APPENDIX- 3

U.P. Prison Release on probation rules- 1938

No. 3436(1)/VI-1651(7)-37

17th December, 1938

In exercise of the power conferred by sections 5, 6 and 9 of the VIII of 1938 United Provinces Prisoners' Release on Probation Act, 1938, the United Province Government are hereby please to make the following rules which shall come into force on the 15th day of January, 1939.

RULES

1. **Name**These rules may be called the United Provinces Prisoners' . Release on Probation Rules. 2. **Definitions**. In these rules, unless there is anything repugnant in the subject .

or context-

(1) "The Act" means the United Provinces Prisoners' Release on Probation Act, 1938;

(2) "Guardian" means a Government officer, or a person professing the same religion as the prisoner, or a secular institution, or a society belonging to the same religion as the prisoner, under whose supervision or authority the prisoner released under section 2 of the Act is placed by the State Government. A probation officer appointed by the Uttar Pradesh Apradh Nirodhak Samiti is entitled , on behalf of that institution, to act as the guardian of a prisoner; and

(3) "Superintendent" means the Superintendent of a prison in which a convict to be released under the Act is confined.

3.**Ineligibility for release.-**The following classes of prisoners shall not be released under the Act: (a) Those convicted of offences under the following Chapters or Sections of the Indian Penal Code: **V-A, VI and VII**

Section 216-A, 224 and 225 (if it is a case of escape from a jail), 231, 232, 303, 311, 328, 364, 376, 382, 386 to 389, 392 to 402, 413, 459, 460, 489-A and Section 511 read with any of the aforesaid sections ;

(b) those convicted under sections 7 and 8 of the Act or whose license has been previously revoked on account of the breach of the conditions of the license;

(c) those whose applications for release, other than an application under section 8 of the Act, were on a previous occasion rejected by the State Government;

(d) those sentenced to a period of one year or less under any sections of the Indian Penal Code or under any other Act.

Explanation- The rule in clause (c) precludes a convict from himself applying a second time for release under section 2 of the Act, But the State Government may direct the Inspector-General of Prisons to place any case, which has already been once rejected, for reconsideration before the Board referred to in rule 6 (5).

4. ***Eligibilities for the release***.-Save the prisoners specified in rule 3, any other prisoner who has served one- third of his sentence of imprisonment or a total period of five years with remission, whichever is less, may be released by the State Government on a license.

5. ***Computation of sentence***.- For the purposes of these rules, the following principles shall be observed in computing the period of sentence of imprisonment, namely-

(a) when a prisoner has been sentenced to sentence to several terms of imprisonment for several offences and the sentences of imprisonment have been ordered to run concurrently, then the longest single sentence which the prisoner is undergoing shall be deemed to be the term of his imprisonment;

(b) When a prisoner has been sentenced to several terms of imprisonment for several offences and the sentences of imprisonment have been ordered to run consecutively, the total period which the prisoner has to undergo shall be deemed to be the term of his imprisonment;

(c) remissions already earned by the prisoner shall be counted as imprisonment served by him, and

ı(d) life sentence shall be reckoned as twenty years vide paragraph 170 (e) of the Jail Manual.

Explanation- The expression "sentence of imprisonment" in these rules shall include imprisonment in default of the payment of fine and imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal procedure, 1898.

1- Substituted by Notification No. 546-P/XXII 1052-59, dated November 30, 1967.

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6. **Procedure**.- (1) Any prisoner eligible for release under these rules may make an application in the Form-A to the Superintendent. Such forms shall be printed at the cost of the Government and supplied free of charge to prisoners, to their relatives and to persons offering themselves as their guardians.

(2) On the receipt of the application, the superintendent shall examine the application to see if the prisoner and his proposed guardian have duly filled in the column of the application meant to be filled in by them. If the application is in order, the Superintendent shall entertain it and cause it to be entered in a register maintained in Form B. if the prisoner is ineligible under rule 3, he shall reject the application and inform the prisoner of his order. If the prisoner is eligible for release under rule 4, he shall fill in the columns in the application meant to be filled in by him and forward the same as soon as may be, to the District Magistrate of the district in which the prisoner was convicted through the Superintendent of Police.If the application is not in order, the supermtendent shall return it to the prisoner for necessary correction or supplying the omissions.

(3) In cases where there is probating officer, the Superintendent of the jail shall forward the application to the probation officer, sending a copy thereof to the Superintendent of Police who shall sent his report to the probation officer. The probation officer shall make his independent inquiry and then submit his report direct to the district Magistrate in the following form after incorporating therein the report of the Superintendent of police.

(1) Name of convict…….

(2) Convicted under section……..

(3) Sentence…….

(4) Relationship of guardian……...

(5) Opinion about suitability of.

guardian (together with reasons in case of non-suitability)-

(a)Police…….

(b)Probation officer……

(6) Recommendation regarding release (state reasons when release opposed)-

(a) Jail …….

(b) Police ……..

(c) Probation Office …….

(7) District Magistrate's order…….

Immediately on receipt of an application under sub-rule (2) and this rule, the District Magistrate shall move the courts concerned for supplying him with the certified copies of the relevant judgments in the case, free of cost, and shall, if necessary, simultaneously consult, through the Superintendent of Police concerned, the District Magistrate of the district in which the prisoner ordinarily resides. On receipt of the copies of the judgments and the report of the District Magistrate of the district of residence of the prisoner, he shall attach the copies of the judgments to the application, fill in the entries therein meant to be filled in by him, and shall, without delay forward the same to the Inspector-General of Prisons.

(3-A).On receipt of an intimation about the death of his guardian along with the proposal for appointment of another guardian from a licensee, the District Magistrate of the district in which the licensee resides, shall refer the case to State Government for appointment of a fresh guardians in place of the deceased one along with his opinion about the suitability of the proposed guardian. In case, the licensee does not send his proposal for appointment of another guardian the District Magistrate shall require the licensees do so before making a reference to Government. If no guardian in place of the deceased one is proposed within 15 days of the receipt of the District Magistrate's orderly by the licensee, the case would be reported by the District Magistrate to Government for orders.

form C, in which all applications received from the Superintendent under sub-rule (2) shall be duly entered.

(5) The applications received from the districts by the Inspector-General of Prisons shall be considered by a board consisting of the Home Secretary to the Utter Pradesh Government or any other officer empowered in his behalf by the State Government, the Inspector-General of Prisons or the Deputy Inspector-General of prisons, as the case may be, and a Deputy Minister or Parliamentary Secretary nominated by the State Government the Deputy Minister or, Parliamentary Secretary or, in his absence, the Home Secretary or the officer empowered by the State Government, as above, shall be the chairman of the board. Meetings of the board shall be held at least once every month to make necessary recommendations.

(6) The State Government shall, on the receipt of report of District Magistrate regarding the appointment of a fresh guardian of licensee in place of the deceased one, pass such orders as it may deem proper.

(7) **Licence.-** A prisoner whose release on license is sanctioned by the State Government shall be granted a license in

Form D. Three copies of such a license shall be prepared for each prisoner. One shall be retained by the Government, another shall be sent to the Superintendent for delivery to the guardian of the prisoner and the third shall be forwarded to the District Magistrate for information.

8. **Information to the prisoner and guardian**.- As soon as the Superintendent receives the orders of the government, he shall communicate the same to the prisoner and the district Magistrate concerned and in the case of an order of release shall, through the District Magistrate, inform the guardian also of the order and call upon him to present himself to take charge of the prisoner. On the guardian presenting himself, the Superintendent shall deliver to him the copy of the license received from the State Government, hand over to him the prisoner and take his signature in the register (Form B) in token of his having taken charge of the prisoner.

9. **Guardian's duty**.- (a) It shall be the duty of the guardian to see that the conditions of the lecence are fulfilled. He shall look after the conduct and welfare of the licensee and generally act in *loco- parentis*. If the licensee's conduct is found to be bad, it shall be the duty of the guardian to report the fact to the District Magistrate.

(b) In debating with the licensee the guardian, when he is a probation officer appointed by the Uttar Pradesh Aparadh Nirodhak Samiti, will be governed by any rules framed by the Society for guidance of probation officers, with the approval of the State Government.

10. (1) The District magistrate, on receiving information from the guardian or any other source, of the breach by the licensee of the conditions of the license, shall cause a notice to be served on the licensee to show cause why his license should not be revoked. If the licensee presents himself in response to the notice, then, after hearing him personally and, if he does not present himself, then without hearing him, the District Magistrate shall consider whether or not to recommend to the State Government for the revocation of the prisoner's license and shall act accordingly. While making his recommendation to Government for revocation of the license, the District Magistrate shall state the condition or conditions or which, in his opinion, have been breached by the licensee and how they have been breached.

(2) in case the District Magistrate decides to recommended the revocation of the license, he may, at the same time, if he considers that the licensee is unfit to be allowed to remain at large under the license, order his arrest and detention in the prison pending the receipt of the orders of the State Government.

(3) The Sate Government shall on receipt of the District Magistrate's recommendation pass such orders as it may deem proper.

(4) An order of revocation of license shall be in Form E and shall be servedunpon the licensee if detained in prison by the Superintendent of the Prison , and, if not detained in prison by the officer in charge of police station.

(5) The order of revocation shall be noted on the license and in the registers maintained by the District Magistrate and the Superintendent.

(6) If a prisoner released on license under the Act escapes from the supervision or authority of a guardian or fails to return to prison on revocation of his license, the guardian shall immediately inform the District Magistrate and three Superintendent and report to the nearest police station and action shall be taken against the prisoner as in a cognizable case.

11. **Warrant of Commitment**. On the release of a prisoner under the Act, the Superintendent shall retain the warrant under which the prisoner was committed to prison by court which sentenced him until the period of his sentence with remission, if any, earned by him during the period of his confinement in jail, has expired. The period during which a prisoner is absent from prison under the

provisions of this Act on a licence which is in force shall be reckoned as a part of the period of imprisonment to which he was sentenced for the purpose of computing the period of his sentence. When the convict released on licence has finished the sentence, the Superintendent shall return the warrant effect on the license and shall return it to the Superintendent shall return the warrant or warrants to the court which issued it or them.

12. **Final Release**.- On the expiry of the period of licence otherwise than by revocation, the guardian shall forthwith inform the licensee that he is absolved from the observation of conditions of the licence, shall make a note to that effect on the licence and shall return it to the Superintendent.

13. **Police Registered Convicts**.- When a prisoner released on license under the Act happens to be a police registered convict, the Superintend the Superintendent of Police of the

district of which such convict is a resident of his release on license together with the name and address of the guardian and shall, at the same time, inform him of the date on which the final release of the licensee is likely to take place. On the final release of the prisoner the police register slip shall be forwarded to the Superintendent of Police.

14. **Guardian**.- (1) In each case the District Magistrate shall determine whether or not the proposed guardian is fit to act as such having regard to his status, antecedents and the degree of control that he may exercise on the prisoner, and inform the State Government of his opinion.

(2) Parents or relatives of a prisoner may be appointed guardians if the District Magistrate is satisfied that they are fit to act as such guardians.

(3) An officer of a prisoner shall in no case be eligible to act as guardian, unless the Inspector-General of Prisons sanctions it.

15. **Remission of Sentence**-(1) An application for remission of sentence under section 8 of the act shall be made by the prisoner or by the person offering himself as his surety to the District Magistrate of the district in which he was convicted or where he was convicted in more than one district then to the District Magistrate of any such district.

(2) The District Magistrate shall, on a consideration of the antecedents of the prisoner, his conduct in jail and his environments and after consulting Probation Officer where one is appointed and such other authorities as he may think proper, within one month of the receipt of the application forward it to the

form crime and lead a peaceable life if released from prison.

(3) The State Government may, on receipt of such application release the prisoner on his entering into a bond with one or more sureties for such amount and for such period as the State Government may direct, to be of good behavior and to observe such conditions as the State Government may impose.

(4) If any prisoner released under sub-section (1) of section 8 of the Act fails to observe the conditions of the bond, the District Magistrate or the Sub- Divisional Magistrate, if authorized by the District Magistrate may take proceedings under section 514 of the Code of Criminal Procedure 1898, and report to the State Government for the cancellation of the order remitting the sentence passed under sub-section(1) of section-8 of the Act, and the State Government may pass such orders in accordance with sub-rule (3) of section 8 as it may deem fit.

Form A

[To be supplied to a prisoner, his relative (or his) guardian free of charge.]

Application by the prisoner to the Superintendent of prison for release under section 2 of the United Provinces Prisoners' Release on Probation Act, 1938 (VIII of 1938).

(To be filled in by the prisoner and his guardian)

Jail…….

1.Name and No. of prisoner……..
2.Father's name……..
3.Caste……
……
4.Residence……
……
Village, mohalla or town……..
Thana……
District……..
5.Name of the proposed guardian with his father's name-
6.Guardian's caste……
7.Guardian's age……..
8.Guardian's occupation……
9.Guardian's residence……
Village, mohalla or town……..
Thana…….
District……..
10.Is the guardian literate? ……
11.Is the guardian related to the prisoner? If so, how ? .....

Declaration by the Prisoner

I hereby declare that I desire to be released on licence under the United Provinces Prisoner's Release on Probation Act, 1938, and shall faithfully comply with the conditions of the licence.

Signature of the prisone Date 19 Left thumb- impression

Declaration by the guardian

*I on behalf of ……..Society Institution agree to undertake the supervision of …….prisoner mentioned above and shall comply with the provisions of the United Provinces Prisoners' Release on Probation Act, 1938, the rules framed thereunder and the conditions of the licence.

Date……..19…… Signature of the guardian

Left Thumb Impression.

*Note- The rest of this line shall be scored out if the proposed guardian is not a society or an institution. *(To be filled in by the Superintendent of Jail)*

374

Casual

Habitual.

No. of previous convictions, if any

1.Prisoner's name and No. …….

2.Prisoner's age …….years, offence.

3.Sentencing officer and case no……

4.Period of sentence ……..Fine, if any…….Fine realized…….

5.Date of sentence……

6.Period actually spent in jail up to the date of application years months days.

7.Remissions earned……years……..months……days.

8.Total of columns 6 and 7……..years…….months ……days.

9.Prisoner's date of release after allowing probable remission under the rule……..

10.The work allotted to the prisoners in jail…….

11.Prison offences committed by the prisoner and punishment awarded to him……..

12.Training received in any particular work in prison or any special proficiency acquired…… 13.Physical and mental condition of the prisoner……

* 14 Conduct in jail……

*15 Effect of imprisonment undergone……

*16. Is the prisoner eligible in every way? If not, the Superintendent shall in his own hand record here the order rejecting this application with reasons……..

*17Is it advisable to release the prisoner on licence.?.....

18, Previous reference, if any, made to Government either by the Superintendent of the jail himself or through the District Magistrate on the subject or release of the prisoner……

Entries checked with warrants

Jailor Superintendent of Jail.

Date---------- Name of Jail----------

*Note- These entries should be in the hand of the Superintendent.

(To be filled in by District Magistrate)

1.Date of receipt in the District Magistrate's Office……..

2.Brief history of the case…….

3.Is the proposed guardian fit to Act as such ?*

4.Having regard to the prisoner's antecedents and his conduct in prison, is he likely to abstain from crime and lead a peaceable life if released on licence ? ……

District magistrate.

Name of District…….

*Note- If not please state reasons in brief.

Recommendation of the Board

1.Recommended for release on licence.

2.Recommended for release on licence after……..months in default of payment of fine or sooner if fine or portion of fine is paid.

3.Recommended for release on licence provided a suitable guardian is available.

4.Recommended for release on licence after……..months if prisoner's conduct is satisfactory.

5.Postponed till……..,if prisoner's conduct is satisfactory.

6.Postponed till a suitable guardian is forthcoming……..

7.Postponed indefinitely…….

8.Rejected……..

9.Name of guardian to be recognized…….

Member Member Chairman

Dated……..19

Orders of Government

Board's recommendation accepted

Secretary to Government.

Dated ……19

Endorsement on revocation of licence.

Secretary to Government.

Dated……19.

From B

[See rule 6 (2)]

Jail register of applications for release under the United Provinces Prisoner's Release on Probation Act, 1938.

Serial No.	Date of application	Name of Prisoner	Prisoner's number.	Whether application rejected by the superintendent.	Whether returned y the Superintendent to the prisoner.	Date of the expiry of licence.,if granted	Date of despatch of the application to the District Magistrate.	Order of the State Government.	Name of the guardian.	Date giving the licence and delivery of the Prisoner to the guardian.	Date of re-admission of the prisoner into the jail.	Date, if any, of the revocation of the licence.	Signature of the guardian in token ot the receipt of the licence and delivery to him of the prisoner.	Date of final release from the jail	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

Form C

[See rule 6 (4)]

Register of applications for release under the United Provinces Prisoners' Release on Probation Act to be maintained in the office of the District Magistrate.

Serial No.	Date of receipt of application from the Superintendent.	Name of Prisoner	Name of convicting court.	Whether recommended to Government for release	Date of despatch of application to the Inspector General of Prisons.	Order of the State Government.	Name of Guardian.	Date, if any, of revocation of licence.	Whether action taken under section 7 of the Act.	Remarks.
1	2	3	4	**5**	**6**	**7**	**8**	**9**	**10**	**11**

FORM-D

[See rule 7]

Licence of conditional release under section 2 of the U.P. Prisoner's Release on Probation Act, 1938.

In exercise of the powers conferred by section 2 of the U.P. Prisoners' Release on Probation Act, 1938, the State Government is pleased subject to the observance of the conditions hereinafter set forth to grant and direct the release of-----, son of , caste----------, aged----------, resident of----------, police section----------, district----------, convict number ----------at present confined in the---------- jail and place him under the supervision and authority of ----------,son of----------, caste----------, resident of----------, police station----------. District---------- or Society/ Institution hereby appointed as the guardian of the said prisoner.

This licence shall expire on the---------- day of--------, 19---------- unless previously revoked.

Conditions to be observed by the licencsee.

(1) The licensee shall remain under the supervision and authority of the above-mentioned guardian during the period of the licence. He shall obey al the instructions of the guardian issued to him either verbally or in writing regarding his residence, employment or conduct.

(2) He shall not proceed beyond the limits of the places within which he may be restricted by his guardian without his permission and shall proceed to and place directed by the guardian and by the route prescribed by the guardian.

(3) He shall report himself at such times and places and to such person as the guardian may from time to time direct.

(4) He shall himself with due industry and to the satisfaction of the guardian do the work upon which the said guardian may direct him to employ himself.

(5) He shall not commit any offence punishable under any law for the time being in force in India. **(6)**He shall not in any way associate with persons known to be of bad character or lead dissolute or evil life.

(7) If in the opinion of the State Government he is found to have committed a breach of the above-mentioned conditions the State Government may, after the person concerned has been given an opportunity to represent his case before the District Magistrate of the district in which he is residing at the time, revoke the licence and direct his recommitment to prison to serve the rest of the sentence, subject to the provision of section 4 of the U.P. Prisoner's Release on Probation Act, 1938.

(8) On revocation of this licence, the licensee shall return to the prison named in the order of revocation on or before the date specified therein.

(9) In the event of the death of his guardian, the licensee shall at once report this fact to the District Magistrate of the district in which he resides and shall, if possible, purpose some other suitable guardian in place of the deceased one, giving full particulars of the proposed guardian.

Guardian's duty

It shall be the duty of the guardian to see that the conditions of the licence are fulfilled. He shall look after the conduct and welfare of the licensee and generally act in *loco parentis*. If the licensee's conduct be bad, it shall be the duty of the guardian to report the fact to the District magistrate.

If a prisoners released on licence under the Act escapes from the supervision or authority of a guardian or fails to return to prison on revocation of his licence, the guardian shall immediately inform the District Magistrate and the Superintendent of the jail and report to the nearest police station and action shall be taken against the prisoners as in a cognizable case.

On the expiry of the period of licence otherwise than by revocation, the guardian shall forthwith inform the licensee that he is absolved from the observation of all conditions of the licence, shall made a note to that effect on the licence and shall return it to the Superintendent of Jail concerned.

Date 19 Home Secretary to Gvoernemt.

Uttar Pradesh.

FORM E

[See rule 10 (4)]

Order of revocation of licence under section 6 of the U.P. Prisoners' Release on probation Act, 1938.

Where as…….,a licensee released under section 2 of the U.P. Prisoners' Release on Probation Act, 1938 has committed a breach of condition no……..of his licence, dated ……. by……,

Now, therefore, in exercise of the powers conferred by section 6 of the U.P. Prisoners' Release on Probation Act, 1938 the State Government hereby revokes with effect from ……the licence under section 2 of the said Act granted on ……..,to…….,son of ……..,resident of ……..police station……..,district……,convict no…….of…….. Prison, under the guardianship of ……..,son of ……..,resident of…….,police station……..,district…….and directs that he be re-admitted into the prison to serve the rest of his sentence subject to the provisions of section 4 of the said Act.

(The convict is directed to report himself to the Superintendent of the …… prison at…….on or before the……..)

Date……..19

Grih Sachiv,
U.P. shasan