

NOTIFICATION

PRISONERS RELEASE ON PROBATION RULES

Peshawar, the 19th July 1949

No. 27966-H. J.—In exercise of the powers conferred by sections 5, 6 and 9 of the ¹[Khyber Pakhtunkhwa] (Adolescent) Prisoners' Release on Probation Act, 1949, the ²[Khyber Pakhtunkhwa] Government are hereby pleased to make the following rules which shall come into force on the 19th day of July, 1949.

RULES

1. *Name.*— These rules may be called the ³[Khyber Pakhtunkhwa] (Adolescent) 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 ⁴[Khyber Pakhtunkhwa] (Adolescent) Prisoners' Release on Probation Act, XXIII of 1948.

(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 Provincial Government; and.

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

3. *Ineligibility for release.*—The following classes of prisoners shall not be released under the Act—

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

(b) those whose applications for release under the Act, were on a previous occasion rejected by the Provincial Government ; and

(c) those convicted by a Court Martial.

¹ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

² Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

4. *Eligibility for 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 remissions whichever is less, may be released by the Provincial Government on a licence. For prisoners awarded sentences of less than 18 months' imprisonment the one-third rule shall not apply and they shall if in all other respects qualified, be released on probation only after they have completed six months in jail (with remission). The Provincial Government will consider the cases of such prisoners twice a year, viz., in May and November.

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 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 prisoners shall be counted as imprisonment served by him ; and

6. *Procedure.*—(1) Any prisoner eligible for release under these rules may make an application in 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 columns 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 ordinarily reside. If the application is not in order, the Superintendent shall return it to the prisoner for necessary correction or supplying the omissions.

(3) The District Magistrate shall after consulting the Superintendent of Police fill in the entries meant to be filled in by him and return all such applications to the Superintendent of the Prison.

(4) The District Magistrate shall maintain a register of all such applications in Form C in which all applications shall, as soon as they are received from the Superintendent be entered.

(5) The Superintendent shall retain all such applications and shall forward them to the Inspector-General of Prisons twice a year, *viz.*, not later than the 15th May, and the 15th November as the case may be.

(6) On receipt of the applications from Superintendents, the Inspector-General of Prisons shall, after filling in the entries meant to be filled in by him, forward the applications to Provincial Government (Home Department) for consideration not later than the 1st June and 1st December as the case may be

(7) The Provincial Government shall on receipt of the applications pass such orders, as it may deem proper and communicate them to the Inspector-General of Prisons and the District Magistrate concerned.

7. *Licence.*—A prisoner whose release on licence is sanctioned by the Provincial Government shall be granted a licence in Form D. Three copies of such a licence 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 guarding.*—As soon as the Superintendent receives the orders of the Government, he shall communicate the same to the prisoner 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 licence received from the Provincial 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. *Guardians 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 is found to be bad it shall be the duty of the guardian to report the fact to the District Magistrate. He may also send with such report a recommendation for the forfeiture of remission or part thereof.

Where a recommendation for forfeiture has been made the District Magistrate shall forward the same to the Provincial Government through the Inspector-General of Prisons with such remarks as he may deem necessary.

Where the guardian takes any labour from the licensee he shall pay wages to him in accordance with the scale prescribed by the Inspector-General of Prisons.

10. *Revocation.*—The District Magistrate, on receiving information from the guardian or any other source of the breach by the licensee of the conditions of the licence, shall cause a notice to be served on the licensee to show cause why his licence should not be revoked. If the

licensee presents himself in response to the notice, then, after hearing him and, if he does not present himself then, without hearing him, the District Magistrate shall consider whether or not to recommend to the Provincial Government for the revocation of the prisoner's licence and shall act accordingly.

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

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

(4) An order of revocation of licence shall be in Form E, and shall be served upon the licensee if detained in prison by the Superintendent of the Prison, and, if not detained in prison, by the officer-in-charge of a Police Station or by a Police Officer deputed by an order in writing by the Officer in charge of a Police Station.

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

(6) If a prisoner 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 and report to the nearest Police Station and action shall be taken against the prisoner as in a cognisable 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 the Court which sentenced him until the period of his sentence with remissions, 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 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 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 observations of all 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 licence under the Act happens to be a police register convict, the Superintendent of the Prison shall inform the Superintendent of Police of the district of which such convict is a resident, of his release on licence 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 decree of control that he may exercise on the prisoner, and inform the Provincial Government of his opinion.

(2) A prisoner released on license shall not be permitted to reside in a place within three miles of his own village.

(3) An officer of a prison 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 such authorities as he may think proper, within one month of receipt of the application forward it to the Provincial Government stating his opinion whether the prisoner is likely to abstain from crime and lead a peaceable life if released from prison.

(3) The Provincial 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 Provincial Government may direct to be of good behavior and to observe such conditions as the Provincial 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 Provincial Government for the cancellation of the order remitting the sentence passed under subsection (1) of section 8 of the Act, and the Provincial Government may pass such orders in accordance with sub-rule (3) of section 8 as it may deem fit.

FORM A.*(See Rule 6, sub-rule 1)*

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

Application by a prisoner to the Superintendent of Prison for release under Section 2 of the ⁵[Khyber Pakhtunkhwa] (Adolescent) Prisoners' Release on Probation Act, 1948.

(To be filled in by the Prisoner and his Guardian)

- | | | | | | | | |
|------|-------------------------------|-----|-----|-----|-----|-----|-----|
| (1) | Name of prisoner | ... | ... | ... | ... | ... | ... |
| (2) | Father's name | ... | ... | ... | ... | ... | ... |
| (3) | Caste | ... | ... | ... | ... | ... | ... |
| (4) | Residence | ... | ... | ... | ... | ... | ... |
| (5) | Name of the proposed guardian | ... | ... | ... | ... | ... | ... |
| (6) | Guardian's father's name | ... | ... | ... | ... | ... | ... |
| (7) | Guardian's caste | ... | ... | ... | ... | ... | ... |
| (8) | Guardian's age | ... | ... | ... | ... | ... | ... |
| (9) | Guardian's address | ... | ... | ... | ... | ... | ... |
| (10) | Guardian's occupation | ... | ... | ... | ... | ... | ... |
| (11) | Is the guardian Literate? | | | | | | |

(12) If the guardian intends to take any labour from the licensee, the nature of labour should be stated.

Declaration by the Prisoner.

I hereby declare that I desire to be released on licence under the ⁶[Khyber Pakhtunkhwa] (Adolescent) Prisoners' Release on Probation Act, 1948 and shall faithfully comply with the conditions of the licence.

⁵ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁶ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

Signature of the Prisoner.

Thumb-impression.

Dated.....

DECLARATION BY THE GUARDIAN.

I* (on behalf of Society/Institution) agree to undertake supervision of.....prisoner mentioned above and shall comply with the provisions of the ⁷[Khyber Pakhtunkhwa] (Adolescent), Prisoner's Release on Probation Act, 1948 rules framed thereunder and conditions of licence.

Signature

-----of guardian.....

Thumb-impression

Dated.....

*Note.—The words in brackets shall be scored out if the proposed guardian is not society or an institution.

(To be filled in by Superintendent of Jail)

(1) Prisoner's Number

(2) Prisoner's age

(3) Date of sentence

(4) Period of sentence

(5) Sentencing officer and case number

(6) Section... ..

(7) If the applicant is ineligible for release under Rule 3, the Superintendent shall in his own hand record here the order rejecting this application with reasons and shall not fill in the subsequent columns

(8) Physical and mental condition of the prisoner

(9) Conduct in Jail,

⁷ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (10) Effect of imprisonment undergone
- (11) Period spent in jail up to the date of application
- (12) Remission earned
- (13) Prisoner's date of release after allowing remission under the rules calculated at the rate at which he is earning the remission on the date of the application
- (14) Is it advisable to release the prisoner on licence

Entries checked with warrants.

Jailor

Superintendent of Jail.

Dated.....

(To be filled in by the District Magistrate)

- (1) Is the proposed guardian fit to act as such
- (2) 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.

Dated.....

(Recommendation of the Inspector-General of Prisons)

- (1) Recommended for release in licence.
- (2) Postponed till
- (3) Rejected.
- (4) Name of guardian to be recognised

Inspector-General of Prisons,
⁸[Khyber Pakhtunkhwa].

Date.....

(Endorsement, if any, on revocation of licence)

Date.....

⁸ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

FORM B.

[See Rule 6 (2)]

Jail register of applications for release under the 1 [Khyber Pakhtunkhwa] Province (Adolescent) Prisoner's Release on Probation Act, 1948.

Serial No.	Date of application	Name of prisoner	Prisoner's No.	Whether application rejected by the Superintendent	Whether returned by the Superintendent to the prisoner	Date of the expiry of licence if granted	Date of despatch of the application to the District Magistrate	Orders of the Provincial Government	Name of the guardian	Date of giving the licence and delivery of prisoner to the guardian	Date of re-admission of the prisoner to the Jail	Date, if any, of the revocation of the licence	Signature of the guardian in token of 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 2 [Khyber Pakhtunkhwa] Province (Adolescent) Prisoners' Release on Probation Act, 1948 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 Superintendent of Prison	Orders of the Provincial 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

1. Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

2. Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

(For Form B published with the Notification under reference substitute the attached form) :

FORM B.

[see Rule 6 (2)]

Jail Register of applications for release under the 1[[Khyber Pakhtunkhwa] **(Adolescent)**
Prisoner's Release on Probation Act, 1948

1	Serial No.
2	Date of application.
3	Prisoner's Jail Register No.
4	Prisoners' name and Father's name.
5	Sentence with date.
6	Residence.
7	Whether application rejected by Superintendent with reasons.
8	Whether returned by Superintendent to the prisoner with date.
9	Date on which prisoner completes one-third of his sentence of five years in Jail inclusive of remission whichever is less.
10	Date of expiry of licence if granted.
11	Date of despatch of application to the District Magistrate.
12	Date of receipt back of application from the District Magistrate.
13	Remarks of the District Magistrate
14	Date of submission to the Inspector-General of Prisons, 2[[Khyber Pakhtunkhwa].
15	Orders of Provincial Government.
16	Name of the guardian with father's name
17	Residence and address of the guardian.
18	Date of giving licence and delivery of prisoner to the guardian.
19	Date of re-admission of prisoner to Jail.
20	Date if any of revocation of licence.
21	Signature of the guardian in the token of the receipt of licence and delivery to him of prisoner.
22	Date and final release from the Jail.
23	Initials of Deputy Superintendent.
24	Initials of Superintendent on discharge.
25	Remarks.

1. Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

2. Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

FORM D.

(See Rule 7).

Licence of conditional Release under section 2 of the ⁹[Khyber Pakhtunkhwa] (Adolescent) Prisoners' Release on Probation Act, 1948.

In exercise of the powers conferred by section 2 of the ¹⁰[Khyber Pakhtunkhwa] (Adolescent) Prisoners' Release on Probation Act, 1948, the Provincial 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 station.....District.....convict No.....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

-----, hereby appointed as the guardian of the institution.
said prisoner.

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

CONDITIONS TO BE OBSERVED BY THE LICENSEE.

(1) The licensee shall remain under the supervision and authority of the above mentioned guardian during the period of the licence. He shall obey all 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 anyplace 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 persons 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 whether in Pakistan or any state acceded to it any criminal offence punishable by any law for the time being in force in Pakistan or any part thereof.

⁹ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁰ Subs by the Khyber Pakhtunkhwa Act No. IV of 2011.

(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 Provincial Government he is found to have committed a breach of the above-mentioned conditions the Provincial 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 a licence and direct his recommitment to prison to serve the rest of the sentence, subject to the Provisions of section 4 of the Prisoners' Release on Probation Act, 1948.

(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.

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*. The guardian shall pay adequate wages to the licensee for any labour enforced upon him. If the licensee's conduct be bad, it shall be the duty of the guardian to report the fact to the District Magistrate. He may also recommend forfeiture of remission or part thereof.

If a prisoner 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 and report to the nearest police station, and action shall be taken against the prisoner 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 make a note to that effect on the licence and shall return it to the Superintendent.

Date.....
