

Uganda

Probation Act

Chapter 122

Legislation as at 31 December 2000

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Probation Act (Chapter 122)

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Probation Act Chapter 122

Commenced on 15 February 1963

[This is the version of this document at 31 December 2000.]

[Note: The version of the Act as at 31 December 2000 was revised and consolidated by the Law Reform Commission of Uganda. All subsequent amendments have been researched and applied by Laws.Africa for ULII.]

An Act to permit the release on probation of offenders in certain cases and to provide for matters incidental thereto and connected therewith.

Part I – Interpretation

1. Interpretation

- (1) In this Act, unless the context otherwise requires—
- (a) “**court**” means the High Court or a magistrate’s court;
 - (b) “**offence the sentence for which is fixed by law**” means—
 - (i) an offence for which the court is required to sentence the offender to death or to imprisonment for life; or
 - (ii) an offence in respect of which, by reason of particular circumstances relating to the offender, the court is required in place of passing sentence to refer the case to a Minister for the making of a detention order or for disposal in any other way;
 - (c) “**probationer**” means a person for the time being under supervision by virtue of a probation order;
 - (d) “**probation officer**” means a member of the probation service for which provision is made by [section 14](#) and, in relation to a probationer, means the person for the time being responsible for his or her supervision;
 - (e) “**probation order**” means an order made under this Act placing a person under the supervision of a probation officer;
 - (f) “**probation period**” means the period for which a probationer is placed under supervision by a probation order;
 - (g) “**public officer**” has the meaning ascribed to it in the Constitution;
 - (h) “**supervising court**” means the magistrate’s court having jurisdiction in the district or area for the time being named in the probation order in which the probationer resides or will reside.
- (2) For the purposes of this Act, except [section 3\(3\)](#), where a probation order has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought or, in the case of a second appeal, by the court of trial.

Part II – Probation orders

2. Probation

- (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of the opinion after due inquiry has been made 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, instead of sentencing him or her, make a probation order.
- (2) Before making a probation order, the court shall explain to the offender in ordinary language the effect of the order and that, if he or she fails in any respect to comply with the probation order or commits another offence, he or she will be liable to be sentenced for the original offence; and if the offender is not less than fourteen years of age, the court shall not make a probation order unless the offender expresses his or her willingness to comply with the requirements of the order.

3. Requirements of probation order

- (1) A probation order shall contain such requirements as the court considers necessary for securing the supervision of the offender, and such additional requirements as to residence and other matters 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; but without prejudice to the power of the court to make an order under section 197 of the Magistrates Courts Act or section 126(1) of the Trial on Indictments Act, the payment of any sum by way of compensation shall not be included among the requirements of a probation order.
- (2) Before making a probation order containing requirements as to residence, the court shall consider the home surroundings of the offender; and where an order requires the offender to reside in an institution—
 - (a) the institution shall be an institution which is under the control or subject to inspection by the Government or is approved for the purpose by the Minister;
 - (b) the name of the institution and the period for which he or she is so required to reside shall be specified in the order, and that period shall not extend beyond twelve months from the date of the order; and
 - (c) the court shall immediately give notice of the order to the Minister.
- (3) The court by which a probation order is made shall immediately give a copy of the order to the probationer, to the probation officer under whose supervision he or she is placed and to the person in charge of any institution in which the probationer is required by the order to reside; and the court shall, except where it is itself the supervising court, send to the supervising court a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to the supervising court.

4. Security for good behaviour

A court may, on making a probation order, if it thinks it expedient for the purpose of the reformation of the offender, allow any suitable person who consents to do so to give security for the good behaviour of the offender.

5. Breach of requirement of probation order

- (1) If at any time during the probation period it appears to a court that a probationer has failed to comply with any of the requirements of the probation order, the court may issue a summons

requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for his or her arrest; but a warrant shall not be issued except on information on oath.

- (2) A summons or warrant issued under this section shall direct the probationer to appear or to be brought before the supervising court.
- (3) If it is proved to the satisfaction of the supervising court that the probationer has failed to comply with any of the requirements of the probation order, that court may, without prejudice to the continuance of the probation order, impose on him or her a fine not exceeding two hundred shillings, or may—
 - (a) if the probation order was made by a magistrate's court, deal with the probationer for the offence in respect of which the probation order was made in any manner in which the court could deal with him or her if it had just convicted him or her of that offence;
 - (b) if the probation order was made by the High Court, commit him or her to custody or release him or her on bail, with or without sureties, until he or she can be brought or appear before the High Court.
- (4) Where the supervising court deals with the case as provided in subsection (3)(b), then—
 - (a) the court shall send to the High Court a certificate signed by a magistrate authorised to preside over the court certifying that the probationer has failed to comply with such of the requirements of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure before the High Court; and
 - (b) where the probationer is brought or appears before the High Court, and it is proved to the satisfaction of that court that he or she has failed to comply with any of the requirements of the probation order, that court may deal with him or her, for the offence in respect of which the probation order was made, in any manner in which the court could deal with him or her if he or she had just been convicted before the court of that offence.
- (5) A probationer who is convicted of an offence committed during the probation period shall not on that account be liable to be dealt with under the provisions of this section for failing to comply with any requirement of the probation order.

6. Commission of further offence

- (1) If it appears to a court that a probationer has been convicted by a court in any part of Uganda of an offence committed during the probation period and has been dealt with in respect of that offence, it may issue a summons requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for his or her arrest; but a warrant shall not be issued except on information 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, or before the supervising court; but if a warrant is issued requiring him or her to be brought before the High Court and he or she cannot immediately be brought before that court because that court is not in session, the warrant shall have effect as if it directed him or her to be brought before a magistrate's court for the place in Uganda where he or she was arrested; and the magistrate's court shall commit him or her to custody or release him or her on bail, with or without sureties, until he or she can be brought or appear before the High Court.
- (3) If a person in whose case a probation order has been made by the High Court is convicted and dealt with by a magistrate's court in respect of an offence committed during the probation period, the magistrate's court may commit him or her to custody or release him or her on bail, with or without sureties, until he or she can be brought or appear before the High Court; and if it does so the magistrate's court shall send to the High Court a copy of its judgment with such particulars of the case as may be desirable.

- (4) Where it is proved to the satisfaction of the court by which a probation order was made, or, if the order was made by a magistrate's court, to the satisfaction of that court or the supervising court, that the person in whose case that order was made has been convicted and dealt with in respect of an offence committed during the probation period, the court may deal with him or her, for the offence for which the order was made, in any manner in which the court could deal with him or her if he or she had just been convicted by or before that court of that offence.
- (5) If a person in whose case a probation order has been made by a magistrate's court is convicted before the High Court of an offence committed during the probation period, or is dealt with by the High Court for an offence so committed in respect of which he or she was committed for sentence to that court, the High Court may deal with him or her, for the offence for which the order was made, in any manner in which the magistrate's court could deal with him or her if it had just convicted him or her of that offence.
- (6) If a person in whose case a probation order has been made by a magistrate's court is convicted by another magistrate's court of any offence committed during the probation period, that court may, with the consent of the court which made the order or of the supervising court, deal with him or her, for the offence for which the order was made, in any manner in which the court could deal with him or her if it had just convicted him or her of that offence.

7. Effect of probation

- (1) A conviction for an offence for which a probation order is made shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the foregoing provisions of this Act; but where an offender, being not less than seventeen years of age at the time of his or her conviction of an offence for which a probation order is made, is subsequently sentenced under the provisions of this Part of this Act for that offence, this subsection shall cease to apply to the conviction.
- (2) Without prejudice to subsection (1), the conviction of an offender who is placed on probation shall in any event be disregarded for the purposes of any written law which imposes any disqualification or disability upon convicted persons, or authorises or requires the imposition of any such disqualification or disability.
- (3) Subsections (1) and (2) shall not affect—
 - (a) any right of any such offender as is mentioned in those subsections to appeal against his or her conviction, or to rely on those subsections in bar of any subsequent proceedings for the same offence; or
 - (b) the reversioning or restoration of any property in consequence of the conviction of any such offender.

Part III – Amendment, review and discharge of probation orders

8. Amendment of probation order

- (1) If the supervising court is satisfied that a probationer proposes to change, or has changed, his or her residence from the district or area named in the probation order to another district or area, the court may, and if the application for that purpose is made by the probation officer shall, by order amend the probation order by substituting for the district or area named in the probation order the district or area where the probationer proposes to reside or is residing.
- (2) Notwithstanding subsection (1), if the probation order contains requirements which, in the opinion of the court, cannot be complied with unless the probationer continues to reside in the district or area named in the order, the court shall not so amend the order unless, in accordance with the

following provisions of this Part of the Act, it cancels those requirements or substitutes for them other requirements which can be so complied with.

- (3) Where a probation order is amended under subsection (1), the supervising court shall send to the magistrate's court for the new district or area named in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (4) Without prejudice to subsection (1), (2) or (3), the supervising court may, upon application made by the probation officer or by the probationer, by order amend a probation order by cancelling any of the requirements of the probation order or by inserting in it, either in addition to or in substitution for any such requirement, any requirement which could be included in the order if it were then being made by that court in accordance with sections 2 and 3; but—
 - (a) the court shall not amend a probation order by reducing the probation period or by extending that period beyond the end of three years from the date of the original order; and
 - (b) the court shall not amend a probation order so as to require the probationer to reside in an institution for any period exceeding twelve months in all.

9. Review of probation order

- (1) Where a probation order, whether as originally made or amended under this Part of this Act, requires the probationer to reside in an institution for a period extending beyond six months from the date of the order as originally made or of the amending order, as the case may be, the probation officer shall, as soon as may be after the expiration of six months from that date, report to the supervising court on the case.
- (2) On receipt of a report of the kind mentioned in subsection (1), the supervising court shall review the probation order for the purpose of considering whether to cancel the requirement as to residence or reduce the period of residence, and may, if it thinks fit, amend the order accordingly without the necessity of any application for that purpose.

10. Discharge of probation order

- (1) The court by which a probation order was made may, upon application made by the probation officer or by the probationer, discharge the order; and, where the application is made by the probation officer, the court may deal with it without summoning the probationer.
- (2) Where a probationer is sentenced under section 5 or 6 for the offence for which he or she was placed on probation, the probation order shall cease to have effect.

11. When probationer must appear

Where the supervising court proposes to amend a probation order under this Part of this Act, otherwise than on the application of the probationer, it shall summon him or her to appear before the court; and if the probationer is not less than fourteen years of age, the court shall not amend a probation order unless the probationer expresses his or her willingness to comply with the requirements of the order as amended; except that this section shall not apply to an order cancelling a requirement of the probation order or reducing the period of any requirement or substituting a new district or area for the district or area named in the probation order.

12. Copies of amending and discharging orders

- (1) On the making of an order discharging or amending a probation order, the court shall immediately cause copies of the discharging or amending order to be given to the probation officer, and the probation officer shall give a copy to the probationer and to the person in charge of any institution in which the probationer is or was required by the order to reside.

- (2) Where an order is made under this Part of this Act amending, inserting or cancelling a requirement that a probationer shall reside in an institution, the court shall immediately cause notice of the terms of the order to be given to the Minister.

Part IV – Arrangements for probation

13. Supervising probation officer

- (1) The probation officer who is to be responsible for the supervision of a probationer shall be the officer for the district or area for the time being named in the order in which the probationer resides, or will reside, and if that probation officer dies or is unable for any reason to carry out his or her duties, another probation officer shall be selected by the supervising court.
- (2) The probation officer under whose supervision a woman or girl is placed shall wherever possible be a woman.

14. Probation service and probation committees

- (1) There shall be a probation service consisting of public officers who shall perform such duties as may be imposed upon them by this Act.
- (2) The Minister shall appoint a probation committee or probation committees, consisting of such persons as he or she thinks fit, which shall review the work of probation officers in individual cases and perform such other duties in connection with probation as may be imposed upon them by this Act.

15. Rules

The Minister may make rules prescribing—

- (a) the duties of probation officers; and
- (b) the constitution and duties of a probation committee.