

## CHAPTER 21.

## PROBATION OF OFFENDERS.

[No. XVI of 1909.]

[10th July, 1909.]

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

2.—(1) Where any person is charged before a magistrate's court with a summary conviction offence, 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 in 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—

Conditiona  
release of  
offenders.

(a) dismissing the information 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 the period, not exceeding three years, specified in the order.

(2) Where any person has been convicted on indictment of an 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 in 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 the period, not exceeding three years, specified in the order.

(3) The court may, in addition to that order, order the offender to pay damages for injury or compensation for



loss (not exceeding, in the case of a magistrate's court, forty-eight dollars, or, if a higher limit is fixed by any enactment relating to the offence, that higher limit) and costs of the proceedings which the court thinks reasonable, and, if the offender is under the age of fourteen years, the court may, under and in accordance with section forty-four of the Summary Jurisdiction (Procedure) Ordinance, order payment of the damages and costs by the offender's parent or guardian.

(4) Where an order under this section is made by a magistrate's 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 that restitution or delivery, have the like effect as a conviction.

Probation orders and conditions of recognizances.

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

(2) A recognizance under this Ordinance may contain any additional conditions the court, having regard to the particular circumstances of the case, orders 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) generally, for securing that the offender should lead an honest and industrious life.

(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:

4.—(1) There may be appointed as probation officer or officers for a judicial district any person or persons of either sex whom the Governor determines, and a probation officer



when acting under a probation order shall be subject to the control of the magistrate's 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 magistrate's court, be selected from amongst the probation officers for the district of that 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. Proviso.

(3) The person named in a probation order may at any time be relieved of his duties, and, in that case, or in case of the death of the person so named, 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.

5. 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 reasonable intervals specified in the probation order, or, subject thereto, as the probation officer thinks fit;
- (b) to see that he observes the conditions of his recognizance;
- (c) to report to the court as to his behaviour;
- (d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

6. 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 Power to vary conditions of release.



conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

When  
offender fails  
to observe  
conditions of  
release.

7.—(1) If the court before which an offender is bound by his recognizance under this Ordinance to appear for conviction or sentence, or any magistrate's 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 the court and at the time specified in the summons.

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

(3) The court before which an offender on apprehension is brought, or before which he appears in pursuance of the summons aforesaid, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, may remand him to custody or on bail until he can be brought before that 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 sections twelve, thirteen, or fourteen, of the Government Industrial School Ordinance, have ordered the offender to be sent to the government industrial school, and the offender is still apparently under the age of sixteen years, make that order.

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Rules.

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