

Uttar Pradesh Control Of Goondas Act, 1970

UTTAR PRADESH

India

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Act 8 of 1971

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Uttar Pradesh Control Of Goondas Act, 1970 Act No. 8 of 1971 An Act to make special provisions for the control and suppression of Goondas with a view to the maintenance of public order It is hereby enacted in the Twenty-first Year of the Republic of India as follows:

1. Short title and extent

(1) This Act may be called the Uttar Pradesh Control of Goondas Act, 1970. (2) It extends to the whole of Uttar Pradesh.

2. Definitions

In this Act, unless the context otherwise requires,--(a) "District Magistrate" includes an Additional District Magistrate specially empowered by the State Government in that behalf; (b) "Goonda" means a person who--(i) either by himself or as a member or leader of a gang, habitually commits or attempts to commit, or abets the commission of an offence punishable under Section 153 or Section 153-B or Section 294 of the Indian Penal Code or Chapter XV, Chapter XVI, Chapter XVII or Chapter XXII of the said Code; or (ii) has been convicted for an offence punishable under the Suppression of Immoral Traffic in Women and Girls Act, 1956; or (iii) has been convicted not less than thrice for an offence punishable under the U. P. Excise Act, 1910 or the Public Gambling Act, 1867 or Section 25, Section 27 or Section 29 of the Arms Act, 1959; or (iv) is generally reputed to be a person who is desperate and dangerous to the community; or (v) has been habitually passing indecent remarks or teasing women or girls; or (vi) is a tout, Explanation.-- 'Tout' means a person who--(a) accepts or obtains, or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means any public servant or member of Government, Parliament or of State Legislature, to do or forbear to do anything or to show favour or disfavour to any person or to render or attempt to render any service or disservice to any person, with the Central or State Government, Parliament or

State Legislature, any local authority, corporation, Government Company or public servant, or(b)procures, in consideration of any remuneration moving from any legal practitioner interested in any legal business, or proposes to any legal practitioner or to any person interested in legal business to procure, in consideration of any remuneration moving from either of them, the employment of legal practitioner in such business, or(c)for the purposes mentioned in explanation (a) or (b), frequents the precincts of civil, criminal or revenue courts, revenue or other offices, residential colonies or residences or vicinity of the aforesaid or railway or bus stations, landing stages, lodging places or other places of public resort; or(vii)is a house-grabber.Explanation.--'House-grabber' means a person who takes or attempts to take or aids or abets in taking unauthorised possession or having lawfully entered unlawfully remains in possession, of a building including land, garden, garages or out-houses appurtenant to a building.

3. Externment, etc. of Goondas

(1)Where it appears to the District Magistrate--(a)that any person is a goonda; and(b)(i)that his movements or acts in the district or any part thereof are causing, or are calculated to cause alarm, danger or harm to persons or property; or(ii)that there are reasonable grounds for believing that he is engaged or about to engage, in the district or any part thereof, in the commission of an offence referred to in sub-clauses (i) to (iii) of clause (b) of Section 2, or in the abetment of any such offence; and(c)that witnesses not willing to come forward to give evidence against him by reason of apprehension on their part as regards the safety of their person or property, the District Magistrate shall by notice in writing inform him of the general nature of the material allegations against him in respect of clauses (a), (b) and (c) and give him a reasonable opportunity of tendering an explanation regarding them.(2)The person against whom an order under this section is proposed to be made shall have the right to consult and be defended by a counsel of his choice and shall be given a reasonable opportunity of examining himself, if he so desires, and also of examining any other witnesses that he may wish to produce in support of his explanation, unless for reasons to be recorded in writing the District Magistrate is of opinion that the request is made for the purpose of vexation or delay.(3)Thereupon the District Magistrate on being satisfied that the conditions specified in clauses (a), (b) and (c) of sub-section (1) exist may by order in writing--(a)direct him to remove himself outside the area within the limits of his local jurisdiction or such area and any district or districts or any part thereof, contiguous thereto, by such route, if any, and within such time as may be specified in the order and to desist from entering the said area or the area and such contiguous district or districts or part thereof, as the case may be, from which he was directed to remove himself until the expiry of such period not exceeding six months as may be specified in the said order:(b)(i)require such person to notify his movements or to report himself, or to do both, in such manner, at such time and to such authority or person as may be specified in the order:(ii)prohibit or restrict possession or use by him of any such article as may be specified in the order,(iii)direct him otherwise to conduct himself in such manner as may be specified in the order, until the expiry of such period, not exceeding six months as may be specified in the order.

4. Permission to return temporarily

The District Magistrate may, by an order permit any person in respect of whom an order has been made under clause (a) of sub-section (3) of Section 3 to enter or return, for a temporary period, into or to the area from which he was directed to remove himself, subject to such conditions as the District Magistrate may specify and may at any time rescind any such permission.

5. Extension of period of order

The District Magistrate may, after giving, except where for reasons to be recorded in writing he is satisfied that it is impracticable so to do, to the person concerned an opportunity of making a representation in that behalf, extend from time to time in the interest of the general public the period specified in the order made under Section 3, but the period so extended shall in no case exceed two years in the aggregate.

6. Appeal

(1)Any person aggrieved by an order made under Section 3, Section 4 or Section 5 may appeal to the Commissioner within fifteen days from the date of such order.(2)The appellant or his counsel shall not be entitled to inspect or to be informed of any record which was not disclosed to him at the inquiry, if any, held under Section 3.(3)The Commissioner may either confirm the order, with or without modification, or set it aside, and may, pending disposal of the appeal, stay the operation of the order subject to such terms, if any, as he thinks fit.

7. Recognizance for certain purposes

(1)The District Magistrate or the Commissioner may for the purpose of--(a)securing the attendance of any person against whom an order is proposed to be made under Section 3, or has been made but its operation has been stayed under Section 6; or(b)securing the due observance of any direction, requirement, prohibition, restriction or condition specified in an order made in respect of any person under Section 3, Section 4, Section 5 or Section 6,-- require such person to enter into a bond, with or without sureties, and the provisions of the Code of Criminal Procedure, 1973, shall mutatis mutandis apply in relation to such bond as they apply in relation to bonds executed or required to be executed under the said Code.(2)In particular and without prejudice to the generality of the foregoing provisions--(a)the District Magistrate while issuing notice to any person under sub-section (1) of Section 3 may issue a warrant for his arrest with endorsement thereon of a direction in terms of the provisions of Section 71 of the said Code, and the provisions of Sections 70 to 85 and 87 to 89 of the said Code shall, so far as may be, apply in relation to such warrant as if the District Magistrate were a Court;(b)if any person who is required to execute a bond for the observance of any direction, requirement, prohibition, restriction or condition fails to do so, he shall be committed to prison, or if he is already in prison, be detained in prison, until the period for which the direction, requirement, prohibition, restriction or condition is to operate or until within such period he executes the bond with or without sureties, as the case may be, in terms of the order, and

the provisions of Sections 119 to 121, 123 and 124 of the said Code shall mutatis mutandis apply as if the District Magistrate or the Commissioner were a court;(c)Sections 445 to 447 of the said Code shall mutatis mutandis apply in relation to all bonds executed under this Section as if the District Magistrate or the Commissioner were a court.

8. Nature of evidence

The District Magistrate or the Commissioner may for the purpose of satisfying himself as to whether the conditions necessary for the making or confirmation of an order under Section 3 or Section 5 exist or not, take into consideration any evidence which he considers to have probative value, and the provisions of the Indian Evidence Act, 1872, shall not apply.

9. Rescission of order

The District Magistrate or the Commissioner may at any time rescind an order made under Section 3, whether or not such order was confirmed on appeal under Section 6.

10. Punishment for contravention of orders under Sections 3 to 6

Whoever contravenes any order made under Section 3, Section 4, Section 5 or Section 6 shall be punishable with rigorous imprisonment for a term which may extend to three years but shall not be less than six months, and shall also be liable to fine.

11. Forcible removal of externed Goonda re-entering, etc., in contravention of order

(1)Where, after an order is made against a person under Section 3, Section 4, Section 5 or Section 6 such person--(a)has failed to remove himself from the district or part as directed by the order; or(b)has re-entered the area, from which he was ordered to remove himself during the period of operation of that order, the District Magistrate may cause him to be arrested and removed in police custody to such place outside the area specified in the said order as he may direct.(2)Any police officer may arrest without warrant any person reasonably suspected of an act or omission specified in sub-section (1), and shall forthwith forward the person so arrested to the nearest Magistrate who shall cause him to be forwarded to the District Magistrate, who may thereupon cause the person to be removed in police custody to such place outside the area specified in the said order as he may direct.(3)The provisions of this section are in addition to and not in derogation of the provisions of Section 10.

12. Cognizance of offence

No Magistrate shall take cognizance of an offence punishable under Section 10, except--(a)upon a report in writing of the facts constituting such offence made by a police officer; or(b)upon information received from any person other than a police officer, or upon his own knowledge or

suspicion, that such offence has been committed.

13. Savings as to orders

No order, made in exercise of any power conferred by or under this Act shall be called in question in any court.

14. Protection of action taken under the Act

(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 this Act or of any order made thereunder. (2) No suit or other legal 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 this Act or of any order made thereunder.

15. Power to make rules

(1) The State Government may by notification in the Gazette make rules for carrying out the purposes of this Act. (2) All rules made under this Act shall, as soon as may after they are made, be laid before each House of the State Legislature, while it is in session, for a total period of not less than fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Gazette subject to such modifications or annulments as the two Houses of the Legislature may during the said period agree to make; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

16. Repeal of U. P. Ordinance No. 15 of 1970

The U. P. Control of Goondas Ordinance, 1970, is hereby repealed.