

The Probation of Offenders Ordinance, 1960

(Ordinance NO. XLV OF 1960)

An Ordinance to provide for the release on probation of offenders in certain cases.♣

WHEREAS it is expedient to provide for the release on probation of offenders in certain cases and for matters incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title, extent and commencement 1. (1) This Ordinance may be called the Probation of Offenders Ordinance, 1960.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date or dates as the Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different areas.

Definitions 2. In this Ordinance, unless there is anything repugnant in the subject or context:-

(a) "Code" means the Code of Criminal Procedure, 1898;

(b) "Court" means a court empowered to exercise powers under this Ordinance;

¹[(c) "Director General" means the Director General of the Department of Social Services or any other officer appointed to carry on his functions;]

(d) "probation officer" means a person appointed as such under section 12;

(e) "probation order" means an order made under section 5;

(f) "Probation Department" means the department responsible for the administration of this Ordinance;

(g) all other words and expressions used but not defined in this Ordinance and defined in the Code shall have the same meaning as assigned to them in the Code.

**Courts
empowered
under the
Ordinance**

3. (1) The following courts shall be the courts empowered to exercise powers under this Ordinance, namely:-

(a) ²[the High Court Division];

(b) A Court of Sessions;

(c) a District Magistrate;

³[* * *]

(e) a Magistrate of the 1st Class; and

(f) any other magistrate especially empowered in this behalf.

(2) A Court may exercise powers under this Ordinance, whether the case comes before it for original hearing or on appeal or in revision.

(3) Where any offender is convicted by a Magistrate not empowered to exercise powers under this Ordinance, and such Magistrate is of opinion that the powers conferred by section 4 or section 5 should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the 1st

Class ⁴[* * *] forwarding the offender to him, or taking bail for appearance before him, and such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Conditional discharges, etc.

4. (1) Where a Court by which a person, not proved to have been previously convicted, is convicted of an offence punishable with imprisonment for not more than two years is of opinion, having regard to:-

(a) the age, character, antecedents or physical or mental condition of the offender, and

(b) the nature of the offence or any extenuating circumstances attending the commission of the offence,

that it is inexpedient to inflict punishment and that a probation order is not appropriate, the court may, after recording its reasons in writing, make an order discharging him after its admonition, or, if the court thinks fit, it may likewise make an order discharging him subject to the condition that he enters into a bond, with or without sureties, for committing no offence and being of good behaviour during such period not exceeding one year from the date of the order as may be specified therein.

(2) An order discharging a person subject to such condition as aforesaid is hereafter in this Ordinance referred to as "an order for conditional discharge", and the period specified in any such order as "the period of conditional discharge".

(3) Before making an order for conditional discharge, the court shall explain to the offender in ordinary language that if he commits any offence or does not remain of good behaviour during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) Where a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

Power of court to make a probation order in certain cases

5. (1) Where a Court by which-

(a) any male person is convicted of an offence not being an offence under Chapter VI or Chapter VII of the ⁵[* * *] Penal Code, or under sections 216A, 328, 382, 386, 387, 388, 389, 392, 393, 397, 398, 399, 401, 402,

455, or 458 of that Code, or an offence punishable with death or
6[imprisonment for life], or

(b) any female person is convicted of any offence other than an offence punishable with death,

is of opinion that, having regard to the circumstances including the nature of the offence and the character of the offender, it is expedient to do so, the court may, for reasons to be recorded in writing, instead of sentencing the person at once, make a probation order, that is to say, an order requiring him or her to be under the supervision of a probation officer for such period, not being less than one year or more than three years, as may be specified in the order:

Provided that the court shall not pass a probation order unless the offender enters into a bond, with or without sureties, to commit no offence and to keep the peace and be of good behaviour during the period of the bond and to appear and receive sentence if called upon to do so during that period:

Provided further that the court shall not pass a probation order under this section unless it is satisfied that the offender or one of his sureties, if any, has a fixed place of abode or a regular occupation within the local limits of its jurisdiction and is likely to continue in such place of abode or such occupation, during the period of the bond.

(2) While making a probation order, the court may also direct that the bond shall contain such conditions as in the opinion of the court may be necessary for securing supervision of the offender by the probation officer and also such additional conditions with respect to residence, environment, abstention from intoxicants and any other matter which the court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or a commission of other offences by the offender and for rehabilitating him as an honest, industrious and law-abiding citizen.

(3) When an offender is sentenced for the offence in respect of which a probation order was made, that probation order shall cease to have effect.

Order for payment of costs and compensation

6. (1) A court directing the discharge of an offender under section 4 or making a probation order under section 5 may order the offender to pay such compensation or damages for loss or injury caused to any person by the offence and such costs of the proceedings as the court thinks reasonable:

Provided that the amount of compensation, damages and costs so awarded shall in no case exceed the amount of fine which the court might have imposed in respect of the offence.

(2) At the time of awarding compensation or damages in any subsequent civil suit or proceeding relating to the same offence, the court hearing such suit or proceeding shall take into account any sum paid or recovered as compensation, damages or costs under sub-section (1).

(3) The amount ordered to be paid under sub-section (1) may be recovered as fine in accordance with the provisions of section 386 and 387 of the Code.

Failure to observe conditions of the bond

7. (1) If the court by which an offender is bound by a bond under section 5 has reason to believe that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may, if it thinks fit, issue summons to the offender and his sureties, if any, requiring them to appear before it at such time as may be specified in the summons.

(2) The court before which an offender is brought or appears under sub-section (1) may either remand him to judicial custody until the case is heard or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of his bond, including any conditions which may have been imposed under sub-section (2) of section 5, it may forthwith-