



## THE PROBATION OF OFFENDERS ORDINANCE, 1960



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# THE PROBATION OF OFFENDERS ORDINANCE, 1960

## ORDINANCE No. XLV OF 1960

[1st November, 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 :—

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

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date or dates<sup>1</sup> as the <sup>2</sup>[Federal Government] may, by notification in the official Gazette, appoint, and different dates may be appointed for different areas.

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<sup>1</sup>The Ordinance shall come into force in :-

(i) West Pakistan with effect from the 1st July 1961, see Gaz. of P. 1961. Ext., p. 957, and.

(ii) The Provisions of this Ordinance have been applied to the whole of the Tribal Area of Baluchistan Regulation No. II of 1972. s. 2.

<sup>2</sup>Subs. by F.O.A. 1975, Art. 2 and Table, for "Central Government"

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

- (a) “Code” means the Code of Criminal Procedure, 1898 ([Act V of 1898](#)) ;
- (b) “Court” means a Court empowered to exercise powers under this Ordinance;
- (c) “Officer-in-charge” means the head of probation Department ;
- (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.

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

- (a) a High Court ;
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(b) a Court of Sessions ;

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

(f) any other Magistrate specially 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 the 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 or a [ ] 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.

**4. Conditional discharges, etc.**—(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,

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<sup>1</sup>Omitted by Ord. 66 of 02, s.2.

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 due 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.

**5. Power of Court to make a probation order in certain cases.**—(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 Pakistan Penal Code ([Act XLV of 1860](#)), 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 <sup>1</sup>[imprisonment] for life, or
- (b) any female person is convicted of any offence other than an offence punishable with death,

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<sup>1</sup>Subs by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and II Sch., for “transportation”.