**

(1)Before appointing any person to act as a probation officer, a society shall submit to the Government its proposal giving his name, father's name, caste, full address, age, educational qualifications, past antecedents, social status and any other particulars which the society may deem proper.(2)The Government may in its discretion after making such further inquiry as may be deemed necessary, approve or refuse to approve the appointment of the candidate by the society to act as a probation officer.

#### **6. Qualifications of probation officers.**

- No person shall be approved by the State Government to act as salaried whole time probation officer, unless he-(i)is not less than 25 and not more than 35 years of age at the time of first appointment;(ii)is a person of good character and competent by his personality, training and education to influence for a good probationer placed under his supervision;(iii)has received sound education and possesses sufficient practical experience of social welfare work; and(iv)is fully conversant with the Act and these rules.Note.-Preference shall be given to local men residing in the district for which the appointment is made.

#### **7. Certificate of appointment.**

- Every probation officer approved by the Government and appointed by the Society shall be furnished with a certificate of appointment signed by the Chairman and the Secretary of the Society.

#### **8. Information of appointment to the District Magistrate and the Committee.**

- The society shall forward to the District Magistrate, and the Committee the names, addresses and head-quarters of each probation officer appointed by it after approval by the Government and, shall without delay, inform the District Magistrate when any person ceases or is about to cease to be a probation officer, or proceeds on leave.

## **9. Information to other Courts.**

- The District Magistrate shall communicate to every Court in his district having jurisdiction under the Act, the information received under Rule 8.

## **10. Condition of service to probation officers.**

(1) A probation officer shall be appointed for one year in the first instance and may be continued thereafter if his work is found to be satisfactory. (2) The society shall forward to the State Government the rules framed by it in respect of salaries, allowances and conditions of service of a probation officer : Provided that nothing in this rule shall prevent the society from employing person honorarily. as a probation officer : Provided further that nothing in the rules framed by the society shall affect the powers of the District Magistrate or the Court, as the case may be, under subsections (3) and (4) of Section 9 of the Act. (3) A probation officer shall give three months' notice in writing if he wishes to resign his appointment if he is unable, owing to ill-health or some other cause, to perform his duties, he shall at once report the fact to the society, to the District Magistrate and to the Courts concerned and thereupon the Society shall make suitable arrangements for the purpose of carrying on the duties of that officer during his absence from duty. (4) The Society may after giving three months' notice in writing, terminate the appointment of a probation officer, or may dismiss him without such notice for misconduct or wilful neglect of his duties. If a probation officer's work or conduct is unsatisfactory, the Committee shall make a report of this fact to the society which may take such action on the report as it may consider proper.

## **11. Female offenders.**

- In no case shall a female be placed under the supervision of a male probation officer unless the latter is closely related to such probationer and in the opinion of the Court, is a suitable person to be appointed as a probation officer for her.

## **12. Preliminary enquiry by probation officers.**

- Where a Court proposes to make a supervision order under sub-section (2) of Section 4 of the Act, it may require a probation officer to make preliminary enquiries as regards the character, antecedents, home surroundings and other matters of like nature, and the Court may postpone the passing of the final orders in the case until the probation officer had submitted his report.

## **13. Delivery of offender to the probation officer.**

(1) Where the Court decides to release an offender under sub-section (1) of Section 4 and to make a supervision order under sub-section (2) of Section 4 of the Act and the probation officer is present in Court, it shall entrust the offender to his charge. (2) If the probation officer is not present in Court at the time of the passing of the order, the Court shall fix a date for the probation officer to come and take charge of the offender and shall on the date so fixed entrust the offender to his charge. (3) Until

the probation officer takes charge of the offender from the Court, the Court may either keep the offender in custody or release him on his entering into a bond with or without sureties to appear in court on such date or dates as the Court may direct.

#### **14. Duties of a probation officer.**

- Every probation officer shall explain : (a) to the probationer the conditions of the supervision order and shall by advice, persuasion and warnings endeavour to ensure their observance by the probationer; (b) in the first month of the probation, meet the probationer at least once a week; (c) in subsequent months keep himself in close touch with the probationer; (d) visit the home of the probationer and make inquiries at convenient intervals as to his conduct, mode of life and employment; (e) in case a probationer has executed a bond with sureties, visit the sureties residing in his district and inform them of the misconduct, if any of the probationer; (f) if the probationer is out of employment endeavour to find suitable employment for him, and assist and be friend him; (g) maintain books and registers and submit reports as provided by these rules; and (h) carry out instructions of the District Magistrate and the Court.

#### **15. No uniform or badge to worn.**

- The society shall not prescribe any uniform or distinctive badge for any probation officer and he shall not wear any uniform or distinctive badge.

#### **16. Condition of supervision order.**

- The Court may, while passing a supervision order under sub-section (2) of Section 4 of the Act, require the probation officer to submit reports to it from time to time on the conduct and mode of life of the probationer, and the probation officers shall duly comply with the said order and also submit a copy of his report to the Committee.

#### **17. Breach of conditions.**

- It shall be the duty of the probation officer to report without any reasonable delay to the Court making the supervision order, if the probationer fails to observe any condition of his bond.

#### **18. Quarterly report.**

- Unless otherwise directed by the Court passing the supervision order at the end of every three months of the period of probation of every probationer, the probation officer shall submit to the Court a report as to the conduct, mode of life and nature of employment of each probationer.

## **19. Registers and books.**

(1) Every probation officer shall maintain, - (a) a register in Form A, kept in the office of the District Magistrate, (b) a diary in which shall be recorded from day to day the facts relating to his visit to and meeting with the probationers and sureties and the observations of the probation officer as regards the conduct and employment of the probationer, and (c) a book in which a separate page shall be allotted to each probationer in charge of a probation officer. In it shall be entered from time to time the progress made by the probationers. (2) The registers, diary and the books mentioned above shall be preserved for a period of 12 years from the date of their deposit. (3) Entries in the register specified in clause (a) of sub-rule (1) shall be initialled by the presiding officer of the Court passing the supervision order. The diary specified in clause (b) shall be initialled by the Secretary of the Committee once a month, and all entries in the book specified in clause (c) shall also be initialled by the Secretary of the Committee. (4) The probation officer shall have access to the registers maintained under clause (a) of sub-rule (1) for the purpose of making entries therein from time to time during office hours. It shall also be open to inspection by the District Magistrate or any gazetted officer appointed by him in this behalf or any member of the Society or the Committee. (5) Every year on the 31st December the diary shall be closed and deposited as a confidential record in the District Magistrate's office. (6) The book maintained under sub-rule (1) (c) shall also be deposited in the District Magistrate's office when it is completed,

## **20. Power to Inspection.**

- The probation officer may, with the permission of the District Magistrate or any gazetted officer appointed by him in this behalf, inspect any judicial record in which the probationer under his charge was a party and may take notes from the record but shall in no case communicate the contents of the record to any person except when it may be necessary in the discharge of his duties.

## **21. Breach of duties by probation officers.**

- If a probation officer fails to observe the duties imposed on him by these rules, the court passing the supervision order or the District Magistrate may report the fact to the society, and the society shall without delay take suitable action on the said report.

## **22. Appointment of special probation officers.**

- Where a court proposes to appoint a probation officer under clause (c) of sub-section (1) of Section 9 of the Act, the court shall have regard to his age, position, character, his relationship to the offender, and his ability to follow these rules and to discharge the duties imposed on probation officers and only when the court is satisfied as to the suitability of the person in regard to all these matters, it shall appoint him as a probation officer.

### **23. Annual report by the District Magistrate.**

- For every calendar year, the District Magistrate shall forward to the society before the 1st of February, a report on the working of the Act in his district, nothing in particular on the following points : (a) the number of probation officers under Section 9 (1) (b) of the Act, paid or honorary, employed in the district, and the salary, allowances or other expenses paid to each such officer; (b) the number of probationers placed under the supervision of the society's probation officers in his district; and (c) the number of persons appointed as probation officers under Section 9 (1) (c) of the Act and the number of probationers placed in their charge; and (d) conduct in general of the probationers released under the Act.

### **24. Annual report by the society.**

- For every calendar year, the society shall submit an annual report on the working of the Act to the State Government before the 1st of March, in every year.

### **25. Form of bond.**

- The bond to be executed under sub-section (1) or subsection (3) of Section 4 of the Act shall be in Form B or C, as the case may be, or in such other form as the court may direct.

### **26. Form of supervision order.**

- The form of the supervision order passed under sub-section (2) of Section 4 of the Act shall be in Form D so far as it may be possible.

### **27. Copy of supervision order.**

- Where a court passes a supervision order under sub-section (2) of Section 4 of the Act, and appoints a probation officer provided by the Uttar Pradesh Discharged Prisoner's Aid Society, it shall forward a copy of it to the Committee.

### **28. Acts to which second proviso to Section 4 (1) apply.**

- The second proviso to sub-section (1) of Section 4 of the Act shall subject to the conditions mentioned therein apply to every person convicted for any offence under any enactment, except the Criminal Tribes Act, 1924, if the offence is punishable with imprisonment not exceeding six months : Provided that if the Manager of a Criminal Tribes Settlement is willing to act as a probation officer, the court may give the benefit of the second proviso of sub-section (1) of Section 4 of the Act to the offender even if he is convicted under the Criminal Tribes Act, 1924.

## **29. Transfer of proceedings.**

- When the Sub-divisional Magistrate to whom a Magistrate of 3rd class or a Magistrate of the 2nd class not specially empowered by the State Government to Act under Sections 3 and 4 of the Act may submit the proceedings under Section 5 is not a magistrate who usually exercises judicial functions, the proceedings shall be submitted by such magistrate of the 2nd or 3rd class to the magistrate of first class who usually exercises such judicial functions, in that local area.

## **30. Subsidy.**

- The State Government may pay such subsidy to the society as it may deem fit and for so long as it thinks proper. Forms A TO D.-Forms A to D deleted by Notification No. 1381 (i) (v) 1931-47, dated 10-12-1949.