

United Provinces Rakshak Dal, Act, 1948

UTTAR PRADESH

India

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Act 38 of 1948

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United Provinces Rakshak Dal, Act, 1948[U.P. Act No. 38 of 1948]Last Updated 25th January, 2020For S.O.R. see Gaz. Extra. date October 8, 1948, p.1.Adapted and modified by the Adaptation of Laws order, 1950[Passed by the U.P. Legislative Assembly on October 18 1948, and by the U.P. Legislative Council on November 5, 1948][Received the assent of the Governor of December 4, 1948, under section 75 of the Government of India Act, 1935, as adapted by the India (Provisional constitution) Order, 1947 and [published] [See Gazzette 1948, pt, VII/A, pp. 70-72.] in U.P. Government Gazette, dated, December 11, 1948]An Act to provide for the constitution of the United provinces Rakshak DalPreamble. - Whereas is expedient to provide for the constitution of a force known as the United Provinces Rakshak Dal for the preservation of public peace, training of men in the use of arms, to inculcate self-help and discipline and the protection of the life of the community and property within the United provinces;It is hereby enacted as follows:

1. Short title, extent and commencement.

(1)This Act may be called the United Provinces Rakshak Dal Act, 1948.(2)It extends to the whole of [Uttar Pradesh] [Substituted by the A.O. 1950 for (the United Provinces).](3)It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context -(a)"Administrative Commandant" "Gazetted Officer" , "Honorary officer of equivalent rank" and "Non-gazetted officer" means, persons appointed to such offices as may be prescribed;(b)"Member of the Rakshak Dal" means a person who is enrolled as such and includes an officer appointed under the provisions of this Act;(c)["State Government"] [Substituted by the A.O. 1950 for (Provincial Government).] means the Government of the [Uttar Pradesh] [Substituted by the A. O. 1950 for (the United Provinces).](d)"Prescribed" means prescribed by rules or regulations framed under this Act.

3. Constitution of U.P. Rakshak Dal.

- There shall be raised and maintained a force to be designated "the United Provinces Rakshak Dal" hereinafter called the Rakshak Dal and it shall be constituted in such manner as may be prescribed.

4. Enrolment.

- Subject to such conditions as may be prescribed, any person may be enrolled as a member of the Rakshak Dal and his conditions of service shall be such as may be prescribed.

5. Functions.

- A member of the Rakshak Dal when called upon to do so by the prescribed authority in relation to the preservation of public peace and for the protection of inhabitants and the security of property in any area within [Uttar Pradesh] [Substituted by the A.O. 1950 for (the United Provinces).] as such prescribed authority may direct.

6. Declaration.

- Every member of the Rakshak Dal, shall on enrolment, make a declaration in the form given in the Schedule.

7. Powers Protection and control etc.

(1)For the enforcement of the provision of this Act or any rule or regulation made thereunder every member of the Rakshak Dal, shall, when on duty or called for duty be deemed to be a police officer, and subject to any terms, conditions and restrictions as may be prescribed, to have and be subject to, in so far as it is not inconsistent with this Act, all the powers, privileges, liabilities and protections as a police officer duly appointed has or is subject to by virtue of the Police Act, 1861 (save section 29 thereof) or of any other law for the time being in force.(2)No prosecution shall be instituted against a member of the Rakshak Dal in respect of anything done or purported to be done by him in discharge of his functions as such member except with the previous sanction of the authority prescribed in that behalf.(3)The superintendence of the Force in an area shall vest in such officer or officers as may be appointed by the [State Government] [Substituted by the A, O. 1950 for (Provincial Government).].

8. Period of service and discharge.

- Every-member of the Rakshak Dal shall be required to serve the [State Government] [Substituted by the A, O. 1950 for (Provincial Government).] for such period as may be prescribed. He shall, thereafter, be called up for duty at any time during a further period as may be prescribed. After the expiry of such further period the member shall be deemed to have been discharged from the Rakshak Dal.

9. Offences.

- Any member of the Rakshak Dal, who -(a)fails to report himself when called up for duty under section 5; or(b)without sufficient excuse neglects or refuses to obey the orders of his superior officer or fails to discharge his functions as a member of the Rakshak Dal while on duty; or(c)deserts his duty; or(d)contravenes any provision of the Rules and Regulations made under this Act, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

10. Non-judicial disposal of minor offences of the members of the Dal other than officers.

- When a member of the Rakshak Dal other than an officer is charged with an offence punishable under section 9, the Administrative Commandant or, if so authorized in writing by the Administrative Commandant in that behalf, any Gazetted officer or any honorary officer of equivalent rank under whom the member of the Dal is for the time being serving, may direct that the charge shall be dealt with without formal trial and thereupon the officer, commanding the detachment, may award to such member any one or more of the following punishments, namely:-(a)confinement in such place as may be considered suitable for a period not exceeding seven days,(b)punishment drill, extra work, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to quarters;(c)forfeiture of emoluments for a period not exceeding one month.

11. Non-judicial disposal of minor offences of members of the Dal other than officers and Rakshak (non-gazetted officers).

- When a member of the Rakshak Dal, who is a non-gazetted officer, is Charged with an offence punishable under section 9, the Administrative Commandant or, if so authorized in writing by the Administrative Commandant in that behalf any gazetted officer or any honorary officer of equivalent rank under whom the member of the Dal is for the time being saving may without formal trial award such member any one or more of the following punishments, namely: -(a)reduction to a lower grade or a lower class or to the ranks:(b)forfeiture of pay and allowances for a period not exceeding one month;(c)punishment drill, extra work or other duty not exceeding thirty days in duration;(d)reprimand or severe reprimand.

12. Non-judicial disposal of minor offences of gazetted officers.

- When a gazetted officer or an honorary officer of an equivalent rank is charged with an offence punishable under section 9, the Administrative Commandant, may, without formal trial, reprimand or severely reprimand such officer or may refer the matter to the [State Government] [Substituted by the A. O, 1950 for (the Provincial Government).] for orders.

13. Trial of offences.

- An offence punishable under section 9, shall, if the charge is not disposed of under sections 10, 11 or 12 be tried by a Magistrate of the first class having jurisdiction.

14. Power of state Government to award punishment.

- Without prejudice to any other punishment which the [State Government] [Substituted by the A. o, 1950 for (the Provincial Government).] may impose under any other law or rule, for the time being in force, the [State Government] [Substituted by the A. o, 1950 for (the Provincial Government).] may on a reference under section 12 or on its on motion award to a gazetted officer or an honorary officer of an equivalent rank all or any of the following punishments; namely :- (a) reprimand or severe reprimand; (b) deduction in the case of paid officer, from pay to defray expenditure or recoup loss incurred as a consequence of misconduct by him; (c) forfeiture of service ; and (d) reduction of rank.

15. Custody during investigation.

- Any member of the Dal charged with an offence punishable under this Act may be taken into and kept in custody in the prescribed manner by the prescribed authority pending investigation.

16. Proof of enrolment.

- In any proceeding before a court the fact that a person is enrolled under this Act may be approved by the production of a certificate signed by the Administrative Commandant or any gazetted officer or any honorary officer of equivalent rank as may be prescribed.

17. Permission by employer to join duty.

(1) Except as may be prescribed, every employer, his agent or manager shall permit a member of the Rakshak Dal, who is for the time being employed by or under him, to join his duty as such and notwithstanding anything in any law or agreement between him and such member in force, the period between the date of the member joining his duty and is release therefrom shall, subject to such conditions and restrictions, as may be prescribed, be deemed to be period spent in such employment. (2) No employer, his agent or manager, shall dismiss, remove or suspend any employee or take any other action which may prejudice such employee by reason of his being a member of the Rakshak Dal. (3) Whoever contravenes the provisions of sub-section (1) or (2) shall be punished with fine which may extend to two hundred rupees.

18. Payment of compensation and allowances to employer other than State Government.

- Whenever any member of the Rakshak Dal who is employed under any person other than the [State Government] [Substituted by the A. O, 1950 for (the Provincial Government).] is called up for duty, the [State Government] [Substituted by the A. O, 1950 for (the Provincial Government).] shall pay such compensation and allowances to the employer and to the member as may be prescribed.

19. Repeal of the United Provinces Home Guards Act, 1947.

- The United Provinces Home Guards Act, 1947 (Act 1 of 1947) as amended by the United Provinces Home Guards (Amendment) Ordinance, 1948, is hereby repealed: Provided that without prejudice to the general application of section 6 and 24 of the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), with regard to the effect of repeals -(a) any form, order, rule or direction made, issued or given under the said Act shall continue in force as if it had been prescribed, made, issued or given under this Act and may be repealed, revoked, varied or amended accordingly; (b) any officer or person appointed to act enrolled under or by virtue of the said Act shall continue and be deemed to have been appointed under or by virtue of this Act; (c) any statement executed by any member of the Prantiya Rakshak Dal in accordance with section 7 of the said Act in force at the commencement of this Act shall be so read and construed as if it has been executed under the corresponding provisions of this Act.

20. Rule making power.

(1) The [State Government] [Substituted by the A. O, 1950 for (the Provincial Government).] may, after previous publication in the official Gazette, make rules and regulations to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules and regulations may -(a) prescribe the manner in which and the conditions subject to which any person member enrolled or appointed as a member of the Rakshak Dal; (b) prescribe the authorities under which and the conditions subject to which any person enrolled or appointed as a member of the Rakshak Dal may serve; (c) prescribe the classification of officers whether honorary or paid, into gazetted and non-gazetted and non-gazetted categories; (d) prescribe the duration and manner of training of such member and the obligations to which such member shall be liable when undergoing such training and generally for the maintenance of discipline; and (e) provide for any other matter which, under this Act is to be or may be prescribed.

Schedule

I..... Son of Resident
of.....do hereby solemnly declare and
affirm that, as a member of the Uttar Pradesh Rakshak Dal to which I have volunteered, after fully
understanding the responsibilities and duties which its membership imposes upon me, I will
honestly and faithfully serve for such period or periods and at such place or places as may be
prescribed from time to time, and that I will ever be ready to protect even at the peril of my life, the
honour, integrity, the constitution as by law established and the flag of my
motherland-India. Signature.....Address.....