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CHAPTER 4. No. 22.

PROBATION OF OFFENDERS.

AN ORDINANCE TO PROVIDE FOR THE PROBATION OF OFFENDERS. Ordinance No. 35-1947.

[6th November, 1947.]

Commencement.

1. This Ordinance may be cited as the Probation of Offenders Ordinance. Short title.

2. In this Ordinance—

Interpretation.

“probation order” means an order made under this Ordinance placing a person under the supervision of a probation officer;

“probationer” means a person placed under supervision by a probation order;

“Principal Probation Officer” means a person appointed to be a Principal Probation Officer under this Ordinance;

“Probation Committee” means a committee appointed to be a Probation Committee under this Ordinance.

3. (1) Where any person is charged before a summary court with an offence which is punishable by such court, and the court thinks that the charge is proved but is of opinion that, having regard to the character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is

Power of court to permit conditional release of offenders on probation.

expedient to release the offender on probation, the court may—

(a) convict the offender and make a probation order; or

(b) without proceeding to conviction, make a probation order:

Provided that before making a probation order the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any way to comply therewith or commits another offence, he will be liable to be fined or to be sentenced or convicted and sentenced for the original offence.

(2) Where any person is convicted on indictment of an offence punishable with imprisonment, and the court is of opinion that, having regard to the character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may, in lieu of sentencing him to any punishment, make a probation order: Provided that before making a probation order the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any way to comply therewith or commits another offence, he will be liable to be sentenced for the original offence.

Provisions
of probation
orders.

4. (1) A probation order shall have effect for such period not less than one year and not more than three years from the date of the order as may be specified therein, and shall require the probationer to submit during that period to the supervision of a probation officer appointed to serve in the courts of the Colony, and shall contain such provisions as the court considers necessary for securing the supervision of the offender, and such additional conditions as to residence and other matters as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences.

(2) Where a probation order contains a provision as to residence, the place at which and the period for which the probationer is to reside shall be specified in the order and, where any such provision requires the probationer to reside in an institution, the period for which the probationer is required so to reside shall not extend beyond twelve months from the date of the order, and the court shall forthwith give notice of the terms of the order to the Principal Probation Officer.

(3) The court by which a probation order is made shall furnish two copies of the order, one copy to be given to the probationer and the other to the probation officer under whose supervision he is placed.

5. Where a person under the age of twenty-one years is placed by a probation order under the supervision of a probation officer, the court may order such person to attend at a Probation Training Centre, established or approved under this or any other Ordinance, for the purpose of being given under supervision appropriate occupation and instruction, on such occasions and at such times to be specified in the order as will avoid interference as far as is practicable with his working hours.

Court may order probationer to attend at a Probation Training Centre.

6. Where a probation order is made by a summary court, the order shall, for the purpose of revesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

Revesting of property when probation order made.

7. (1) Where a person is placed by a probation order under the supervision of a probation officer, the court may order the offender to pay such damages for injury or compensation for loss as the court may think reasonable, but not, in the case of an order made by a summary court, exceeding in the aggregate one hundred and fifty dollars or such greater sum as may be allowed by any enactment relating to the offence, and to pay such costs of the proceedings as the court thinks reasonable.

Further provisions where court makes probation order.

(2) Where a court makes any such order for the payment of damages or compensation as aforesaid, the order may be enforced in like manner as an order for the payment of costs by the offender, and where the court, in addition to making such an order for the payment of damages or compensation to any person, orders the offender to pay to that person any costs, the orders for the payment of damages or compensation and for the payment of costs may be enforced as if they constituted a single order for the payment of costs.

(3) Where a court has made an order for the payment of costs or damages or compensation as aforesaid, and part or the whole of such sums awarded as costs or as damages or compensation remains unpaid on the termination of the period specified in the order, the court may, if it is satisfied that the probationer has made every reasonable effort to pay, remit or rescind the order for such sums as remain unpaid: Provided that no such remission or rescission shall be made without a report being submitted to the court by the probation officer responsible for the supervision of the probationer.

Probationer may be required to submit to medical treatment.

8. Where a court is of the opinion that it is expedient to make a probation order and is satisfied that the mental or physical condition of the offender is such as requires and as may be susceptible to treatment, the court may include in the probation order a provision requiring the probationer to submit to medical treatment by or under the direction of a duly qualified medical practitioner, but the court shall not include such a provision unless the offender expresses his willingness to comply with it.

Commission of further offences by probationers.

9. (1) If it appears to a court that a probationer has been convicted of an offence committed while the probation order was in force, it may issue a summons requiring the probationer to appear at the place and time specified therein or may issue a warrant for his arrest: Provided that a court shall not issue such a summons except on information, and shall not issue such a warrant except on information in writing and on oath.

(2) A summons or warrant issued under this section

shall direct the probationer to appear or to be brought before the court by which the probation order was made.

(3) Where a probationer is convicted by a summary court of an offence committed while the probation order was in force, the court may commit the probationer to custody or release him on bail, with or without sureties, until he can be brought or appear before the court by which the probation order was made.

(4) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has been convicted of an offence while the probation order was in force then—

(a) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict him of that offence and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or

(b) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence.

(5) Where a probationer in respect of whom a probation order has been made by a summary court is convicted before the Supreme Court of an offence committed while the probation order was in force, then—

(a) if the probationer was not convicted of the original offence in respect of which the probation order was made, the Supreme Court may convict him of that offence and may pass any sentence which the court which made the probation order could pass if the probationer had just been convicted before that court of that offence; or

(b) if the probationer was convicted of the original offence in respect of which the probation order was made the Supreme Court may pass any sentence which the court which made the probation order could pass if the probationer had just been convicted before that court of that offence.

Failure by probationer to comply with probation order.

10. (1) If it appears to a court that a probationer has failed to comply with any of the provisions of the probation order, it may issue a summons to the probationer requiring him to appear at the place and time specified therein or may issue a warrant for his arrest: Provided that a court shall not issue such a summons except on information, and shall not issue such a warrant except on information in writing and on oath.

(2) A summons or warrant under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made.

(3) A court issuing a warrant under this section may at the time of issuing such warrant fix the amount in which the police officer executing the warrant may release the probationer on recognisance with or without sureties pending his appearance before the court.

(4) If it is proved to the satisfaction of the court by which the probation order was made that the probationer has failed to comply with any of the provisions of the probation order, then—

(a) without prejudice to the continuance in force of the probation order, the court may impose on the probationer a fine not exceeding fifty dollars; or

(b) (i) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict him and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or

(ii) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court, of that offence:

Provided that where a court has under the provisions of sub-paragraph (a) imposed a fine on the probationer, then, on any subsequent sentence being passed upon the probationer under the provisions of the preceding section or of this section, the imposition of the said fine shall be taken into account in fixing the amount of the said sentence.

11. (1) Where a person is convicted of an offence and is released under a probation order his conviction for that offence shall be disregarded for the purpose of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after a previous conviction: Provided that if the probationer is subsequently sentenced for the original offence this section shall cease to apply in respect of that offence, and he shall be deemed for the purposes of any such enactment imposing a disqualification or disability to have been convicted on the date of sentence.

Probation order: disqualification or disability.

(2) Where a person is released on probation, without the court having proceeded to conviction, and he is subsequently convicted and sentenced for the original offence, then he shall be deemed, for the purpose of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after a previous conviction, to have been convicted on the date of such conviction and sentence.

12. Where a probationer is committed to custody or released on bail by a court until he can be brought or appear before the court which made the probation order, the court shall transmit to the other court such particulars of the case as it thinks desirable, and where the probationer has been convicted of a subsequent offence by a court, the court shall transmit to the other court a certificate to that effect, signed by the Judge or Magistrate, as the case may be, and for the purpose of proceedings in the court to which it is transmitted any such certificate, if purporting to be so signed, shall be admissible as evidence of the conviction.

Transmission of documents when case is remitted to another court.

13. (1) Subject to the provisions of this section, where on the application of a probationer or of the probation officer responsible for his supervision, the court which made the probation order is satisfied that the provisions of the probation order should be varied, or that any provisions should be inserted or cancelled, the court may by order

Amendment of probation orders.

amend the probation order accordingly: Provided that no order shall be made under this section reducing the period of duration of the probation order, or extending that period beyond a period of three years from the date of the probation order.

(2) An order under the foregoing subsection may require a probationer to reside in an institution for any period not extending beyond twelve months from the date of that order, if the total period or the aggregate of the periods for which he is required to reside in any institution or institutions under the probation order does not exceed twelve months.

(3) The court shall, if it is satisfied, on the application of the probation officer responsible for the supervision of the probationer, that the probationer has changed, or is about to change, his residence from the district named in the order to another district, by order vary the probation order by substituting for the references to the district named therein a reference to the district where the probationer is residing or is about to reside, and shall transmit to the court for the new district all documents and information relating to the case, and thereupon the last-mentioned court shall be deemed for all the purposes of this Ordinance to be the court by which the probation order was made.

(4) An order under this section cancelling a provision of a probation order or substituting a new district for the district named therein may be made without summoning the probationer, but no other order under this section shall be made except on the application or in the presence of the probationer.

(5) Where an order is made under this section for the variation, insertion, or cancellation of a provision requiring a probationer to reside in an institution, the court shall forthwith give notice of the terms of the order to the Principal Probation Officer.

Discharge of
probation
orders.

14. (1) The court by which a probation order was made may, on the application of the probationer or of the probation officer responsible for his supervision, discharge the probation order and, where the application is made by the

probation officer, the court may deal with it without summoning the probationer.

(2) Where an offender in respect of whom a probation order has been made is subsequently sentenced for the offence in respect of which the probation order was made, the probation order shall cease to have effect.

15. Where an order is made for the amendment or discharge of a probation order, the clerk of the court by which the order is made shall furnish two copies of the order to the probation officer responsible for the supervision of the probationer, or, in the case of an order for the discharge of a probation order, to the probation officer who was so responsible before the making of the order, one copy to be given by him to the probationer.

Transmission of copies of orders for amendment or discharge of probation orders.

16. (1) The probation officer who is to be responsible for the supervision of any probationer shall be selected by the court which makes the probation order, and if the probation officer so selected dies or is unable for any reason to carry out his duties, or if the Principal Probation Officer or the Probation Committee dealing with the case consider it desirable that another officer shall take his place, another probation officer shall be selected by the court.

Selection of probation officers.

(2) Where a woman or girl is placed under the supervision of a probation officer, the probation officer shall be a woman.

17. Such contributions may be made towards the establishment or maintenance of homes or hostels for the reception of persons placed under the supervision of probation officers as the Governor may approve.

Contributions toward homes and hostels.

18. The Governor shall appoint—

Appointments.

(a) a Principal Probation Officer who shall organise and supervise the probation service in Trinidad and Tobago in accordance with rules made under this Ordinance;

(b) a sufficient number of probation officers, qualified by character and experience to be probation officers

who shall perform such duties as may be prescribed by rules made under this Ordinance;

(c) a probation committee or probation committees consisting of such persons as the Governor shall think fit, who shall review the work of probation officers in individual cases and perform such duties in connection with probation as may be prescribed by rules made under this Ordinance.

Probation
Training
Centres.

19. (1) The Governor may establish places, which shall be called Probation Training Centres, at which offenders under the age of 21 years may be required to attend in accordance with the terms of a condition contained in a probation order.

(2) The Governor may, by notice in the *Royal Gazette* approve of any existing training or education centre being a Probation Training Centre for the purposes of this Ordinance; but may withdraw such approval by not less than six months' notice in writing to the person in charge of such training or education centre.

Rules.

20. The Governor may make rules prescribing—

(a) the duties of a Principal Probation Officer;

(b) the duties of Probation Officers;

(c) the constitution and duties of a Probation Committee or Probation Committees;

(d) the form of records to be kept under this Ordinance;

(e) the remuneration of any person appointed to carry out any duties under this Ordinance and the fees and charges to be made for any act, matter, or thing under this Ordinance to be done or observed;

(f) generally for carrying this Ordinance into effect.