

The U.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976

UTTAR PRADESH

India

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Act 4 of 1976

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The U.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976 (U.P. Act No. 4 of 1976) (As passed by the Uttar Pradesh Legislature) Received the assent of the Governor on 13.4.1976 and published in the U.P. Gazette, Extraordinary, dated 13.4.1976. An Act to provide for the enforcement of attendance of witnesses and production of documents in certain departmental inquiries and for matters connected therewith or incidental thereto. It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :-

1. Short title, extent and commencement. -

(1) This Act may be called the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of documents) Act, 1976. (2) It extends to the whole of Uttar Pradesh. (3) It shall be deemed to have come into force on September 17, 1975.

2. Departmental inquiries to which the Act shall apply. -

The provisions of this Act shall apply to every departmental inquiry made in relation to - (a) persons who are members of any civil service of the State or who hold any civil post under the State; (b) persons who are in the service of or hold any post under - (i) any local authority; (ii) any Board or Corporation (not being a company within the meaning of the Companies Act, 1956) (Act I of 1956) owned or controlled by the State Government; (iii) any Government Company, within the meaning of Section 167 of the Companies Act, 1956, in which not less than fifty per cent of the paid-up share capital is held by the State Government or any company which is a subsidiary of such Government Company; (iv) any society registered under the Societies Registration Act, 1860 (Act I of

1860), the governing body whereof consists, under rules or regulations of the State Government, or both;(c)persons who have ceased to be members of a service or holders of a post referred to in clause (a) or clause (b), in relation to their acts or omission while they were members of such service or holders of such post.

3. Definitions. -

For the purposes of this Act -(a)"departmental inquiry" means an inquiry held under and in accordance with -(i)any law made by the State Legislature or any rule made thereunder; or(ii)any rule made under the proviso to Article 309, or continued under Article 313 of the Constitution, into any charges against any person referred to in Section 2;(b)"inquiring authority" means any officer or authority who is empowered by or under any law or rule for the time being in force to hold a departmental inquiry, and includes an officer or authority to whom the power to hold such inquiry is delegated by the Competent Authority;(c)"charges" include any allegation in respect of which disciplinary action is proposed to be taken against a person while he is in service or while he holds a post, or where he has ceased to be in service or to hold a post, any misconduct or negligence on account of which action by way of withholding or withdrawing pension or any part of it or of recovery from pension or any pecuniary loss caused to the employer is proposed to be taken against him.

4. Power of authorised inquiring authority to enforce attendance of witnesses and production of document. -

(1)Every inquiring authority shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), while trying a suit, in respect of the following matters, namely :-(a)the summoning and enforcing the attendance of any witness and examining him on oath;(b)requiring the discovery and production of any document or other material which is producible as evidence;(c)subject to any claim of privilege [in respect of which Sections 123 and 124 of the Indian Evidence Act, 1872 (Act I of 1872), shall mutatis mutandis apply but Section 162 thereof shall not apply], the requisitioning of any public record from any Court or office.(2)Notwithstanding anything contained in sub-section (1), the authorised inquiring authority shall not compel the Reserve Bank of India, the State Bank of India, any subsidiary bank as defined in clause (k) of Section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Act XXXVIII of 1958), or any corresponding new Bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act V of 1970), -(a)to produce any books of account or other documents which the Reserve Bank of India, the State Bank of India, the subsidiary bank or the corresponding new bank claims to be of a confidential nature; or(b)to make any such books or documents a part of the record of the proceedings of the departmental inquiry; or(c)to give inspection of any such books or documents, if produced to any party before it or to any other person.(3)Any process issued by an inquiring authority for the attendance of any witnesses or for the production of any document may be served and executed either direct (by post or by messenger) or through the District Judge within the local limits of whose jurisdiction the witness or other person on whom the process is to be served or executed, voluntarily resides or carries on business or personally works for gain.(4)Where a process is served and executed through the District Judge in

accordance with sub-section (3), it shall, for the purposes of taking any action for the disobedience thereof, be deemed to be a process issued by the Court of the District Judge.(5)Where a process is issued by a Tribunal constituted under the Uttar Pradesh Disciplinary Proceedings (Administrative Tribunal) Rules, 1947, and is served and executed without its being routed through the District Judge, the Tribunal shall, for the purposes of taking any action for the disobedience of any such process, have the same powers as are vested in a Civil Court under Rules 10 to 18 of Order 16 in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908).(6)Every inquiring authority making any departmental inquiry under this Act shall be deemed to be a Civil Court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

5. Territorial limits in which powers specified in Section 5 may be exercised. -

For the purposes of exercising the powers specified in Section 4, the territorial jurisdiction of every authorised inquiring authority shall extend to the limits of the territory to which this Act extends.

6. Power to make rules. -

The State Government may, by notification make rules for the purpose of giving effect to the provisions of this Act.

7. Repeal and savings. -

(1)The Uttar Pradesh Disciplinary Proceedings (Summoning of Witnesses and Production of Documents) Act, 1953 (Act XX of 1953), is repealed with effect from September 17, 1975.(2)The Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Ordinance, 1976 is hereby repealed.(3)Notwithstanding such repeal or the repeal of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Ordinance, 1975 (U.P. Ordinance No. 1 of 1976), by the aforesaid Ordinance of 1976, anything done or any action taken under the said ordinances shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act was in force on all material dates.