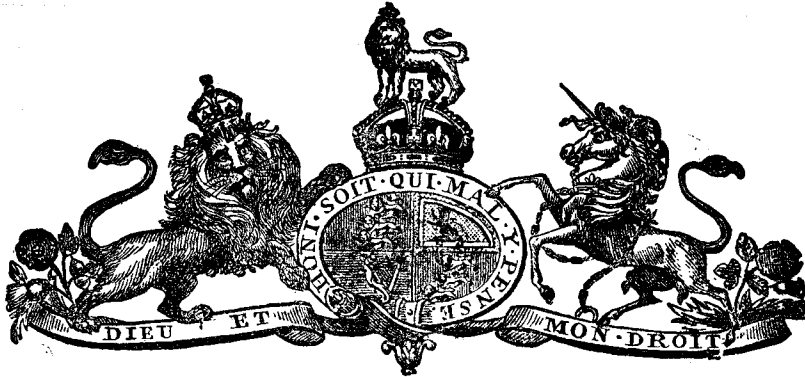


TASMANIA



1934.

ANNO VICESIMO QUINTO
GEORGII V. REGIS.
No. 74.

ANALYSIS.

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Short title. 2. Repeal of 62 Vict. No. 20. 3. Conditional release of offenders.
 Dismissing the charge.
 Discharging offender on conditions.
 Compensation for loss or injury and costs may be awarded.
 Restitution of property. 4. Probation orders.
 Supervision.
 Conditions. | <ol style="list-style-type: none"> Conditions in writing. 5. Power to vary conditions of release. 6. If offender fails to observe conditions.
 Warrant may issue.
 Bringing offender before the court.
 Remand.
 In custody.
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 Industrial schools. 7. Probation officers. 8. Regulations. |
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***** A.D.
AN ACT to permit the Release on Probation 1934.
 of certain Offenders and for Matters inci-
 dental thereto. [13 December, 1934.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- | | |
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| <ol style="list-style-type: none"> 1 This Act may be cited as the <i>Probation of Offenders Act 1934.</i> 2 The <i>First Offenders Probation Act 1898</i> is hereby repealed. | Short title.

Repeal of 62
Vict. No. 20,
4d.] |
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Probation of Offenders.

A.D. 1934.

Conditional
release of
offenders.Cf. 7 Ed. VII.
c. 17.Dismissing the
charge.Discharging
offender on
conditions.Compensation for
loss or injury and
costs may be
awarded.Restitution of
property.

Probation orders.

Supervision.

3—(1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of the opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court, without proceeding to conviction, may make an order either—

i. Dismissing the information or charge : or

ii Discharging the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) Where any person has been convicted on indictment of any offence punishable with imprisonment, and the court is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court, in lieu of imposing a sentence of imprisonment, may make an order discharging the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear for sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(3) The court, in addition to any such order, may order the offender to pay such damages for injury or compensation for loss (not exceeding in the case of a court of summary jurisdiction twenty pounds, or, if a higher limit is fixed by any enactment relating to the offence, that higher limit) and to pay such costs of the proceedings as the court thinks reasonable.

(4) Where an order under this section is made by a court of summary jurisdiction, the order shall, for the purpose of revesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner, and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

4—(1) A recognisance ordered to be entered into under this Act shall, if the court so order, contain a condition that the offender shall be under the supervision of such person as may be named in the order during the period specified in the order, and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognisance is in this Act referred to as a probation order.

Probation of Offenders.

(2) A recognisance under this Act may contain such additional conditions with respect to residence, abstention from intoxicating liquor, and any other matters as the court, having regard to the particular circumstances of the case, may consider necessary for preventing a repetition of the same offence or the commission of other offences.

A.D. 1934.

Conditions.

(3) The court by which a probation order is made shall furnish to the offender a notice in writing, stating in simple terms the conditions he is required to observe.

Conditions in writing.

5—(1) Upon the application of a police, or probation, officer, the court before which any person is bound by his recognisance under this Act to appear for conviction and sentence or for sentence may—

Power to vary conditions of release.

i. If it appears to it that the terms or conditions of the recognisance should be varied, summon the person bound thereby to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the recognisance by—

(a) Extending or diminishing the duration thereof :

(b) Altering the conditions thereof : or

(c) Inserting additional conditions therein : or

ii. On being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognisance.

(2) No such variation shall extend the duration of the recognisance beyond the period of three years from the date of the original order.

6—(1) If the court before which an offender is bound by his recognisance under this Act to appear for conviction or sentence, or any court of summary jurisdiction, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognisance, it may issue a warrant for his apprehension, or, if it thinks fit, instead of issuing a warrant in the first instance, may issue a summons to the offender and his sureties (if any), requiring him or them to attend at such court and at such time as may be specified in the summons.

If offender fails to observe conditions.

Warrant may issue.

(2) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognisance to appear for conviction or sentence, be brought before a court of summary jurisdiction.

Bringing offender before the court.

(3) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, if it is not the court before which he is bound by his recognisance to appear for conviction or sentence, may remand him to custody or on bail until he can be brought before the lastmentioned court.

Remand.

(4) An offender so remanded to custody may be committed during remand to prison.

In custody.

Probation of Offenders.

A.D. 1934.

Sentence for
original offence.Industrialschools.
9 Geo. V. No. 15.Probation
officers.

Regulations.

(5) A court before which a person is bound by his recognisance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognisance, may forthwith, without further proof of his guilt, convict and sentence him for the original offence, or, if the case was one in which the court in the first instance might, under the *Childrens Act 1918*, have ordered the offender to be sent to an institution, and the offender is still apparently under the age of seventeen years, make such an order.

7—(1) The Governor may appoint such and so many probation officers of either sex as he may think necessary or desirable for the purposes of this Act.

(2) It shall be the duty of a probation officer, subject to the direction of the Court—

- i. To visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order, or subject thereto, as the probation officer may think fit :
- ii. To see that such person observes the conditions of his recognisance :
- iii. To report to the court as to the behaviour of such person :
- iv. To advise, assist, and befriend such person, and, when necessary, to endeavour to find suitable employment : and
- v. To carry out such other duties as may be prescribed or as the court in any case may direct.

8 The Governor may make regulations under and for the purposes of this Act.