

CHAPTER 32.

PROBATION OF OFFENDERS.

Ordinances
 No. 29 of 1911,
 „ 19 of 1912,
 „ 5 of 1925.

AN ORDINANCE TO PERMIT THE RELEASE ON PROBATION OF OFFENDERS IN CERTAIN CASES.

[26th December, 1911.]

Short title.

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

Interpretation.

2. In this Ordinance, “ Summary Court ” means any Magistrate or Justice when sitting in open Court to hear and determine all matters within his powers.

Power of Courts to permit conditional release of offenders.

3. (1) Where any person is charged before a Summary Court with an offence punishable by such Court, and the Court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the Court may, without proceeding to conviction, make an order either—

- (a) dismissing the complaint or charge; or
- (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) Where any person has been convicted on indictment of any offence punishable with imprisonment, and the Court is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or

to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the Court may, in lieu of imposing a sentence of imprisonment, make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(3) The Court may, in addition to any such order, order the offender to pay such damages for injury or compensation for loss (not exceeding in the case of a Summary Court ten pounds, or, if a higher limit is fixed by any enactment relating to the offence, that higher limit) and to pay such costs of the proceedings as the Court thinks reasonable.

(4) Where an order under this section is made by a Summary Court, the order shall, for the purpose of re-vesting 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.

4. (1) A recognizance ordered to be entered into under this Ordinance shall, if the Court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order, and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Ordinance referred to as a probation order.

Probation
orders and
conditions of
recognizances

(2) A recognizance under this Ordinance may contain such additional conditions as the Court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters :—

- (a) For prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places;

- (b) As to abstention from intoxicating liquor, where the offence was drunkenness or an offence committed under the influence of drink;
- (c) For prohibiting the offender from changing his place of residence from one district to another without first notifying the Court before which he is bound by his recognizance to appear for conviction or sentence;
- (d) Generally, for securing that the offender should lead an honest and industrious life.
(*Substituted by 5 of 1925, s. 2.*)

(3) The Court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

Probation
officers.

5. (1) There may be appointed as probation officer or officers for the district of a Summary Court such person or persons of either sex as the Governor may determine, and a probation officer when acting under a probation order shall be subject to the control of the Summary Court for the district for which he is so appointed.

- (2) The person named in any probation order shall—
 - (a) where the Court making the order is a Summary Court, be selected from amongst the probation officers for the district of such Court; or
 - (b) where the Court making the order is the Supreme Court, be selected from amongst the probation officers for the district from which the person charged was committed for trial:

Provided that the person so named may, if the Court considers it expedient on account of the place of residence of the offender, or for any other special reason, be a probation officer for some other district and may, if the Court considers that the special circumstances of the case render it desirable, be a person who has not been appointed to be probation officer for any district.

(3) The person named in a probation order may at any time be relieved of his duties, and, in any such case, or in case of the death of the person so named, or if the offender shall notify the Court of his intention to change his place of residence from one district to another, another person may be substituted by the Court before which the offender is bound by his recognizance to appear for conviction or sentence, or, if he be a probation officer for a district, by a Court to whose control that officer is subject. (*Substituted by 5 of 1925, s. 3.*)

6. It shall be the duty of a probation officer, subject to the directions of the Court—

Duties of probation officers.

- (a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit;
- (b) to see that he observes the conditions of his recognizance;
- (c) to report to the Court as to his behaviour; and
- (d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment. (*As amended by 19 of 1912, s. 2.*)

7. The Court before which any person is bound by his recognizance under this Ordinance to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance, and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Power to vary conditions of release.

8. (1) If the Court before which an offender is bound by his recognizance under this Ordinance to appear for conviction or sentence, or any Summary Court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such Court and at such time as may be specified in the summons.

Provision in case of offender failing to observe conditions of release.

(2) The offender, when apprehended, shall, if not brought forthwith before the Court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a Summary Court.

(3) The Court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the Court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last mentioned Court.

(4) An offender so remanded to custody may be committed during remand to any prison to which the Court having power to convict or sentence him has power to commit prisoners.

(5) A Court before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without further proof of his guilt, convict and sentence him for the original offence or, if the case was one in which the Court in the first instance might, under section 43 of the Children Ordinance, have ordered the offender to be sent to an Industrial School, and the offender is still apparently under the age of sixteen years, make such an order.

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Power to
make rules.

9. The Governor may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their duties, and the reports to be made by them, as may appear necessary.