

ANGUILLA

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CHAPTER P95

PROBATION OF OFFENDERS ACT

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PROBATION OF OFFENDERS ACT

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PROBATION OF OFFENDERS ACT

Power of Court to permit conditional release of offenders

1. (1) Where any person is charged before the Magistrate's 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 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 such period, not exceeding 3 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 3 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 the Magistrate's Court, $24, 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) An order for the payment of damages or compensation as aforesaid 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.

(5) Where an order under this section is made by the 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 such restitution or delivery, have the like effect as a conviction.

Probation orders and conditions of recognizances

2. (1) A recognizance ordered to be entered into under this Act shall, if the Court so orders, contain a condition that the offender be under the supervision of such person as may be named in the order (in this Act referred to as the "supervisor") 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 Act referred to as a probation order.

(2) A recognizance under this Act may contain such additional conditions with respect to residence, abstention from intoxicating liquor, and any other matters, as the Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

(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.

Change of supervisor

3. The person named in a probation order as supervisor 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, another person may be substituted by the Court before which the offender is bound by his recognizance to appear for conviction or sentence.

Duties of supervisor

4. It shall be the duty of a supervisor, subject to the directions of the Court—

(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 supervisor 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.

Variation of terms and condition of probation

5. The Court before which any person is bound by a recognizance under this Act to appear for conviction and sentence or for sentence—

(a) may at any time if it appears to it, upon the application of the supervisor, that it is expedient that the terms or conditions of the recognizance should be varied, summon the person bound by the recognizance to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the recognizance by extending or diminishing the duration thereof (so, however, that it shall not exceed 3 years from the date of the original order) or by altering the conditions thereof or by inserting additional conditions; or

(b) may on application being made by the supervisor, and on being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary that he any longer be under supervision, discharge the recognizance.

Provision in case of offender failing to observe conditions of release

6. (1) If the Court before which an offender is bound by his recognizance under this Act to appear for conviction or sentence, or the 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 such Court and at such time as may be specified in the summons.

(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 the Magistrate's 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 prison or on bail until he can be brought before the last-mentioned Court.

(4) 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.

Citation

7. This Act may be cited as the Probation of Offenders Act, Revised Statutes of Anguilla, Chapter P95.

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