

## New Zealand.



### FIRST OFFENDERS' PROBATION.

**1908, No. 64.**

AN ACT to consolidate certain Enactments of the General Assembly relating to the Conditional Release of First Offenders for Probation of Good Conduct.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) The Short Title of this Act is "The First Offenders' Probation Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All appointments, regulations, Orders in Council, orders, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. In this Act, if not inconsistent with the context,—

"Court" means any Court having jurisdiction to try and determine an offence as herein defined, and includes a Court of summary jurisdiction having such jurisdiction as aforesaid:

Interpretation.  
1886, No. 22, sec. 2  
1903, No. 6, sec. 2 (1)

“First offender” means any person convicted by the Court of an offence, whose previous character has been good, and against whom a conviction has not been previously recorded in respect of any offence:

“Offence” means any indictable offence, not being one of murder, attempted murder, burglary, coining, corrosive-fluid throwing, demanding money with menaces, extortion of money by threats of accusation of crime, placing an explosive substance to endanger life or property, rape, robbery with violence; and not being an offence attended by irreparable or serious consequences, or endangering life, or indicating, in the opinion of the Court, an established criminal intention on the part of the accused; and includes any indictable offence which may be dealt with and disposed of by a Court of summary jurisdiction.

Governor may make regulations.  
1886, No. 22, sec. 3

3. The Governor may from time to time, by Order in Council gazetted, make regulations for any purpose incidental or necessary to the due administration of the provisions of this Act.

Governor may appoint Probation Officers.  
Ibid, sec. 4

4. (1.) The Governor may from time to time appoint such police officers or other persons as he thinks fit to be Probation Officers under this Act, and may assign to any such officer a district wherein he may exercise his functions.

(2.) Every such appointment shall be gazetted.

(3.) The office of Probation Officer may be held together with any other office.

Probation Officers to have powers of constables.  
Ibid, sec. 5

5. Every Probation Officer shall, in the exercise of his official duties, have the powers of a constable, and shall be paid such salary or other remuneration as may from time to time be appropriated by Parliament.

Duties of Probation Officers.  
1903, No. 6, sec. 2 (2)

6. (1.) It shall be the duty of a Probation Officer, when required by the Court,—

(a.) To inquire carefully into the character and antecedents of any person convicted of an offence, and to report fully to the Court in writing—

(i.) As to whether such person is a first offender; and

(ii.) As to his previous character and antecedents; and

(iii.) As to any other matters on which the Court may require information:

(b.) To keep a full record of the results of his investigations.

1886, No. 22, sec. 7

(2.) It shall be the special duty of the Probation Officer, if satisfied upon inquiry that the best interests of the public and of the offender would be served by releasing the offender on probation, to recommend to the Court trying the case that he be so released.

Evidence rebutting report.  
1903, No. 6, sec. 3

7. If the person convicted so requires, a copy of every report of a Probation Officer concerning him shall be given to him before action is taken thereon by the Court, and he may tender evidence on any matter stated therein.

Court may release first offenders on probation.  
1886, No. 22, sec. 8  
1903, No. 6, sec. 2 (3)

8. Where any person is convicted of an offence as defined by section two hereof, and such person is a first offender so far as the Court is not aware to the contrary, the Court before which he is

so convicted may, instead of sentencing him at once to any punishment, direct that he be released upon probation in terms of this Act for any period not exceeding three years.

9. (1.) The conditions of the liberty accorded to a person released on probation shall be—

Conditions of release.  
1886, No. 22, sec. 9

(a.) That he shall report himself where directed within twenty-four hours after liberation :

(b.) That he shall report himself, in person, once in every month where directed, between the hours of nine in the morning and nine in the evening on the days specified, unless the Probation Officer authorises such report to be made in writing :

(c.) That he shall reside (that is, sleep) at the address notified to the Probation Officer, in order that he may be at once found if required for any lawful purpose :

(d.) That if he removes from such address he shall give to the Probation Officer at least forty-eight hours' notice of his intention so to do ; and, if he removes to any place within the district of another Probation Officer, then he shall also, within twenty-four hours after such removal, notify the fact of his removal, as also his address and employment, to the Probation Officer in that district :

(e.) That he shall get his living by honest means, and that the nature and place of his employment shall be made known to and approved of by the Probation Officer :

(f.) That he shall produce, when required by a constable, his license of conditional liberty issued by order of the Court.

(2.) Any one of the foregoing conditions may for a given reason be specially remitted by a Probation Officer for any period not exceeding seven days.

10. In addition to the foregoing conditions, the Court may, in its discretion, impose other special conditions, a copy whereof shall be furnished to the person released upon probation.

Special conditions.  
Ibid, sec. 9

11. It may be a condition of every such release on probation that the person so released shall enter into recognisances to be of good behaviour, with or without sureties, and that he shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as may be directed by the Court.

Recognisances and costs.  
Ibid, sec. 9

12. Upon the due and satisfactory fulfilment of all the conditions of his release, the person on probation shall, at the expiration of the term of his probation, be deemed to be discharged in like manner as if he had been sentenced and had served the term of his sentence.

Discharge.  
Ibid, sec. 10

13. Any person released upon probation who fails to comply with, or conducts himself in a manner inconsistent with, the conditions of his release may be rearrested without further warrant by any Probation Officer or constable in any part of New Zealand, and again brought before the Court where he was originally convicted, or before any Judge of the Supreme Court, or Magistrate, as the case may be ; and such Court, Judge, or Magistrate, after taking the evidence of the Probation Officer, and considering the record of the facts adduced at the trial or hearing, and any other evidence

Person on probation may be rearrested.  
Ibid, sec. 12  
1903, No. 6, sec. 2 (4)

that may be tendered, may thereupon either commit the offender to prison for any period allowed by law in respect of the offence whereof he was originally convicted, or again release him on probation on such terms as are thought proper.

14. If any person so rearrested is committed to prison, the time between his release on probation and his committal to prison shall not be taken to be any part of the term of his sentence.

15. Where any person is committed for trial for an offence as defined by section two hereof, and is unable to procure bail for his appearance when required, the committing Magistrate or Justices may, if they think fit, release him on probation instead of sending him to prison to await his trial, and in such case the provisions of this Act shall, *mutatis mutandis*, apply in respect of the person so released in like manner as if he had been convicted of the offence for which he was committed as aforesaid.

16. Every Probation Officer shall make a monthly return to the Minister of Justice, showing the name, sex, and offence of each person released upon probation, with such other particulars as the Minister requires, and the result in each case after the term of probation has been completed.

17. Notwithstanding anything hereinbefore contained, the following provisions shall apply in respect to persons accused of an offence under this Act :—

A Court of summary jurisdiction, after hearing the evidence, may discharge any such person without sentencing him ; or

The Supreme Court, at any stage of the trial of any such person, may direct him to be discharged either before or after verdict ; and such discharge shall have all the effect of an acquittal of the accused in respect of the offence for which he was committed for trial, held to bail, or indicted.

18. Nothing in this Act shall be construed to annul, abridge, or alter any authorities or jurisdiction which any Court, or any Judge or Justices thereof, possesses or possess under any Act other than this Act, or otherwise.

If committed, time on probation not counted as part of sentence.

1886, No. 22, sec. 13

Person committed for trial unable to procure bail may be released in terms of Act.

*Ibid*, sec. 11

Monthly return of persons on probation to be sent to Minister of Justice.

*Ibid*, sec. 14

Court of summary jurisdiction may discharge without sentence.

*Ibid*, sec. 15

Supreme Court may direct discharge before or after verdict.

Saving of other powers.

*Ibid*, sec. 16

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1886, No. 22.—“The First Offenders' Probation Act, 1886.”

1903, No. 6.—“The First Offenders' Probation Amendment Act, 1903.”