

PROBATION OF OFFENDERS ACT

CHAPTER 13:51

Act

35 of 1947

Amended by

40 of 1961

28 of 1973

45 of 1979

18 of 1994

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Note on Adaptation

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by LN 120/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

CHAPTER 13:51

PROBATION OF OFFENDERS ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 13:51

PROBATION OF OFFENDERS ACT

An Act to provide for the Probation of Offenders.

1950 Ed.
Ch. 4 No. 22.
35 of 1947.

Commencement.

[6TH NOVEMBER 1947]

Short title.

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

Interpretation.
[40 of 1961].

2. In this Act—

“probation order” means an order made under this Act placing a person under the supervision of a welfare officer (probation);

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

“Chief Probation Officer” means a person appointed to be Chief Probation Officer under this Act;

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

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

3. (1) Subject to subsection (3), 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 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.

(2) Subject to subsection (3), 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.

(3) Before making a probation order under subsection (1) or (2), 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—

- (a) in the case of subsection (1), to be fined or to be sentenced or convicted and sentenced for the original offence; and
- (b) in the case of subsection (2), to be sentenced for the original offence.

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 welfare officer (probation) appointed to serve in the Courts of Trinidad and Tobago, 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.

Probation
orders.
[40 of 1961].

(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 Chief 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 welfare officer (probation) under whose supervision he is placed.

Court may order probationer to attend at a Probation Training Centre. [40 of 1961 28 of 1973].

5. Where a person under the age of eighteen years is placed by a probation order under the supervision of a welfare officer (probation), the Court may order such person to attend at a Probation Training Centre, established or approved under this or any other Act, 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.

Revesting of property when probation order made.

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 the restitution or delivery, have the like effect as a conviction.

Further provisions where Court makes probation order. [40 of 1961].

7. (1) Where a person is placed by a probation order under the supervision of a welfare officer (probation), 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 written law relating to the offence, and to pay such costs of the proceedings as the Court thinks reasonable.

(2) Where a Court makes any such order for the payment of damages or compensation as mentioned above, 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 mentioned above, 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, but no remission or rescission shall be made without a report being submitted to the Court by the welfare officer (probation), responsible for the supervision of the probationer.

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.

Probationer may be required to submit to medical treatment.

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, but a Court shall not issue the summons except on information, and shall not issue the warrant except on information in writing and on oath.

Commission of further offences by probationers.

(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 High 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 High 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 High 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. [18 of 1994].

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, but a Court shall not issue the summons except on information, and shall not issue the 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 direct the police officer executing the warrant to grant bail, according to the Bail Act, to the probationer pending his appearance before the Court. Ch. 4:60.

(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 three hundred dollars; or

(b) if the probationer—

(i) 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) 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 Court has under subsection (4)(a) imposed a fine on the probationer, then, on any subsequent sentence being passed upon the probationer under section 9 or this section, the imposition of the fine shall be taken into account in fixing the amount of the 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 written law 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; but if the

Probation order; disqualification or disability.

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 written law imposing a disqualification or disability, to have been convicted on the date of sentence.

(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 written law 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 the conviction and sentence.

Transmission of documents when case is remitted to another Court.

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.

Amendment of probation orders. [40 of 1961].

13. (1) Subject to this section, where on the application of a probationer or of the welfare officer (probation) 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 amend the probation order accordingly, but 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 subsection (1) 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 welfare officer (probation) 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 Act 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 Chief Probation Officer.

14. (1) The Court by which a probation order was made may, on the application of the probationer or of the welfare officer (probation) responsible for his supervision, discharge the probation order, and, where the application is made by the welfare officer (probation), the Court may deal with it without summoning the probationer.

Discharge of
probation
orders.
[40 of 1961].

(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.

Transmission of copies of orders for amendment or discharge of probation orders. [40 of 1961].

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 welfare officer (probation) responsible for the supervision of the probationer, or, in the case of an order for the discharge of a probation order, to the welfare officer (probation) who was so responsible before the making of the order, one copy to be given by him to the probationer.

Selection of welfare officers (probation). [40 of 1961].

16. (1) The welfare officer (probation) 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 welfare officer (probation) so selected dies or is unable for any reason to carry out his duties, or if the Chief Probation Officer or the Probation Committee dealing with the case consider it desirable that another officer shall take his place, another welfare officer (probation) shall be selected by the Court.

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

Contributions toward homes and hostels. [40 of 1961].

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 welfare officers (probation) as the Minister may approve.

Appointments. [40 of 1961].

18. (1) There shall be in the public service—

- (a) a Chief Probation Officer who shall organise and supervise the probation service in Trinidad and Tobago in accordance with Rules made under this Act;
- (b) a sufficient number of welfare officers (probation) qualified by character and experience to be welfare officers (probation) who shall perform such duties as may be prescribed by Rules made under this Act.

(2) The Minister shall appoint a probation committee or probation committees consisting of such persons as the Minister

thinks fit, who shall review the work of welfare officers (probation) in individual cases and perform such duties in connection with probation as may be prescribed by Rules made under this Act.

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

Probation
Training
Centres.
[28 of 1973].

(2) The Minister may by Notification approve of any existing training or education centre being a Probation Training Centre for the purposes of this Act but may withdraw the approval by not less than six months' notice in writing to the person in charge of the training or education centre.

20. The Minister may make Rules prescribing—

Rules.
[40 of 1961].

- (a) the duties of a Chief Probation Officer;
- (b) the duties of welfare officers (probation);
- (c) the constitution and duties of a Probation Committee or Probation Committees;
- (d) the form of records to be kept under this Act;
- (e) the remuneration of any person appointed to carry out any duties under this Act and the fees and charges to be made for any act, matter, or thing under this Act to be done or observed;
- (f) generally for carrying this Act into effect.

SUBSIDIARY LEGISLATION

PROBATION OF OFFENDERS RULES

ARRANGEMENT OF RULES

RULE

1. Citation.

DUTIES

2. Preliminary enquiries.
3. Visits.
4. Children attending school.
5. Observing conditions.
6. Advising, assisting, etc., probationer.
7. Uniform or badge.
8. Conversant with law.

REPORTS

9. Report concerning probationer.
10. Failure to observe conditions.
11. Reports to Court.

RECORDS

12. Records.
13. Result.
14. Records part of records of Court.

PROBATION OF OFFENDERS RULES

G. 21.7.27.
[45 of 1979].

made under section 20

1. These Rules may be cited as the Probation of Offenders Rules. Citation.

DUTIES

2. A probation officer shall make such preliminary enquiries as the Court may direct in respect of any offender in whose case the question of the making of a probation order is under consideration, notwithstanding that no order has been made. Preliminary enquiries.

3. When any person (hereinafter referred to as the probationer) is placed under the supervision of a welfare officer (probation), the welfare officer (probation) shall, subject to any directions given by the Court (whether in the probation order or otherwise) visit the probationer and make enquiry as to his behaviour, mode of life and employment. Such visits shall for the first month be made (unless the Court otherwise direct) at least once a week; and afterwards their number shall depend on the conduct and mode of life of the probationer; provided that in the case of persons under sixteen regard shall be had to the desirability of the visits being made at least once a fortnight during the first six months of the order. Visits.

4. In the case of children attending school, the welfare officer (probation) shall visit the school and make enquiry of the head teacher as to the child's attendance and progress. Children attending school.

5. The welfare officer (probation) shall ascertain that the probationer understands the conditions of the recognisance, and shall by warning and persuasion endeavour to ensure his observance of them. If the probationer fails to obey the conditions after due warning, the welfare officer (probation) shall report as hereinafter directed. Observing conditions.

6. The welfare officer (probation) shall, as occasion may arise, advise, assist and befriend the probationer, and when Advising, assisting, etc., probationer.

necessary endeavour to find him employment. For these purposes he shall secure as far as possible the co-operation and assistance of social workers and agencies.

Uniform or badge.

7. A welfare officer (probation) shall not wear any uniform or badge distinctive of his office.

Conversant with law.

8. Every welfare officer (probation) shall make himself conversant with the provisions of the Probation of Offenders Act and of these Rules.

REPORTS

Report concerning probationer.

9. The welfare officer (probation) shall report as to the conduct and mode of life of the probationer and his observance of the conditions of his recognisance to such Court at such intervals and in such a manner as the Court making the order may direct; when the order has been made by the High Court directions for this purpose, when the Court is not sitting, may be given by the Chief Justice or a Puisne Judge. In the absence of any directions, the welfare officer (probation) shall report in writing once a month to the Magistrate of the district for which he is appointed.

Failure to observe conditions.

10. If the probationer fails to observe any of the conditions of his recognisance, the welfare officer (probation) shall make a report to the Court before which the probationer is bound by his recognisance to come up for judgment or sentence, if that Court is then sitting or will sit within a reasonable time. In any other case the welfare officer (probation) shall, subject to the direction of the Court making the order, make the report to a Court of summary jurisdiction for the district for which he is appointed.

Reports to Court.

11. The reports to the Court shall be made orally or in writing as the Court may direct; in the absence of direction they shall be in writing. They shall not, unless the Court specially directs, be made in open Court or published.

RECORDS

Records.

12. The welfare officer (probation) shall keep records of all probationers placed under supervision, and such records shall

include the following particulars: name and address, sex, age, offence, previous offences (if any), date and duration of order, conditions attached to order, employment, and, in the case of children attending school, name of school and attendance during probation, number of visits and result.

13. Under the heading “Result” it shall be stated in general terms whether the period of probation has been completed to the satisfaction of the welfare officer (probation) and of the Court. When the probationer’s behaviour has not been satisfactory, the records should include a statement of the nature of the misconduct and of the action taken, e.g., committal to Industrial School or prison. Result.

14. These records shall form part of the permanent records of the Court and shall be kept at the Court or in such other place and in such custody as the Court may determine. Records part of records of Court.
