

**LAWS OF GUYANA**

**PROBATION OF OFFENDERS ACT**

**CHAPTER 11:04**

**Act**

**53 of 1952**

Amended by

21 of 1962

4 of 1972

6 of 1972

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**Note**  
**on**  
**Repeal**

This Act repealed the Probation of Offenders Ordinance, Cap 21 of the 1929 edition.

**CHAPTER 11:04****PROBATION OF OFFENDERS ACT****ARRANGEMENT OF SECTIONS**

## SECTION

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1953 Ed.  
c. 19

53 of 1952

**An Act to provide for the Probation of Offenders.**

[27TH DECEMBER, 1952]

Short Title.  
[21 of 1962]

**1.** This Act may be cited as the Probation of Offenders Act.

Application.

**2.** The Act shall in relation to juveniles apply subject

[4 of 1972] to the provisions of the Juvenile Offenders Act.  
c. 10:03

Interpretation. 3. In this Act -

[4 of 1972]

“Central Probation Committee” means the Committee appointed under section 17;

“chief probation officer” means a person appointed to be a chief probation officer under this Act;

“district probation committee” means a committee appointed to be a district probation committee under section 17;

“juvenile” means a person under the age of seventeen years;

“Minister” means the Minister charged with responsibility for the Probation Service Department;

“probation officer” means a person appointed to be a probation officer under this Act;

“probation order” means an order made under this Act placing a person under the supervision of a probation officer;

“probationer” means a person placed under supervision by a probation order.

Power of court to permit conditional release of offender.

[4 of 1972]

4. (1) Where 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 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 on probation, the court may –

(a) where the offender is not a juvenile,

convict the offender, and make a probation order; or

- (b) without proceeding to conviction, make a probation order:

Provided that before making a probation order the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any way to comply therewith or commits another offence he will be liable to be sentenced or to be convicted and sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the order.

(2) Where any person is convicted of an offence which is not punishable on summary conviction, and the court is of 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 on probation, the court may in lieu of imposing a sentence of imprisonment, make a probation order:

Provided that before making a probation order 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, he will be liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the order.

Probation  
Order.  
[21 of 1962]

5. (1) A probation order shall have effect for such period not less than one year and not more than three years from the date of the order as may be specified therein, and shall require the probationer to submit during that period to the supervision of a probation officer appointed for or assigned to the magisterial district in which the probationer will reside after the making of the order, and shall contain such provisions as the court considers necessary for securing

the supervision of the offender, and such additional conditions as to residence and other matters (including submission by the probationer to medical treatment) as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences:

Provided that (without prejudice to the power of the court to make an order under section 7(1)) the payment of sums by way of damages for injury or compensation for loss shall not be included among the requirements of a probation order.

(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 when 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 Minister.

(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.

Re-vesting  
property when  
probation order  
made.  
[4 of 1972]

6. Where a probation order is made by a court of summary jurisdiction, the order shall, for the purpose of re-vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owners and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction except in the case of a juvenile.

Further  
provisions  
when court

7. (1) Where a person is placed by a probation order under the supervision of a probation officer, the court may,

makes  
probation  
order.  
[4 of 1972  
6 of 1997]

without prejudice to its power of awarding costs against the offender, order the offender to pay such damages for injury or compensation for loss as the court thinks reasonable, but not, in the case of an order made by a court of summary jurisdiction, exceeding in the aggregate seven thousand eight hundred dollars or such greater sum as may be allowed by any enactment relating to the offence:

Provided that in the case of a juvenile the order for the payment of such damages or such compensation for loss shall be made against the parent or guardian.

(2) Where a court makes any such order for the payment of damages or compensation as aforesaid, the order 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.

Commission of  
further offences  
by  
probationers.  
[4 of 1972]

8. (1) If it appears to a judge or any magistrate that a probationer has been convicted of an offence committed while the probation order was in force, he may issue a summons requiring the probationer to appear at the place and time specified therein or may issue a warrant for his arrest:

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

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

(3) Where a probationer is found guilty by, or admits his guilt before, a magistrate of an offence committed while the probation order was in force, the magistrate may commit the probationer to custody or release him on bail, with or without sureties, until he can be brought or appear before the court by which the probation order was made.

(4) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has been found guilty, or has admitted before a court his guilt, of an offence while the probation order was in force, then

- (a) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may in the case of a juvenile, pass any sentence which it could pass if the probationer had just been found guilty before that Court of that offence and in any other case, may proceed to conviction and pass any sentence as aforesaid; or
- (b) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before the court of that offence.

(5) Where a probationer in respect of whom a probation order has been made by a magistrate is found guilty by, or has admitted before, the High Court his guilt of an offence committed while the probation order was in force, then –

- (a) if the probationer was not convicted of the original offence in respect of which the probation order was made, the High Court may, in the case of a juvenile, without proceeding to a conviction pass any sentence which it could pass if the probationer had just been found guilty before that court of that offence and, in any other case, may proceed to conviction and pass any sentence as aforesaid; or
- (b) if the probationer was convicted of the original offence in respect of which the probation order was made, the High Court may pass any sentence which the court which made the probation order could pass if the probationer had just been convicted before that court of that offence.

Failure of probationer to comply with probation order.  
[4 of 1972  
6 of 1997]

9. (1) If it appears to a judge or any magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may issue a summons to the probationer requiring him to appear at the place and time specified therein or may issue a warrant for his arrest:

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

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

(3) If it is proved to the satisfaction of the court by which the probation order was made that the probationer has

failed to comply with any of the provisions of the probation order, then –

- (a) without prejudice to the continuance in force of the probation order, the court may impose on the probationer a fine of six thousand five hundred dollars except that in the case of a juvenile the order for the payment of a fine shall be made against the parent or guardian of the juvenile; or
- (b)
  - (i) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may in the case of a juvenile, pass any sentence which it could pass if the probationer had just been found guilty before that court of that offence and in any other case, may proceed to conviction and pass any sentence as aforesaid; or
  - (ii) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence:

Provided that where a court has under paragraph (a) imposed a fine on the probationer, then, on any subsequent sentence being passed upon the probationer under section 8

or under this section, the imposition of the said fine shall be taken into account in fixing the amount of the said sentence.

Probation order; disqualification or disability.

**10.** (1) Where a person is convicted of an offence and is released under a probation order, his conviction for that offence shall be disregarded for the purposes of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after previous conviction:

Provided that if the probationer is subsequently sentenced for the original offence, this section shall cease to apply in respect of that offence, and he shall be deemed, for the purposes of any such enactment imposing a disqualification or disability, to have been convicted on the date of sentence.

(2) Where a person is released on probation, without the court having proceeded to conviction, and he is subsequently convicted and sentenced for the original offence, then he shall be deemed, for the purposes of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after a previous conviction, to have been convicted on the date of such conviction and sentence.

Transmission of documents when case is remitted to another court. [4 of 1972]

**11.** Where a probationer is committed to custody or released on bail by a magistrate until he can be brought or appear before the court which made the probation order, the magistrate shall transmit to the said court such particulars of the case as he thinks desirable, and where the probationer has been convicted, or in the case of a juvenile the recording of his guilt has been made, of a subsequent offence by a magistrate, the magistrate shall transmit to the said court a certificate to

that effect, signed by him and for the purposes or proceedings in the court to which it is transmitted any such certificate, if purporting to be so signed, shall be admissible as evidence of the conviction or of the guilt, as the case may be.

Amendment of  
probation  
orders.  
[21 of 1962]

12. (1) Subject to the provisions of this section, where, on the application of a probationer or of the probation officer responsible for his supervision, the court which made the probation order is satisfied that the provisions of the probation order should be varied, or that any provisions should be inserted or cancelled, the court may by order amend the probation order accordingly:

Provided that no order shall be made under this section reducing the period of duration of the probation order, or extending that period beyond a period of three years from the date of the probation order.

(2) An order under the foregoing subsection may require a probationer to reside in an institution for any period not extending beyond twelve months from the date of that order, if the total period or the aggregate of the periods for which he is required to reside in any institution or institutions under the probation order does not exceed twelve months.

(3) The court shall, if it is satisfied, on the application of the probation officer responsible for the supervision of the probationer, that the probationer has changed, or is about to change, his residence from the magisterial district named in the order to another magisterial district, by order vary the probation order by substituting for the reference to the magisterial district named therein a reference to the magisterial district where the probationer is residing or is about to reside, and shall transmit to the court for the new magisterial district all documents and information relating to the case, and thereupon the last mentioned court shall be deemed for all purposes of this Act to be the court by which the probation order was made.

(4) An order under this section cancelling a provision of a probation order or substituting a new magisterial district for the magisterial district named therein may be made without summoning the probationer, but no other order under this section shall be made except on the application or in the presence of the probationer.

(5) Where an order is made under this section for the variation, insertion, or cancellation of a provision requiring a probationer to reside in an institution, the court shall forthwith give notice of the terms of the order to the Minister.

Discharge of  
probation  
orders.  
[21 of 1962]

**13.** (1) The court by which a probation order was made may, on the application of the probationer or of the probation officer responsible for his supervision, discharge the probation order, and where the application is made by the probation officer, the court may deal with it without summoning the probationer.

(2) Where an offender in respect of whom a probation order has been made is subsequently sentenced for the offence in respect of which the probation order was made, the probation order shall cease to have effect.

Transmission of  
copies of orders  
for amendment  
or discharge of  
probation  
orders.

**14.** Where an order is made for the amendment or discharge of a probation order, the clerk of the court by which the order is made shall furnish two copies of the order to the probation officer responsible for the supervision of the probationer or in the case of an order for the discharge of a probation order, to the probation officer who was so responsible before the making of the order, one copy to be given by him to the probationer.

Selection of  
probation  
officers.  
[21 of 1962  
4 of 1972]

**15.** (1) The probation officer who is to be responsible for the supervision of any probationer shall be selected by the chief probation officer, and if the probation officer so selected dies or is unable for any reason to carry out his duties,

another probation officer shall be selected.

(2) Where a woman or girl is placed under the supervision of a probation officer, the probation officer shall be a woman.

Contributions  
towards homes  
and hostels.  
[4 of 1972]

16. Such contributions may be made towards the establishment of homes or hostels for the reception of persons placed under the supervision of probation officers as the National Assembly may approve.

Appointments.  
[21 of 1962]

17. (1) There shall be –

- (a) a chief probation officer who shall organise and supervise the probation service in Guyana in accordance with rules made under this Act;
- (b) a sufficient number of probation offices, qualified by character and experience to be probation officers, who shall perform such duties as may be prescribed by rules made under this Act.

(2) The Minister shall appoint –

- (a) a Central Probation Committee; and
- (b) a district probation committee for each magisterial district of Guyana,

consisting of such persons as the Minister shall think fit, and the committees so appointed shall perform such duties in connection with probation as may be prescribed by rules made under this Act.

Rules.  
[21 of 1962]

**18.** The Minister may make rules prescribing –

- (a) the duties of a chief probation officer;
  - (b) the duties of probation officers;
  - (c) the constitution and duties of the Central Probation Committee and the district probation committees;
  - (d) the form of records to be kept under this Act;
  - (e) the remuneration of any person appointed to carry out any duties under this Act and the fees and charges to be made for any act, matter or thing under this Act to be done or observed;
  - (f) generally for carrying this Act into effect.
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SUBSIDIARY LEGISLATION

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PROBATION OF OFFENDERS RULES

Citation.

1. These Rules may be cited as the Probation of Offenders Rules.

PART I

Duties of the  
Chief Probation  
Officer.

2. The duties of the Chief Probation Officer shall be
  - (a) To train all staff for the probation service;
  - (b) To advise the Central Probation Committee on all technical details of the probation system and to act as secretary to the said Committee;
  - (c) To supervise the field work and all case records of all probation officers
  - (d) To act as liaison between the Central Probation Committee and the juvenile authority which may hereafter be established, on questions of probation, training schools and other similar institutions, and such like matters;
  - (e) To co-ordinate the activities of the probation department with the police, charitable organizations, social services and clinics;
  - (f) To encourage, by frequent reports and observation, the promotion of effective methods for the fullest development of probation.

[Subsidiary]

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Duties of  
Probation  
Officer

3. It shall be the duty of a probation officer to supervise the probationers and other persons placed under his supervision and to advise, assist and befriend them, to enquire, in accordance with any direction of the court, into the circumstances or home surroundings of any person, to advise, assist and befriend persons who have been released from custody, in such cases and in such manner as the chief probation officer may direct, and to perform such other duties as the chief probation officer may direct.

Making of  
enquiries and  
maintaining  
close contact  
with  
probationer.

4. A probation officer shall, subject to any directions given by the court (whether in the probation order or otherwise) visit the home maintaining of a probationer placed under his supervision and make enquiries as to his behaviour, mode of life and employment. The probation officer shall keep in close contact with such a probationer and shall secure, as far as possible, the co-operation and assistance of social and religious workers or agencies.

Probation  
order to be  
explained to  
probationer.

5. A probation officer shall satisfy himself that every probationer placed under his supervision understands the conditions of the probation order that relates to him and the probation officer shall, by warning and persuasion, endeavour to ensure the observance of the conditions by the probationer.

Probationer  
under 17 years.

6. In the case of a probationer under the age of seventeen years, the probation officer shall endeavour to secure his connection with some organisation for the care and protection of the young, such as a Sunday School, Club, Association of Boy Scouts or Girl Guides or Boys' or Girls' Brigades.

Probation  
Officer under  
rule.

7. A probation officer shall make himself conversant with the provisions of the Probation of Offenders Act, and with these Rules.

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Probation  
Officers to  
submit reports.

8. (1) A probation officer shall report—

- (a) to the court, in accordance with any directions given by the court in the probation order or otherwise;
- (b) as to the conduct and mode of life of every probationer placed under his supervision and generally as to his progress, to the district probation committee;
- (c) to the court and to the district probation committee, the failure of a probationer placed under his supervision to observe any of the conditions of the probation order relating to him;
- (d) to the district probation committee upon any outside case under his supervision.

(2) Reports of a probation officer shall be made at such intervals and in such manner as the chief probation officer may direct and they shall not be made in open court or published.

Uniform, etc.

9. A probation officer shall not wear any badge or uniform distinctive of his office.

Record of  
each case.

10. Every probation officer shall keep a record of each case placed under his supervision, in the form and manner prescribed by these Rules.

Record of  
each probation  
order.

11. When a probation order has been made by a court of summary jurisdiction or by the High Court or by an appellate court, a copy of such order shall be filed in the

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Probation Service Department.

Record of each case to be kept in envelope.

12. The particulars forming the record of each case shall be entered by the probation officer on a "leaf" and one or more "followers" which shall be kept in a cardboard envelope bearing on the outside the full name of the probationer, with the surname written first, and the date of the expiry of the probation order.

Forms.

13. The "leaves", "followers" and envelopes shall be in the form approved by the chief probation officer.

Transfer of case.

14. When the supervision of a case is transferred to a probation officer attached to another court or area, the record shall be forwarded to that probation officer.

Entries of each case to be made by probation officer.

15. The entries in each case shall be made from time to time without delay by the probation officer concerned. It shall be the duty of the person having custody of the records, subject to the general supervision of the chief probation officer, to see that the entries are duly and properly made.

Preservation of records.

16. Records shall be preserved for not less than ten years from the expiration of the probation order to which they relate.

Person other than Probation Officer.

17. Where any person not being a probation officer is named in a probation order, he shall observe the foregoing rules in regard to the duties, reports and records of probation officers so far as they are applicable.

## PART II

### THE CENTRAL PROBATION COMMITTEE

"The Committee".

18. (1) The Minister shall appoint a Central Probation Committee (hereinafter referred to in this Part as "the Committee") consisting of a chairman and not more than

seven other members.

(2) The members of the Committee shall be appointed for not more than two years and shall be eligible for re-appointment.

(3) The chairman, if present, shall preside at all meetings of the Committee and in his absence the members present may elect one of their number to be chairman of the meeting.

(4) Three members present at any meeting of the Committee shall form a quorum.

(5) The Committee shall meet at such times and places as it thinks fit, and subject to these Rules, may regulate its own procedure.

(6) At a meeting of the Committee every question shall be determined by a majority of the members voting on that question and if the votes are equally divided the chairman of the meeting shall have a second or casting vote.

(7) Subject to paragraph (4), the proceedings of the committee shall not be invalidated by reason of any defect in the appointment or qualification of the Committee or of any member thereof or by any vacancy amongst its members.

(8) The chief probation officer shall be the secretary to the Committee and shall record and keep the minutes of all meetings of the Committee, and a copy of the minutes shall be confirmed at a subsequent meeting.

Resignation of member.

**19.** (1) Any member of the Committee, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member

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*Probation of Offenders Rules*

shall cease to be a member of the Committee.

(2) The chairman of the Committee may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Absence of a member and the power to appoint others.

**20.** (1) The Minister may grant leave of absence to any member of the Committee.

(2) Where leave has been granted as aforesaid, the Minister may appoint another person to act in the place of the member of the Committee who has been granted such leave.

(3) Where a member of the Committee, other than the chairman, without leave of the chairman, absents himself from three consecutive meetings of the Committee, he shall be deemed to have resigned.

(4) Where a member of the Committee has resigned, or is deemed to have resigned under paragraph (3), or where the appointment of a member of the Committee is revoked, the Minister may appoint another person to be a member of the Committee for the unexpired portion of his predecessor's term of office.

Duty of Committee.

**21.** It shall be the duty of the Committee—

c. 11:04

(a) to advise and report to the Minister on any matter which in its opinion affects the proper carrying out of the provisions and objects of the Probation of Offenders Act;

(b) to advise the Minister on any matter about which the Minister may seek its advice with a view to the proper carrying out of the provisions of the Probation of Offenders

Act.

**PART III**  
**DISTRICT PROBATION COMMITTEES**

Other  
Committees.

22. (1) The magistrate of the magisterial district for which a district probation committee is appointed shall, by virtue of his office, be the chairman thereof.

(2) A district probation committee shall consist of not more than eight other members who shall be appointed by the Minister.

(3) The members of a district probation committee other than the chairman shall be appointed for not more than two years and they shall be eligible for reappointment.

(4) Rule 18(3) to (7) inclusive shall *mutatis mutandis* apply to a district probation committee as they apply to the Central Probation Committee appointed under rule 18.

(5) The probation officer assigned to the magisterial district for which a district probation committee has been appointed shall be the secretary to the committee and shall record and keep the minutes of all meetings of the committee and a copy of the minutes shall be confirmed at a subsequent meeting.

Resignation.

23. Any person appointed by the Minister as a member of a district probation committee may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the committee.

Rule 20.

24. Rule 20 of these Rules shall *mutatis mutandis* apply to persons appointed by the Minister as members of a district

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probation committee as they apply to members of the Central Probation Committee.

Duties of  
district  
probation  
committee.

25. The duties of a district probation committee shall be—

- (a) from time to time to receive and consider written or oral probation reports from each probation officer concerning persons under his supervision and to discuss with the probation officer the progress of these persons;
- (b) to afford each probation officer help and advice in carrying out his duties;
- (c) to make such periodical returns and reports to the Central Probation Committee as it may from time to time require.

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