

## CHAPTER 40.

### PROBATION OF OFFENDERS.

#### ARRANGEMENT OF SECTIONS.

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## CHAPTER 40.

### PROBATION OF OFFENDERS.

#### An Ordinance to Provide for the Probation of Offenders.

19 of 1950.  
9 of 1953.

[30TH DECEMBER, 1950.]

1. This Ordinance may be cited as the Probation of Offenders Ordinance, and shall apply to the Colony and Protectorate. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpreta-  
tion.
  - “ Probation Order ” means an Order 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 the person appointed to be the Principal Probation Officer under this Ordinance;
  - “ Probation Officer ” means a person appointed to be a Probation Officer under this Ordinance.

Absolute and  
conditional  
discharge.

3. (1) When any person is charged with an offence which is punishable on summary conviction and the court thinks that the charge is proved but is of the opinion, that having regard to the circumstances including the nature of the offence and the character and home surroundings of the offender, it is expedient to release the offender absolutely or conditionally on probation, the court may, with or without proceeding to conviction, discharge the offender absolutely or conditionally on his entering into a recognisance with or without sureties to be of good behaviour and to appear for sentence or for conviction and sentence when called on at any time during such a period of not less than one year and of not more than three years as may be specified in the order.

(2) When any person is convicted of an offence which is not punishable on summary conviction and the court is of the opinion, that having regard to the circumstances including the nature of the offence and the character and home surroundings of the offender, it is expedient to release the offender absolutely or conditionally, the court may in lieu of imposing a sentence of imprisonment make an order discharging the offender absolutely or conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear for sentence when called on at any time during such a period of not less than one year and of not more than three years as may be specified in the order.

Probation  
Orders.

4. (1) A recognisance 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 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 recognisance is in this Ordinance referred to as a Probation Order.

A Probation Order shall not be made unless the court be satisfied that the offender is normally resident in an area for which a Probation Officer has been appointed.

(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 Governor.

(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. Before making an order under this Ordinance, the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any respect to comply therewith or commits another offence while the order is in force, he will be liable to be convicted and sentenced, or where the court has proceeded to conviction, to be sentenced, for the original offence and the court shall not make such an order unless the offender expresses his willingness to comply with the provisions of the order.

Order not to be made except with consent of offender.

6. Where an order under this Ordinance is made without the court proceeding to conviction, the court shall have the same powers—

Damages, costs and restitution of stolen property.

(a) of awarding damages and costs against the offender as is conferred upon it by sections 47, 48 and 50 of the Criminal Procedure Ordinance in the event of a conviction, and such damages and costs shall be recoverable as provided in section 51 thereof; and

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(b) of ordering the restitution of any property stolen or otherwise obtained by the offender by means of any felony or misdemeanour, as is conferred upon it by section 53 of the Criminal Procedure Ordinance in the event of a conviction for such offence.

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7. (1) If it appears to a Judge or a Magistrate that an offender, whose discharge has been subject to conditions imposed by an order made under sections 3 or 4, has been convicted of an offence while such conditions were in force, he may issue a summons requiring the offender to appear at the time and place specified therein or may issue a warrant for his arrest:

Commission of further offences by probationers or persons discharged conditionally.

Provided that such a summons shall not be issued except on information, and such a warrant shall not be issued except on information in writing and on oath.

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

(3) Where it is proved to the satisfaction of the court by which the order was made that the offender has been convicted