

## CHAPTER XI

### Probation of Offenders Act, 1958 (XX of 1958)

---

1. The Bombay Probation of Offenders Act, 1938 ( Bombay Act No. XIX of 1938), though not specifically repealed by the Probation of Offenders Act, 1958 (Act No. 20 of 1958) shall be deemed to have been impliedly repealed under Article 251 of the Constitution of India.

#### **Meaning of Probation and Supervision Work**

2. Under the Probation of Offenders Act. 1958 (Act 20 of 1958), provision is made for new methods of treatment for those offenders who are likely to make good, if given a chance of constructive help. Under these new methods of treatment, alternatives to imprisonment are given, because experience shows that commitment to prison does more harm than good to certain type of offenders. The purpose of the Act is not punishment but refoem by means of constructive treatment.

#### **Age of the Offenders**

3. This Act applies to the Offenders of all the age groups including those to whom the Bombay Children Act and the Bombay Borstal School Act do not apply.

#### **Methods of treatment provided under the Act**

4. The Act lays down three distinctive methods of treatment for different classes of offenders:-

- (a) Section 3 deals exclusively with first offenders, who are convicted of an offence punishable with not more than two years' imprisonment. It provides

for release of such offenders after due admonition. This method of treatment is likely to be effective only for a small number of offenders, as it provides neither for bonds nor sureties and merely sends the offender back, without any constructive help, to live in the same conditions, in which he lived when he committed the offence.

- (b) Section 4(1) provides for release on probation. It lays down that the offender should enter into a bond and he may also be required to give sureties. It would normally be advisable to take sureties in addition to personal bonds, as sureties are themselves a guarantee of some efforts towards reform and a safeguard against the offender removing himself outside the jurisdiction of the Court and breaking the conditions of the bond entered into by him.
- (c) Section 4(2) provides for release under the supervision of a Probation Officer. This is the most constructive type of treatment. Experience has proved that offenders are far more likely to make good, when placed under the guidance of a Probation Officer. It is, therefore, advisable that even in the case of first offenders, they should be dealt with under Section 4(2) in preference to discharge after admonition under Section 3.
- (d) Under Section 4(3), the Court has power, while making a supervision order, to direct additional conditions to be inserted in the bond to be entered into by the offender under Section 4(1), and in doing so the Court must have regard to the particular circumstances of each individual case.  
The terms and conditions of the supervision order shall be explained to the offenders and on copy of the supervision order shall be furnished forthwith

to each of the offenders, the sureties, if any, and the Probation Officer concerned. The form of supervision order has been prescribed under the Rules made under Act.

- (e) In suitable cases, the offender may be directed under Section 5 to pay compensation and cost of proceedings to the person to whom loss or injury has been caused.
- (f) During the period of his probation, the offender has to keep away from crime and maintain good behaviour. If he fails to do so, he may be sentenced for the offence of which he was convicted, or on such first time failure, a penalty of fine not exceeding fifty rupees may be imprisonment, the Court shall call for a report from the District Probation Officer, consider such report, if any, and then record its reasons and pass such order to sentence of imprisonment (except for life), as it deems fit in the circumstances of the case.

#### **Enquiries to be made before passing order**

5. The Act is intended for the reformation of offenders in their own homes, if such a course is likely to succeed. It is essential, therefore, to find out all possible details about the offender, his character, his physical and mental ability, the conditions in which he lives and the circumstances in which he came to commit the crime. As soon as the charge has been or is about to be framed, the Court, if it considers that the offender, having regard to the nature of the offence and the part played by him, is likely to be given the benefit of Section 3 or 4 of the Act, should immediately instruct the District Probation Officer of the area concerned in Form No. IV appended to the Maharashtra Probation of

Offenders Rules 1966 to make preliminary enquiries about the offender. The Court should endeavor to obtain full information in the Form III appended to the Maharashtra Probation of Offenders Rules, 1966, regarding the age, character, antecedents and physical and mental condition of the offender, which will enable it to make wise selection of the method of treatment out of the various methods of treatment provided in Sections 3, 4(1) and 4(2) of the Act.

(2) In some cases, it may be desirable to get the offender medically examined in order to ascertain his mental and physical condition. In such cases, a medical examination should be arranged.

#### **FORM IV**

[See Rule 27(1)]

#### **Order under sub-section (2) of Section 4 of the Probation of Offenders Act, 1958**

The District Probation Officers .....

Whereas a report under sub-section (2) of Section 4 of the Probation of Offenders Act, 1958 (Act 20 of 1958), or under the provisions of ..... is required for dealing with (name ..... son of/daughter of (full address) ..... who has been brought before the Court under section ..... In case No. .... you are hereby directed to collect or arrange to collect the necessary information after making an enquiry and place the same before this Court on .....

Seal of the Court

Magistrate or Court of Session.

#### **FORM III**

[See Rule 17(1)]

**Report on Preliminary Enquiries**

\*Serial No. ....

*(Under the Probation of Offenders Act, 1958)*

Magistrate

In the Court of the ..... (District) .....  
(Place) ..... C.C. No. .... 19. .... Date of hearing .....  
Offence ..... State ..... (Police Station) ..... Crime  
No. .... 19 Name of Offender ..... Address (Place of residence) :

Age : ..... Sex and religion :

*Personal History*

Behaviour and habits (Moral, recreational etc.)

Temperament : (outstanding character and personally traits).

Physical and mental history and present condition.

Leisure time activities

*External influences*

School record and report of teachers, if available.

Employment history.

Present occupation and wages (give also condition of Labour, leisure etc.)

Report of employer, if any.

Associates.

Contact with social and religious organisation, if any,

Home conditions.

Family history of :-

(a) Father .....

(b) Mother .....

(c) Step-father .....

(d) Step-mother .....

(e) Brother .....

(f) Sisters .....

(g) Wife .....

(h) Children .....

(i) Other interested relations, if any .....

Economic condition of the family .....

Any social agencies, institutions or  
individuals interested in family

Report of parents and relation .....

Attitude of family towards offender and  
extent of its influence on him/her

Report of neighbours .....

Home surroundings and general outlook.

is poverty or unsettled life the cause of offence?

### *Legal History*

Previous institutional record, if any, statement

of the present offence and circumstances in which it was committed.

Offender's own reaction to the offence  
and his attitude towards possible punishment.  
Any special information required by the Court.

*Summary*

- (a) Factual background of offender and his environment and offence.
- (b) Diagnosis (offender's attitudes, defects in character or family, motivations and factors regarded as casual factors for the offence.)
- (c) Progress (treatment considered most suitable and estimates of chances of Improvement.)
- (d) Recommendation (if asked for by Court.)

Name and address of the

Probation Officer :

State ..... District .....

Headquarter .....

Date .....

Nature of disposal of the case.

Date of disposal ..... The District Probation Officer,  
offenders, who are charged with trivial offences not involving moral turpitude (e.g.,  
where a person disregards the rule of the road or leaves cattle insufficiently attended) and  
who can be let off with admonition under Section 3 of the Act or punished with fine.

*The period of orders of probation and supervision*

7. The Courts are empowered by Section 8 to vary their original orders and it is psychologically sound to limit the duration of the order in ordinary cases to one year in

the first instance and on the application of the District Probation Officer extend it or reduce it from time to time to the total period not exceeding three years. To the average offender, the prospect of a three year period of probation may prove harsh or damaging, and a shorter period encourage him to make an effort to reform.

### *Supervision*

**8.** Whenever it appears to the Court that an offender is likely to make good if placed under supervision, it should place the offender under the supervision of the District Probation Officer.

Lists containing the names of (i) Probation Officers appointed by the State Government. (ii) salaried Probation Officers provided by Societies, and (ii) part-time Probation Officers, for service in the District or in specified areas of the District or allocated to specified Courts in the district, shall be kept by the District Probation Officer and made available to the Court whenever necessary.

The Court may appoint a Special Probation Officer under clause (c) of sub-section (1) of Section 13 of the Act in view of the special circumstances of particular case, when no Probation Officer on the lists referred to in clause (b), sub-rule (3) of Rule 12 of the Maharashtra Probation of Offenders Rules, 1966, is available or is considered suitable enough to attend to the case.

In deciding whether a person is suitable for appointment as a Probation Officer in a particular case under clause (c) of sub-section (1) of Section 13 or sub-section (2) of Section 13 of the Act, the Court may take into consideration (a) the general attributes specified in Rule 9 and the provisions of Rule 13(b) of Maharashtra Probation of



Offenders Rule, 1966, his age, position, character, attainments and relationship to offender, and (c) his ability to follow these rules and to discharge the duties of the Probation Officer.

*Watch to be kept after release*

9. The duty of the Court does not end when the order has been passed. Where a supervision order has been passed and the Probation Officer has been appointed, it is provided in the rules under this Act that the Probation Officer shall submit monthly reports in respect of the conduct and behaviour of the offender to the Court which passed the supervision order. The Court will have to keep a watch on the progress of the probationer and should, if necessary under section 8 of the Act, on its own motion or upon the application of the Probation Officer, vary any of the conditions in the bond or extend or reduce its duration. The success of the Act depends on the wise exercise of discretion and proper discharge of their duties by the Court administering it.

*Monthly reports to Courts*

10. The following Form II is prescribed for submission of monthly reports by the Probation Officer to Courts under Rule 16 (3) (a) of the Maharashtra Probation of Offenders Rules, 1966.

**FORM II**

**[Rules 16(3)(a), 20(2)]**

**Monthly report on progress of a Probationer**

Part I

Probation Office ..... For the month of ..... Register

No. .... Court ..... Probationer's name ..... Case  
No. .... date of ..... Probationer's address ..... Supervision  
Order ..... Period of Probation .....

PART II

Place of Interview      Date

.....  
.....  
.....  
.....

1. Where the probationer is residing
2. Progress made in any educational training course.
3. What work he is doing and his monthly average earning
4. Savings kept in the Post Office Savings Bank account in his name
5. Probationer's health
6. Remarks on his general conduct and progress.

PART III

7. Any proceedings before Court/District Magistrate for -
  - (a) variation of condition of bond under Section 8(1) or 9(1) of the Act: or
  - (b) change of residence: vide rule; or
  - (c) discharge under Section 8(3)
  - (d) any other matter
8. Probation period completed on ..... Date
9. Result of probation with remarks (if any)

10. Occupation and address after discharge. Probation Officer  
To,  
District Probation Officer/Court Date of Report  
copy to Chief Probation Superintendent.

**Address**

*Supervision over the Probation Officer*

**11.** The District Magistrate may form District Probation Committee for supervising the work of the Probation Officer under the Act in the District, which will review from time to time the arrangements made for enforcement of the Act and make suggestions, if necessary, for improving the tone of the work.

**12.** The following forms prescribed under the Maharashtra Probation of Offenders Rules, 1966 may be used with such modifications as the Court may think fit for the respective purposes therein mentioned.

---

**FORM V**

**[See Rule 28(a)]**

Bond to keep the peace and to be of good behaviour under sub-section (1) of Section 4 of the Probation of Offenders Act, 1958.

IN THE COURT OF THE

MAGISTRATE

Case No. of 20 .....

Whereas I ..... inhabitant of ..... have been ordered to be released by the Court of ..... on condition of my entering into a bond to appear and receive sentence when called upon during a period of .....

I hereby bind myself,

(1) to appear and receive sentence when called upon to do so,

(2) not to commit a breach of the peace or do any act that may occasion a breach of the peace; and

(3) to be good behaviour to Governemtn and all the citizens of India during the said period and to abide by the instructions of the Probation Officer during the period of this bond of good conduct. In case of my making default therein, I hereby bind myself to forfeit to Governement the sum of Rupees ..... Dated this ..... day of ..... 20.

Signature

Executed before me.

Magistrate.

I/we do hereby declare myself/ourselves surety/sureties for the above named-

(1) to appear and receive sentence when called upon to do so;

(2) that he will not commit a breach of the peace or do any act that may occasion a breach of the peace; and

(3) that he will be good behaviour to Government and all the citizens of India during the said period.

In the case of his making default therein, I/We bind myself/ourselves jointly and severally to forfeit to Government a sum of Rupees .....

Date this                      day of                      20

Signature

Executed before me Magistrate.

Signature.

\_\_\_\_\_

**FORM VI**

**Supervision order**

*Under sub-section (3) of Section 4 of the Probation of Offenders Act, 1958*

IN THE COURT OF THE                      MAGISTRATE

Case No. .... of 20 .....

Whereas ..... has this day been found guilty of an offence under section .....

And the Court is satisfied that it is expedient to deal with the said person by making an order placing him under supervision :

It is hereby ordered that the said person is placed under supervision of ..... the Probation Officer for a period of ..... subject to the following conditions, namely :-

(1) that he will present himself, within fourteen days from the date of this order, before the Probation Officer named herein, and will produce copies of the order and the bond executed by him :

(2) that he will submit himself to the supervision of the Probation Office or any other Officer appointed in his place :

(3) that he will

(a) during the period specified herein, keep the Probation Officer advised of his place of residence and means of livelihood,

(b) reside at ..... for a period of .....

(4) that he will not quit the district or jurisdiction of .....

(5) that he will not associate with bad characters or lead a dissolute life :

(6) that he will live honestly and peaceably and will endeavor to earn an honest

livelihood ;

(7) that he will not commit any offence punishable by any law in force in India ;

(8) that he will abstain from taking intoxicants ;

(9) that he will carry out such directions as may, from time to time, be given by the Probation Officer for due observance of the conditions mentioned above.

Dated this                      day of                      20

Judge of Magistrate

---

**FORM VII**

**[See Rule 28(e)]**

*Under sub-section (3) of Section 4 of the Probation of Offenders Act, 1958.*

IN THE COURT OF THE

CASE NO. .... OF 20 .....

Whereas I ..... inhabitant of ..... have been ..... ordered to be released by the Court of ..... on condition of my entering into a bond to observe the conditions specified in the supervision order made by the Court, I hereby bind myself as follows :-

(1) that I will accept and fulfill the conditions specified by the Court in such order for the period specified therein;

(2) that I will present myself within fourteen days from the date of the supervision order, before the Probation Officer named in that order and will produce copies of the order and the bond executed by me;

(3) that I will submit myself to the supervision of the Probation Officer named in

the supervision order or any other officer appointed in his place;

(4) that I will (a) during the period specified in the order, keep the Probation Officer advised of my place of residence and means of livelihood (b) reside at ..... for a period of .....

(5) that I will not quit the said district or Jurisdiction of without the written permission of competent authority, viz. ....

(6) that I will not associated with bad characters or lead a dissolute life;

(7) that I will honestly and peaceably and will endeavour to earn an honest livelihood;

(8) that I will not commit any offence punishable by any law in force in India;

(9) that I will abstain from taking intoxicants;

(10) that I will carry out such directions as may from time to time given by the Probation Officer with regard to attending hospital, psychiatric clinic and occupational centre etc. for the improvement of my prospects and also such direction for the due observance of the conditions mentioned above.

In case of my making default therein, I hereby bind myself to forfeit ..... to Government the sum of Rs. .... dated this day of 20.....

Signature

Executed before me.

Magistrate

I/We do hereby declare myself/ourselves surety/sureties for the abovenamed ..... that he will observe the conditions specified in the supervision order and in the bond and in case of his making default therein I/We bind myself/ourselves jointly and severally to forfeit to Government the sum of Rupees .....

Dated this                      day of                      20

Signature

Executed before me.

Signature of Magistrate.

**13.** From the Maharashtra Probation of Offenders Rules, 1966 frame under Section 17 of the Probation of Offenders Act, 1958 (Act 20 fo 1958), brought out under Government of Maharashtra Notification. Home Department, No. POA-1158/83536 XXII, dated the 13<sup>th</sup> October 1966, published in Governemtn Gazette, Part IV-A, dated 20<sup>th</sup> October, 1966 (pages 671 to 701) the following relevent rules are reproduced :-

**\*17. Pre-sentence report. -**

- (1) For the purpose of Section 14(a) of the Act, the Probation Officer shall, after making discreet inquiries regarding the offender's character and antecedents, his social and environmental conditions, the financial and other circumstances of his famiy, the circumstances in which the alleged offence was committed and any other facts which the Court has directed him to inquire into, put down the relevant facts fully and fathfully in the report, as neatly as may be in Form III. (See Para 4).
- (2)The summary of the case shall include and objective statement of facts along with the Probation Officer's assessment of the case, so as to help the Court in determining the most suitable method of deaing with the offender after he is found guilty.
- (3)The report shall be treated as “confidential” and delivered to the Court on the date specified by it; it should be enclosed in a sealed cover, if sent to the Court or delivered on a date prior to the date of delivery of judgment.”

**“19. Duties in relation to the Courts.**



- (1) The Probation Officer may move the Court before which the probationer is bound, to vary the conditions of the bond by way of tightening or relaxing them, as may be required by the conduct of the probationer.
- (2) If the Probation Officer considers that the probationer has made sufficient progress and further supervision is not necessary, he shall make an application to the Court in consultation with the District Probation Officer under intimation to the Chief Probation Superintendent for discharging the bond under sub-section (3) of the Section 8 of the Act.
- (3) If a probationer fails to observe any of the conditions of the bond or behaves in a manner indicating that he is not likely to fulfill the purpose of the supervision order, the Probation Officer shall report the fact to the Court and the District Magistrate, through the District Probation Officer for such action as may be considered necessary.
- (4) The Probation Officer shall consult the District Probation Officer with regard to appeal or revision under "Section 11 of the Act".

14. The Bombay Probation of Offenders Act, 1938, and the rules made thereunder are no longer in force in any part of the State of Maharashtra. Instead the Probation of Offenders Act, 1958 (Act No. 20 of 1958) and the rules made thereunder, viz., "Maharashtra Probation of Offenders Rules 1966" have been made applicable throughout the State of Maharashtra.

In exercise of powers conferred by sub-section (3) of Section 1 of the Probation of Offenders Act, 1958 (Act No. 20 of 1958) the Government of Maharashtra, have notified the dates on which the said Act came into force in following districts :-

## SCHEDULE I

District	When made Applicable Notification	Government
(1) Aurangabad	1 <sup>st</sup> November, 1966 Notification H.D. No.	Government
	POA-1058/67967 -XXII, dated 22 <sup>nd</sup> September 1966.	
(2) Beed		
(3) Nanded		
(4) Parbhani		
(5) Nagpur		
(6) Wardha		
(7) Akola		
(8) Amaravati		
(9) Pune	1 <sup>st</sup> February, 1970 Notification H.D. No.	Government
	POA-1264/51158 -VII, dated 20 <sup>th</sup> January, 1970.	
(10) Nashik		
(11) Greater Bombay		
(12) Kulaba		
(13) Ratnagiri		
(14) Osmanabad		
(15) Ahmednagar		
(16) Solapur		
(17) Dhule		
(18) Thane		
(19) Jalgaon	1 <sup>st</sup> October, 1970 Notification H.D. No.	Government
	POA-1069/65101 -VII, dated 17 <sup>th</sup> July, 1970.	
(20) Satara	1 <sup>st</sup> October, 1971	Government

Notification H.D. No.

POA-1070/50472

-VII, dated 2<sup>nd</sup>

August, 1972.

(21) Sangli

(22) Kolhapur

(23) Yeotmal

(24) Buldhana

(25) Bhandara

(26) Chandrapur 15<sup>th</sup> August, 1972 Government

Notification H.D. No.

POA-1071/38718

-VII, dated 7<sup>th</sup>

August, 1972.

-----

**15. Under Section 13(1)(b) of the Probation of Offenders Act, 1958, read with Rule 24 fo the Maharashtra Probation of Offenders Rules, 1966, the following institutions have been recongnised by the Government of Maharashtra.**

1. The Nava-Jeevan Mandal, Pune.
2. The Maharashtra State Probation and After-Care Association, Greater Bombay, Bombay
3. The Nava-Jeevan Mandal, Nashik.
4. The Marathwada Nav-Jeevan Mandal, Aurangabad.

\* \* \*