



Isle of Man

Ellan Vannin

AT 3 of 1963

CRIMINAL JUSTICE ACT 1963



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**Isle of Man***Ellan Vannin*

CRIMINAL JUSTICE ACT 1963

Received Royal Assent: 29 July 1963
Passed: 15 October 1963
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AN ACT to abolish transportation, penal servitude, hard labour and prison divisions; to amend the law relating to the probation of offenders, and otherwise to reform existing methods and provide new methods of dealing with offenders and persons liable to imprisonment; to provide approved probation hostels; to constitute case committees for petty sessions districts; to amend the law relating to proceedings of criminal courts; to empower courts to order compensation for victims of crime; to re-enact certain enactments relating to the matters aforesaid; and for purposes connected therewith.

GENERAL NOTE: The maximum fines in this Act are as increased by the Fines Act 1986 and by the *Criminal Justice (Penalties, etc) Act 1993* s 1.

1 [Repealed]¹

Probation and discharge

2 Probation

[1948/3]

- (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence of which is fixed by law) 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, instead of sentencing him, make a probation order, that is to say, an order requiring him to be under the supervision of a probation officer or some other person, such other person being named in the order for a period to be specified in the order of not less than six months nor more than three years.

Unless the Department of Health and Social Care, or as the case may be, Manx Care (a Statutory Board established under the *Manx Care Act 2021*)

consent a probation order shall not place a child or young person under the supervision of a person other than an officer designated for that purpose by the Department, or as the case may be, Manx Care.²

- (2) [Repealed]³
- (3) Subject to the provisions of the next following section, a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements 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 by him 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 subsection (2) of section eight of this Act) 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.

- (4) Without prejudice to the generality of the last foregoing subsection, a probation order may include requirements relating to the residence of the offender:

Provided that —

- (a) before making an order containing any such requirements, the court shall consider the home surroundings of the offender; and
- (b) where the order requires the offender to reside in an approved probation hostel, or any other institution, the period for which he is so required to reside shall be specified in the order.⁴
- (4A) Without prejudice to the generality of subsections (3) and (4), a probation order may in addition —
- (a) require the person to remain for periods specified in the order at a place so specified, and paragraphs 1(3) to (8) and 2 of Schedule 5 to the *Criminal Justice Act 2001* and rules made under paragraph 5 of that Schedule shall apply to such requirements as they apply to a curfew order;
- (b) include the requirements which are authorised by Schedule 1A.⁵
- (5) Before making a probation order, the court shall explain to the offender in ordinary language the effect of the order (including any additional requirements proposed to be inserted therein under subsection (3) or subsection (4) of this section or under the next following section) and that if he fails to comply therewith or commits another offence he 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 the order unless he expresses his willingness to comply with the requirements thereof.
- (6) The court by which a probation order is made shall forthwith give copies of the order to the probation officer or other person responsible for the supervision of the offender, and he shall give a copy to the offender, to the

parent or guardian (if present in court) of an offender who is under the age of seventeen years, and to the person in charge of any premises in which the probationer is required by the order to reside.⁶

3 Probation orders requiring treatment for mental condition

- (1) Where the court is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the *Mental Health Act 1998*, that the mental condition of an offender is such as requires and may be susceptible to treatment, but is not such as to warrant his detention in pursuance of a hospital order, the court may make a probation order and include in it a requirement that the offender shall submit, during the whole of the probation period or during such part of that period as may be specified in the order, to treatment by or under the direction of a registered medical practitioner with a view to the improvement of the offender's medical condition.
- (2) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order —
 - (a) treatment as a resident patient in a hospital or an adult care home or independent hospital under the *Regulation of Care Act 2013* for which there is a registered provider under that Act;⁷
 - (b) treatment as a non-resident patient at such institution or place as may be specified in the order; or
 - (c) treatment by or under the direction of such registered medical practitioner as may be so specified;

but except as aforesaid the nature of the treatment shall not be specified in the order.

- (3) A court shall not make a probation order containing such a requirement as is mentioned in subsection (1) unless it is satisfied that arrangements have been made for the treatment intended to be specified in the order and, if the offender is to be treated as mentioned in subsection (2)(a), for his reception.
- (4) While the probationer is under treatment as a resident patient in pursuance of a requirement of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such an extent only as may be necessary for the purpose of the discharge or amendment of the order.
- (5) Where the medical practitioner by whom or under whose direction a probationer is being treated for his mental condition in pursuance of a probation order is of opinion that part of the treatment can be better or more conveniently given in an institution or place not specified in the order, being an institution or place in or at which the treatment of the probationer will be given by or under the direction of a registered medical practitioner, he may, with the consent of the probationer, make

arrangements for him to be treated accordingly, and the arrangement may provide for the probationer to receive part of his treatment as a resident patient in an institution or place although it is not one which could have been specified in that behalf in the probation order.

- (6) Where any such arrangements as are mentioned in subsection (5) are made for the treatment of a probationer —
- (a) the medical practitioner by whom the arrangements are made shall give notice in writing to the probation officer responsible for the supervision of the probationer, specifying the institution or place in or at which the treatment is to be carried out; and
 - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the probation order.
- (7) Section 61(2) and (3) (medical reports) of the *Mental Health Act 1998* applies for the purpose of this section as it applies for the purpose of any provision of Part 3 of that Act.
- (8) In this section —
- “**hospital**” and “**hospital order**” have the same meanings as in the *Mental Health Act 1998*;

“**mental nursing home**” [Repealed].^{8 9}

4 **Discharge, amendment and review of probation orders**

[1948/5]

- (1) The provisions of the First Schedule to this Act shall have effect in relation to the discharge and amendment of probation orders.
- (2) Where, under the following provisions of this Act, a probationer is sentenced for the offence for which he was placed on probation, the probation order shall cease to have effect.

5 **Breach of requirement of probation order**

[1948/6]

- (1) If at any time during the probation period it appears on complaint to a justice that the probationer has failed to comply with any of the requirements of the order, the justice may issue a summons requiring the probationer to appear at the place and time specified therein, or may, if the complaint is in writing and on oath, issue a warrant for his arrest.¹⁰
- (2) If without reasonable excuse a person fails to comply with any of the requirements of a probation order made in respect of that person, that person shall be liable on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.¹¹

- (2A) A conviction for an offence under subsection (2) is in addition to and does not affect the conviction in respect of which the person was placed on probation nor the continuance of the probation order nor the powers that may be exercised by a court in respect of the person, conviction or order.¹²
- (3) If, on the application of a probation officer, it is proved to the satisfaction of the court before which a probationer appears or is brought under this section that the probationer has failed to comply with any of the requirements of the probation order, that court may —
- (a) if the probation order was made by a court of summary jurisdiction, 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 if it had just convicted him of that offence;
 - (b) if the probation order was made by a Court of General Gaol Delivery, commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court of General Gaol Delivery.¹³
- (4) Where the court of summary jurisdiction deals with the case as provided in paragraph (b) of the last foregoing subsection, then —
- (a) the court shall send to the Court of General Gaol Delivery a certificate signed by a justice, 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 any 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 Court of General Gaol Delivery; and
 - (b) where the probationer is brought or appears before the Court of General Gaol Delivery, and it is proved to the satisfaction of that Court that he has failed to comply with any of the requirements of the probation order, that court may deal with him, for the offence in respect of which the probation order was made, in any manner in which the court could deal with him if he had just been convicted before that court of that offence.
- (5) [Repealed]¹⁴
- (6) A probationer who is required by the probation order to submit to treatment for his mental condition shall not be treated for the purposes of this section as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances; and without prejudice to the provisions of section seven of this Act 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 this section for failing to comply with any requirement of the probation order.

6 Absolute and conditional discharge

[1948/7]

- (1) Where the 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 opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate, the court may make an order —
 - (a) discharging him absolutely, or,
 - (b) if the court thinks fit,
 - (i) discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order as may be specified therein, or
 - (ii) discharging him conditionally on his entering into a recognizance to be of good behaviour and to comply with such conditions during such period, not exceeding three years, as may be specified in the order.
- (2) An order discharging a person under the provisions of paragraph (b) of subsection (1) of this section is in this Act 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 the effect of any conditions which may be contained in the order and that if he commits another offence during the period of conditional discharge or fails to comply with any conditions which may be specified in the order he will be liable to be sentenced for the original offence.
- (4) Where, under the following provisions of this Act, 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.

7 Commission of further offence or breach of condition

[1948/8]

- (1) If it appears to a judge or a justice on whom jurisdiction is hereinafter conferred that a person in whose case a probation order or an order for conditional discharge has been made has been convicted by a court in any part of the British Islands of an offence committed during the probation period or during the period of conditional discharge, and has been dealt with in respect of that offence, or has, during the period of conditional

discharge, failed to comply with any condition specified in the order, the judge or justice may issue a summons requiring that person to appear at the place and time specified therein, or may issue a warrant for his arrest:

Provided that a justice shall not issue such a summons except on complaint and shall not issue such a warrant except on complaint in writing and on oath.

- (2) The following persons shall have jurisdiction for the purposes of the foregoing subsection, that is to say —
 - (a) if the probation order or the order for conditional discharge was made by the Court of General Gaol Delivery, a judge of that court;
 - (b) if the order was made by a court of summary jurisdiction, a justice;¹⁵
 - (c) in the case of a probation order, by whatever court it was made, a justice.¹⁶
- (3) A summons or warrant issued under this section shall direct the person named therein to appear or to be brought before the court by which the probation order or the order for conditional discharge was made:
Provided that —
 - (a) if that court is a court of summary jurisdiction and the summons or warrant is issued by the High Bailiff or a justice, the summons or warrant may direct him to appear or to be brought before the supervising court; and¹⁷
 - (b) if a warrant is issued requiring him to be brought before a Court of General Gaol Delivery, and he cannot forthwith be brought before that court because that court is not being held, the warrant shall have effect as if it directed him to be brought before a court of summary jurisdiction; and the court of summary jurisdiction shall commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the Court of General Gaol Delivery.¹⁸
- (4) If a person in whose case a probation order or an order for conditional discharge has been made by a Court of General Gaol Delivery is convicted and dealt with by a court of summary jurisdiction in respect of an offence committed during the probation period or during the period of conditional discharge, the court of summary jurisdiction may commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court by which the order was made, and if it does so the court of summary jurisdiction shall send to the Court of General Gaol Delivery a copy of the minute or memorandum of the conviction entered in the Order Book certified by the clerk of the court.¹⁹
- (5) Where it is proved to the satisfaction of the court by which a probation order or an order for conditional discharge was made, or, if the order

(being a probation order) was made by a court of summary jurisdiction, 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, or during the period of conditional discharge, as the case may be, or has, during the period of conditional discharge, failed to comply with any condition specified in the order, the court may deal with him, for the offence for which the order was made, in any manner in which the court could deal with him if he had just been convicted by or before that court of that offence.

- (6) If a person in whose case a probation order or an order for conditional discharge has been made by a court of summary jurisdiction is convicted before a Court of General Gaol Delivery of an offence committed during the probation period or during the period of conditional discharge, or is dealt with by a Court of General Gaol Delivery for an offence so committed in respect of which he was committed for sentence to that court, the Court of General Gaol Delivery may deal with him, for the offence for which the order was made, in any manner in which the court of summary jurisdiction could deal with him if it had just convicted him of that offence.
- (7) If a person in whose case a probation order or an order for conditional discharge has been made by a court of summary jurisdiction is convicted by another court of summary jurisdiction of any offence committed during the probation period or during the period of conditional discharge, that court may, if it is satisfied that it has the consent of the court which made the order or, in the case of a probation order, if it is satisfied that it has the consent of that court or of the supervising court, deal with him, for the offence for which the order was made, in any manner in which the court could deal with him if it had just convicted him of that offence.

8 Supplementary provisions as to probation and discharge

[1948/11]

- (1) Without prejudice to the provisions of section 82(3) of the *Children and Young Persons Act 2001* (which enables a court to order the parent or guardian of a child or young person found guilty of an offence to give security for his good behaviour), any court may, on making a probation order or an order for conditional discharge under this Act, if it thinks it expedient for the purpose of the reformation of the offender, allow any person who consents to do so to give security for the good behaviour of the offender and, in the case of an order of conditional discharge wherein conditions are specified, for compliance with such conditions, and section ten of this Act shall apply to any security so given before a court of summary jurisdiction.²⁰
- (2) and (3) [Repealed]²¹

- (4) In proceedings before a Court of General Gaol Delivery under the foregoing provisions of this Act, any question whether a probationer has failed to comply with the requirements of the probation order or has been convicted of an offence committed during the probation period, and any question whether any person in whose case an order for conditional discharge has been made has failed to comply with any condition specified therein or has been convicted of an offence committed during the period of conditional discharge, shall be determined by the court and not by the verdict of a jury.

9 Effects of probation and discharge

[1948/12]

- (1) Subject as hereinafter provided, a conviction of an offence for which an order is made under this Act placing the offender on probation or discharging him absolutely or conditionally 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:

Provided that where an offender, being not less than seventeen years of age, at the time of his conviction of an offence for which he is placed on probation or conditionally discharged as aforesaid, is subsequently sentenced under this Act for that offence, the provisions of this subsection shall cease to apply to the conviction.

- (2) Without prejudice to the foregoing provisions of this section, the conviction of an offender who is placed on probation or discharged absolutely or conditionally as aforesaid shall in any event be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons or authorises or requires the imposition of any such disqualification or disability.
- (3) The foregoing provisions of this section shall not affect —
- (a) any right of any such offender as aforesaid to appeal against his conviction, or to rely thereon in bar of any subsequent proceedings for the same offence;
 - (b) the reversioning or restoration of any property in consequence of the conviction of any such offender, or
 - (c) the operation, in relation to any such offender, of any enactment in force at the commencement of this Act which is expressed to extend to persons dealt with under subsection (1) of section three of the *Probation of Offenders Act, 1913*, as well as to convicted persons.

10 and 11 [Repealed]²²

12 and 13 [Repealed]²³

14 and 15 [Repealed]²⁴

16 [Repealed]²⁵

17 [Repealed]²⁶

18 and 19 [Repealed]²⁷

20 [Repealed]²⁸

21 [Repealed]²⁹

22 [Repealed]³⁰

Provisions relating to evidence and procedure

23 Evidence by certificate

[1948/41]

- (1) In any criminal proceedings, a certificate purporting to be signed by a constable, or by a person having the prescribed qualifications, and certifying that a plan or drawing exhibited thereto is a plan or drawing made by him of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be evidence of the relative position of the things shown on the plan or drawing.
- (2) In any proceedings for an offence under the Road Traffic Acts, 1933 to 1961, or under any other enactment relating to the use of vehicles on roads, a certificate in the prescribed form, purporting to be signed by a constable and certifying that a person specified in the certificate stated to the constable —
 - (a) that a particular motor vehicle was being driven by, or belonged to, that person on a particular occasion; or
 - (b) that a particular motor vehicle belonged on a particular occasion to a firm in which that person also stated that he was at the time of the statement a partner; or
 - (c) that a particular motor vehicle belonged on a particular occasion to a corporation of which that person also stated that he was at the time of the statement a director, officer or employee,

shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven, or to whom it belonged, as the case may be, on that occasion.

- (3) [Repealed]³¹
- (4) Nothing in this section shall be deemed to make a certificate admissible as evidence in proceedings for an offence except in a case where and to the extent to which oral evidence to the like effect would have been admissible in those proceedings.³²
- (5) Nothing in this section shall be deemed to make a certificate admissible as evidence in proceedings for any offence —
 - (a) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or
 - (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow serves notice in the prescribed form and manner on the prosecutor requiring the attendance at the trial of the person who signed the certificate.³³
- (6) In this section the expression “prescribed” means prescribed by rules made by the Deemsters.³⁴

24 Proof of previous conviction

- (1) In any criminal proceedings a previous conviction or finding of guilt by a court in any of the countries or territories specified in subsection (2) may be proved in a court in the Isle of Man by such evidence, documentary or otherwise, as would be accepted as proof thereof in a court in that part of the country or territory where the conviction or finding of guilt was pronounced.
- (2) The countries and territories are —
 - (a) the British Islands;
 - (b) a member State of the EU;
 - (c) a country or territory to which the Warsaw Convention extends; and
 - (d) a British overseas territory.
- (3) The Department may by order amend subsection (2) to add or vary the countries and territories to which subsection (1) applies.
- (4) An order made under subsection (3) must not come into operation unless it is approved by Tynwald.
- (5) In this section, “Warsaw Convention” means the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the

Proceeds of Crime and on the Financing of Terrorism signed in Warsaw on 16 May 2005 (as that Convention may be amended, replaced or superseded).

- (6) In this section, “British overseas territory” has the same meaning as in section 50(1) of the British Nationality Act 1981 (of Parliament).³⁵

25 Reports of probation officers

[1948/43]

Where a report by a probation officer is made to any court (other than a juvenile court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, a copy of the report shall be given by the court to the offender or his advocate.

Provided that if the offender is under seventeen years of age and is not represented by an advocate, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

26 [Repealed]³⁶

Arrangements for Probation

27 Probation officers

[1913/5]

- (1) There shall be appointed a sufficient number of probation officers, of whom at least one shall be a woman.³⁷
- (2) [Repealed]³⁸
- (3) A person named in a probation order as a person to supervise a probationer and who is not a probation officer may be paid such remuneration and out of pocket expenses as the Court making the probation order may direct, not exceeding such amount as may be prescribed as aforesaid, and such remuneration and out of pocket expenses shall be paid out of moneys provided by Tynwald.
- (4) If the probation officer or any other supervising person named in a probation order dies, or is unable for any reason to carry out his duties, or if the court which convicted the offender think it desirable that another officer or other person should take his place, the said court shall substitute another person in his place and stead.

28 Duties of probation officers

[1913/6]

- (1) It shall be the duty of probation officers to supervise the probationers and other persons placed under their supervision and to advise, assist and befriend them, to inquire, in accordance with any directions of the Court,

into the circumstances or home surroundings of any person with a view to assisting the Court in determining the most suitable method of dealing with his case, to advise, assist and befriend in such cases and in such manner as may be prescribed, persons who have been released from custody and, when necessary, to endeavour to find them suitable employment, and to perform such other duties as may be prescribed or may be imposed by any enactment.

- (2) It shall be the duty of the probation officer to review individual cases and report to the Probation Liaison Committee.³⁹

29 Approved probation hostels

[1948/46]

- (1) The Department may approve premises for the reception of persons who may be required to reside therein by a probation order, and such premises shall be known as approved probation hostels.⁴⁰
- (2) The Department may make rules for the regulation, management and inspection of approved probation hostels; and such rules may in particular provide that no person shall be appointed to be in charge of an approved probation hostel unless the Department has consented to his appointment.⁴¹

30 Probation Liaison Committee

- (1) There shall be established a body to be called the Probation Liaison Committee, which shall consist of such number of justices of the peace as may be prescribed by rules under section 31 of this Act.
- (2) It shall be the duty of the Probation Liaison Committee to review the work of probation officers, and to perform such other functions in relation to probation officers as may be so prescribed.
- (3) The expenses incurred by the Probation Liaison Committee shall be defrayed by the Department out of money provided by Tynwald.⁴²

31 Probation rules

- (1) The Department may make rules —
 - (a) regulating the constitution and procedure of the Probation Liaison Committee;
 - (b) regulating the duties of probation officers; and
 - (c) prescribing anything which may be prescribed under sections 28 and 30 of this Act.
- (2) Rules under this section shall not have effect unless they are approved by Tynwald.⁴³

*Supplementary***32 [Repealed]**⁴⁴**33 Consequential and other amendments**

[1948/79]

The enactments mentioned in the first column of the Fourth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule.

34 [Repealed]⁴⁵**35 Interpretation**

[1948/80]

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say —

“**approved school**” means a school approved under section seventy-nine of the Children and Young Persons Act, 1933 (an Act of the Imperial Parliament);

“**child**” means a person who in the opinion of the court before whom he is brought is under the age of fourteen years;

“**court**” includes a court of General Gaol Delivery and a High Bailiff’s court and a court of summary jurisdiction;

“**court of summary jurisdiction**” [Repealed]⁴⁶

“**the Department**” means the Department of Home Affairs;⁴⁷

“**district**” [Repealed]⁴⁸

“**enactment**” includes any order, regulation or other instrument having effect by virtue of an Act;

“**impose imprisonment**” means pass a sentence of imprisonment or commit a person to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone;

“**offence the sentence for which is fixed by law**” means an offence for which the court is required to sentence the offender to death or imprisonment for life or to detention during Her Majesty’s pleasure;

“**order for conditional discharge**” has the meaning assigned to it by section six of this Act;

“**period of conditional discharge**” has the meaning assigned to it by section six of this Act;

- “**probationer**” means a person for the time being under supervision by virtue of a probation order;
- “**probation order**” has the meaning assigned to it by section two of this Act;
- “**probation period**” means the period for which a probationer is placed under supervision by a probation order;
- “**sentence**” does not include a committal in default of payment of any sum of money or failing to do or abstain from doing anything required to be done or left undone;⁴⁹
- “**sum adjudged to be paid by a conviction**” includes any costs, damages or compensation adjudged to be paid by the conviction of which the amount is ascertained by the conviction;
- “**supervising court**” means, in relation to a probation order a court of summary jurisdiction and where the probationer was a child or young person within the meaning of the Children and Young Persons Acts, 1910 to 1953, when the probation order was made, means a juvenile court;⁵⁰
- “**young person**” means a person who in the opinion of the court before whom he is brought is of the age of fourteen years but is under the age of seventeen years.
- (2) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; and any such reference to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of the British Islands and to a previous sentence passed by any such court.
- (3) Where the age of any person at any time is material for the purposes of any provisions of this Act, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.
- (4) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under this Act upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life.
- (5) For the purposes of this Act, except subsection (6) of section two thereof, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.
- (6) Where any provision of this Act empowers a court on conviction of an offender to pass a sentence or make an order in lieu of dealing with him in any other manner, the said provision shall not be construed as taking

away any power of the court to order the offender to pay costs, damages or compensation.

- (7) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment, including this Act.

36 Short title and commencement

- (1) This Act may be cited as the Criminal Justice Act, 1963, and shall be construed as one with the Criminal Law Acts, 1872 to 1946, the *Criminal Law Amendment Act, 1952*, and the *Criminal Justice Act, 1953*, and those Acts and this Act may be together cited as the Criminal Law Acts, 1872 to 1963.
- (2) This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

FIRST SCHEDULE**DISCHARGE AND AMENDMENT OF PROBATION ORDERS**

Section 4

Discharge

1. The court by which a probation order was made may, upon application made by the probation officer or other person responsible for the supervision of the offender or by the probationer, discharge the order.

Amendment

2. [Repealed]⁵¹

3. Without prejudice to the provisions of the last foregoing paragraph, the supervising court may, upon application made by the probation officer or other person responsible for the supervision of the offender or by the probationer, by order amend a probation order by cancelling any of the requirements thereof or by inserting therein (either in addition to or in substitution for any such requirement) any requirement which could be included in the order as if it were then being made by that court in accordance with the provisions of sections two and three of this Act:

Provided that —

- (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;
 - (b) the court shall not so amend a probation order that the probationer is thereby required —
 - (i) to reside in an approved probation hostel, or in any other institution, or
 - (ii) to submit to treatment for his mental condition, for such period as is specified in the order;⁵²
 - (c) the court shall not amend a probation order by inserting therein a requirement that the probationer shall submit to treatment for his mental condition unless the amending order is made within three months after the date of the original order.
4. Where the medical practitioner by whom or under whose direction a probationer is being treated for his mental condition in pursuance of any requirement of the probation order is of opinion —
- (a) that the treatment of the probationer should be continued beyond the period specified in that behalf in the order; or

- (b) that the probationer needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of a probation order; or
- (c) that the probationer is not susceptible to treatment; or
- (d) that the probationer does not require further treatment;

or where the practitioner is for any reason unwilling to continue to treat or direct the treatment of the probationer, he shall make a report in writing to that effect to the probation officer and the probation officer shall apply to the supervising court for the variation or cancellation of the requirement.

General

5. Where the supervising court proposes to amend a probation order under this Schedule, otherwise than on the application of the probationer, it shall summon him 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 willingness to comply with the requirements of the order as amended:

Provided that this paragraph shall not apply to an order cancelling a requirement of the probation order or reducing the period of any requirement.⁵³

6. On the making of an order discharging or amending a probation order, the High Bailiff or the clerk to the court, as the case may be, shall forthwith give copies of the discharging or amending order to the probation officer or other person responsible for the supervision of the offender, and the probation officer shall give a copy to the probationer and to the person in charge of any place in which the probationer is or was required by the order to reside.⁵⁴

SCHEDULE 1A⁵⁵

ADDITIONAL REQUIREMENTS OF PROBATION ORDERS

Section 30

Requirements as to testing for drugs

1. This Schedule applies where a court proposing to make a probation order is satisfied that the offender is dependent on or has a propensity to misuse drugs.
2. A probation order may include a requirement (“**the testing requirement**”) that the offender submits, during the whole or a specified part of the probation period, to periodic testing for the purpose of ascertaining the presence of drugs in the offender’s body.
3. The offender shall, in accordance with the terms of the testing requirement, provide at such times and in such circumstances as may be determined by the probation

officer responsible for the supervision of the offender, samples of such description as may be so determined.

4. The probation officer responsible for the supervision of the offender shall make arrangements with a person having the necessary qualifications to take such samples as are appropriate to comply with the testing requirement.

5. The testing requirement shall specify the frequency of testing and the drugs for which the tests are to be undertaken.

6. (1) If at any time during the probation period a sample taken from the offender shows —

- (a) the presence in his body of relevant drugs when none were present when the offender was last tested; or
- (b) the level of relevant drugs in his body is no less than when last tested,

that shall be treated as constituting a failure to comply with the requirements of the probation order and section 5 shall have effect accordingly.

(2) In this paragraph “relevant drugs” means the drugs for which testing is required under the testing requirement.

SECOND SCHEDULE⁵⁶

THIRD SCHEDULE⁵⁷

FOURTH SCHEDULE

CONSEQUENTIAL AND OTHER AMENDMENTS

[Sch 4 amended by Criminal Justice (Penalties, Etc.) Act 1993 Sch 2 and by Statute Law Revision Act 1997 Sch 2, and amends the following Acts —

Evidence Act 1871 q.v.

Firearms Act 1947 q.v.]

FIFTH SCHEDULE⁵⁸

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ S 1 repealed by Custody Act 1995 Sch 5.

² Subs (1) amended by Criminal Law Act 1981 Sch 7, by Criminal Justice Act 1991 Sch 4, by Statute Law Revision Act 1992 s 6, by SD155/10 Sch 6, by SD2014/08 and by Manx Care Act 2021 Sch 5.

³ Subs (2) repealed by Summary Jurisdiction Act 1988 Sch.

⁴ Para (b) amended by Criminal Justice Act 1991 Sch 4.

⁵ Subs (4A) inserted by Criminal Justice Act 2001 s 30.

⁶ Subs (6) amended by Summary Jurisdiction Act 1988 Sch.

⁷ Para (a) amended by Regulation of Care Act 2013 s 205.

⁸ Definition of “mental nursing home” repealed by Regulation of Care Act 2013 s 205.

⁹ S 3 substituted by Mental Health Act 1998 Sch 5.

¹⁰ Subs (1) amended by Summary Jurisdiction Act 1988 Sch.

¹¹ Subs (2) inserted by Criminal Justice, Police and Courts Act 2007 s 46. Original subs (2) repealed by Summary Jurisdiction Act 1988 Sch.

¹² Subs (2A) inserted by Criminal Justice, Police and Courts Act 2007 s 46.

¹³ Subs (3) amended by Criminal Justice, Police and Courts Act 2007 s 46.

¹⁴ Subs (5) repealed by Criminal Justice, Police and Courts Act 2007 s 46.

¹⁵ Para (b) amended by Summary Jurisdiction Act 1988 Sch.

¹⁶ Para (c) amended by Summary Jurisdiction Act 1988 Sch.

¹⁷ Para (a) amended by Summary Jurisdiction Act 1988 Sch.

¹⁸ Para (b) amended by Summary Jurisdiction Act 1988 Sch.

¹⁹ Subs (4) amended by Law Reform Act 1997 Sch 5.

²⁰ Subs (1) amended by Children and Young Persons Act 2001 Sch 12.

- ²¹ Subss (2) and (3) repealed by Criminal Law Act 1981 Sch 8.
- ²² Ss 10 and 11 repealed by Criminal Jurisdiction Act 1993 Sch 4.
- ²³ Ss 12 and 13 repealed by Prison and Youth Custody Act 1986 Sch 3.
- ²⁴ Ss 14 and 15 repealed by Criminal Justice Act 2001 s 61.
- ²⁵ S 16 repealed by Criminal Jurisdiction Act 1993 Sch 4.
- ²⁶ S 17 repealed by Mental Health Act 1974 Sch 5.
- ²⁷ Ss 18 and 19 repealed by Criminal Jurisdiction Act 1993 Sch 4.
- ²⁸ S 20 repealed by Criminal Justice Act 2001 s 61.
- ²⁹ S 21 repealed by Criminal Justice (Computation of Sentences) Act 1975 s 1.
- ³⁰ S 22 repealed by Criminal Law Act 1981 Sch 8.
- ³¹ Subs (3) repealed by Theft Act 1981 Sch 2.
- ³² Subs (4) amended by Theft Act 1981 Sch 2.
- ³³ Subs (5) amended by Theft Act 1981 Sch 2. Para (b) amended by Theft Act 1981 Sch 2.
- ³⁴ Subs (6) amended by Governor's General Functions (Transfer) Act 1980 Sch 1.
- ³⁵ S 24 substituted by Terrorism and Crime (Miscellaneous Amendments) Act 2016 s 4.
- ³⁶ S 26 repealed by Summary Jurisdiction Act 1989 Sch 6.
- ³⁷ Subs (1) substituted by Civil Service Act 1990 Sch 3.
- ³⁸ Subs (2) repealed by Civil Service Act 1990 Sch 4.
- ³⁹ Subs (2) amended by Summary Jurisdiction Act 1988 s 3.
- ⁴⁰ Subs (1) amended by GC120/86.
- ⁴¹ Subs (2) amended by GC120/86.
- ⁴² S 30 substituted by Summary Jurisdiction Act 1988 s 3.
- ⁴³ S 31 substituted by Summary Jurisdiction Act 1988 s 3.
- ⁴⁴ S 32 repealed by Custody Act 1995 Sch 5.
- ⁴⁵ S 34 repealed by Statute Law Revision Act 1983 Sch 2.
- ⁴⁶ Definition of "court of summary jurisdiction" repealed by Summary Jurisdiction Act 1989 Sch 6.
- ⁴⁷ Definition of "the Department" inserted by GC120/86.
- ⁴⁸ Definition of "district" repealed by Summary Jurisdiction Act 1988 Sch.
- ⁴⁹ Definition of "sentence" amended by Custody Act 1995 Sch 5.
- ⁵⁰ Definition of "supervising court" amended by Summary Jurisdiction Act 1988 Sch.
- ⁵¹ Para 2 repealed by Summary Jurisdiction Act 1988 Sch.
- ⁵² Subpara (b) amended by Criminal Justice Act 1991 Sch 4.
- ⁵³ Para 5 amended by Summary Jurisdiction Act 1988 Sch.
- ⁵⁴ Para 6 amended by Summary Jurisdiction Act 1988 Sch.
- ⁵⁵ Sch 1A inserted by Criminal Justice Act 2001 s 30.
- ⁵⁶ Sch 2 repealed by Summary Jurisdiction Act 1988 Sch.
- ⁵⁷ Sch 3 repealed by Custody Act 1995 Sch 5.
- ⁵⁸ Sch 5 repealed by Statute Law Revision Act 1983 Sch 2.